

Honorable Christine A. Pomeroy

SUPERIOR COURT OF WASHINGTON FOR THURSTON COUNTY

THE CITY OF BAINBRIDGE ISLAND, et al.,
Plaintiffs,

v.

STATE OF WASHINGTON, et al.,
Defendants.

and permanent office
I-722,
Intervention

NO. 00-2-02068-3

No.
(the *Bainbridge Island* case)

~~Proposed~~

ORDER GRANTING
PRELIMINARY INJUNCTION

THE CITY OF BURIEN, et al.,
Plaintiffs,

v.

STATE OF WASHINGTON, et al.,
Defendants.

Nos. &
(the *Burien* cases)

THE CITY OF RICHLAND, et al.,
Plaintiffs,

v.

STATE OF WASHINGTON, et al.,
Defendants.

No.
(the *Richland* case)

The Bainbridge Island Plaintiffs' Motion For A Preliminary Injunction in the above *Bainbridge Island* case has come on for hearing before this Court, along with plaintiffs' Motion For Preliminary Injunction in the above *Burien* cases and the plaintiffs' Joinder In The Pending Motions For A Preliminary Injunction in the above *Richland* case. This Court has considered those motions,

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1 along with the supporting and opposing submissions by the parties in the records and files herein,
2 including:

- 3 1. the Summons and Complaint in these cases;
- 4 2. November 17, 2000 Bainbridge Island Plaintiffs' Motion For Preliminary
5 Injunction;
- 6 3. November 17, 2000 Declaration Authenticating Documents;
- 7 4. November 17, 2000 Declaration Of Bainbridge Island's Director Of Finance &
8 Administrative Services, Ralph Eels;
- 9 5. the Burien case Plaintiff's Motion For Preliminary Injunction;
- 10 6. Declaration Of Steven Daschle;
- 11 7. Declaration Of Burien City Manager Gary P. Long;
- 12 8. Declaration Of Scott R. McCarty, City Of Des Moines Finance Director;
- 13 9. Declaration Of Harwood T. "Woody" Edvalson;
- 14 10. Declaration Of Keith Willnauer;
- 15 11. Declaration Of Joellen Kuwamoto;
- 16 12. Declaration of Dwight D. Dively;
- 17 13. Declaration Of Garry Holmes;
- 18 14. Declaration Of Scott Noble;
- 19 15. Declaration Of William P. Mallow;
- 20 16. Declaration Of Eugene Lux;
- 21 17. Declaration Of Dan McGrady;
- 22 18. November 21, 2000 Memorandum of I-722 Opposing Preliminary Injunction;
- 23 19. November 21, 2000 State's Response To Motion For Preliminary Injunction;
- 24 20. November 21, 2000 King County And Scott Noble's Response To Plaintiffs'
25 Motion For Preliminary Injunction;
- 26 21. November 21, 2000 Response of Kitsap County Defendants to plaintiffs' Motion
for Preliminary Injunction;

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- 1 22. November 22, 2000 Joinder Of Richland Suit Plaintiffs In Motions For Preliminary Injunction;
- 2 23. Declaration Of Richland's Finance Manager, Daniel L. Underwood;
- 3 24. Declaration Of Pierce County's Director Of Budget & Finance Patrick Kenney;
- 4 25. Declaration Of Pierce County's Assessor-Treasurer, Barbara Gelman;
- 5 26. November 27, 2000 Supplemental Reply Of Sponsor Of I-722 Opposing Motion For Preliminary Injunction Of Bainbridge, Et Al.;
- 6
- 7 27. November 28, 2000 Bainbridge Island Plaintiffs' Reply In Support Of Motion For Preliminary Injunction;
- 8
- 9 28. November 28, 2000 Declaration Authenticating Documents;
- 10 29. the Burien case Plaintiffs' Reply In Support Of Motion For Preliminary Injunction;
- 11 30. William Mallow's Reply To Memorandum Of I-722 Opposing Preliminary Injunction;
- 12 31. November 28, 2000 Richland Plaintiffs' Joinder In Replies Supporting Motions For Preliminary Injunction;
- 13
- 14 32. And all the other materials filed;
- 15 33. in this case up to this date and time.
- 16 34. _____;
- 17 35. _____;
- 18 36. _____.

19 This Court also heard and considered arguments of counsel at the November 30, 2000 hearing on the
 20 above motions. Having considered the above, this Court is of the opinion that plaintiffs' motions
 21 should be granted. *The Court adopts the findings ~~not~~ attached on Exhibit A.*

22 ~~The plaintiffs have shown that the impending December 7, 2000 implementation and~~
 23 ~~enforcement of I-722 threatens plaintiffs and the public with actual and substantial harm. For example,~~
 24 ~~I-722's impending implementation and enforcement on December 7 will cause substantial injury to~~
 25 ~~the four Bainbridge Island plaintiffs and the public by cutting the plaintiff City's funding in half,~~
 26 ~~impair its previously issued 1999 LTGO bonds, force the total elimination of discretionary services,~~

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1 the current status quo by enjoining compliance with, and enforcement of, I-722 pending this Court's
2 summary judgment ruling on this Initiative's validity.

3 It is accordingly ORDERED, ADJUDGED, and DECREED that:

4 1. The Bainbridge Island Plaintiffs' Motion For Preliminary Injunction be, and hereby
5 is, GRANTED. To the extent not inconsistent with that grant, the other motions for
6 Preliminary Injunction in these cases are likewise granted as well.

7 2. Implementation and enforcement of Initiative 722 shall be, and hereby is, enjoined
8 until this Court issues its summary judgment ruling on the validity or invalidity of
9 Initiative 722. As part of this Court's summary judgment ruling, it will address
10 whatever injunction, if any, will continue beyond that ruling.

11 3. This injunction binds the parties to these cases, and all of their employees, agents,
12 ~~officers, attorneys~~ ^{officers, attorneys} ~~and others acting in concert with them.~~ ^{or participation} Each and every one of
13 ~~such persons and entities~~ ^{active} who receive actual notice of this order
14 such persons and entities are accordingly enjoined from implementing or enforcing
15 Initiative 722 until this Court issues its above noted summary judgment ruling on the
16 validity or invalidity of Initiative 722.

17 4. This Court hereby sets the following schedule for the briefing and hearing of the
18 summary judgment motions in this case:

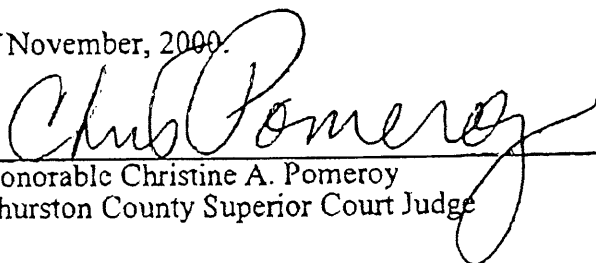
19 Opening briefs and submissions of the parties: Jan. 22, 2001

20 Response briefs and submissions: Feb. 5, 2001

21 Reply briefs and submissions: Feb. 19, 2001

22 Summary Judgment Hearing: Feb. 28, 2001

23 DONE IN OPEN COURT this 30 day of November, 2000.

24 
25 Honorable Christine A. Pomeroy
26 Thurston County Superior Court Judge

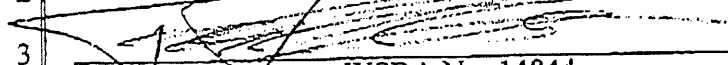
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1 Presented by:

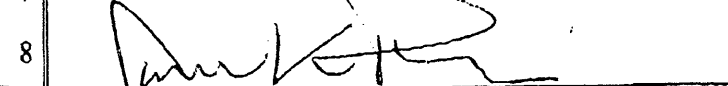
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4 Thomas F. Ahearne, WSBA No. 14844
Attorneys for plaintiffs in the *Bainbridge Island* and *Richland* cases

5 Approved of as to form and for entry,
6 Notice Of Presentation waived:

7 WASHINGTON ATTORNEY GENERAL

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9 Christine Gregoire
10 James K. Pharris, WSBA No. _____
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12 KITSAP COUNTY PROSECUTOR

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14 Russell Hauge
15 Cassandra Noble, WSBA No. 12390
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16 Treasurer Shrader

17 KING COUNTY PROSECUTOR

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Attorneys for defendants King County and County Assessor Nobel

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22 JAMES JOHNSON

23 


24 Jim Johnson, WSBA No. 815
25 Attorneys for Intervenor

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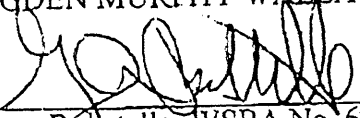
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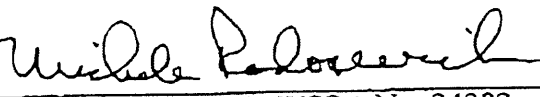
1 MARK H. SIDRAN
Seattle City Attorney

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3 _____
4 Cynthia Unwin Seu, WSBA No. 26831
5 Sandra L. Cohen, WSBA No. 11304
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7 Attorneys for Plaintiff The City of Seattle

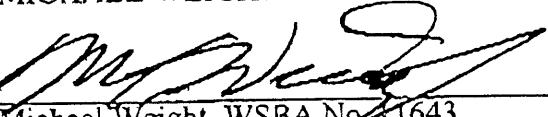
8 OGDEN MURPHY WALLACE, PLLC

9 
10 _____
11 Greg Rubstello, WSBA No. 6271
12 Attorneys for Plaintiff The City of Seattle

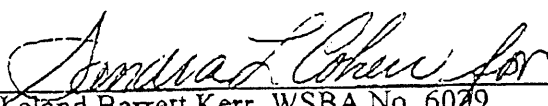
13 DAVIS WRIGHT TREMAINE, LLP

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16 Michele Radosevich, WSBA No. 24282
17 Attorneys for Plaintiffs Southwest Youth and Family Services, Inc. and William P. Mallow

18 MICHAEL WEIGHT

19 
20 _____
21 Michael Weight, WSBA No. 11643
22 Attorneys for Plaintiff The City of Burien

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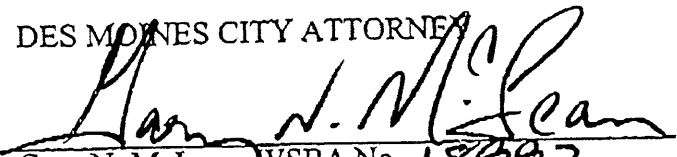
24 
25 _____
26 Leland Barrett Kerr, WSBA No. 6079
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DES MOINES CITY ATTORNEY



Gary N. McLean, WSBA No. 18592
Attorneys for Plaintiff City of Des Moines

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Exhibit A

The Court finds:

1. that there is a substantial loss of revenue;
2. the taxing scheme would be different to different people;
3. the harm served on the cities would be that perhaps libraries, police and fire ^{protection} would be eliminated;
4. Bainbridge's concern as to credit rating if they default on contracts would go to irreparable harm;
5. if the initiative is upheld, there is a remedy through refund;
6. the harm done by not issuing the injunction is not outweighed.
7. The taxes which have been properly levied by city or county have already been spent and now to refund them would be unduly burdensome