

11-3-15

Meg Roederer

From: Coral Evans
Sent: Tuesday, November 03, 2015 3:49 PM
To: Meg Roederer
Subject: Fwd: For Your Consideration: Our Fight for Local Control

Meg! Can you please bring me 12 copies of this letter!

Thank you!

Coral

Sent from my iPad

Begin forwarded message:

From: Lauren Kuby <lauren.kuby@asu.edu>
Date: November 3, 2015, 12:23:54 PM MST
To: "council@flagstaffaz.gov" <council@flagstaffaz.gov>
Subject: **For Your Consideration: Our Fight for Local Control**

Dear Flagstaff City Council:

As the citizen plaintiff in *Kuby v. State of Arizona*, I write to respectfully request the support of the Flagstaff City Council in our lawsuit challenging Arizona Senate Bill 1241, signed by Governor Ducey on April 13, 2015.

The lawsuit, led by Tim Hogan and the Arizona Center for Law in the Public Interest, challenges the legislative ban on cities' authority to limit single-use plastic bags *and* promote energy benchmarking in large commercial buildings.

Senate Bill 1241 blocks cities and towns from limiting the use of plastic bags, particularly in grocery stores as the town of Bisbee has done and which our cities of Tempe and Flagstaff were considering when the law was enacted. Importantly, SB 1241 also prohibits cities from enacting "energy benchmarking" ordinances. Such benchmarking involves similar businesses reporting and comparing energy consumption to identify opportunities for energy efficiency and has been shown to save millions of dollars on energy bills nationwide. The law was largely criticized for taking away local control, and over 5000 citizens signed petitions, and emailed and called Governor Ducey asking him to veto SB1241.

I'm a newly elected councilmember in Tempe and led our Council study group to discover how my City could save taxpayer funds, protect the public, and innovate by reducing single-use plastic in our waste stream. But, fundamentally, it is not concerns about plastic pollution that made me take legal action.

I filed the lawsuit because local control is a long-held value in Arizona and this preemption bill hurts the ability of cities and towns to make thoughtful choices that best represent the values and ideals of their residents.

In our lawsuit, the Arizona Center for Law in the Public interest asserts that SB 1241 violates the Arizona Constitution in three ways:

First, the bill combines multiple subjects into a single bill, which violates the single-subject provision in Article 4 of the Arizona Constitution. Single-use plastic bags and energy benchmarking have nothing in common and should have been addressed in separate bills.

Second, the bill violates the title requirement of the Arizona Constitution that requires a bill's subject be expressed in the title. In this case, the title of the bill, "Relating to Energy Regulatory Prohibition," fails to provide notice that it involves prohibiting cities from regulating single-use plastic bags.

Finally, and most importantly, the lawsuit asserts that SB 1241 violates the home-rule provision of the Arizona Constitution, which prohibits the Legislature from dictating matters of local concern to charter cities in Arizona.

The regulation of plastic bags is a matter of local concern because it impacts trash collection, waste management, and recycling--all of which have historically been matters under the control of Arizona cities. I ask you to support our claim that cities should be able to manage waste and conserve energy without the state stepping in to override our local decision making.

I am hopeful that the lawsuit will prevent the state from usurping local control in the future. I know you will agree that Arizona cities should be left alone to do what they do best: discover the most efficient and thrifty solutions to pressing local challenges.

I ask the Flagstaff City Council to participate in the robust legal challenge brought forth by the Arizona Center for Law in the Public Interest, in whatever way you deem best.

Thank you for your consideration and for leading the way in Arizona on so many social, environmental, and economic issues of concern to Arizonans.

Sincerely,

Lauren Kuby

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