



152 West Cedar Street, Sequim, WA 98382
City Hall (360) 683-4139 FAX (360) 681-3448
Public Works (360) 683-4908 FAX (360) 681-9552

Kristina Nelson-Gross, City Attorney
knelson-gross@sequimwa.gov Tel: 360-681-6611

VIA E-MAIL AND U.S. MAIL

March 23, 2020

Michael A. Spence, Attorney at Law
Helsell Fetterman LLP
1001 Fourth Avenue, Suite 4200
Seattle WA 98154-1154

Re: “Proposed Jamestown S’Klallam Drug Treatment/Detoxification Center”¹

Dear Mr. Spence,

It is with great dismay and displeasure that I find myself admonishing you again as to inappropriate contact with my client, the Sequim City Council. You have been advised to stop contacting my client directly on multiple occasions via telephone and in writing; yet you persist. Thus, I can only conclude that you are trying to induce my clients to violate the law² – namely RCW 35A.13.120, which specifically **prohibits Councilors from meddling in administrative decisions.** You have been previously advised of this concern as well. I will not tolerate continued violations of the RPCs and this level of unprofessionalism.

In my January 23, 2020 letter, I specifically asked you to send me any information you may have that supports your allegations. You intentionally omitted me from this most recent correspondence, which has been your practice to date, in clear violation of RPC 4.2³.

Turning now to the allegations at hand, I again find myself in the position of pointing out your irresponsible and unprofessional behavior regarding my other clients, the City Manager and the

¹ This is in quotes because it demonstrates a repeated bias against people with disabilities as defined under the Americans with Disabilities Act, which may also be a violation of RPC 8.4(f): knowingly – (h) in representing a client, engage in conduct that is prejudicial to the administration of justice toward... other parties... that a reasonable person would interpret as manifesting prejudice or bias on the basis of... disability....

² You may also want to review RPC 8.4 – It is professional misconduct to: (a) violate or attempt to violate the Rules of Professional Conduct, knowingly assist or induce another to do so, or do so through the acts of another; (e) state or imply an ability to influence improperly a government agency or official or to achieve results by means that violate the Rules of Professional Conduct or other law.

³ See also, RPC 4.2 cmt 7 and WSBA Advisory Opinion 201803.

DCD Director. You now loudly proclaim that they are somehow biased or prejudicial regarding processing required permits for the Tribe's clinic, and point to a few comments – “super project” “great deal of benefit” and “awesome” – as the damning evidence⁴. This position is absurd. With the literally **hundreds, if not thousands of documents** your firm has received from the City, a few innocuous emails are the basis for your allegations?⁵


In fact, your allegations demonstrate a gross lack of understanding of the appearance of fairness doctrine. The appearance of fairness doctrine applies to quasi-judicial decisions – not administrative decisions. RCW 42.36.010.

Moreover, your client conveniently ignores the appearance of fairness doctrine through their near constant barrage of written and oral communications to the City Council. If the City Council suddenly decided to hear any part of the proceeding on this matter, I would hope that you would properly advise your clients to ask the Council members to turn the matter over to an impartial hearing body. Failing to do so may present additional ethical issues.

Even if you did find even moderately compelling evidence of bias or prejudice, which you have not, your obligation is to turn the information over to me. *See generally*, RPC 1.13. You did not do so and expressly omitted me from the communication, instead going directly to the City Council. If your client continues to believe it has evidence demonstrating prejudice or bias, it can make its case to a hearing examiner or judge as the case may be. Without any legitimate evidence of actual bias or prejudice, ***do not send me or any member of my City Council any further communication on this subject.***

Finally, it is completely inappropriate for you and your client – **who is an appellant on this matter** – to continue to communicate with my clients on this issue. I am profoundly disappointed that you, as an experienced attorney, have engaged in such unbecoming conduct. I can only conclude that you suspect your client cannot prevail on this matter⁶, thus justifying the red herrings being thrown about. ***In case I was unclear before, any further communications from your office must go through me.***

Kind regards,



Kristina Nelson-Gross
City Attorney

KNG:elh

⁴ RPC 4.1 cmt 1: “A misrepresentation can occur if the lawyer incorporates or affirms a statement of another person that the lawyer knows is false. Misrepresentations can also occur by partially true but misleading statements or omissions that are the equivalent of affirmative false statements. *See also*, RPC 4.2 cmt 3.

⁵ While I do not represent councilors and staff in their individual capacities, it doesn't take a genius to see that they may have claims against you and your client for your unfounded allegations. *See also*, RPC 4.4(a) “In representing a client, a lawyer shall not use means that have no substantial purpose other than to embarrass, delay, or burden a third person”. *See also*, RPC 4.4 cmt 1; *16A WAPRAC § 20:4; Oct. 2019 Update.*

⁶ Thus, raising RPC 2.1 implications.