

IN THE SUPERIOR COURT FOR THE STATE OF ALASKA

THIRD JUDICIAL DISTRICT AT ANCHORAGE

DONNA ADERHOLD, DAVID LEWIS,  
and CATRIONA REYNOLDS,

Plaintiffs,

vs.

CITY OF HOMER,

Defendant.

And

HEARTBEAT OF HOMER,

Intervenor.

Case No. 3AN-17-06227 CI

**DEFENDANT'S ANSWER TO COMPLAINT  
FOR DECLARATORY JUDGMENT**

COMES NOW defendant, the City of Homer ("City"), by and through undersigned counsel, and hereby answers Plaintiffs' Complaint as follows:

1. Defendant admits the allegations in paragraph 1 of the Complaint, but the conduct alleged as grounds for recall included damages done by Draft Resolution 17-019.
2. Defendant admits that it reviewed the Petitions for Recall Election that was submitted and, after extensive and thorough legal review and analysis, certified a portion of the recall petitions. Defendant admits that a special recall election has been scheduled.

3. Defendant denies the allegations in paragraph 3.

### **JURISDICTION AND VENUE**

4. Defendant admits that the Complaint is for declaratory and injunctive relief.

5. Defendant admits that this Court has jurisdiction.

6. Defendant admits that this Court is the proper venue.

### **PARTIES**

7. Defendant admits the allegations in paragraph 7.

8. Defendant admits the allegations in paragraph 8.

9. Defendant admits the allegations in paragraph 9.

### **FACTS**

10. Defendant admits the allegations in paragraph 10.

11. Defendant admits the allegations in paragraph 11.

12. Defendant lacks sufficient information to admit or deny the allegations in paragraph 12, and the same are therefore denied.

13. Defendant lacks sufficient information to admit or deny the allegations in paragraph 13, and the same are therefore denied.

14. Defendant lacks sufficient information to admit or deny the allegations in paragraph 14, and the same are therefore denied.

15. Defendant lacks sufficient information to admit or deny the allegations in paragraph 15, and the same are therefore denied.

16. Defendant admits the allegations in paragraph 16.
17. Defendant admits the allegations in paragraph 17.
18. Defendant lacks sufficient information to admit or deny the allegations in paragraph 18, and the same are therefore denied.
19. Defendant lacks sufficient information to admit or deny the allegations in paragraph 19, and the same are therefore denied.
20. Defendant admits the allegations in paragraph 20.
21. Defendant admits the allegations in paragraph 21.
22. Defendant admits the allegations in paragraph 22.
23. Defendant admits the allegations in paragraph 23.
24. Defendant admits the allegations in paragraph 24.
25. Defendant admits the allegations in paragraph 25.
26. Defendant admits the allegations in paragraph 26.
27. With regard to the first sentence of paragraph 27, Defendant admits that after conducting a thorough and proper legal analysis it edited the recall petitions by deleting portions of the petitions that did not state a proper basis for recall under state law. Defendant admits the remainder of the allegations in paragraph 27.
28. Defendant admits the allegations in paragraph 28.
29. Defendant admits the allegations in paragraph 29.

30. Defendant admits that Memorandum 17-057 was issued and explained the Clerk's decision after careful and thorough legal analysis. To the extent that paragraph 30 characterizes the Clerk's decision and the associated memorandum, that document speaks for itself.

31. Defendant admits that Memorandum 17-057 is correctly quoted in paragraph 31. To the extent that paragraph 31 characterizes the Clerk's decision and the associated memorandum, that document speaks for itself.

32. Defendant admits that Memorandum 17-057 is correctly quoted in paragraph 32. To the extent that paragraph 32 characterizes the Clerk's decision and the associated memorandum, that document speaks for itself.

33. Defendant admits the allegations in paragraph 33.

34. Defendant admits the allegations in paragraph 34.

### CLAIMS

#### **Count I: Insufficiency of Petitions**

35. Defendant admits that Alaska law permits recall of elected officials only for cause. The remainder of paragraph 35 states a legal conclusion, to which no response is required.

36. Paragraph 36 is a statement of law that does not require a response.

37. Defendant denies the allegations in paragraph 37.

38. Defendant denies the allegations in paragraph 38.

39. Defendant denies the allegations in paragraph 39.

40. Defendant denies the allegations in paragraph 40.

41. Defendant denies the allegations in paragraph 41.

### **Count II: Freedom of Speech**

42. Paragraph 42 is a statement of law that does not require a response.

43. To the extent that the first sentence of paragraph 43 characterizes the recall petitions, the recall petitions speaks for itself. Defendant denies the remaining allegations in paragraph 43.

44. To the extent that the first sentence of paragraph 44 characterizes the recall petitions, the recall petitions speaks for itself. Defendant denies the remaining allegations in paragraph 44.

45. Defendant denies the allegation in paragraph 45.

### **AFFIRMATIVE DEFENSES**

Without admitting that which has been denied above, Defendant reserves the right to assert affirmative defenses as may be revealed through investigation and discovery.

### **PRAYER FOR RELIEF**

Having fully answered Plaintiffs' Complaint, Defendant hereby prays as follows:

1. For judgment in favor of the City and against Plaintiffs;
2. That Plaintiffs' Complaint against the City be dismissed, in its entirety,

with prejudice;

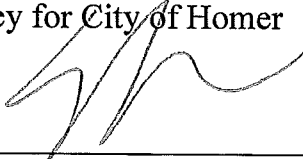
3. For an award of the City's costs and attorneys' fees incurred in defending this action as permitted by law; and

4. For such other and further relief as the Court deems just and equitable.

DATED this 19 day of May, 2017.

LAW OFFICE OF ERIC SANDERS  
Attorney for City of Homer

By \_\_\_\_\_


  
Eric T. Sanders  
Alaska Bar No. 7510085

**Certificate of Service**

I hereby certify that a true and correct copy of the foregoing **Answer to Complaint for Declaratory Judgment (6 pgs)** was served by mail / email on:

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Joshua Decker  
Tara Rich  
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By 

Date 5/22/17

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