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October 11, 2016

Washington State Supreme Court
c/o Clerk of Court
P.O. Box 40929
Olympia, WA 98504-0929

RE: Correction to Statutory Reference During Oral Argument on September 22
State v. Drummond and Island County Board of Commissioners,
Supreme Court Case No. 92749-9

Dear Court:

During oral argument, in response to a question from Justice Madsen on Board of County Commissioner authority, I referenced RCW 36.01.010 and RCW 36.01.020. The first reference is correct, but the latter reference should have been to RCW 36.32.120, Powers of Legislative Authorities. The statute is attached, and was addressed in the Island County Board of Commissioners' briefing.¹

Thank you.

SHORT CRESSMAN & BURGESS PLLC



Scott M. Missall

Attachment

cc: Pamela Loginsky, Esq.
Robert Gould, Esq.

¹ See Corrected Island County Board of Commissioners Response to Appellants Opening Brief, §§ IV(B)(3) and (4); Respondent Drummond's Amended Response to Appellant's Opening Brief, specifically § 4.2, although also addressed throughout, and *see also* Ex. 7 to the Brief, which attaches RCW 36.32.120(6).

RCW 36.32.120, Powers of legislative authorities.

The legislative authorities of the several counties shall:

- (1) Provide for the erection and repairing of courthouses, jails, and other necessary public buildings for the use of the county;
- (2) Lay out, discontinue, or alter county roads and highways within their respective counties, and do all other necessary acts relating thereto according to law, except within cities and towns which have jurisdiction over the roads within their limits;
- (3) License and fix the rates of ferriage; grant grocery and other licenses authorized by law to be by them granted at fees set by the legislative authorities which shall not exceed the costs of administration and operation of such licensed activities;
- (4) Fix the amount of county taxes to be assessed according to the provisions of law, and cause the same to be collected as prescribed by law;
- (5) Allow all accounts legally chargeable against the county not otherwise provided for, and audit the accounts of all officers having the care, management, collection, or disbursement of any money belonging to the county or appropriated to its benefit;
- (6) Have the care of the county property and the management of the county funds and business and in the name of the county prosecute and defend all actions for and against the county, and such other powers as are or may be conferred by law;
- (7) Make and enforce, by appropriate resolutions or ordinances, all such police and sanitary regulations as are not in conflict with state law, and within the unincorporated area of the county may adopt by reference Washington state statutes and recognized codes and/or compilations printed in book form relating to the construction of buildings, the installation of plumbing, the installation of electric wiring, health, or other subjects, and may adopt such codes and/or compilations or portions thereof, together with amendments thereto, or additions thereto: PROVIDED, That except for Washington state statutes, there shall be filed in the county auditor's office one copy of such codes and compilations ten days prior to their adoption by reference, and additional copies may also be filed in library or city offices within the county as deemed necessary by the county legislative authority: PROVIDED FURTHER, That no such regulation, code, compilation, and/or statute shall be effective unless before its adoption, a public hearing has been held thereon by the county legislative authority of which at least ten days' notice has been given. Any violation of such regulations, ordinances, codes, compilations, and/or statutes or resolutions shall constitute a misdemeanor or a civil violation subject to a monetary penalty: PROVIDED FURTHER, That violation of a regulation, ordinance, code, compilation, and/or statute relating to traffic including parking, standing, stopping, and pedestrian offenses is a traffic infraction, except that violation of a regulation, ordinance, code, compilation, and/or

statute equivalent to those provisions of Title 46 RCW set forth in RCW 46.63.020 remains a misdemeanor. However, the punishment for any criminal ordinance shall be the same as the punishment provided in state law for the same crime and no act that is a state crime may be made a civil violation. The notice must set out a copy of the proposed regulations or summarize the content of each proposed regulation; or if a code is adopted by reference the notice shall set forth the full official title and a statement describing the general purpose of such code. For purposes of this subsection, a summary shall mean a brief description which succinctly describes the main points of the proposed regulation. When the county publishes a summary, the publication shall include a statement that the full text of the proposed regulation will be mailed upon request. An inadvertent mistake or omission in publishing the text or a summary of the content of a proposed regulation shall not render the regulation invalid if it is adopted. The notice shall also include the day, hour, and place of hearing and must be given by publication in the newspaper in which legal notices of the county are printed;

(8) Have power to compound and release in whole or in part any debt due to the county when in their opinion the interest of their county will not be prejudiced thereby, except in cases where they or any of them are personally interested;

(9) Have power to administer oaths or affirmations necessary in the discharge of their duties and commit for contempt any witness refusing to testify before them with the same power as district judges;

(10) Have power to declare by ordinance what shall be deemed a nuisance within the county, including but not limited to "litter" and "potentially dangerous litter" as defined in RCW 70.93.030; to prevent, remove, and abate a nuisance at the expense of the parties creating, causing, or committing the nuisance; and to levy a special assessment on the land or premises on which the nuisance is situated to defray the cost, or to reimburse the county for the cost of abating it. This assessment shall constitute a lien against the property which shall be of equal rank with state, county, and municipal taxes.

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Subject: RE: State v. Drummond and Island County Board of Commissioners - Supreme Court Case No. 92749-9

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From: Linda Sutton [mailto:lfsutton@scblaw.com]
Sent: Tuesday, October 11, 2016 9:32 AM
To: OFFICE RECEPTIONIST, CLERK <SUPREME@COURTS.WA.GOV>
Cc: 'Pam Loginsky' <pamloginsky@waprosecutors.org>; Jennifer Wallace <JenniferW@co.island.wa.us>; Patti Switzer <P.Switzer@co.island.wa.us>; Robert Gould <rbgould@nwlegalmal.com>; Leona Phelan <LPhelan@nwlegalmal.com>; 'Even, Jeff (ATG)' <JeffE@ATG.WA.GOV>; Scott Missall <SMissall@scblaw.com>; Athan E. Tramountanas <athant@scblaw.com>
Subject: State v. Drummond and Island County Board of Commissioners - Supreme Court Case No. 92749-9

Dear Clerk:

Please see attached a letter to the Court regarding statutory reference during oral argument in the above-referenced matter.

Linda F. Sutton, Legal Assistant | 206.343.4593 (direct)

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