

FILED
SUPREME COURT
STATE OF WASHINGTON
3/11/2019 11:14 AM
BY SUSAN L. CARLSON
CLERK

NO. 96781-4

IN THE SUPREME COURT OF THE STATE OF WASHINGTON

AMERICAN HOTEL & LODGING ASSOCIATION, SEATTLE HOTEL
ASSOCIATION, and WASHINGTON HOSPITALITY ASSOCIATION,
Respondents/Plaintiffs,

v.

CITY OF SEATTLE,
Appellant/Defendant,

and

UNITE HERE! LOCAL 8 and SEATTLE PROTECTS WOMEN,
Appellants/Intervenor-Defendants.

**LOCAL 8 AND SEATTLE PROTECTS WOMEN'S
REPLY IN SUPPORT OF ITS
PETITION FOR DISCRETIONARY REVIEW**

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I. BRIEF INTRODUCTION

The American Hotel & Lodging Association, Seattle Hotel Association, and the Washington Hospitality Association (together, “the Associations”)—the entities that vehemently opposed Seattle Municipal Code (“SMC”) 14.25 *et seq.*—simultaneously insist that there should be *no* review of this case because it supposedly presents no significant questions of law or issues of substantial public interest, while also asserting that this case overall poses “novel” issues that would benefit from review by this Court as a whole if it is to review *any* part of the decision. Answer at pg. 12.

The Associations’ half-hearted opposition to the Petitions for Review submitted to this Court by UNITE HERE! Local 8 (“Local 8”) and Seattle Protects Women (“the Committee”) (together Appellants/Intervenor-Defendants), as well as by the City of Seattle, simply does not withstand careful scrutiny, as the decision by the Court of Appeals *does* raise sufficient issues to meet the requirements for review listed under RAP 13.4(b). And the Associations’ request for a review of the other issues *not* addressed by the Court of Appeals—a request that blatantly misstates the actual content of the law—should be denied because it does *not* meet the requirements of RAP 13.4(b).

II. ARGUMENT

A. THE COURT OF APPEALS' DECISION *NOT* TO ADDRESS THE ASSOCIATIONS' OTHER ARGUMENTS RAISED BELOW DOES NOT MEET THE REQUIREMENTS OF RAP 13.4(B) IN ORDER TO MERIT REVIEW BY THIS COURT.

The Court should *not* accept review of the issues raised by the Associations in their Answer (but not addressed by the Court of Appeals decision), as they fail to meet the requirements of RAP 13.4(b). “Principles of judicial economy” and “novel” issues do not override the requirements of RAP 13.4, *see* Answer at pgs. 11-13, because RAP 13.4(b) clearly states:

- (b) Considerations Governing Acceptance of Review. A petition for review will be accepted by the Supreme Court only:
 - (1) If the decision of the Court of Appeals is in conflict with a decision of the Supreme Court; or
 - (2) If the decision of the Court of Appeals is in conflict with a published decision of the Court of Appeals; or
 - (3) If a significant question of law under the Constitution of the State of Washington or of the United States is involved; or
 - (4) If the petition involves an issue of substantial public interest that should be determined by the Supreme Court.

Id. The Associations fail to point to even *one* of these requirements to support their request that this court review all issues raised before the

Court of Appeals—instead, they raise the concept of judicial economy as justification for their request to have *all* issues reviewed by this Court. The Associations also spend the better portion of their brief arguing *against* the City’s and the Appellants/Intervenor-Defendants assertion that the Court of Appeals’ *actual* decision raises issues of public interest, while simultaneously asserting that it is in fact the *other* issues the Court of Appeals chose *not* to address that actually warrant review because they are “novel.” Answer at pg. 12.

But the Associations do not go so far as to assert that the unaddressed issues in the Court of Appeals’ decision rise to the requirements of RAP 13.4(b). This is most likely because, as the trial court clearly noted, the issues that the Court of Appeals ultimately did not address are addressed by existing case law. There is no violation of due process created by I-124—particularly here, where the Associations have only brought a facial challenge and cannot succeed on an as-applied challenge because they lack the standing to assert the rights of guests instead of their own member associations and businesses. There is also no conflict with WISHA created by the language in I-124; there is no preemptive language in WISHA that would preclude municipalities or other governmental bodies from adopting laws or regulations related to the health and safety of employees more protective of those set forth in

WISHA, and there is nothing in I-124 that would conflict or be inconsistent with WISHA.

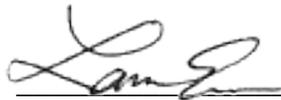
This is a far cry from the issues actually raised by the Court of Appeals' decision, which *does* create "an issue of substantial public interest that should be determined by the Supreme Court." RAP 13.4(b)(4). Given the previously-articulated concern and confusion that the Court of Appeals' decision has now sown into the jurisprudence surrounding ballot initiatives, there is a clear issue of substantial public interest that *should* be determined by the Supreme Court.

The Associations' request for review of the issues not addressed by the Court of Appeals should be denied.

III. CONCLUSION

For the foregoing reasons, Appellants/Intervenor-Defendants ask that this Court accept review of the issues raised by the Court of Appeals' decision, but not under the parameters requested by the Associations.

Respectfully submitted this 11th day of March, 2019.

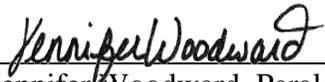


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DECLARATION OF SERVICE

I hereby declare under penalty of perjury under the laws of the state of Washington that on this 11th day of March, 2019, I caused the foregoing Local 8 and Seattle Protects Women's Reply In Support of Its Petition For Discretionary Review to be filed with the clerk of the court via the e-filing web portal, which will automatically provide of such filing to all required parties.

Signed in Seattle, Washington, this 11th day of March, 2019.



Jennifer Woodward, Paralegal

DECLARATION OF SERVICE

SCHWERIN CAMPBELL BARNARD IGLITZIN & LAVITT

March 11, 2019 - 11:14 AM

Transmittal Information

Filed with Court: Supreme Court
Appellate Court Case Number: 96781-4
Appellate Court Case Title: American Hotel & Lodging Association, et al. v. City of Seattle, et al.
Superior Court Case Number: 16-2-30233-5

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