

**IN THE SUPERIOR COURT OF THE STATE  
OF WASHINGTON FOR KING COUNTY**

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ARTHUR WEST,	)	
	)	
<b>plaintiff,</b>	)	
<b>Vs.</b>	)	<b>No.</b>
	)	
<b>SEATTLE CITY COUNCIL,</b>	)	<b>PLAINTIFF'S</b>
<b>CITY OF SEATTLE, LISA</b>	)	<b>ORIGINAL</b>
<b>HERBOLD, BRUCE HARRELL,</b>	)	<b>COMPLAINT</b>
<b>KSHAMA SAWANT, ROB</b>	)	<b>FOR VIOLATION</b>
<b>JOHNSON, DEBORA JUAREZ,</b>	)	<b>OF THE OPMA</b>
<b>MIKE O'BRIEN, SALLY</b>	)	
<b>BAGSHAW, THERESA</b>	)	
<b>MOSQUEDA,</b>	)	
<b>defendants</b>	)	

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**I INTRODUCTION**

1.1. This is an action for declaratory and injunctive relief concerning violation of the OPMA by the Seattle City Council in a series of serial communications or “meetings” and the actions of the Council in deliberating and taking final action on June 12, 2018 outside the context of a properly announced open public meeting.

1.2. The plaintiff alleges that, as reported by the media, a quorum of the the Seattle City Council apparently conducted series of “serial communications” or “meetings” in violation of the Open Public Meetings Act, and failed to give proper notice of a special meeting set for June

12, 2018, resulting in a “final action” on June 12, 2018 concerning a controversial corporate “Head Tax” that should be invalidated due to the City's failure to comply with the Act.

## **II PARTIES AND JURISDICTION**

**2.1.** Plaintiff West is “any person” as defined in RCW 42.30.130 with standing to seek relief. (See West v. Seattle Port Commission, West v. Pierce County Council)

**2.2.** Defendant Seattle City Council is a “governing body” as defined in RCW 42.30.020 that has, between the dates of June 1<sup>st</sup> and June 12<sup>th</sup>, violated the Open Public Meetings Act by conducting unlawful “meetings” and by deliberating and by taking “action” and “final action” as defined in RCW 42.30.020 in a series of serial communications and “meetings”.

**2.3.** Defendant Seattle City Council members Lisa Herbold, Bruce Harrell, Kshama Sawant, Rob Johnson, Debora Juarez, Mike O'Brien, Sally Bagshaw, and Teresa Mosqueda are members of a public agency that violated the OPMA by knowingly and deliberately taking “action” outside the context of a properly scheduled open public meeting.

**2.4.** Defendant City of Seattle is a municipla entity required to abide by the requirements of the Laws of the State of Washington, including the Open Public Meetings Act.

**2.5.** The King County Superior Court has jurisdiction over the parties and subject matter of this claim.

## **III ALLEGATIONS**

**3.1.** On or about May 14, 2018 the Seattle City Council enacted a controversial corporate “Head Tax” on the employees of large companies, apparently to address homeless issues.

**3.2.** The Head Tax spawned significant political opposition, and a majority of the council subsequently determined, apparently outside of the context of an open public meeting, that the Head Tax should be repealed.

**3.3.** Between June 1<sup>st</sup> and June 12<sup>th</sup>, (and on other dates that may be shown after discovery) the a quorum of the Seattle City Council conducted a series of actual and/or serial “meetings” through which a quorum of the Council took “action” as defined in RCW 42.30.020

(3)<sup>1</sup> in violation of the Open Public Meetings Act (OPMA). A quorum of the Council members participated in these “meetings<sup>2</sup>”.

3.4. The “meetings” were deliberately scheduled in the absence of proper notice or other lawful compliance with the OPMA.

3.5. By their actions and omissions, Seattle City Council members Lisa Herbold, Bruce Harrell, Kshama Sawant, Rob Johnson, Debora Juarez, Mike O'Brien, Sally Bagshaw, and Teresa Mosqueda knowingly and deliberately violated the OPMA.

3.6. The Council failed to provide adequate notice of the special meeting of June 12, 2018.

3.7. The final action taken on June 12, 2018 is void due to the failure of the Council to comply with the OPMA.

3.8. Plaintiff West is a customer of the Amazon corporation, and is specially impacted by the imposition and repeal of discriminatory taxes levied upon the Amazon corporation.

3.9 A present case and controversy exists concerning whether the OPMA may be violated by a series of serial communications that is subject to adjudication under the Uniform Declaratory Judgments Act.

#### IV. CAUSES OF ACTION

##### 4.1. OPMA CLAIM FOR PENALTIES, FEES, AND INJUNCTIVE RELIEF

By their acts and omissions defendants created a cause of action under RCW 42.30 for penalties, costs, fees, and injunctive relief in regard to violations of the OPMA by a quorum of the governing body of the Seattle City Council, and plaintiff is entitled, under RCW 42.30 and CR 65, to the relief sought below.

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<sup>1</sup> "Action" means the transaction of the official business of a public agency by a governing body including but not limited to receipt of public testimony, deliberations, discussions, considerations, reviews, evaluations, and final actions. "Final action" means a collective positive or negative decision, or an actual vote by a majority of the members of a governing body when sitting as a body or entity, upon a motion, proposal, resolution, order, or ordinance.

<sup>2</sup> "Meeting" means meetings at which action is taken. (See RCW 42.30.020 (3))

#### **4.2. UNIFORM DECLARATORY JUDGMENTS ACT (RCW 7.24)**

By their acts and omissions defendants, and each of them, created an uncertainty in the conduct of public officers and compliance with the OPMA, and a cause of action for a declaratory judgment in regard to whether the OPMA was violated by defendants' series of serial communications and/or meetings. Such declaration will conclusively terminate the controversy giving rise to this proceeding.

#### **4.3. WRITS OF MANDAMUS AND PROHIBITION**

By their acts and omissions defendants created a cause of action for statutory and constitutional writs of mandamus and prohibition for which there is no adequate remedy in the ordinary course of law, and for which plaintiff is entitled to the relief sought below.

#### **V REQUEST FOR RELIEF**

**5.1.** That the action of the Seattle City Council of June 12, 2018 repealing the Corporate Head Tax be invalidated due to the failure of the City Council to comply with the OPMA.

**5.2.** That a declaratory ruling issue declaring that the a quorum of Seattle City Council violated the Open Public Meetings Act.

**5.3.** That a declaratory ruling issue that defendants violated the OPMA by deliberately conducting a series of secret serial meetings personally, by telephone, Email, or by other electronic means.

**5.4.** That an injunction and/or a writ of mandamus or prohibition issue to all of the named parties barring further such violations of the OPMA, and that any Council members found to have knowingly violated the OPMA be fined the princely sum of \$500 for each violation.

**5.5.** That plaintiff be awarded costs, and any applicable attorney fees.

Done June 14, 2018, in Olympia, Washington.

  
ARTHUR WEST