



Joseph A. Brusic Prosecuting Attorney

Yakima County Prosecuting Attorney's Office
128 North Second Street, Room 329
Yakima, WA 98901

Phone: (509) 574-1210 Fax: (509) 574-1211

E-mail: Joseph.Brusic@co.yakima.wa.us

Web Site: <http://wa-yakimacounty.civicplus.com/418/Prosecuting.Attorney>

May 9, 2020

The Honorable Sherry Raymond
Mayor, City of Selah
115 West Naches Avenue
Selah, Washington 98942

Re.: May 8, 2020 Proclamation by the Mayor of Selah

Mayor Raymond,

I am sending you this letter to address directly the Proclamation you signed on behalf of the City of Selah yesterday, May 9, 2020. In that Proclamation, you indicate that the Governor of the state of Washington does not have the legal authority to force Selah's municipal employees, including its police officers, to take action against anyone. Additionally, you call into question, on behalf of the residents and businessowners in Selah, the constitutionality and correctness of the various Proclamations issued by Governor Inslee since this current pandemic arose. You indicate that the Governor's Proclamations are inflicting massive economic losses each passing day and you conclude that they are based upon flawed academic models and unsound rationales.

I fully acknowledge that these are extremely difficult times on many levels for everyone, not just here locally but also for those nationally and internationally. People are suffering physically, mentally, spiritually and financially in ways we have never seen before. You indicate in your Proclamation that there is much confusion and worry for residents and businessowners in Selah because of the Proclamations issued by our Governor. Because of this state of mind and the hardships the people of Selah are experiencing, you now have indicated that those "wishing to operate or patronize a business, to conduct or attend religious services, to use park facilities or take any other action that was lawful prior to the Governor's Proclamations, will not be harassed, investigated or punished by any City of Selah employee."

Please understand, however, that the Governor of the state of Washington has been given the direct authority and power by the legislature, under RCW 43.06.220, to issue these Proclamations in a time of emergency that we have been and are currently experiencing. We are a nation, state and county of laws. You and I, as elected officials, have taken an oath to uphold those laws, especially the United States and Washington Constitutions. The Washington State Legislature has granted the Governor, the head of the executive branch of government, authority to act directly in time of emergency and, in so doing, has also restricted the counties, cities and towns during times of crisis. During an emergency such as the current pandemic, the Governor is tasked with making immediate and direct decisions of critical magnitude and those governmental entities cannot conflict with this resolute power. Because we are a society of laws and order, there are political processes we can ultimately use to further define and limit the checks and balances between the three branches of government. We can work with local leaders, such as yourself, as well as with our Representatives and Senators to express our concerns and viewpoints. However, the Legislature recognized that the Governor, the executive head of our state, would be in a better position to act swiftly to respond to an emergency or crisis. That is why the state chief executive has been given substantial discretionary authority, by statute, during this time which he has substantially used. To summarize, the Washington Constitution gives counties, cities and towns broad discretion to issue their own

regulations. However, during an emergency, they may not issue proclamations or adopt any regulations which conflict with the governor's emergency proclamation. *See Wash. Const. Art XI, Section 11.*

Elected officials, such as you and me, are tasked to serve under the laws, not to act above them. I admire and support anyone who wants to work through the correct political processes to attempt to change and amend the law. However, declaring that the Governor does not have the power to do what he is currently doing is simply incorrect. In the United States, we have been blessed by our forefathers with national and state constitutions that allow all of us to make a difference in creating the laws that govern our daily living. However, attempting to disregard the Governor's power and authority in this way during an emergency global pandemic is not appropriate in my humble opinion.

I have spoken to our Yakima County Health Department Executive Director numerous times over the last several weeks. He has clearly indicated that this acute medical emergency continues to exist in Yakima County, including in the City of Selah. Once again, all people in Yakima County are affected by and frustrated with the consequences of COVID – 19 and its repercussions. However, that frustration cannot fuel the blatant willfulness to violate the Governor's Proclamations under the current state of affairs with the knowledge and information we currently are operating under.

Therefore, I strongly urge you to reconsider your May 8th Proclamation and to retract it in the interests of following the laws of the state of Washington. I believe that we will work through this current crisis and come out on top. I also know that I will follow the laws of the state of Washington and carry out my duties as Yakima County Prosecutor as delegated to me by the people of Yakima County. I sincerely hope that we can arrive at a mutual understanding before actions lead to possible further consequences.

Please do not hesitate to contact me at your earliest convenience if you have any questions or concerns about this communication.

Sincerely,



Joseph A. Brusic
Yakima County Prosecutor
Yakima, WA