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STATE OF ALASKA
Division of Elections
Office of the Lieutenant Governor

Via U.S. Mail and Email
wigi@wigitozzi.com

December 6, 2013

Mr. Louis M. Tozzi, Jr.
330 E. 4th Avenue, Suite 203
Anchorage, AK 99501

Dear Mr. Tozzi:

In accordance with AS 15.45.540 I have reviewed your application for the recall of Representative Lindsey Holmes and I am denying certification of the application. I agree with the Department of Law's assessment that the grounds for recall do not satisfy the legal standard for recall required by AS 15.45.510, in that the alleged facts, even assuming they are true, are insufficient to state a claim of lack of fitness - the sole statutory ground for recall stated in the summary. Therefore, the application is not substantially in the form required by AS 15.45.550(1).

Alaska law addresses the bases of denial of certification:

Sec. 15.45.550. Bases of denial of certification.

The director shall deny certification upon determining that:

- (1) the application is not substantially in the required form;
- (2) the application was filed during the first 120 days of the term of office of the official subject to recall or within less than 180 days of the termination of the term of office of any official subject to recall;
- (3) the person named in the application is not subject to recall; or
- (4) there is an insufficient number of qualified subscribers.

I determined that there were a sufficient number of qualified voters who subscribed to the application for recall; that as a member of the Alaska State Legislature, Representative Lindsey Holmes is subject to recall under the Constitution and statutes; and that the application was filed within the timeframe provided by law.

However, the application was not "substantially in the required form" for the reasons noted above.

Enclosed is the "Petition Statistics Report" which shows the qualification of signatures of registered voters submitted with this application. The application must have contained signatures of qualified voters equal in number to ten percent of those who voted in the preceding general election in House District 19. There were 8,080 votes cast in the 2012 general election in House District 19. Therefore, the minimum number of qualified voter signatures required was 808. The Division qualified the signatures of 904 voters. Information was redacted where required by AS 15.07.195(b).

Also enclosed for your information is the Department of Law opinion, which I sought during my review of the application.

Alaska law provides:

Sec. 15.45.720. Judicial review.

Any person aggrieved by a determination made by the director under AS 15.45.470 - 15.45.710 may bring an action in the superior court to have the determination reviewed within 30 days of the date on which notice of determination was given.

If you have any questions, or if there is further information that I can provide, please feel free to contact me.

Sincerely,



Gail Fenumiai
Director
Division of Elections

Enclosures

Petition Statistics Report
Attorney General Opinion, dated December 6, 2013

cc: Colleen Murphy, recall committee member
Linda E. Scates, recall committee member
The Honorable Mead Treadwell, Lieutenant Governor
The Honorable Lindsey Holmes, Alaska State Representative House District 19