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STATE OF ALASKA
Division of Elections
Office of the Lieutenant Governor

November 4, 2019

Mr. Joe Usibelli Sr.
100 Cushman Street #210
Fairbanks, Alaska 99701

Sent via email to: peggyzoe@gmail.com
jusibelli@sprynet.com

Dear Mr. Usibelli:

In accordance with AS 15.45.540, I have reviewed your application for the recall of Governor Michael J. Dunleavy and I am denying certification of the application. My decision is based on the legal advice received from the Attorney General that the grounds for recall do not satisfy the legal standard for the three statutory grounds for recall alleged in the application—neglect of duty, incompetence, and lack of fitness—under AS 15.45.510. Therefore, the application is not substantially in the form as 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.

The Attorney General determined the technical requirements of the recall statutes were met, however the statement of grounds for recall are not factually and legally sufficient for purposes of certification. The legal opinion determined that as Governor of the State of Alaska, Michael J. Dunleavy is subject to recall under the Constitution and statutes; the grounds for recall did not exceed 200 words (excluding the referenced material); there was a designation of a recall committee consisting of three qualified voters who subscribed to the application; and there were at least 100 qualified voters who signed as sponsors.

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The Division of Elections' review of the signature booklets determined there were a sufficient number of qualified voters who subscribed to the application for recall with the statement of grounds attached and the name and office of the person subject to recall on the signature page. Attached to this letter is the "Petition Summary 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. There were 285,009 votes cast in the 2019 general election. The minimum number of qualified voter signatures required was 28,501. The Division qualified the signatures of 46,405 voters.

Also attached for your information is the Department of Law Attorney General Opinion, which provides the legal review I sought during my review of the application, and upon which I relied in deciding to deny certification. Under Alaska law, any person aggrieved by this decision may obtain judicial review. AS 15.45.720 authorizes judicial review and provides:

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

Enclosures

Petition Summary Report
Attorney General Opinion, dated November 4, 2019

cc: Arliss Sturgulewski, Recall Committee Member, roe.sturgulewski@ascentpgm.com
Victor Fischer, Recall Committee Member, vicfischer24@gmail.com
The Honorable Kevin Meyer, Lieutenant Governor
The Honorable Michael J. Dunleavy, Governor
Scott Kendall, Recall Committee Counsel, SMKendall@hwb-law.com