



MUNICIPALITY OF ANCHORAGE
MAYOR DAVE BRONSON

OFFICE OF THE MAYOR

Date: March 12, 2024
To: Anchorage Assembly
From: Mayor Dave Bronson 
Subject: Veto of Ordinance No. AO 2024-25

Today, in accordance with Section 2.30.100 of the Anchorage Municipal Code (AMC) and Section 5.02 of the Municipal Charter, I am issuing a veto for AO 2024-25, which was approved during the Assembly's regular meeting of March 5, 2024.

This most recent expansion of the Ombudsman's powers contains two flawed policies. First, AO 2024-25 removes the mandate that the Ombudsman shall cease investigation when litigation commences, and instead provides that the Ombudsman may cease investigation. In other words, whether to cease an investigation related to litigation or move forward with it is left to the Ombudsman's exclusive discretion. This is bad policy. Litigation against the Municipality affects more than one department in the Municipality. Litigation against the Municipality also threatens Municipal finances placed at risk during that litigation. The function of the Municipal Attorney's office is to determine how best to defend or prosecute cases for the common good of the Municipality. Allowing an employee who may or may not be familiar with current or pending litigation of the Municipality to decide to investigate, produce, and make public a report about a subject of current or pending litigation, even over the objection of the Municipal Attorney, jeopardizes the Municipal Attorney's Office's ability to effectively prosecute or guide defense of those cases.

Second, AO 2024-25 grants blanket indemnity to the Ombudsman. This is unnecessary and, for the reasons stated here, imprudent. It is unnecessary because, as Vice-Chair Zaletel pointed out at the worksession on Friday, March 1, 2024, under current AMC 1.50.010 the Ombudsman is already indemnified from personal legal liability so long as the Ombudsman works within the scope of his or her employment – as is any Municipal Employee or Official, including Assembly Members. It is imprudent to create different standards of evaluation from those standards that apply to all other employees and officials under the current general indemnification code. The choice to remove the explicit inclusion of the Municipal Attorney's judgment in consultation with the Risk Manager and replace it with the judgment of Assembly Counsel is short-sighted. While Assembly Counsel and the Municipal Attorney are both lawyers and both capable of advising the risk manager, only the Municipal Attorney's office is concerned with the common good of the entire Municipality and all its departments. Assembly Counsel, on the other hand, rightly prioritizes the legislative goals



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and objectives of the Assembly. Here, it is also imprudent to remove all exceptions for gross negligence, willful, malicious, dishonest, fraudulent, or criminal conduct which would otherwise release the Municipality from any obligation to indemnify the Ombudsman if he or she acted in such a way.

The Assembly has spoken recently about the importance of a healthy balance of powers. But in this ordinance, the Assembly granted discretion, otherwise properly within the jurisdiction of the Municipal Attorney's office (to decide whether an investigation should cease due to the existence of current or ongoing litigation), exclusively to the office of the Ombudsman, where it is not suited. Mr. Joe Josephson, Charter Commission member, speaking at a Charter Meeting held on June 26, 1975, commented that the Charter enshrined two basic non-contradictory concepts, the centralization and decentralization of power. He noted that the Ombudsman was part of the decentralization of power being built into the structure of the Charter. The decentralization was implemented by placing the Ombudsman's office in the legislative branch of the Municipality, but also making the office as independent as possible from the Assembly. The Ombudsman is responsible to the Assembly but is not directed by the Assembly.

AO 2024-25 acknowledged "the Charter's intent was to create an (Ombudsman's) office 'independent from the mayor and . . . protected from the legislative body.'" As it currently stands in code, the Assembly exclusively appoints and may remove the Ombudsman without any ratification or confirmation necessary from the mayor, which necessarily ties the Ombudsman to the Assembly. The Risk Manager, in consultation with the Municipal Attorney, evaluates whether the Ombudsman has acted outside the scope of employment or if any of the other exceptions to indemnification in AMC 1.50.010 apply. This allows the Ombudsman to exercise some independence from the Assembly.

As my administration stated previously on March 21, 2023, and stated again on March 5, 2024, prior to the passage of AO 2024-25, expanding the Ombudsman's powers of investigation in this ordinance erodes executive authority and aggrandizes legislative power in the Municipality which is not good for the healthy checks and balances that benefit the Municipality as it throws an imbalance into the separation of powers contemplated in the Anchorage Charter. With the passage of AO 2024-25, the Ombudsman has been singled out to have a higher protected legal status through a type of indemnification provided to none of the other over 2,000 Municipal Employees or Officials in Anchorage and has been provided with the incentive to work for the exclusive benefit of the Assembly.

For the above reasons, I hereby veto AO 2024-25.