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To: Paul Brachvogel, Kalama City Attorney
Date: September 1, 2015

VIA E-MAIL (brachvogel1@msn.com)

RE: Commercial Bakery Operating in an R-1 Zoned Neighborhood; Code Violation

Dear Mr. Brachvogel,

This is a follow-up to our previous letters and e-mails to the city regarding the bakery operating at 597 North Third Place, Kalama (Cowlitz County tax parcel number 40533) owned by Victor and Edith Ahrens. As you know, I represent Katharine Carmichel, of 331 Juniper Street, Kalama. She is the Ahrens' neighbor and has been tortured by the constant employee and truck traffic flowing in and out of this home in her residential single-family home neighborhood. (See Zoning Map scanned and attached to this e-mail). It is unequivocally clear both properties are zoned in an R-1 neighborhood.

In 2011, the Ahrens started a bakery out of their home. (See "Bread Winner: Kalama boy starts sourdough bakery business" scanned and attached to e-mail). Back then, they produced 130 loaves a day by their own admission. Since then, it's grown exponentially and as of right now, the Ahrens consider themselves a commercial bakery enterprise. (See Ahrens Washington State business license at <http://dor.wa.gov/content/doingbusiness/registermybusiness/brd/default.aspx>; type in Kalama Sourdough Bakery); and <https://www.facebook.com/KalamaSourdoughBakery>).

While it may be legal in Washington State to run a business from a home kitchen under its revised 2012 cottage industry law; in Kalama it's illegal to run a bakery in an R-1 zoned neighborhood. Bakeries and food processors are specifically prohibited with or without a permit. See Kalama Muni Code 17.60.020 at (https://www.municode.com/library/wa/kalama/codes/code_of_ordinances?nodeId=TIT17ZO_CH17.60USTA).

Similarly, the cottage industry law in Washington State, which allows residents to operate small businesses out of their homes, has a prohibited list of products. The Ahrens' bakery is certainly much larger now than a "cottage industry" but if it were considered one (which it is not) the list of prohibited products produced on site would include several of the items the Ahrens use in their products including eggs, cheese and other dairy products. Here is that list:

[Prohibited Products \(WAC 16-149-130\)](#) This is not all inclusive but provides most of the types of prohibited cottage food products.

- This section lists unacceptable cottage food products. Although not inclusive, it lists most types of unapproved cottage food products:
 - Fresh or dried meat or meat products including jerky;
 - Fresh or dried poultry or poultry products;
 - Canned fruits, vegetables, vegetable butters, salsas, etc.;
 - Fish or shellfish products;
 - Canned pickled products such as corn relish, pickles, sauerkraut;
 - Raw seed sprouts;
 - Bakery goods which require any type of refrigeration such as cream, custard or meringue pies and cakes or pastries with cream or cream cheese fillings, fresh fruit fillings or garnishes, glazes or frostings with low sugar content, cream, or **uncooked eggs**;
 - Tempered or molded chocolate or chocolate type products;
 - **Milk and dairy products including hard, soft and cottage cheeses and yogurt**;
 - Cut fresh fruits or vegetables;
 - Food products made from cut fresh fruits or vegetables;
 - Food products made with cooked vegetable products;
 - **Garlic in oil mixtures**;
 - Juices made from fresh fruits or vegetables;
 - Ice or ice products;
 - Barbeque sauces, ketchups, or mustards;
 - **Focaccia-style breads with vegetables or cheeses.**

These types of activities are reserved for non-residential zoned areas as described in your Kalama Code 17.08.199 - Light industrial manufacturing for up to forty thousand square feet of gross floor area.

In its entirety:

“Light industrial manufacturing up to forty thousand square feet of gross floor area” means those industrial or manufacturing activities which are engaged in the production of articles or a product from raw or prepared materials by giving them new forms and qualities and may include, but are not limited to, processing, packaging or treatment of bakery goods, candy, pharmaceuticals, perfume, toiletries, soft drinks and food products and consumer goods, timber, wood and paper products, chemical products, medical and optical products, feed, metal and metal alloy products and the storage of raw materials for such industries. Gross floor area shall not exceed forty thousand square feet.”

(Ord. No. 1313, § 1, 6-5-2013)

In 2014, the Kalama Sourdough Bakery grew large enough that it was no longer a kid’s home project, (<https://www.facebook.com/KalamaSourdoughBakery/posts/672967879439195>) but a full-fledged commercial bakery business operating out of Ms. Carmichel’s residential neighborhood – complete with 24-hour-a-day employees and delivery trucks.

Originally within its jurisdiction, administrators for the state’s cottage industry department contend this business is no longer within its agency’s oversight as it has now grown into a large commercial operation. After two inspections, it has declined to oversee the Kalama Bakery for a third because of this growth. Washington’s Cottage Food Industry state workers can be reached at 360-902-1876.

The Ahrens are now suing Ms. Carmichel for more truck access to the back of their lot. Cowlitz County Superior Court Civil Division Case# 15-2-00896-1. The law suit incredulously asks for the right to travel over her land so that the bakery can get more delivery trucks to and from their house. A decision by the city indicating the bakery is improperly located would appear to have no impact on the litigation. The dispute between the parties is for access to land via adverse possession and/or related land laws.

This now constitutes a more thorough compilation of Ms. Carmichel’s grievances regarding the operation of the commercial bakery in her residential single family neighborhood. The business violates every local code on file. It must cease operations immediately and the city must send notice to the Ahrens to commence this shutdown. If you do not agree that this

bakery is illegally operating, please respond by identifying the facts and/or law you may be relying upon to make that determination.

Respectfully,

Stephen I. Liss, Esq.

WSBA #44611