

Lawsuit looms heavy over chamber luncheon

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By SAM DeGRAVE

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The presentation John Binkley gave during Thursday's Juneau Chamber of Commerce luncheon was a little longer than he had originally planned when the chamber asked him to speak a couple weeks ago.

That's because Binkley, a former Alaska legislator and president of the Cruise Lines International Association's Alaska affiliate, couldn't give the cruise industry update he had prepared without mentioning that his organization is suing the city.

Shortly after beginning his presentation in the crowded ballroom of the Hangar on the Wharf, Binkley assured his audience that he would explain the "activities of earlier this week" before he finished. As if referring to Voldemort, he didn't mention these "activities" by name, but most people already knew what he was talking about. On Tuesday, CLIA Alaska announced that it is suing Juneau and several city officials including the mayor in federal court over the alleged misuse of marine passenger fees.

"We want to find a way to move forward," Binkley said of the lawsuit. "We've had this long-standing dispute — difference of opinion — and it's causing more friction, I believe, between the industry and the community, and the only way we think we can solve that is through our judicial system."

The city currently collects a \$5 entry fee from every cruise passenger and another \$3 fee for port development. The fees are collectively referred to locally as the cruise ship head taxes, and they add up. In the past four years, Juneau has received more than \$35 million from cruise lines, according to CLIA Alaska.

Juneau is not the only community in Southeast Alaska that levies head taxes, but it is the only community CLIA is taking to court. This is at least in part because of the Whale Project. Though the almost \$3 million whale stature was paid for with private donations, CLIA Alaska alleges that the \$10 million in head tax money the city is using to fund the seawalk and park surrounding the life-sized bronze whale crosses the line.

"We don't have a problem with the whale," Binkley said. "It's about a mile from the current docks, and that's really our concern."

According to Binkley and CLIA Alaska, head tax money has to be spent in a manner that "impacts the ship and the passenger arriving on the ship." Though cruise passengers may very well walk a mile to see the whale, the sculpture doesn't benefit the cruise ships in any way, which is where Binkley finds fault with it.

Bob Janes, the owner of Gastineau Guiding, was in the audience and took issue with this point. Janes' company operates nine whale-watching boats out of Statter Harbor in Auke Bay, which sees a sizeable increase in traffic during cruise season. In fact, 98 percent of the roughly 32,000 people who Janes' company moves through the harbor during the summer months come from cruise ships, he said.

"There are big impacts that are figuratively close to the docks," he told the audience before asking Binkley if he thought infrastructure improvements in Statter Harbor would be an appropriate use of head taxes. Binkley said that answer depends on the outcome of the lawsuit.

"Our interpretation is that it really has to be tied pretty closely to the ship; it really has to have a nexus to the ship," he responded. "I don't know what the answer is, but hopefully we'll get some guidance from the court."

That guidance is likely to come at a heavy cost to Juneau though, according to City Attorney Amy Mead. It's too early to tell exactly how the lawsuit will unfold or how much it will cost, but it will likely be a "significant amount."

"This is not a case I can handle out of this office; I just don't have the resources to take on this and meet the normal legal needs of the city," she told the Empire in a phone interview Thursday afternoon. "We are going to have to retain outside counsel, and I suspect that will be costly."

If she were to try to handle this suit in-house, Mead said she would need at least one more full-time attorney and a paralegal.

Binkley said that he hopes this lawsuit doesn't create any animosity between the city and the cruise industry, and he acknowledged that the city has spent some marine passenger fee funds appropriately. He supports the construction of the two new Panamax docks downtown, both of which were funded partially by the local port development fee.

"That's really what these fees are supposed to be used for," he said.

The city maintains that it has used passenger fees in an appropriate manner.

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"Juneau has a long history of legal and responsible community planning and implementation of passenger fees for the management of our visitor industry," Mayor Ken Koelsch wrote in a city press release Wednesday. Koelsch was present for Binkley's talk Thursday and is one of the city officials named in the suit.

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