



The Holland America Line cruise ship Westerdam slips out of Juneau's downtown harbor just before 11 p.m. on Tuesday, Oct. 2, 2018. The Norwegian Pearl also visited Tuesday, the last day of the season. (Michael Penn | Juneau Empire)

# City breaks silence on cruise lawsuit

City manager confident that fees can still be used to benefit passengers

By Alex McCarthy

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CITY AND BOROUGH OF JUNEAU ASSEMBLY CRUISE SHIPS LOCAL NEWS

After three years of mostly being silent, City Manager Rorie Watt is talking in depth this week about the city's lawsuit against the cruise industry.

Watt spoke Thursday at the Juneau Chamber of Commerce Luncheon and laid out the City and Borough of Juneau's view of [a recent federal judge's ruling](#) in CBJ's lawsuit with Cruise Lines International Association (CLIA) of Alaska. In short, Watt feels optimistic that not much will change for the CBJ as a result of the ruling, which left room for interpretation in terms of which side got what it wanted.

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The case was to determine how cities can spend the money they collect from marine passenger fees and port development fees, also known as head taxes, which are fees collected from each cruise ship passenger. Since the lawsuit was filed in 2016, most city conversations have been held behind closed doors, leaving members of the public to only speculate on how the litigation was progressing.

“We have chosen to not litigate through the media, and recently (the Assembly members) have asked me to begin to explain more,” Watt said.

In December, U.S. District Court Judge H. Russel Holland ruled that it’s constitutional for the city to collect head tax fees. He also ruled that municipalities can only spend the revenue from those fees to serve the ships. He stated in his decision that if an expenditure doesn’t “provide a service to a vessel,” that expenditure is unconstitutional.

“What exactly is a service to a vessel?” Watt posed to the packed room of attendees at the Moose Lodge on Thursday. “We have not resolved that.”

[Judge in cruise lawsuit: ‘Not a simple decision’]

Strangely, both sides were happy with the ruling when it came out in December. CLIA’s attorney Jonathan Benner at the time said he was “very pleased” and thought Holland ruled definitively that a municipality was not allowed to use head tax revenue for regular city functions. Watt said at the time that he was happy that Holland ruled that it’s constitutional for a city to collect those fees.

He also said in December that if a cruise ship’s entire purpose is to bring passengers on vacation, then serving the passengers also counts as serving the ship. He’s kept up that refrain, even recommending that the CBJ Assembly put its money where his mouth is.

In a manager’s report at Monday’s Assembly meeting, Watt suggested that the city use head tax money to purchase property to help build a waterfront improvement on a property known as the Archipelago ~~at the downtown~~ downtown library.

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“Cruise ship vessels exist to take passengers on vacations, and their sole purpose for entering the port of Juneau is to allow passengers to disembark for the day and to enjoy walking about downtown and/or getting on ground transportation to their tours,” Watt’s report reads. “This project would provide necessary services to the vessel, to the passengers, and will advance the marine enterprise of the cruise ship industry.”

Neither Benner nor CLIA Alaska President John Binkley returned phone calls before the close the business day Thursday.

CBJ officials had until Jan. 10 to let Holland know if they wanted to appeal the decision. On Jan. 8, CBJ filed a response to Holland saying the city didn’t intend to appeal. A few days after that, CLIA’s attorneys filed a motion requesting that Holland clarify his decision and provide “clear guidance” on what expenditures are allowed or not allowed in his opinion.

On Thursday afternoon, the CBJ filed a request for Holland to finalize his judgment. In the filing, the CBJ’s lawyer Robert Blasco takes issue with CLIA’s request for clarifying the decision, saying CLIA hasn’t provided any new evidence that requires Holland to reconsider his opinion.

Watt said the Assembly Finance Committee will have an open discussion about the ruling at its Feb. 6 meeting, and he emphasized that the meeting is open to the public.

Watt had been eagerly awaiting the chance to share his thoughts on the decision, and he was not alone. City officials, including Mayor Beth Weldon and five other Assembly members, were in attendance.

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