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February 13, 2019

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Re: Proposed ordinance related to banning black plastic
Our Client: Cossetta's, Inc.
Our File No: 16671-90

Dear Ms. Olson, Ms. Tierney and Ms. Moore:

I am writing to you on behalf of my client, Cossetta's, Inc. It is my client's understanding that the St. Paul City Council is considering an ordinance on banning black plastic through amendment of St. Paul City Code of Ordinances Section 236. Moreover, it is my client's understanding that the City Council is planning to put the issue of banning black plastic to vote without public hearing. My client would like clarification on how the City Council is planning to vote on this ordinance without holding public hearings on the proposed ordinance.

The St. Paul Code of Ordinances Section 6.05 provides the procedures for a proposed ordinance which explicitly requires the City Council to read the proposed ordinance at at least three separate meetings of the City Council. This requirement along with the City Council's Order of Business, prescribed in Chapter A-1, Rule 10 of the City Code, wherein proposed ordinances are read, followed by public hearing, directly implies that every proposed ordinance is entitled to a public hearing on the issue.

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JOHNSON, KILLEN & SEILER, P.A.

City of St. Paul
February 13, 2019
Page 2

The City Council considered a measure to ban black plastic, titled Ord. 17-29, in 2017. This proposed ordinance did not pass on a vote after its third reading. See Council Minutes, Oct. 11, 2017. After the vote failed, the Council voted to lay over the proposed ordinance's fourth reading to October 2018. Subsequently, the fourth reading was laid over again to November 2018 and once more to February 2019. It is our understanding that the City Council will be treating the upcoming reading of a proposed ordinance to ban black plastic as a fourth reading of the failed 2017 proposed ordinance and will not hold a public hearing.

More than a year has passed since any public hearing on the issue of banning black plastic was held. The City Council has new members that were not on the Council at the time of these public hearings, nor at the time of the first, second, and third readings of the proposed ordinance. It also appears a new Council member—not present for any previous readings or public hearings—has sponsored the proposed ordinance. It is unclear how new City Council members were informed of the proposed ordinance and the information and testimony presented at public hearings. We assert that to move forward with a Council vote now without a further public hearing not only violates the spirit and the intent of the ordinance but also would fail to provide the necessary due process which is an essential element of the legislative function.

It also is our understanding that the only section of the City Code that relates to reconsideration of a proposed ordinance after a failed vote is Chapter A-1, Rule 14, which allows for reconsideration in either the same or next meeting after it has received a vote. Time has long passed for reconsideration of the 2017 proposed ordinance banning black plastic. Therefore, it would seem that the only process available to the City Council to consider a proposed ordinance banning black plastic is the one described above, in which the City Council is required to read the proposed ordinance at at least three separate Council meetings and hold public hearings on the matter.

Please advise as to the legal basis for the City Council to circumvent public hearings on the proposed ordinance banning use of black plastic.

Very truly yours,



Robert C. Pearson

RCP/AMM/clg

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cc: David Cossetta, Cossetta's, Inc.
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