HONORABLE ANITA L. FARRIS

SUPERIOR COURT OF WASHINGTON
IN AND FOR SNOHOMISH COUNTY

BRETT BASS, an individual; CURTIS MCCULLOUGH, an individual; SWAN SEABERG, an individual; THE SECOND AMENDMENT FOUNDATION, INC., a Washington non-profit corporation; and NATIONAL RIFLE ASSOCIATION OF AMERICA, INC.; a New York non-profit association;

Plaintiffs,

v.

CITY OF EDMONDS, a municipality; EDMONDS POLICE DEPARTMENT, a department of the City of Edmonds,

Defendants.

No. 18-2-07049-31

PLAINTIFFS' SUPPLEMENTAL MEMORANDUM OF LAW IN RESPONSE TO DEFENDANTS' MOTION TO DISMISS

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I. INTRODUCTION

Plaintiffs' challenge to the lawfulness of Edmonds Ordinance 4120 ("the Ordinance") is justiciable. In the Verified Amended Complaint ("VAC"), each of the individual plaintiffs allege facts that demonstrate their personal firearms storage practices violate the Safe Storage provision in the Ordinance, ECC 5.26.020, and that they will be subject to enforcement as of March 21, 2019. The organizational plaintiffs have demonstrated they have members affected by the Ordinance, and that their organizational interests include preventing unlawful local interference with the possession of firearms by their members. Plaintiffs' facial preemption challenge is well within the purpose and history of the Uniform Declaratory Judgment Act ("UDJA"), chapter 7.24 RCW, presenting a question of law on the merits that will conclusively determine the parties' legal rights and that does not depend upon case-by-case specifics.

Despite the detailed factual allegations in the VAC, Defendants contend that this case is not justiciable and that the Court should sidestep the important legal issue of the City's invalid regulation of firearms. To advocate for this unjust result, Defendants advance arguments that misstate the applicable legal standard or are contrary to the factual allegations in the VAC.

First, Defendants misstate the governing legal standard by asserting that "intent to violate the law" is required for a declaratory judgment action challenging an ordinance's lawfulness before it is enforced. There is no such bright-line rule in Washington, and the federal cases relied upon by Defendants do not apply. But even if that is an appropriate test, **the verified allegations in the pleadings satisfy Defendants' proposed rule**. Plaintiffs allege that their current storage practices are prohibited by the Ordinance, that they want to continue the prohibited storage practice of keeping firearms in an unlocked and usable state for self-defense, and that they intend to continue keeping firearms unlocked and usable when the City begins to enforce the Ordinance. Defendants no longer seriously dispute that the Ordinance prohibits Plaintiffs' storage practices.

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Instead, Defendants selectively read and contort these allegations (and the natural, direct inferences from those allegations) and claim that Plaintiffs do not demonstrate intent to continue prohibited storage practices. Defendants' strained arguments are contrary to the pleading rules and common sense.

Second, Defendants depart from the agreed-upon legal standard to argue that the preemption issue is not ripe for judicial determination. To get there, Defendants contend that a $500 fine is not a meaningful hardship, and rely upon material outside the pleadings to argue that the forced purchase of gun-locking mechanisms is too small a pecuniary cost to permit judicial intervention. But the Washington test for justiciability merely examines whether the case involves direct and substantial interests, rather than potential interests. Forced purchases now, and interference with firearms possession or fines of $500 or more later, are actual and substantial interests that easily meet the justiciability test.

Third, Defendants rely extensively upon material outside the pleadings for the specious argument that the organizational plaintiffs should actually support the City's invalid, preempted regulation rather than oppose it on behalf of their members. The VAC and public record indisputably show that the lawful regulation of firearms is germane to the core purpose of both organizational plaintiffs, as both have valid interests in ensuring that its members are free from confusion, interference, and oppression from unlawful local interference in the possession of firearms. Because individual members have standing and their participation is not required to reach the merits, the organizational plaintiffs may participate in this lawsuit on behalf of its members.

This case is ready to proceed. The factual allegations in the VAC demonstrate that this declaratory judgment action is justiciable, and Plaintiffs respectfully request that this Court deny the motion to dismiss and permit the case to advance to adjudication on the merits.

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II. BACKGROUND

Plaintiffs incorporate by reference the background information in its opposition to Defendants' initial motion to dismiss.

On December 7, 2018, Plaintiffs filed the VAC. The VAC drops two individual defendants and adds an additional individual plaintiff, Curtis McCullough. In the VAC, Plaintiffs provide additional factual support for the justiciability of the preemption challenge to the Ordinance:

- Mr. McCullough and Mr. Seaburg provide detailed allegations regarding firearms stored in concealed places in their homes, "unsecured and ready for self-defense, at all times." VAC ¶¶ 27, 37. Mr. McCullough and Mr. Seaburg specifically aver that these firearms are stored in this manner when they are not at home, are on a different floor, or are in a different room in their home. VAC ¶¶ 28–29, 38–40.
- Mr. Bass and Mr. McCullough provide detailed allegations regarding daily-use firearms stored "unsecured and ready for self-defense" in their homes, which are often outside their possession and outside their control when, *e.g.*, the firearm is not in the same room as an authorized user. VAC ¶¶ 20, 30.
- As detailed in the VAC, the Ordinance prohibits the current storage practices employed by all three individual plaintiffs. VAC ¶¶ 21, 31, 41.
- All three individual plaintiffs want to continue their described firearms storage practices, so that they can "**continue** having a firearm in an **unlocked and usable state** in [their] home." VAC ¶¶ 22, 32, 42 (emphasis added).
- Both Mr. Bass and Mr. McCullough aver under penalty of perjury that they intend to keep their firearms "in an unlocked and usable state" even after the City begins to enforce the Ordinance. VAC ¶¶ 23, 43. Mr. Seaburg is faced with the dilemma of complying with the Ordinance, and being forced to change his firearms storage practice and purchase the

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required locking mechanisms, or of choosing to violate the Ordinance like Mr. Bass and Mr. McCullough. *See* VAC ¶¶ 43–44.

III. STATEMENT OF ISSUES

1. Whether this declaratory judgment action is justiciable, where the Verified Amended Complaint alleges that the firearms storage practices of the individual plaintiffs are prohibited by the Ordinance, which the City will begin to enforce in two months, and alleges that the individual plaintiffs intend to continue those prohibited storage practices even after the City begins to enforce the Ordinance?

2. Whether the Court should reach the merits of the Unauthorized Access provision of the Ordinance based on the allegations in the VAC, judicial economy, and the public interest?

3. Whether the organizational plaintiffs have interests in the validity of a local ordinance enacted in violation of state law, which concerns the possession and storage of firearms, and therefore have standing to participate in this declaratory judgment action?

IV. LEGAL AUTHORITY

A. Legal Standards

For motions to dismiss, factual allegations in a complaint—along with any reasonable inferences—must be accepted as true. *Reid v. Pierce Cnty.*, 136 Wn.2d 195, 201, 961 P.2d 333 (1998); *Wright v. Jeckle*, 104 Wn. App. 478, 481, 16 P.3d 1268, 1269 (2001).

As Defendants acknowledge, a justiciable claim under the UDJA meets the following four-part test:

> (1) [A]n actual, present and existing dispute, or the mature seeds of one, as distinguished from a possible, dormant, hypothetical, speculative, or moot disagreement,
> (2) between parties having genuine and opposing interests,
> (3) which involves interests that must be direct and substantial, rather than potential, theoretical, abstract or academic, and
> (4) a judicial determination of which will be final and conclusive.

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Diversified Indus. Dev. Corp. v. Ripley, 82 Wn.2d 811, 815, 514 P.2d 137 (1973). The first prong concerns ripeness and mootness, and the third prong encompasses standing. *Lee v. State*, 185 Wn.2d 608, 617–18, 374 P.3d 157 (2016).

This brief addresses the arguments raised in Defendants' supplemental motion to dismiss, as well as arguments that Defendants now abandon. Plaintiffs further incorporate the legal standards and arguments in its opposition to Defendants' initial motion to dismiss.

B. The Individual Plaintiffs' Challenge to the Ordinance Is Justiciable

1. The Dispute is Ripe Under the Justiciability Test

The allegations in the VAC show there is "an actual, present and existing dispute, or the mature seeds of one, as distinguished from a possible, dormant, hypothetical, speculative, or moot disagreement." *Diversified Indus.*, 82 Wn.2d at 815. By alleging that ECC 5.26.020 prohibits the firearms storage practices of the individual plaintiffs, and by alleging that the individual plaintiffs want to continue such storage practices and intend to do so after the City begins to enforce the Ordinance, Plaintiffs satisfy the first prong of the justiciability test. As set out above, each individual plaintiff keeps firearms unsecured and ready for self-defense in their homes, and that the firearms are regularly outside their control. VAC ¶¶ 20, 27–30, 37–40. In other words, each individual stores firearms in a manner that the Ordinance prohibits. VAC ¶¶ 21, 31, 41. All three individual plaintiffs want to continue these storage practices, and two of the three state that they intend to continue these practices even after the City begins to enforce the Ordinance. VAC ¶¶ 22–23, 42, 32–33.

In light of these specific allegations, Defendants are no longer able to contend that each individual plaintiff engages in firearms storage practices which comply with the Ordinance. *Compare* Reply in Support of Defendants' Motion to Dismiss 4–5 (arguing that Plaintiffs do not allege storage practices prohibited by the Ordinance). Each individual plaintiff describes how he

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stores firearms outside of his possession and any plausible definition of control, including the control inquiry set out in Defendants' primary authority. *See Com. v. Patterson*, 79 Mass. App. Ct. 316, 319–20, 946 N.E.2d 130 (2011) (examining location, proximity, and "ability to immediately reach" to determine that a firearm in an upstairs closet when defendant was downstairs was outside the defendant's control). Nor is there any genuine dispute that all three individual plaintiffs want to continue these prohibited storage practices. For example, Mr. Seaburg is faced with the dilemma described by the United States Supreme Court in other pre-enforcement challenges: comply and allow an unlawful law to chill his exercise of rights, or risk enforcement of the law against him. *See Holder v. Humanitarian Law Project*, 561 U.S. 1, 16 (2010) (holding that plaintiffs could challenge a statute based on allegations that they would engage in the newly-prohibited activities if the unlawful statute was struck down); *Virginia v. Am. Booksellers Ass'n, Inc.*, 484 U.S. 383, 393 (1988) (permitting pre-enforcement challenge by plaintiffs based on fear of enforcement and risk of self-censorship).

These allegations clarify the dispute, and remove all reasonable speculation regarding how the storage practices result in unsecured firearms outside of Plaintiffs' control and how Plaintiffs' storage practices will violate the ordinance. Neither the storage practices nor whether the Ordinance prohibits them is hypothetical or uncertain. The contours of this dispute are clear and amendable to judicial resolution. *See, e.g.*, *Clallam Cnty. Deputy Sheriff's Guild v. Bd. of Clallam Cnty. Comm'rs*, 92 Wn.2d 844, 848-49, 601 P.2d 943 (1979) (rejecting the County's pre-enforcement non-justiciable argument because "a real dispute is readily germinating from" the conflict between the ordinance and state statute); *Arnold v. Dep't of Retirement Sys.*, 74 Wn. App. 654, 660–61, 875 P.2d 665 (1994), *rev'd on other grounds*, 128 Wn.2d 765 (1996) (holding that there was an existing dispute even though plaintiff was not yet eligible to receive benefits and not certain to be denied benefits). In contrast, the allegations here describe a discernable dispute, and

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nothing like the "unpredictable contingency" in *Diversified Industries*, where the described conduct (a visiting child's injury on the property) had never happened and the plaintiff did not provide facts showing that it would happen in the future. 82 Wn.2d at 812–15.

Defendants rely upon *Walker v. Munro* to argue that this dispute is speculative and not ripe. *Walker* has little or nothing to do with the present lawsuit. In *Walker*, plaintiffs challenged Initiative 601 and its statutory supermajority requirement for tax increases based on an as-applied contention that the legislature would have difficulty raising taxes in the future. The Washington Supreme Court held that the claim was not justiciable. 124 Wn.2d 402, 412, 879 P.2d 920 (1994). The court reasoned that the dispute was merely hypothetical not only because most of the provisions were not yet in effect, but also because the plaintiff-legislators could still amend the statute before it took effect. *Id.* Here, Plaintiffs allege that the challenged law is invalid on its face and obviously do not have the ability to alter or amend the Ordinance before the City begins enforcement.

Further, if these individual plaintiffs make the same allegations in two months, after the Ordinance is in effect, there is no question that they could challenge the Ordinance. Finding these allegations insufficient today, on the eve of enforcement, is contrary to the purpose of the UDJA. *See Acme Fin. Co. v. Huse*, 192 Wn. 96, 108, 73 P.2d 341, 346 (1937) (holding that "the very purpose of the Declaratory Judgment Act" is to permit review of an arguably-invalid law before enforcement when justiciable).[1]

2. "Intent to Violate" is Not Required—But is Satisfied by Plaintiffs' Allegations

In response to Plaintiffs' specific factual allegations, Defendants renew their claim that

[1] To the extent the Court considers the ripeness test as articulated by federal case law, this case is overwhelmingly fit for judicial resolution. Defendants assert that reaching the merits of this case will involve a fact-specific inquiry, including a determination whether the Ordinance is violated. Defendants' Supp. Memo. 13. Not so. Once the Court determines that this case is justiciable, the issue on the merits is the legal issue of preemption, which can be resolved at summary judgment with little to no factual development. Plaintiffs respond to Defendants' arguments regarding hardship in Section IV.B.3, *infra*.

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"[t]he test for standing in a pre-enforcement challenge is whether you intend to engage in conduct that is proscribed by the law in question." Defendants' Supp. Memo. 8 (citing a federal case). Plaintiffs previously addressed this argument, describing how Defendants' federal cases do not apply and intent to violate is not required under the justiciability test. Plaintiffs' Opp'n to Mot. to Dismiss 15–17.

Defendants also continue to overextend *Forbes v. Pierce County* to argue that Plaintiffs are required to allege that they intend to violate an ordinance in order to challenge it. Defendants' Supp. Memo. 4. In *Forbes*, the court examined plaintiffs' intent to violate based upon plaintiffs' failure to allege any adverse effect from the challenged statute. *See* 5 Wn. App. 2d 423, 435, 427 P.3d 675, 682 (2018). Further, the *Forbes* court relied upon plaintiffs' failure to allege that they engaged in conduct that violated the ordinance, and failure to allege any desire to engage in that conduct in the future. *Id.* at 436–37. Plaintiffs' allegations here are completely different than the allegations in *Forbes*. Plaintiffs have alleged prohibited conduct and adverse effects—Plaintiffs have described their conduct and established that the Ordinance prohibits such conduct; Plaintiffs have stated their desire to continue that conduct in the future; and Plaintiffs have stated that they intend to engage in conduct that is prohibited, even after the Ordinance is in effect.

But even if the Court applies Defendants' proposed test, **Plaintiffs satisfy it**. The allegations in the complaint demonstrate that two of the individual plaintiffs intend to engage in prohibited conduct after the City begins to enforce the Ordinance. Specifically, Mr. Bass and Mr. McCullough describe how their current conduct is prohibited by the Ordinance and how they want to and plan to continue those storage practices. VAC ¶¶ 20–33. Defendants appear to question whether or not Plaintiffs have alleged that Mr. Bass's and Mr. McCullough's firearms storage practices will include storing firearms outside of their control after the City begins to enforce the Ordinance. Defendants' argument is meritless. The VAC contains specific allegations regarding

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Mr. Bass's and Mr. McCullough's current practice of storing firearms outside their control, desire to continue storing firearms unlocked and unsecured, and intent to store firearms unlocked and unsecured after the City begins to enforce the Ordinance. Rather than stating a legal conclusion, the VAC describes the factual conduct that demonstrates that Mr. McCullough and Mr. Bass intend on violating the Ordinance.

Even taking Defendants' argument at face value, the obvious and direct inference from the allegations in the VAC is that the individual plaintiffs intend to continue their current conduct, which violates the Ordinance, after March 21. The allegations (and direct inferences) are not conclusory or speculative; Plaintiffs describe their practices and allege that they want to and will continue to engage in these practices. This satisfies Defendants' test: Mr. Bass and Mr. McCullough have alleged the intent to engage in conduct that will violate the Ordinance. Defendants' twisted reading of the VAC cannot stand.

3. The Individual Plaintiffs Have Standing Under the Justiciability Test

In Washington, to challenge the validity of an ordinance, a declaratory judgment plaintiff must show that the dispute "involves interests that [are] direct and substantial, rather than potential, theoretical, abstract or academic." *Diversified Indus.*, 82 Wn.2d at 815. The VAC establishes that the individual plaintiffs have direct, substantial, and non-theoretical interests.

First, the individual plaintiffs have interests within the Ordinance's ambit. The Ordinance directly affects each of the individual plaintiffs by interfering with their interests in continuing to store firearms in an unlocked and usable state in their homes for self-defense purposes. VAC ¶¶ 22, 32, 42. The State of Washington, which has occupied and preempted the entire field of firearms regulation (RCW 9.41.290), does not currently require Plaintiffs to use locking mechanisms to secure firearms whenever they are not within Plaintiffs' control. This interest is not theoretical: Plaintiffs have described and certified their current, desired, and intended future storage practices.

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Second, Plaintiffs have direct pecuniary interests affected by the Ordinance via forced acquisitions of locking mechanisms to secure their firearms. *E.g.*, VAC ¶ 44. The pleadings, which must be accepted as true, thus establish pecuniary harm that is not speculative or abstract. Defendants rely on materials outside the pleadings to argue that these pecuniary interests are too small to confer standing, but do so without any showing regarding which locking mechanisms are appropriate, or how much such devices would cost for the particular firearms at issue.[2]

Third, fines of at least $500 are direct and substantial, and not merely potential in light of the allegations in the VAC of intent to continue prohibited storage practices. Defendants cannot dispute that $500 (or even the hours of community service necessary to account for the fine) is a significant hardship to most citizens. The purpose of the UDJA is to permit plaintiffs to challenge unlawful ordinances before the hardship of enforcement. *See Clallam Cnty.*, 92 Wn.2d at 849 (holding that plaintiffs "have a direct and substantial interest in securing relief from the uncertainty of their legal rights and obligations"); *Acme Fin.*, 192 Wn. at 108.

4. Plaintiffs May Challenge the Unauthorized Access Provision of the Ordinance

Under the facts alleged in the VAC, Plaintiffs (particularly Mr. McCullough) may be subject to enforcement under the Unauthorized Access provision of the Ordinance, ECC 5.26.030. Plaintiffs have a strong interest in obtaining a legal determination of the lawfulness of ECC 5.26.030; this issue is legal and fit for determination.

But even if the facts alleged in the VAC are not sufficient on their own to state a justiciable

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[2] Defendants also rely upon *Lewis County v. State* and *Federal Way School District No. 210 v. State*, but each of those cases in distinguishable. *Lewis County* involved a hypothetical potential cost for the county. 178 Wn. App. 431, 437–38, 315 P.3d 550, 554 (2013). But the costs to individuals here (the purchase of locking mechanisms and the high likelihood of fines) are more direct and substantial and less speculative than the potential future costs in that case. Likewise, the individual parent, student, and teacher plaintiffs in *Federal Way* were unable to identify any adverse impacts from the school funding decisions. 167 Wn.2d 514, 529, 219 P.3d 941 (2009) (pointing out that teacher salary levels were negotiated as part of a separate process, student test scores and opportunities had not been harmed, and no plaintiff had been forced to spend more money).

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case, Plaintiffs have brought a justiciable dispute regarding the legality of ECC 5.26.020, and the Court should consider ECC 5.26.030 on the merits as well. Both provisions rise and fall on the same legal theory of preemption under RCW 9.41.290. The Court should consider both provisions together based on judicial economy and in light of the broad overriding public importance of the issue. *See Diversified Indus.*, 82 Wn.2d at 814 (permitting review of issues of broad overriding public import). The justification for ruling on the preemption of the Unauthorized Access provision is especially acute because the state of Washington recently enacted I-1639, which specifically regulates potential and actual access by prohibited persons to stored firearms, but does not mandate how or where a firearm must be stored.[3] The Court would be further justified in reaching the merits because, according to Defendants', a future plaintiff must allege that a minor will actually obtain possession of a firearm to invoke judicial review—this argument could indefinitely shield an unlawful regulation.

C. The Organizational Plaintiffs Have Representational Standing

Defendants, applying the three-part test from *American Legion Post #149 v. Washington State Department of Health*, argue that neither organizational plaintiff has representational standing. 164 Wn.2d 570, 595, 192 P.3d 306, 319 (2008) (Three-part test requiring that the organization's "(a) members would otherwise have standing to sue in their own right; (b) the interests [it] seeks to protect are germane to the organization's purpose; and (c) neither the claim asserted nor the relief requested requires the participation of individual members in the lawsuit.").

Defendants do not dispute that Plaintiffs satisfy part (c) of the test. Regarding part (a), Plaintiffs demonstrated in Section IV.B, *supra*, that members of both organization otherwise have justiciable claims in their own right. Turning to part (b), Plaintiffs allege that part of their core

[3] The official text is available on the Secretary of State's website. *See* Initiative Measure No. 1639 Text at p. 10–11, *available at* https://www.sos.wa.gov/_assets/elections/initiatives/finaltext_1531.pdf (last visited Jan. 14, 2019). The organizational plaintiffs are currently challenging certain other aspects of that law in federal court.

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organizational purpose is the protection of the right of individuals to own and possess firearms for lawful purposes. VAC ¶¶ 4–5. All Plaintiffs, including the organizations, assert their right to be free from local interference with the possession of firearms. VAC ¶¶ 49, 53–54. And the organizational plaintiffs plead that the storage methods required[4] by the Ordinance are not the same as the best practices that the organizations recommend to its members. VAC ¶ 45. These allegations, along with direct and reasonable inferences, show that promoting self-defense through firearm ownership and possession, protecting Second Amendment rights, and ensuring that its members are free from confusion and interference from unlawful local encroachments are interests that are germane to the core purpose of both organizations and that are affected by the Ordinance. For example, if Edmonds has one regulatory framework for firearms storage, Seattle another, and the state of Washington a third, both organizations will find it increasingly difficult to communicate to their members how to stay in compliance with the myriad laws.

Defendants try to muddy the waters by introducing cherry-picked NRA and SAF statements from outside the pleadings to claim that the Ordinance does not conflict with the interests the organizational plaintiffs seek to protect. Inarguably, the NRA and SAF support firearms safety—however, the broad-brush requirements in the Ordinance to keep firearms locked away impedes self-defense for some individuals and is contrary to the organizational plaintiffs' recommendations. VAC ¶ 45.[5] But Defendants' arguments fail to address the organizational

[4] Plaintiffs are neither as clever nor as deceptive as Defendants suggest in footnote 5 of their supplemental brief regarding misuse of the word "proscribe"; in context it is clear that Plaintiffs refer to the Ordinance's requirement to use locking mechanisms at all times.

[5] To the extent the Court considers materials outside the pleadings, the organizational plaintiffs' websites point out that safe storage is not satisfied by the requirements put forward by the Ordinance. Indeed, as the NRA website notes, "A person's particular situation will be a major part of the consideration [in safe storage] . . . mechanical locking devices, like the mechanical safeties built into guns, can fail and should not be used as a substitute for safe gun handling." https://gunsafetyrules.nra.org/ (last visited Jan. 14, 2019). There are many safe and secure ways to store firearms that fall outside of the strict limitations required by the Ordinance. In light of the above, disputes of fact concerning the interests of the organizational plaintiffs prevent dismissal on jurisdictional grounds.

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plaintiffs' interests in ensuring that only lawful firearms regulation is enforced against its members, and interests in their members remaining free from a patchwork of local interference with firearms possession.[6]

D. Dismissal on Justiciability Grounds Should Be Without Prejudice

Even if the Court dismisses the VAC for lack of justiciability, dismissal should be without prejudice. The Ordinance went into effect on August 23, 2018, and will be enforced beginning on March 21, 2019. Under these circumstances, there is a significant likelihood that even if there is not a justiciability controversy now, there will be one in the very near future. *See, e.g.*, *Diversified Indus.*, 82 Wn.2d at 815 (noting that while "the cause [was] not ripe for declaratory relief," dismissal without prejudice was the appropriate result); *Lewis Cnty. v. State*, 178 Wn. App. 431, 441, 315 P.3d 550, 556 (2013) (affirming dismissal without prejudice where trial court found the County's case did not present an issue of major public importance).

V. CONCLUSION

The parties have extensively briefed this matter. Plaintiffs have amended their complaint with leave of the Court to provide certified factual details on their storage practices, which no one disputes are prohibited by the Ordinance. Defendants cannot delay judicial review any longer. Plaintiffs respectfully request that the Court deny Defendants' motion to dismiss and allow this case to proceed rapidly to summary judgment on the merits.

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[6] Defendants' argument also fails because the Washington Supreme Court provides that courts should "adopt[] a more liberal approach to standing when a controversy is of substantial public importance, immediately affects significant segments of the population, and has a direct bearing on commerce, finance, labor, industry, or agriculture." *Am. Legion*, 164 Wn.2d at 595. The question of whether a generally-applicable firearms ordinance is preempted by state law is a classic issue of substantial public importance, affecting a significant segment of the population, and has a direct bearing on commerce. *See Chester Twp. v. Panicucci*, 116 N.J. Super. 229, 234, 281 A.2d 811, 814 (N.J. Super. Ct. App. Div. 1971), *aff'd*, 62 N.J. 94, 299 A.2d 385 (1973) (holding that a question of whether township gun ordinance was preempted by state statutes "involve[d] a matter of public importance").

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DATED: January 15, 2019.

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CERTIFICATE OF SERVICE

The undersigned certifies as follows:

1. I am employed at Corr Cronin LLP, attorneys for Plaintiffs herein.

2. On January 15, 2019, I caused a true and correct copy of the foregoing document to be served on the following parties in the manner indicated below:

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I declare under penalty of perjury under the laws of the state of Washington that the foregoing is true and correct.

DATED: January 15, 2019, at Seattle, Washington.

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