

TALMADGE/FITZPATRICK
18010 SOUTHCENTER PARKWAY
TUKWILA, WASHINGTON 98188
(206) 574-6661 (206) 575-1397 FAX
EMAIL: PHIL@TAL-FITZLAW.COM

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TO: No on I-517 Committee
FROM: Phil Talmadge
RE: Definition of "Public Building" in I-517

Initiative 517 purports to make the gathering of signatures "a legally protected activity" "inside or outside public buildings such as public sports stadiums, convention/exhibition centers, and public fairs."¹ The initiative does not define a "public building." It does, however, direct that its provisions must be liberally construed to effectuate its purposes. § 6. In § 1 of the initiative, it specifically alleges that the initiative/referendum power of the people has been adversely affected "by private and governmental actions."

In the absence of a definition in a statute, a court may resort to a dictionary definition of such a term. *Western Telepage, Inc. v. City of Tacoma*, 140 Wn.2d 599, 609-10, 998 P.2d 884 (2000). Bryan A. Garner, *Black's Law Dictionary* (8th ed.) at 1265 defines a public building as "A building that is accessible to the public; esp. one owned by the government." This broad definition of a public building is consistent with the definition of public places found elsewhere in the Revised Code of Washington. *See, e.g., Daly v. Chapman*, 85 Wn.2d 780, 782,

539 P.2d 831 (1975) (Legislature, like the people here, presumed to be aware of prior enactments). For example, Washington's Indoor Clean Air Act provides the following definition of a public place that also addresses public buildings:

"Public place" means that portion of any building or vehicle used by and open to the public, regardless of whether the building or vehicle is owned in whole or in part by private persons or entities, the state of Washington, or other public entity, and regardless of whether a fee is charged for admission, and includes a presumptively reasonable minimum distance, as set forth in RCW 70.160.075, of twenty-five feet from entrances, exists, windows that open, and ventilation intakes that serve an enclosed area where smoking is prohibited. A public place does not include a private residence unless the private residence is used to provide licensed child care, foster care, adult care, or other similar social service care on the premises.

Public places include, but are not limited to: Schools, elevators, public conveyances or transportation facilities, museums, concert halls, theaters, auditoriums, exhibition halls, indoor sports arenas, hospitals, nursing homes, health care facilities or clinics, enclosed shopping centers, retail stores, retail service establishments, financial institutions, educational facilities, ticket areas, public hearing facilities, state legislative chambers and immediately adjacent hallways, public restrooms, libraries, restaurants, waiting areas, lobbies, bars, taverns, bowling alleys, skating rinks, casinos, reception areas, and no less than seventy-five percent of the sleeping quarters within a hotel or motel that are rented to guests. A public place does not include a private residence. This chapter is not intended to restrict smoking in private facilities which are occasionally open to the public except upon the occasions when the facility is open to the public.

RCW 70.160.020(2).

¹ The language of the initiative is imprecise in its reference to "public fairs." A "public fair" is not necessarily a public building. Rather, it is an event that may be conducted in buildings, public or otherwise, and outdoors.

In my opinion, given the liberal interpretation directive in § 6 of Initiative 517 and the Initiative's concern about private interference with signature gathering, a public building is any building open to the public and extends not only to buildings owned by governmental agencies, but private property in which the public is permitted to enter.