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## MEMORANDUM

TO: Poudre River Public Library District

FROM: Seter & Vander Wall, P.C.

DATE: March 8, 2016

RE: Legal Status Report

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This is our legal status report for the Trustees' meeting scheduled for March 14, 2016.

### **Draft Records Retention Policy**

**Task:** The Library District currently follows the records retention policy of the City of Fort Collins. Counsel has been tasked with reviewing and updating the policy.

**Status:** Counsel conducted research and delivered a memorandum to the Executive Director regarding the options for the Library District records retention policy. The policy is being developed and will be subject to Board approval at the April meeting.

**Action:** None at this time.

### **Endowment and Community Foundation Fund Transfer**

**Task:** Research to determine the appropriate manner to structure a possible combination of funds between the Endowment and the Community Foundation to be administered by the Library District.

**Status:** Counsel discussed this matter with Ms. Carroll. It was determined that this transfer is feasible, but that Counsel will need further information regarding the terms of the gifts to appropriately structure this transaction to accomplish the goals of all parties involved.

**Action:** None at this time.

### **Important Case Update: High Plains Library District, et. al. v. Kirkmeyer, et. al.**

**Task:** A majority of the establishing entities of the High Plains Library District

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(“HPLD”) approved removal of the entire Board of Trustees at once. The towns then passed a resolution appointing new trustees consisting of several town mayors, county commissioners, and the president of the school district board. HPLD and the removed trustees filed suit to enjoin their removal and replacement by the new board and obtain a declaratory judgment that the actions of the towns and county commissioners were illegal.

After a two-day preliminary injunction hearing, the Judge ordered the original Board would maintain their trustee positions until the matter is resolved. The establishing entities filed an appeal of the preliminary injunction order. The District Court litigation has been stayed pending the outcome of the court of appeals litigation.

**Status:** Counsel was retained by the Colorado Association of Libraries (“CAL”) to file an Amicus Brief on its behalf in the Court of Appeals. An Amicus Brief (meaning “friend of the court”), allows CAL to submit a brief explaining the impact this case may have on all libraries and the appropriate interpretation of the Colorado Library Law.

Counsel filed the amicus brief on October 9<sup>th</sup>. The amicus is limited to addressing the issues raised in the opening brief by the county and other establishing entities. Specifically, Counsel argued the appropriate process for removal of library trustees. The appointment issue will be addressed at a later point in the litigation, if at all.

The matter was fully briefed by all parties and Counsel attended oral arguments on May 26, 2015 at the Court of Appeals. On July 2, the Court of Appeals entered an Order upholding the preliminary injunction of the District Court that stated the removal of the Trustees was not for good cause. The Court of Appeals decision was appealed to the Colorado Supreme Court. The Supreme Court is currently considering whether it will accept the case.