City of Seattle

Ethics and Elections Commission

August 6, 2012

Re: Case No. 12-2-0727-1

Dear ****:

On July 27, 2012, you filed a complaint with our office alleging that the Library's notices regarding the upcoming one-week closure promote a vote for the Library Levy in violation of the Elections Code. I compared this year's closure notice to closure notices for each of the last three years, and am dismissing your complaint because the Library's efforts are (1) not promoting a vote for the levy, and (2) consistent with the "normal and regular" conduct of the agency.

Facts

In each of the four years that the Library has closed for one week at the end of the summer, the Library has produced a document notifying patrons of the imminent closure. (I am attaching the four documents to this dismissal as Exhibit A.) The language of the brochures does not vary much, with the City Librarian's quotes remaining the same from year to year, and minor updates to language reflecting the evolution of the Library's budget. The 2010 notice says "Library asked to cut $3 million," while the 2011 notice says "Library asked to cut $3.7 million." The 2010 notice reports that "[t]he Library has also sustained management and administrative cuts from 2009, delayed replacing staff computers, and cut the book budget, and cut staff training." The 2011 notice reports that "[t]he Library has also eliminated positions and cut the book budget." The 2012 notice reports that "[t]he Library is also operating with a reduced book budget. The $5 million budget for books and materials is 13 percent less than 2009."

Similarly, the Library produces a poster for book drops notifying patrons of the impending closure of the book drop. (The 2011 and 2012 posters are attached to this dismissal as Exhibit B.) Both posters say that the closure is "due to budget cuts."

Law

SMC 2.04.300 bars the use of City resources to promote or oppose candidates or ballot measures. It contains an exception for "[a]ctivities that are part of the normal and regular conduct of the office or agency."

Analysis

I do not believe that the language, placement, or the timing of the release of the closure-related documents promotes a vote for the levy. Three-quarters of the brochure details what services will be available or unavailable to patrons during the week-long closure, and the front

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GCIU 804-M

page puts the closure into context with details on the Library's budget. The placement of the brochures is also unsurprising – they can be found in high-traffic locations of the library, where patrons can easily find the information. As for the timing of the posting of the documents, the Library's Communications Director told me that patrons need sufficient notice in time to plan for a week without access to the library, and that every summer the Library devotes significant energies to publicizing the pending closure.

Publication of these closure-related documents also fits squarely into the exemption in the law for activities that are the normal and regular conduct of the agency. There are no material differences between the documents produced this year and those produced in each of the last three years, or their placement in the libraries. And while the Library was unable to pinpoint the exact date on which closure-related documents were posted in recent years, the Communications Director did provide me with her speaking notes from a July 11, 2011 staff meeting at which she rolled out the communications strategy for the 2011 closure. Closure-related documents were distributed to the branches before that July 11, 2011 meeting.

Conclusion

If you would like to appeal my dismissal of these allegations to the full Commission, you may do so under Administrative Rule 4.[1]

Very truly yours,

Wayne Barnett
Executive Director

cc: Seattle Ethics and Elections Commission (*name and address of complainant redacted*)
Marcellus Turner, City Librarian (*name and address of complainant redacted*)

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[1] Rule 4 APPEALS
A. Upon the written request of a party aggrieved by the Executive Director's decision to dismiss a complaint, or to impose late-filing penalties under SMC 2.04.330, the action may be reviewed by the Commission.
B. An appeal of a dismissal shall be served at the Commission's office no later than 21 days after the date of mailing the decision of which review is sought.
C. An appeal of late-filing penalties shall be served at the Commission's office no later than 14 days after the date of mailing the decision of which review is sought.
D. A request for review shall state the grounds therefor, and shall be no longer than twelve 8-1/2" x 11" double-spaced pages in length with margins of at least 1" on every side, and no more than 12 characters per inch.
E. When an appeal is filed, the Executive Director's decision shall not be final until the Commission has acted on the appeal.
F. The Commission shall act on the request at the next meeting at which it may be practicable by:
1. deciding whether to review the Executive Director's decision; and
2. if it decides to do so, either affirming, reversing, or amending the decision.
G. In reviewing the Executive Director's decision, the Commission shall base its review on whether the Executive Director had a rational basis for the decision, and shall only reverse or amend a decision to the extent that a rational basis is lacking.