

1 ordinance to spend the "library" levy funds entirely on non-
2 library purposes. The voters could not sue because the levy
3 ordinance specifically allows the change to be made. In
4 contrast, Ord. 119019 (exhibit #3), which placed the 1998
5 Libraries for All bond issue before the voters, did not
6 mention the possibility of an ordinance diverting the proceeds
7 away from Library purposes, and built in some additional
8 hurdles to hamper such a redirection of funds.

9 Another levy (exhibit #28) which has firmer requirements than
10 Seattle's Proposition 1 to prevent the spending of its
11 proceeds on non-library purposes is Proposition 1 in Ocean
12 Shores, Washington (also on the August 7, 2012 ballot). Ocean
13 Shores' Resolution 672 states (sec. 2) that the levy is "For
14 the purpose of providing funds to pay for operating the City's
15 public library," and that "the City shall deposit the proceeds
16 of such levy in the City's Library Special revenue fund 115 to
17 be used to pay costs of operating the City's public library."
18 Unlike the Seattle levy ordinance, no mention is made of the
19 option of depositing the proceeds in a fund for any other
20 purpose.

21 Based on the analysis in this section, one can conclude that,
22 while the City of Seattle was fully within its rights to call
23 the 1998 Proposition 1 a library bond issue, and while Ocean
24 Shores is fully within its rights to call its Proposition 1 a
25 library levy, the Library is not being entirely accurate in
calling the current Proposition 1 a "library levy."

Ord. 119019 (exhibit #3), which placed the 1998 bond issue
before the voters, was accurately described by the Library as
being a Library bond issue. Although it set forth a method
for making changes by ordinance, these changes were allowed to
be only in allocation of purposes within the library, and not
to non-library purposes as the later ordinance that Ord.
123851 permits to be passed regarding levy proceeds.

The director's reference to two other levies only backs up the
present complaint. The Parks Department was entirely correct
during the 2008 campaign to describe its levy as the "Parks and

Green Spaces Levy," or "Parks Levy," for the following reasons.

Regarding the City of Seattle's
alleged use of public facilities to
promote City Proposition 1

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1 Ord. 122749 (available in the Nov. 2008 voters' pamphlet on the
2 SEEC web site) repeatedly names that levy the "Parks and Green
3 Spaces Levy," and Ord. 122749 directs unequivocally that the levy
4 proceeds "shall be deposited into the 2008 Parks Levy Fund."
5

6 In contrast, Ord. 123851 specifically provides that the funds
7 may be spent elsewhere, if an ordinance directs: "Unless otherwise
8 directed by ordinance, Proceeds shall be deposited in the Library
9 Levy fund." Also, this line in the ordinance (exactly where the
10 uncertainty about the levy spending originates) is the only place
11 in Ord. 123851 where the words "Library Levy" appear. To call the
12 levy the "Library Levy" is speculation that conceals from voters
13 the actual uncertainty of how the levy proceeds will actually be
14 spent.
15

16 The director's reference to the Nov. 2011 "Families and
17 Education Levy" is also inapposite. Unlike Ord. 123851, Ord.
18 123567 for the Nov. 2011 levy requires (sec. 8) that "Proceeds may
19 be spent only in accordance with the Implementation and Evaluation
20 plan (the Plan) approved by ordinance."
21

22 It is true that otherwise, Ord. 123567 had some of the same
23 vagueness as in the library case, and which meant (I would argue)
24 that City agencies in the Nov. 2011 campaign were violating SMC
25 2.04.300 in describing it as the "Families and Education Levy." In

1 words that have only in recent years been added to levy ordinances
2 (and which retired deputy city attorneys are shocked to hear about,
3 as nothing similar used to be included in levy ordinances), that
4 ordinance also stated that "Unless otherwise directed by ordinance,
5 Proceeds shall be deposited in the Education-Support Services
6 fund." Also, the ballot title used the same vague words as in Ord.
7 123851 in describing it as a "Regular tax levy including families
8 and education." That no complaint was lodged, and that the SEEC
9 staff did not notice and correct the City's mis-characterization of
10 the levy during the campaign, did not make this practice legal in
11 2011, and it does not mean that a similar mis-characterization of
12 the 2012 levy is OK. In both cases, it is contrary to SMC 2.04.300.

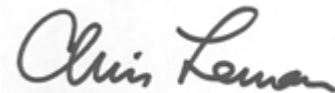
15 For the above reasons, the director did not have a rational
16 basis for dismissing allegation #1. During the Proposition 1
17 campaign, the Library's widespread use of the term "Library Levy"
18 contravened the prohibition in SMC 2.04.300 against use of public
19 facilities to promote the ballot measure. Specifically, the City
20 failed the test of WAC 390-05-271(2) that allows an agency to refer
21 to a ballot measure during a campaign only if in doing so it is
22 "making an objective and fair presentation of facts relevant to a
23 ballot proposition...."
24
25

1 A very simple remedy is available to the Commission if it
2 chooses to uphold this complaint. The Commission may require that
3 in the materials on the Library's web site and in what it gives to
4 or shows to the public, the Library should describe the levy by its
5 correct name from the levy ordinance: "Regular tax levy including
6 Seattle Public Libraries."

7 Not telling voters the truth about the levy is a disservice to
8 them, and it invalidates the efforts of those like me who worked
9 hard for a levy ordinance that could objectively and fairly be
10 described as a "library levy." That is why I have brought this
11 complaint and why the director did not have a rational basis for
12 dismissing it. I hope that the Commission finds urgent merit in
13 the complaint. Thank you for your consideration.

14
15 I declare under penalty of perjury of the laws of the State of
16 Washington that I am a registered voter of the City of Seattle, and
17 that the information in the above statement, and the exhibits
18 provided, are true and correct.

19 Dated this July 31, 2012

20 

21
22
23 Chris Leman