BEFORE THE CITY OF SEATTLE
ETHICS AND ELECTIONS COMMISSION

IN THE MATTER OF ) APPEAL OF DISMISSAL OF ALLEGATION
COMPLIANCE WITH ) #6, MISUSE OF CITY FACILITIES BY
SMC 2.04.300 ) THE SEATTLE PUBLIC LIBRARY
) FOUNDATION IN SUPPORT OF THE
CITY OF SEATTLE ) PROPOSITION 1 CAMPAIGN

This appeal submits that, contrary to dismissal by the
Commission executive director (henceforth “the director”) of my
July 3 complaint, the Library violated SMC 2.04.300 by providing
the use of public facilities to the Seattle Public Library
Foundation in its financial support for the Proposition 1 campaign
and other campaign activities.

The entirety of the director’s dismissal is as follows:

I am dismissing this allegation because the SEEC staff
investigation concluded that the Foundation is operationally
separate from the Library. Computers, printers, supplies,
phone lines, data storage, software, web usage and remaining
operational costs are managed and paid through the
Foundation’s financial officer. The bare fact that the
Foundation operates out of the Library, and that the
Librarian and a member of the Library board hold two non-
voting positions on the foundation’s 35-member board is not
sufficient to establish that City facilities are being used
to promote the levy, with the Foundation serving as a
conduit. I further note that the Foundation’s Executive
Director sought advice from this office in March of this year
for her and the Foundation’s administrative assistant. SEEC
staff advised Foundation staff not to conduct campaign
activities from the Foundation’s office in the Library.
There is no evidence that Foundation staff failed to follow
this advice.

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

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This appeal maintains that the director lacked a rational basis for dismissing the complaint. The SMC 2.04.300 prohibition (and the same prohibition in state law) against use of City facilities and resources to promote a ballot measure is specifically stated to apply not just to direct efforts, but also to indirect ones. The Seattle Public Library Foundation, the dominant funder of the Proposition 1 campaign, is so inextricably connected to the Seattle Public Library that, so long as the present relationship continues, the Library cannot avoid directly and indirectly assisting the Foundation’s campaign efforts.

The Library’s support is central to the Foundation’s fundraising efforts. According to the “Mission” page on the Foundation’s web site (exhibit #24):

The Foundation acts as the “fundraising arm” of the Library. If you want to support the Library with a donation, your gift goes to the Foundation. We work with the Library to identify the best way donors’ gifts can enhance the Library and meet the ever changing needs of the community.

Where does this money go? Most of it is spent on the Library’s collections and other Library needs, but a large chunk of it is spent as political contributions when there is a Library-related measure on the ballot. The Seattle Public Library Foundation is by far the dominant funder of “Yes Seattle Libraries,” the campaign committee working in favor of Proposition 1. As of the campaign committee’s July 2 filing (exhibit #25), Yes Seattle Libraries had received a total of $110,000 from the Foundation—71 percent of the total dollars it so far had raised.
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(All other donations to Yes Seattle Libraries at that time totaled $46,080). As of today (July 31), Yes Seattle Libraries had received a total of $150,000 from the Foundation.

The City Librarian and Library Board are fully aware of the Foundation’s donation of large sums to the Proposition 1 campaign, because they are a part of the process. City Librarian Marcellus Turner and Library Board member Theresa Fujiwara are members of the Foundation board. Exhibit #24 from the Foundation’s web site lists them as ex officio Foundation board members (said to be non-voting positions under the foundation’s by-laws). And the President of the Library Board (governing body for the Library), Marie McCaffrey, is also the Chair of Yes Seattle Libraries, which she founded as the Library Levy Committee on March 5 (exhibit #9).

In short, the officials who are directly responsible for the Library’s continued provision of fundraising and other assistance to the Foundation are integral to the process by which the Foundation is the primary funder of the ballot measure campaign.

The City Librarian and Library Board have specifically acted to provide the Foundation free access to some City facilities, subsidized access to other City facilities, and reimbursed but exclusive access to still other City facilities. These officials can hardly be unaware of the Foundation’s godfather role in funding much of the current Proposition 1 campaign, or of its similar role in the 1998 campaign for the Libraries for All bond issue. As seen in exhibit #4, the Foundation donated $200,000 to...
the 1998 pro-ballot measure campaign, 41 percent of the total raised.

In basing the dismissal partially on a finding that the City-owned “computers, printers, supplies, phone lines, data storage, software, web usage and remaining operational costs” that the Foundation enjoys “are managed and paid through the Foundation’s financial officer,” the SEEC director misses the point on several counts.

First, he misses a tangible and very substantial benefit from the Library that the Foundation does not pay for. As the July 3 complaint reported (based on my interview with the Foundation’s executive director), the Library provides free to the Foundation its office and furniture in the Central Library. Thus the Foundation enjoys exclusive offices that are perfectly located downtown in a world architectural icon and a prestige address. The market rate to rent these facilities would be substantial, plus of course the Foundation enjoys favored access to this free benefit, which is not available to organizations that may be opposed or neutral regarding Proposition 1.

Second, the director’s dismissal fails to recognize that, for the myriad other services which the Foundation receives from the Library and for which the Foundation may pay something, the Foundation’s direct and indirect efforts on behalf of Proposition 1 are inherently helped by this relationship. The Library has placed itself squarely in the role of sponsoring the fundraising.
that leads to the Foundation’s political contributions to the
Proposition 1 campaign. The Foundation reaps prestige and
donations from ties such as the following:

The Foundation uses the Seattle Public Library’s e-mail and
telephone systems and its web site. The Library’s home page is
http://www.spl.org and the Foundation’s web site address is
http://foundation.spl.org. The e-mail address and phone number
for the City Librarian are marcellus.turner@spl.org and 206-386-
4102, and for the Foundation Director are jonna.ward@spl.org and
206-386-4131. In the web-based City of Seattle staff directory’s
front page for the Seattle Public Library departmental listings,
there is a category for Development/Foundation Office. Clicking
on it takes the user to the Foundation Director; another click
takes the user to the address “Central Library, 1000 Fourth
Avenue.” In all cases, the web-based City of Seattle staff
directory’s front page lists the Foundation Director as being on
the City of Seattle staff. Any payment that the Foundation may
make to the Library for these services misses the point that the
Library has granted to the Foundation unique access to them, not
available to other organizations that are opposed or neutral
regarding Proposition 1.

Beyond the Library’s hosting the Seattle Public Library
Foundation free in its executive offices and providing it
reimbursed City staff and all of the services enjoyed by other City staff, the Seattle Public Library goes out of its way to channel donations to the Foundation that would otherwise go directly to the Library. Members of the public can make donations directly to the Library or to other City agencies. According to my interview with the Library business office, the library will deposit in a City account checks sent to the City Librarian or the business office and made out to “Seattle Public Library.” However, this information is available nowhere on the Library’s web site; in its place, at various places on the Library’s web site (see exhibit #23) is a button labeled “Donate now to the Seattle Public Library Foundation.” A click takes the user straight to the Foundation’s “Ways to Give” web page.

The Foundation also uses Library facilities and staff as incentives for donors to give to the Foundation. Again, even if the Foundation somehow compensates the Library for these services, the Foundation has favored or exclusive access to them not available to other organizations that are opposed or neutral regarding Proposition 1. The Foundation’s web site (exhibit #24) offers a range of Library-related benefits for donations to the Foundation. While the Foundation may reimburse the City for these benefits, certainly the Library does not make them available to other organizations (least of all those who are neutral or opposed to Proposition 1):

(a) free parking in the Central Library garage
(b) free use of a meeting room at the Central Library
(c) free use of the computer lab for group training or an event space
(d) reserved seating at author events
(e) invitations to private author receptions
(f) invitations to events hosted by the City Librarian
(g) designation as an annual Business Partner at the Central Library
(h) recognition at an annual event at the Central Library.

The Seattle Public Library Foundation’s executive director has told me and others (including an investigator for the Ethics and Elections Commission) that the Foundation’s 2012 political contributions to the Proposition 1 campaign were not from donated funds, but rather from the Foundation’s investment returns. However, lawyers I’ve consulted say that because the principal that produced the investment returns is itself the result of donations, the Foundation is still using donations for political purposes, and thus the City’s role in helping to raise the donations is causing the City to violate SMC 2.04.300 by providing the use of public facilities to the Seattle Public Library Foundation in its financial and other support for the Proposition 1 campaign.

The director states in the dismissal that in March “SEEC staff advised Foundation staff not to conduct campaign activities from the Foundation’s office in the Library.” The director did not have a rational basis for the sentence that follows: “There is no evidence that Foundation staff failed to follow this advice.” This statement is incorrect. Most importantly, the $150,000 in donations that the Foundation has made in recent
months to the Proposition 1 campaign are inherently a campaign activity, and are inherent in the operation of the Foundation’s office. It would not be possible for the Foundation to make these political contributions and to account for them without doing so in the Foundation office.

In another instance documented in exhibit #24 that was provided along with my July 3 complaint, the Foundation’s web site included a page that was posted on about June 1, 2012 and entitled “Yes for Seattle Libraries” that urged: “Please join us and protect our great libraries for all Seattle residents by supporting Seattle Proposition 1 – Yes for Our Libraries. Please visit YESSEATTLELIBRARIES.COM for more information.” Clicking on the link took the user to the pro campaign web site. The web page also included a button with the logo of the pro campaign clearly labeled “Libraries Yes! Seattle Prop. 1,” clicking on which took the user directly to the pro campaign web site. When I notified the SEEC director about the infraction, he contacted the Foundation and instructed them to remove the campaign web page, which they eventually did.

This Foundation web page advocating a yes vote on Proposition 1 and soliciting involvement in the campaign was accessed by a link from the June 2012 issue of the “Seattle Public Library E-News: Information about the Seattle Public Library, Foundation, and Friends,” which was sent from the Library address librarynews@spl.ccsend.com. I have another document stating that
100,000 users are on this Seattle Public Library’s e-mail list. Like its disbursement and accounting functions, management of the Foundation’s web site resides at its office. Clearly, the Seattle Public Library through its association with the Foundation caused City facilities to be used to expose a large number of Seattle voters to Proposition 1 campaign activities.

The SEEC director dismissed the Foundation-related parts of the July 3 complaint on the grounds that “There is no evidence that Foundation staff failed to follow this advice” (namely, his advice not to conduct campaign activities from the Foundation’s office). Note that the director’s dismissal is not on the basis that the campaign web page was either an inadvertent or a minor infraction, but rather that “There is no evidence” of infractions by the Foundation. Therefore the Commission cannot uphold the director’s dismissal as being on the grounds of being an inadvertent or minor Foundation infraction, because those were not his grounds for dismissing the complaint. Rather, the Commission must find that the director in claiming that there had been no infraction (whether inadvertent, minor, or otherwise) did not have a rational basis for dismissing the complaint.

To conclude: The Seattle Public Library Foundation’s fundraising efforts are materially aided by benefits that it receives free, subsidized, on a reimbursable but favored or exclusive basis from the Library. Also, on its web site and in other ways, the Library encourages that donors who wish to give to
the Library should instead make donations to the Foundation, even though the Library and other City agencies can accept donations themselves. These benefits are not available to non-profit groups that are neutral or opposed to Proposition 1. The Seattle Public Library’s assistance to the Foundation’s fundraising is part of the arrangement under which the Foundation routinely spends hundreds of thousands of dollars on behalf of ballot measures that involve the Library.

The SEEC director did not have a rational basis for dismissing this complaint. The Seattle Public Library has violated the SMC 2.04.300 prohibition against use of City facilities to promote a ballot measure by aiding the Seattle Public Library Foundation’s promotion of Proposition 1. As mentioned earlier, the SMC 2.04.300 prohibition (and the same prohibition in state law) on use of City facilities and resources to promote a ballot measure is specifically stated to apply not just to direct efforts, but also to indirect ones. It is clear that through the Foundation, the Library is involved both directly and indirectly in illegally promoting Proposition 1. The only ways to avoid this situation are either for the Foundation to stop making political donations or for the Library to disengage from its compromising relationship with the Foundation. The Ethics and Elections Commission must act to preserve the integrity of the election process and enforce SMC 2.04.300.
I declare under penalty of perjury of the laws of the State of Washington that I am a registered voter of the City of Seattle, and that the information in the above statement, and the exhibits provided, are true and correct.

Dated this July 31, 2012

Chris Leman