



July 28, 2016

*Re: Case No. 16-1-0714-1*

Dear \*\*\*\*\*:

On July 13, we received your written complaint alleging that the Seattle Public Library (SPL) was violating SMC 2.04.300 by co-hosting a candidate debate which included three of the nine candidates for the 7<sup>th</sup> District seat in the U.S. Congress.

I do not find SPL violated SMC 2.04.300 because the Library, albeit at the eleventh hour, elected not to cosponsor the event but to rent the space to the City Club for the debate. I am therefore dismissing your complaint.

## FACTS

On July 7, 2016, SPL posted on its web site an announcement for a July 14 debate cosponsored by SPL, Seattle City Club, and the Downtown Seattle Association (DSA).

One week later, on July 13, after consultations between SPL employees and Commission staff, SPL informed Seattle City Club and the DSA that SPL would not co-host the event. In addition, SPL removed all mention of the debate from the SPL website. Seattle City Club removed any indication that SPL was a co-host from its webpage.

That same day, SPL and City Club entered into a rental contract and Seattle City Club paid the standard rental fee for the use of the Microsoft Auditorium.

## LAW

SMC 2.04.300 states “[n]o elected official nor any employee of his or her office nor any person appointed to or employed by any public office or agency may use or authorize the use of

any of the facilities of a public office or agency, directly or indirectly, for the purpose of assisting a campaign for election of any person to any office ...”

## **DISCUSSION**

Had the library cosponsored an event that did not include all nine candidates for the 7<sup>th</sup> District seat, that would have raised serious issues under the law as it’s been interpreted by the Public Disclosure Commission (PDC). In PDC Declaratory Order #13, issued in 1995, the PDC wrote “[t]he rules permit the use of public facilities even where that may result in benefit to a candidate...if all candidates...have the opportunity to enjoy that benefit.”

Declaratory Order #13 also cites approvingly an Attorney General’s opinion from 1979, however, approving the use of Evergreen State College for a political party convention on the grounds that it was “a rental of the facility that did not discriminate against any particular political view.” It is this precedent that SPL ultimately relied on when entering into a standard rental agreement with the Seattle City Club. While that decision may have been made at the eleventh hour, it was the decision ultimately made, and the use of public facilities took place within that framework.

The notice of the meeting that was on the Library’s web site for six days (July 7 through July 13) did not promote or oppose any of the candidates for the seat. It did not even list the names of the candidates scheduled to appear at the debate, although it did provide a link to the Seattle City Club’s web site, which did list the names of the three candidates participating in the debate.

## **CONCLUSION**

This matter highlights the inherent tension between the Library’s role as a civic and cultural institution not unlike Town Hall or Benaroya Hall, and its status as a public agency, confined by all the rules that public agencies must follow. While as originally conceived this debate may have run afoul of the bar on using public facilities to promote or oppose candidates or ballot measures, at the end of the day the meeting space was rented at its customary rate to the host of the debate. That does not violate the law.

If you are dissatisfied with this dismissal, you may file an appeal under Administrative Rule 4.<sup>1</sup>

Very truly yours,



Wayne Barnett  
Executive Director

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

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<sup>1</sup> A. Upon the written request of a party aggrieved by the Executive Director's decision to dismiss a complaint...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.

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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.