BEFORE THE CITY OF SEATTLE
ETHICS AND ELECTIONS COMMISSION

IN THE MATTER OF ) STATEMENT OF REASONS FOR APPEAL OF
COMPLIANCE WITH ) THE CITY ATTORNEY'S LIBRARY LEVY
SMC 2.14.040.A ) EXPLANATORY STATEMENT AND WHY THE
CITY OF SEATTLE ) COMMISSION SHOULD ADOPT THE REVISED
) SUBSTITUTE THAT WAS SUBMITTED EARLIER

Following are the reasons why on May 21, 2019 we appealed the
City Attorney's Library Levy Explanatory Statement and why the
Commission should adopt the revised substitute.

We offer the substitute as more closely meeting the standard
required by Seattle Municipal Code Sec. 2.14.040.A that (emphasis
added) “The City Attorney shall prepare an explanatory statement on
each City measure, describing in clear and concise language, the law
as it presently exists and the effect of the measure if approved. It
appears that the explanatory statement proposed by the City Attorney
demonstrably and disturbingly fails this standard. Quite simply, it
does not accurately and fairly describe the effect that levy ordinance
125809 would have if approved by the voters.

On behalf of our request for relief, we offer the following
reasons attached to three main paragraphs of the explanatory statement
as it is proposed either by the City Attorney or by ourselves.

**A. PARAGRAPH ONE**

(1) The words, "to renew and enhance community investments in
Library operating hours, material, technology, building maintenance,
and programming for children” should be deleted for the following reasons:

(a) The words “to renew and enhance community investments” are subjective and exhortative rather than being neutral and factual. The levy more accurately should be described as spending funds on our libraries. To describe this spending as “investments” inappropriately injects a value judgment which is the province of the pro campaign and the voters, not the City Attorney or the Ethics and Elections Commission.

   Black’s Law Dictionary On-line defines investment as when “capital is committed to make an income from it.” Use of the word “investment” in the Voters Pamphlet to describe proposed library levy spending will not just be inaccurate, but will be using City resources to obtain “yes” votes by associating the levy with the tropes of business finance.

   It is certainly true that the City Council and Mayor used the words “invest” or “investment” seven times in Ord. 125809’s “whereas” clauses alone, but that is just a reminder of the kind of exhortations that the City Attorney is obligated to avoid in the explanatory statement but has not done so.

(b) The word “community” is also out of place in describing the overall levy impact, introducing into this “explanatory” statement another subjective and exhortative term, and with usage that can be found nowhere in Ord. 125809, which only uses the term “community” regarding very specific Library outreach programs.
(c) The phrase “to renew and enhance community investments” has
the overall impact of distracting from the actual taxing and spending
decision that the levy poses to voters. The stark fact that this levy
continues and nearly doubles an existing lid-lift property tax is
hidden by language about “renew and enhance.” The latter terms have
mostly nurturant meanings that, given the failure of this sentence to
mention taxing or spending, will tend to hide from voters the actual
financial choice they are posed. It is the very opposite of the
standard to be “clear and concise” that is required of the City
Attorney.

(d) The reference to “operating hours, material, technology,
building maintenance, and programming for children” should be deleted
for two reasons: First, that it is redundant with the more detailed
explanation of these same items that is presented in the next
paragraph; and Second, that there is not space to provide the correct
context that is (in our revised substitute) provided in the next
paragraph, namely that actual spending in these categories is not
automatic, but rather depends on key budget and spending decisions by
the Library Board and the City Council (for more about this issue, see
below).

2. The words “It would replace and enlarge upon the previous
seven-year levy that raised $123,000,000 between 2013 and 2019” should
be added for the following reasons:
(a) “Replace” and “enlarge” in our proposed substitute are more accurate and less subjective than the City Attorney’s words “renew” and “enhance,” and ours are given more specific meaning by referring precisely to how the 2019 levy would relate to the 2012 levy. The City Attorney does not even mention the 2012 levy in this paragraph, denying the voter a clear and concise portrayal of “the law as it presently exists and the effect of the measure if approved” – the exact SMC 2.14.040.A requirement for how an explanatory statement must be worded.

(b) In our proposed substitute language, we have faithfully followed this SMC requirement by bringing mention of the previous seven-year levy having raised $123,000,000 to become the sentence directly after the explanatory statement’s first sentence which mentions that the proposed new levy would raise $219,100,000. In contrast, the City Attorney has “buried the lead” by leaving until the very last paragraph any mention that the expiring levy was for $122,630,099, thus making it difficult for the voter to compare the two amounts or to even notice that the proposed new levy is almost twice the amount of the expiring levy.

2. PARAGRAPH TWO

1. The City Attorney does not clearly and concisely describe the levy by stating “Taxes raised would provide funding in six categories of Library Services.” As the levy ordinance itself makes clear, such funding is not automatic, but rather is dependent on a number of
actions that are at the discretion of the City Council and the Library Board.

The revised substitute we have offered provides clarity that it is the annual budget process that would determine how the levy proceeds would be spent. In order to provide the accurate explanation that the City Attorney has not, our proposed substitute exactly quotes the levy ordinance as to how the spending will be determined:

“Section 3 of Ordinance 125809, the levy ordinance, states: ‘Unless otherwise directed by ordinance, Levy Proceeds shall be deposited in the 2019 Library Levy Fund.’ This ordinance’s Section 4 states that ‘levy investments will be made in six categories of Library Services. Program elements, in subsections 4.A through 4.F of this ordinance, are illustrative examples. In accordance with the annual City budget process, each year the Library Board shall adopt an annual operations plan and capital budget.’ The illustrative examples given in the ordinance can be summarized as follows:”

Without the background and proviso that our substitute offers, the City Attorney cannot accurately tell the voters that “Taxes raised would provide funding in six categories of Library Services.”

2. The City Attorney is grossly inaccurate in the following description of the proposed levy’s impact: “1. Hours and Access, which would include: supporting existing operating hours while increasing hours in all neighborhood branches”. Sorry, but that is not what the levy ordinance says at its section 4A, where instead the
wording is: "Hours and Access. Major program elements include: supporting Library operating hours in neighborhood branches and the Central Library." The City Attorney’s explanatory statement promises far more from the levy than does the actual levy ordinance.

3. SECOND PARAGRAPH FROM THE END

This three-sentence paragraph by the City Attorney attempts to describe the budget process that will determine the actual levy spending. Unfortunately, it does not fully capture the degree of discretion that the levy ordinance gives to the Library Board and the City Council; and its placement after all of the levy’s goodies are listed comes as an afterthought. This placement is a disservice to the reader who is entitled to be told clearly and concisely up front that whatever good might be hoped for depends crucially on the Library Board and City Council. A more accurate description of the funding process is in our substitute explanatory statement, and it is better located in being the second paragraph from the top, just before mention of the six funding categories. With our version, the reader will better understand the practical significance for why the funding categories are listed as “illustrative examples” rather than actual promises in the levy.

CONCLUSION

We ask the Ethics and Elections Commission to rule firmly against the inaccurate and conclusory explanatory statement that the City Attorney has submitted. For the integrity of the democratic process, it is important that an explanatory statement not confuse and...
manipulate the voters as this one does. We commend to you the revised substitute that we have submitted and ask that you require its use.

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 is true and correct.

Dated this May 22, 2019

Chris Leman