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GRAYCE LIU
GENERAL MANAGER

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May 19, 2017

General Jeff Page
1626 Wilcox Avenue #924
Los Angeles, CA 90028
issuesandsolutions@yahoo.com

SENT VIA EMAIL

Re: Skid Row Neighborhood Council Subdivision Election Challenges

Dear Mr. Page:

We received the attached recommendations from the May 3, 2017 Election Challenge Panel on the following election challenges filed by you for the April 6, 2017 Skid Row Neighborhood Council Subdivision Election:

- Challenge #103: Explicit Use of City logo(s) for Campaign Materials by Candidate(s)
- Challenge #104: Neighborhood Council Board Endorsement
- Challenge #105: Electioneering by Applicants

In short, the Election Challenge Panel upheld your election challenges and recommended the following remedy for all of the challenges:

Within 60 days, there shall be an independent investigation to determine if any laws were broken and how many votes were affected; if the number of votes affected is greater than the vote difference in the election, then the election result shall be overturned. Within 90 days, if the election result is not changed after the investigation above, then the election shall be held again, without online voting.

After careful review of the Election Challenge Panel's recommendations and with much appreciation for the time and thoughtfulness the panel put into their consideration of the challenges, the Department of Neighborhood Empowerment (Department) will not accept the Election Challenge Panel's recommendations and will certify the April 6, 2017 election results as final.

Per Section XII of the Subdivision Election Manual, the supporting documentation for election challenges must prove that the alleged challenges are not only valid, but would also have made a difference in the election challenge in order for the Election Challenge Panel to have the factual basis to uphold the challenges. The factual basis was not met for any of the challenges for the following reasons:

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No Proof of Explicit Use of Downtown Los Angeles Neighborhood Council Logo by Candidate

Challenge #103 alleged that because the Downtown Los Angeles Neighborhood Council (DLANC) anonymously sent an email with its logo under the Unite DTLA email on a "Vote No" email campaign, this met the criteria of the election challenge for explicit use of City logo(s) for campaign materials by candidates. During the Election Challenge Panel Hearing, the Department testified that based on its testing of a Mail Chimp account, any third party could have used the DLANC email so it was inconclusive whether DLANC sent the email. The Election Challenge Panel, however, did not focus on the key issue of whether the email came from DLANC. Instead, the Panel determined that because DLANC failed to send an email to its stakeholders clarifying that the Unite DTLA email did not come from DLANC, DLANC had implicitly allowed a "candidate," which the panelists determined could be the "No" side of the subdivision vote, to use their logo.

The election challenge specifically states the "explicit" use of the logo, and there was no conclusive evidence showing that DLANC used its logo to send out a "Vote No" vote campaign email on its Mail Chimp account or that it allowed a candidate to use its logo. In fact, DLANC President Patty Berman specifically told the Unite DTLA to remove the DLANC logo within hours of the original email being released, and it was removed within a day when a new "Vote No" email was sent out again by Unite DTLA.

No Neighborhood Council Board Endorsement

Challenge #104 alleged that because DLANC anonymously sent an email with its logo under the Unite DTLA email on a "Vote No" email campaign, this also met the criteria of the election challenge for Neighborhood Council board endorsement. Again, the Election Challenge Panel found that the DLANC board had endorsed the "Vote No" email campaign by failing to send an email out to its stakeholders stating that the original Unite DTLA "Vote No" email with the DLANC logo had not been sent by DLANC. During the Election Challenge Panel Hearing, the Department stated in its report that this challenge should be dismissed because it applies to situations where Neighborhood Councils take action at a meeting to endorse a position or candidate. DLANC never took action on the Skid Row Neighborhood Council subdivision so there was no Neighborhood Council board endorsement in this case.

No Electioneering by the Applicant

Challenge #105 alleged that because DLANC anonymously sent an email with its logo under the Unite DTLA email on a "Vote No" email campaign, this also met the criteria of the election challenge for electioneering by the applicant. The majority of the Election Challenge Panel in a split vote found that the word "applicant" applied to DLANC. In this situation, however, the applicant would be the Skid Row Neighborhood Council Forming Committee and not DLANC. Further, electioneering refers to actions taken while at the polling location or Pop-Up Polls and does not apply to the Unite DTLA "Vote No" email since that was part of an election campaign. Therefore, there was no electioneering by the applicant.

No Evidence the Challenges Made a Difference in the Election Outcome

After two of the eleven provisional votes were counted (we did not receive the necessary documentation for the uncounted provisional votes), the unofficial canvass of votes for the Skid Row Neighborhood Council subdivision election was 766 yes for subdivision and 826 no for subdivision. Even if all of the challenges were found to be valid, in order for the challenges to be upheld, evidence must be presented that at least 60 people were influenced by the Unite DTLA "Vote No" email campaign to have changed their votes from "yes" to "no," and there was

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no evidence supporting this finding. No one testified that they'd changed their vote from "yes" to "no" because of the Unite DTLA "Vote No" email campaign with the DLANC logo. There was no evidence presented to show how many people even received the Unite DTLA "Vote No" email campaign with the DLANC logo, which was replaced within a day by another "Vote No" email without the DLANC logo by Unite DTLA so the effect of the first email was likely minimal in the overall campaign. Therefore, there was no factual basis to determine that the election challenges would have made a difference in the final election results.

Inappropriate Remedy

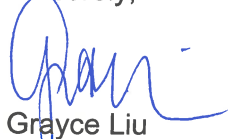
Even if the election challenges were to be upheld, the Election Challenge Panel remedy did not follow the Subdivision Election Manual section on challenge remedies, which are to be narrowly interpreted to affect only the voters, candidates, or seats affected. The Election Challenge Panel requested an investigation of the origin of the emails even after the Department and the City Attorney's Office stated that there could be no further investigation of the matter. This would result in the second part of their remedy, which was to redo the entire election. Redoing a Neighborhood Council election can only be considered if a valid challenge affected every seat on the ballot. In this matter, the Department would only consider a new election if every vote was affected. The Election Challenge Panel determined that because approximately 80% of the votes were cast online, the Unite DTLA "Vote No" email affected most of the votes though not all. Therefore, the remedy of redoing the election is not appropriate for these challenges even if they were determined to be valid.

Conclusion

While the final result of your election challenges determination does not result in the formation of a Skid Row Neighborhood Council at this time, this outcome does not mean a Skid Row Neighborhood Council Subdivision Petition cannot be filed again the next time the Department accepts applications. The current schedule to open the application process for Neighborhood Council subdivision is October 2018, but this timeline could change to later this year if the 2018 Neighborhood Council elections are pushed to 2019. We would be happy to work with you and the Skid Row Neighborhood Council Forming Committee to file your Subdivision Petition again.

Please let me know if you have any questions by emailing me at Grayce.Liu@lacity.org or by calling (213) 978-1551.

Sincerely,



Grayce Liu
General Manager
Department of Neighborhood Empowerment

Cc: Darren Martinez, Deputy City Attorney, Office of the City Attorney
Mike Fong, Director of Policy and Government Affairs, Department of Neighborhood Empowerment
Downtown Los Angeles Neighborhood Council Board



Election Challenge Panel Determination**Challenger Name:** General Jeff Page**Neighborhood Councils:** Forming Skid Row Neighborhood Council
Downtown Los Angeles Neighborhood Council**Challenge Number:** 103**Challenge Basis:** Explicit Use of City logo(s) for Campaign Materials by Candidate(s) – including LA City logo, EmpowerLA logo, Neighborhood Council logo, and any other City department logo**Date of Review:** May 3, 2017

Election Challenge Panel MembersCarlos Ferreya, Greater Valley Glen Council
David Greene, Eagle Rock Neighborhood Council
Pamela Thornton, Harbor Gateway North Neighborhood Council**Vote**
Sustain
Sustain
Sustain**Person filing challenge**

General Jeff Page

Department of Neighborhood Empowerment Report

Grayce Liu, General Manager

Person(s) challenged presentPatricia Berman, Downtown Los Angeles Neighborhood Council
Robert Newman, Downtown Los Angeles Neighborhood Council
Amara Ononiwu, Downtown Los Angeles Neighborhood Council**Determination**

Explicit Use of City logo(s) for Campaign Materials by Candidate(s) – including LA City logo, EmpowerLA logo, Neighborhood Council logo, and any other City department logo

☒ **Sustained**☐ Dismissed

After General Jeff Page's presentation, the Downtown Los Angeles Neighborhood Council (DLANC) board members' testimonies, the Department of Neighborhood Empowerment (Department) report, and over 50 public comments, the Election Challenge Panel unanimously found that the use of the DLANC logo by the Unite DTLA "Vote No" email and DLANC's failure to take substantial action to provide clarification that this email was not from DLANC supported the election challenge.

The Panelists agreed that there were two candidates in this race: the yes side and the no side. Therefore, the No side used the DLANC logo in violation of the Neighborhood Council Subdivision Election Manual. In determining a remedy, the Panelists agreed that because this was an email and because online voting accounted for approximately 80% of the vote, a majority of the votes were affected, which allowed them to consider the remedy for throwing out the results and having a new election. They chose not to disqualify any No votes without further evidence that people who received the Unite DTLA "Vote No" were affected by the use of the DLANC logo. They further found that online voting favored those outside of the forming Skid Row Neighborhood Council boundaries.

The Election Challenge Panel's remedy to the Department of Neighborhood Empowerment is:

The Election Challenge Panel combined the remedies for challenges #103, 104, and 105 to:

Within 60 days, there shall be an independent investigation to determine if any laws were broken and how many votes were affected; if the number of votes affected is greater than the vote difference in the election, then the election result shall be overturned. Within 90 days, if the election result is not changed after the investigation above, then the election shall be held again, without online voting.

The Election Challenge Panel recommendation will now be reviewed by the Department for a final determination on the matter.



Election Challenge Panel Determination**Challenger Name:** General Jeff Page**Neighborhood Councils:** Forming Skid Row Neighborhood Council
Downtown Los Angeles Neighborhood Council**Challenge Number:** 104**Challenge Basis:** Neighborhood Council Board Endorsement**Date of Review:** May 3, 2017

Election Challenge Panel Members

Carlos Ferreya, Greater Valley Glen Council

David Greene, Eagle Rock Neighborhood Council

Pamela Thornton, Harbor Gateway North Neighborhood Council

Vote

Sustain

Sustain

Sustain

Person filing challenge

General Jeff Page

Department of Neighborhood Empowerment Report

Grayce Liu, General Manager

Person(s) challenged present

Patricia Berman, Downtown Los Angeles Neighborhood Council

Robert Newman, Downtown Los Angeles Neighborhood Council

Amara Ononiwu, Downtown Los Angeles Neighborhood Council

Determination

Neighborhood Council Board Endorsement

☒ **Sustained**☐ Dismissed

After General Jeff Page's presentation, the Downtown Los Angeles Neighborhood Council (DLANC) board members' testimonies, the Department of Neighborhood Empowerment (Department) report, and over 50 public comments, the Election Challenge Panel unanimously found that DLANC's failure to take action by sending an email to their voter database to clarify that the Unite DTLA "Vote No" email using the DLANC logo was not from DLANC indicated implicit Neighborhood Council board endorsement of that position even though the DLANC never took a position on the Skid Row Neighborhood Council subdivision. This failure to provide clarification created voter confusion in violation of the Neighborhood Council Subdivision Election Manual.

The Election Challenge Panel's remedy to the Department of Neighborhood Empowerment is:

The Election Challenge Panel combined the remedies for challenges #103, 104, and 105 to: Within 60 days, there shall be an independent investigation to determine if any laws were broken and how many votes were affected; if the number of votes affected is greater than the vote difference in the election, then the election result shall be overturned. Within 90 days, if the election result is not changed after the investigation above, then the election shall be held again, without online voting.

The Election Challenge Panel recommendation will now be reviewed by the Department for a final determination on the matter.



Election Challenge Panel Determination**Challenger Name:** General Jeff Page**Neighborhood Councils:** Forming Skid Row Neighborhood Council
Downtown Los Angeles Neighborhood Council**Challenge Number:** 105**Challenge Basis:** Electioneering by Applicants**Date of Review:** May 3, 2017

Election Challenge Panel MembersCarlos Ferreya, Greater Valley Glen Neighborhood Council
David Greene, Eagle Rock Neighborhood Council
Pamela Thornton, Harbor Gateway North Neighborhood Council**Vote**

Sustain

Dismiss

Sustain

Person filing challenge

General Jeff Page

Department of Neighborhood Empowerment Report

Grayce Liu, General Manager

Person(s) challenged presentPatricia Berman, Downtown Los Angeles Neighborhood Council
Robert Newman, Downtown Los Angeles Neighborhood Council
Amara Ononiwu, Downtown Los Angeles Neighborhood Council**Determination**

Electioneering by Applicants

☒ **Sustained**☐ Dismissed

After General Jeff Page's presentation, the Downtown Los Angeles Neighborhood Council (DLANC) board members' testimonies, the Department of Neighborhood Empowerment (Department) report and over 50 public comments, a majority of the Election Challenge Panel determined that there was electioneering by the applicant because they thought the word "applicant" applied to DLANC. The majority of the Election Challenge Panel found that the Unite DTLA "Vote No" email to an unknown and undetermined number of voters qualified as electioneering in violation of the Neighborhood Council Subdivision Election Manual.

The Election Challenge Panel's remedy to the Department of Neighborhood Empowerment is:

The Election Challenge Panel combined the remedies for challenges #103, 104, and 105 to: Within 60 days, there shall be an independent investigation to determine if any laws were broken and how many votes were affected; if the number of votes affected is greater than the vote difference in the election, then the election result shall be overturned. Within 90 days, if the election result is not changed after the investigation above, then the election shall be held again, without online voting.

The Election Challenge Panel recommendation will now be reviewed by the Department for a final determination on the matter.