

August 5, 2016

Members, Ballot Simplification Committee
Department of Elections
City and County of San Francisco
1 Dr. Carlton B. Goodlett Place, Room 48
San Francisco, CA 94102

VIA PDF E-MAIL

**Re: Comments on Draft Digest for “Housing and Development
Commission” Charter Amendment**

Dear Members of the Ballot Simplification Committee:

We have had the opportunity to review the draft digest prepared for your consideration at Monday’s meeting for the “Housing and Development Commission” charter amendment. We respectfully request that you consider the following changes to the digest (**changes reflected in red**).

1. “The Way It Is Now,” third paragraph.
(Additions in underline)

The Mayor appoints the heads of OEWD and MOHCD and has the authority to remove them **at his discretion**.

Rationale: Under the proposed charter amendment, the Mayor could also remove Commissioners, but not at will, as he can currently do for the OEWD and MOHCD heads; the Commissioners could only be removed for official misconduct (page 3, lines 7-8). We believe that the failure to make this distinction could mislead the voters.

[CES6186.14]

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2. “The Way It Is Now,” second to last paragraph.
(Additions in underline; deletions in ~~strikethrough~~)

No City commission directly oversees the operations of MOHCD and OEWD. But, the Board of Supervisors (Board) approves their budgets and ~~some~~ most of their agreements, programs and grants, and MOHCD and OEWD routinely report to the Planning Commission and the Small Business Commission and must seek approval from the Planning Commission and Board of Supervisors for certain proposed policy changes.

Rationale: We believe that, as drafted, this paragraph gives the entirely false impression that MOHCD and OEWD currently operate with virtually no oversight. That is not “the way it is now.” As revised above, this paragraph more accurately reflects the true state of affairs.

3. “The Way It Is Now,” new paragraph at the end of the section.
(Additions in underline)

Currently, development agreements are subject to review and approval by the Planning Commission and the Board of Supervisors.

Rationale: “The Proposal” and “A ‘YES’ Vote Mean” both talk about the Commission’s new role in approving development agreements, but voters are given no information regarding how such agreements are currently approved that would enable them to understand how the system would be different if the proposed measure were adopted.

4. **“The Proposal,” first paragraph.**
(Additions in underline)

Proposition __ is a Charter amendment that would create the Housing and Development Commission. The Commission would have seven members, three appointed by the Mayor, three appointed by the Board, and one appointed by the Controller. The Mayor’s nominees would be subject to approval by the Board. Commissioners could only be removed from office for official misconduct, following a hearing by the Ethics Commission and a vote of at least $\frac{3}{4}$ of the Supervisors.

Commissioners could serve up to two consecutive four-year terms. A Commissioner who serves two consecutive four year terms could be reappointed to future terms after spending four years off the Commission.

Rationale: The first change relates to Comment #1 above, and clarifies that Commissioners, unlike the current heads of MOHCD and DOEWD, cannot be removed by the Mayor at will.

As for the second change, merely stating that a commissioner could only serve two “consecutive” terms, without elaboration, does not make it clear that the term limits do not result in a lifetime ban, as is the case for members of the state Legislature or state officers. The second change seeks to clarify that point.

5. **“The Proposal,” second paragraph.**
(Additions in underline)

OEWD and MOHCD would be dissolved. The Commission would oversee two newly formed departments—the Department of Economic and Workforce Development (DOEWD) and the Department of Housing and Community Development (DOHCD)—with equivalent staffing as the dissolved offices. DOEWD would take over the powers and duties of OEWD, and DOHCD would take over the powers and duties of MOHCD. The Commission, rather than the Mayor, would have the exclusive power to appoint and remove the heads of these two departments.

Rationale: As for the first proposed change, the measure plainly states (page 8, line 14) that OEWD and MOHCD “shall cease to exist.” Dissolution of an existing agency is a major change—at least equivalent in significance to the creation of new agencies—of which the voters should be informed.

As for the second change, the measure itself (page 3, line 13) states that the Commission’s power over department heads is “exclusive,” and these proposed changes clarify that the Mayor will no longer have the power to remove those department heads if the measure passes.

6. **“The Proposal,” third paragraph, second bullet point.**
(Additions in underline; deletions in ~~striketrough~~)

- establishing rules for the competitive selection process for the development of affordable housing on City-owned property. These rules would be subject to rejection by a two-thirds vote of the Board. The rules would replace any ordinances, regulations or other rules that the Board adopted, or ballot measures that the voters adopted, before March 1, 2017, including measures on the November 2016 ballot, that relating to a competitive bid process for the City’s development of affordable housing;

Rationale: The measure itself (page 5, line 6) refers to “any ordinance, rule, process or regulation,” and we believe it obscures what is meant to

simply refer to these generically as “rules.” Moreover, merely referring to a “rule” adopted “by the voters” may not clearly convey to the average voter what that means, or how the voters would adopt such “rules.” Specifically, the voters should understand that this measure would override measures *on the same ballot* that they may be voting for.

7. “The Proposal,” third paragraph, third bullet point.
(Additions in underline)

- making recommendations to the Board before the Board approves any ordinance setting or changing the City’s below-market rate inclusionary housing requirements. Any such ordinance would replace any conflicting provisions in ordinances that the Board adopted, or initiatives the voters adopted, before March 1, 2017; and

Rationale: This is the same rationale as the previous point.

8. “The Proposal,” third paragraph, fourth bullet point.
(Additions in underline)

- approving or rejecting development agreements that DOEWD administers.

Rationale: It should be made clear that rejection is also an option.

9. “A ‘YES’ Vote Means,” opening paragraph.
(Additions in underline)

A “YES” Vote Means: If you vote “yes,” you want to amend the Charter to create the Housing and Development Commission to oversee two newly formed departments—the Department of Economic and Workforce Development and the Department of Housing and Community Development, and dissolve the OEWD and MOHCD. You also want the Commission’s responsibilities to include:

Rationale: This change tracks the suggestion in point #5, above, and would make the “Yes Vote” section consistent with “The Proposal.”

10. “A ‘YES’ Vote Means,” second bullet point.

(Additions in underline)

- establishing rules for the competitive selection process for the development of affordable housing on City-owned property that would override existing ordinances adopted by the Board of Supervisors, and ballot measures adopted by the voters, prior to March 1, 2017.

Rationale: We believe that the fact that the Commission would be empowered to override voter approved measures is too important to be excluded; this change would track the language of “The Proposal.”

11. “A ‘YES’ Vote Means,” third bullet point.

(Additions in underline)

- making recommendations to the Board before the Board approves any ordinance setting or changing the City’s below-market rate inclusionary housing requirements; such ordinances would override existing ordinances adopted by the Board of Supervisors, and ballot measures adopted by the voters, prior to March 1, 2017, including measures on the November 2016 ballot.

Rationale: We believe that the fact that the Board would be empowered to override voter approved measures is too important to be excluded; this change would track the language of “The Proposal.”

12. “A ‘YES’ Vote Means,” fourth bullet point.

(Additions in underline)

- approving or rejecting development agreements that DOEWD administers.

Rationale: This change tracks the suggested changes in point #8 above.

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We look forward to discussing these comments with you at Monday's meeting.

Sincerely,

A handwritten signature in blue ink that reads "Christopher Skinnell". The signature is written in a cursive style with a large initial "C".

Christopher E. Skinnell