



SAN FRANCISCO
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DEPARTMENT OF ELECTIONS

July 30, 2024

Re: Title challenge for Upper Great Highway ballot measure

Dear Director Arntz:

We are writing to request correction of the title of the ballot measure that, if passed, would reserve the Upper Great Highway as open public recreation space. Your office recently updated the title in response to a letter from a member of the public, referring to the legislation as an initiative "Permanently Closing the Upper Great Highway to Private Vehicles to Establish a Public Open Recreation Space."

The updated title will confuse voters because it is inconsistent with the legislation's title, intent, legal text, and the digest approved by the Ballot Simplification Committee, is inconsistent with past precedent with similar legislation affecting Golden Gate Park roads being reserved for recreational use, and overturns a robust public input process at the Ballot Simplification Committee.

In order to be consistent with past precedent and limit voter confusion, we respectfully ask that the title be updated as follows:

"Recreational Use of the Upper Great Highway"

An alternative that would maintain consistency with the digest approved by the Ballot Simplification Committee, the legislation itself, and the City Attorney's legislation title, would be:

"Establishing a New Public Open Recreation Space by Restricting Private Vehicles on the Upper Great Highway"

Confusing Voters

The legal text of the measure, the City Attorney's title to the legislation, as well as the digest approved by the Ballot Simplification Committee, all focus on the purpose of the legislation - the creation of a new public open recreation space - rather than the means through which that purpose is achieved (which includes a restriction on private vehicle traffic). The updated title is inconsistent with all of these other materials, which will increase the risk of voter confusion as to the purpose of the measure. To reduce the risk of confusion, we believe that voters are best served by the use of consistent language to describe this measure.

Inconsistency with Past Precedent and Legislative Intent

The recreational use of the Upper Great Highway, along with Golden Gate Park's JFK Drive, has been on the ballot before, and voter confusion is best avoided through consistency with the titles of previous measures. 2022's Proposition J had the title "Recreational Use of JFK Drive in Golden Gate Park," which was clear that the intent of the measure was to offer voters a choice about the use of the land for recreational purposes. Voters are familiar with the purpose and impact of legislation framed in this way. Accordingly, we ask that the title follow a similar approach in the interest of consistency and avoiding voter confusion: **"Recreational Use of the Upper Great Highway"**.

The proposed title is also inconsistent with the legislative intent. Supervisor Joel Engardio's letter to the Ballot Simplification Committee is explicit that the legislative intent is to create public recreation space: "My intention in introducing this ordinance is for voters to decide if the space should be used as a park. [...] The measure explicitly permits and promotes public open space recreational access opportunities on the Upper Great Highway. This is central to the measure. Vehicle restrictions are a means to achieve that end, not the measure's focused intent."¹

Inconsistency with Legal Text

The proposed title is also inconsistent with the legislation itself. The legal text of the measure, is titled "Parkway at Upper Great Highway" and summarized as "Ordinance amending the Park Code to establish new recreation and open space by restricting private vehicles at all times on the Upper Great Highway between Lincoln Way and Sloat Boulevard." Both formulations make it clear that the creation of the public open recreation space is the primary purpose of the measure. This should be reflected in the measure's title.

Inconsistency with Ballot Simplification Committee Digest - and Overturning a Robust Public Input Process at the Committee

The Ballot Simplification Committee considered this issue at length during its meeting on July 24th and during a subsequent July 26th meeting to consider appeals, including with respect to whether the measure should be framed for voters around its purpose or means (park creation) or means of implementation (private vehicle restriction). The independent Committee considered significant public input, including from the member of the public who wrote your office regarding the title, and determined that the intent of the measure is to create public open recreation space and so placed that language first in its final digest: "Proposition ___ is an ordinance that would allow the City to use the Upper Great Highway for public open recreation

¹ Supervisor Joel Engardio, "RE: Draft Digest - Reserving the Upper Great Highway as Public Open Recreation Space," July 23, 2024, <https://www.sf.gov/sites/default/files/2024-07/Correspondence%20from%20Supervisor%20Engardio%20re%20Upper%20Great%20Highway.pdf>.

space, permanently closing it to private motor vehicles seven days a week.” During its extensive public process, which involved dozens of written submissions and public comment from people on all sides of this issue, the Committee decided that the measure should be described in this way. For consistency, the title should similarly use this open space-first language.

The change of title detailed in your July 29 email overturns the robust public input process that occurred at the Ballot Simplification Committee at the request of a single citizen who already participated in that process. The Committee already considered Ms. Ceirante’s perspective but ultimately decided that the emphasis should be on the use of the Upper Great Highway for public open recreation space. The best way to avoid partisanship in this process is to follow the lead of the Ballot Simplification Committee by emphasizing the recreational open space aspect of the measure first.

Thank you for your consideration.

Lucas Lux
President, Friends of Great Highway Park

