

Selby, Matthew (REG)

From: Richie Greenberg Press Office [REDACTED]
Sent: Monday, August 26, 2024 10:54 AM
To: SFVote, (REG); Selby, Matthew (REG); Ramos, Michael (REG)
Cc: Richie Greenberg
Subject: Challenge to Prop K Official Proponent argument

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Richie Greenberg
San Francisco

[REDACTED]

John Arntz, Director
San Francisco Dept of Elections
City Hall
San Francisco CA

August 26, 2024

Dear Director Arntz, et al,

Challenge to Prop K Official Proponent Argument

I bring this challenge to the November 2024 Proposition K, Official Proponents' argument, within the specified timeframe, ending Monday August 26th 2024 at noon. It relates to grossly deceptive claims made by proponents, and should their claims outlined below be allowed to be published in this November 2024 voter information pamphlet, San Francisco's voters would be presented with gross misrepresentations and false claims which would influence their decision-making process.

In the proponent's opening sentence, they claim the purpose of Prop K is "*to transform a redundant coastal roadway.*" The use of the word "redundant" is false, deceptive and must be stricken. There exists no second coastal roadway of equal or greater size or vehicle capacity in the immediate vicinity of the current Great Highway, to justify referring to and labeling the highway in the argument as redundant. This must be stricken.

In the first bulleted point beginning "San Franciscans want an oceanfront park" and continues with the claim "*10,000 visits each weekend*". No extensive published scientific study supports this claim. No study indicates whether alleged visits are *unique* visits, simultaneous visits, mean daily or special event tallies. Who actually

counted them? For example, repeated morning, afternoon and evening visits by one same individual dog walker and jogger would skew their highly arbitrary “visit” figure. Their claimed number is deceptive and methodology impossibly unverifiable. The 10,000 visit number therefore must be stricken.

In the same first bulleted point, proponents claim the pilot program “*is already the third most popular park.*” Not one published travel guide, hotel and tourism guide, city sightseeing brochure, nor airline travel site mentions the Ocean Beach roadway/Great Highway as a park deserving a visit, nor support such claim to be one of San Francisco’s most popular park. This claim of popularity in proponent’s statement therefore must be stricken.

In the fifth bulleted point, beginning “*The Great Highway has lost its greatest utility,*” this statement fails to differentiate all sections of the entire Great Highway from the portion subject to the Prop K ballot measure, namely the Upper Great Highway. It must stricken.

Please consider each point and objection I have made separately. Thank you kindly.

Respectfully,
Richie Greenberg



August 26, 2024

Re: Response to Challenge to Prop K Official Proponent Argument

Dear Director Arntz:

Thank you for the opportunity to respond to Mr. Greenberg's challenge to Prop K's Official Proponent Argument.

At the outset, we note that this proponent argument is authored by seven members of the Board of Supervisors, including the authors of the ordinance. These authors are the best authority to speak to the legislative intent of the measure and should be afforded deference to explain their measure to the voters.

Furthermore, we note that, according to the Department of Elections website, Mr. Greenberg did not submit any rebuttal to the proponent's argument before the deadline. The issues he raises in his challenge are matters of opinion, not fact, and he was allocated 250 words in which to provide a rebuttal and state his own opinions. He declined to use that space, as was his right, yet now seeks to use the challenge process not to identify specific factual inaccuracies, but simply to disagree with Proponents' opinions.

That said, we will respond to Mr Greenberg's four points in order:

The word "redundant" is an opinion and fair descriptor of the roadway in question. This challenge is not about a factual matter, but rather an opinion on a fundamental question that is being put to the voters.

Using the Miriam-Webster definition of "redundant" meaning "exceeding what is necessary or normal", Proponents are of the opinion that the roadway is not necessary for vehicle traffic. This opinion is based on numerous sources of evidence, including:

- the already legislated closure to vehicle traffic of the southern portion of the Great Highway.
- the presence of parallel and alternative routes, such as the six-lane roadway at Sunset Boulevard, which provide redundancy for the Upper Great Highway during the weekend pilot and the 35-65 times a year the roadway closes to vehicle traffic due to sand accumulation.

- the San Francisco County Transportation Authority’s “Great Highway Concepts Evaluation Report,” which includes a finding that “From a network perspective, there is sufficient capacity to absorb the diversion of traffic from the Upper Great Highway.”

We offer this evidence not because we believe it is the Department of Elections’ job to adjudicate whether or not the roadway is necessary, but to illustrate that Proponents have a clear factual basis for their opinion. Opponents, of course, have a different opinion and were free to use their Rebuttal argument to make that case. The remedy to a difference of opinion is not to strike the Proponent’s opinion.

Moreover, the Proponent argument’s text subsequently goes into further detail as to why proponents believe the roadway is “redundant”, which explicitly makes the case to readers as to why they should agree with the finding that the Great Highway is a redundant and unnecessary roadway:

The Great Highway has lost its greatest utility. The southern end is already permanently closing because it is falling into the ocean. Without a direct connection to Daly City, commuters will have to turn inland whether this measure wins or loses. The city is making traffic flow improvements to streamline the new inland route.

The question of whether or not the roadway is “redundant” is a fundamental question being put to the voters in the legal text of the measure. The measure asks voters whether or not they want to adopt “findings that the Upper Great Highway is not needed for vehicular traffic.” To accept a challenge on this point would be for the Department to make a dispositive finding that the roadway is necessary for vehicular traffic, which is a question that Proposition K puts to voters to answer. Proponents are free to offer their opinion that voters should vote in favor of this finding, just as opponents have every right to argue the opposite.

According to the San Francisco Recreation and Parks Department, the pilot receives an average of approximately 10,000 visits on weekends. The visitation statement in the Proponent argument is substantiated by the SFMTA/RPD Report to the Board of Supervisors, which states that “Average visitation on a weekend day is about 4,000.” With two days each weekend, this alone accounts for 8,000 of the 10,000 visit figure. The remaining 2,000 comes from average visitation on Friday afternoons, as detailed in Appendix A of the report. The report clearly states that this figure is based on “average visitation,” not “special event tallies” or anything else, and the figure comes from the parks professionals at Rec & Park responsible for collecting such data for the City.

As an alternative means of coming to the same conclusion, the report also states that “From January 1 to March 31, 2024, there were 141,700 visits recorded.” Dividing the 141,700 total visits by the 13 weekends in that date range provides an average of 10,900 visits per weekend, more than the 10,000 stated in the Proponent argument.

Mr. Greenberg’s challenge casts vague aspersions on this data, but fails to make any argument alleging a specific factual inaccuracy or citing any source, reliable or not, to refute this figure. He

complains that there is “no extensive published scientific study” containing this figure, but he provides no authority indicating that the Municipal Elections Code requires that the facts cited in ballot arguments must first be published in the scientific literature. Members of the Board of Supervisors are free to cite facts contained in official public reports produced by the City departments they oversee.

According to the San Francisco Recreation and Parks Department, the Great Highway pilot is the third most visited City park. The source for the statement in the Proponent argument is, again, the SFMTA/RPD Report to the Board of Supervisors, which states “Average visitation on a weekend day is about 4,000, **making the Promenade the third most visited park in the RPD system**, after Golden Gate Park and the Marina” (emphasis added). This official government report, dated just last month, provides more than sufficient substantiation for Proponents’ statement of “the third most popular park.”

Mr. Greenberg was free to use the Rebuttal argument to present his perspective that voters should consider other sources of information, such as brochures or airline websites, instead of official City visitation data, but Proponents’ “third most popular” statement is fully substantiated by the Rec & Park report.

Mr. Greenberg complains about the phrase “The Great Highway has lost its greatest utility,” which is an opinion rooted in comprehensive city agency study.

The basis of Proponents’ “lost its greatest utility” phrase is that the vast majority (76%, per the SFCTA’s “Great Highway Concepts Evaluation Report”) of vehicle traffic on the Great Highway is traveling to/from the South Bay, and the portion of the Great Highway that connects to the South Bay has already been legislated to close (Board of Supervisors File #231075), thus reducing the utility of the roadway for most of its users. As such, this statement is intended to refer to the entire Great Highway and not any one segment; proponents are simply stating their belief that the roadway’s overall utility is diminished by the permanent closure of a portion of the roadway. This statement is, of course, a matter of Proponents’ opinion rather than fact, and Mr. Greenberg had full opportunity to use his allotted space to argue his own contrasting opinion.

Mr. Greenberg complains that “this statement fails to differentiate all sections of the entire Great Highway from the portion subject to the Prop K ballot measure,” but it is unclear why he believes he can dictate that such an explanation must be included in Proponents’ argument. Voters looking for more explanation about sections of the Great Highway may find it in the Ballot Simplification Committee’s digest and the map that the Committee prepared for the Voter Information Pamphlet, both of which clearly indicate the area subject to Prop K.

Mr. Greenberg had 550 words across his argument and rebuttal in which to differentiate sections of the Great Highway as he wishes. He is not entitled to dictate that Proponents use their limited space to make the points he believes to be important.

Mr. Greenberg's challenge is without merit and should be rejected

All four points made in the challenge are matters of opinion and/or fully substantiated by official city documents. Accordingly, we ask that you reject this challenge and include this response in the public file.

With appreciation for your public service,

Lucas Lux

Yes on K, Ocean Beach Park for All