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IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
FOR KING COUNTY

IN RE: BALLOT TITLE OF PROPOSED)
SEATTLE CHARTER AMENDMENT 29) PETITION TO APPEAL BALLOT
) TITLE
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_____)

Pursuant to RCW 29A.36.090, petitioners Real Change, Nicklesville, Transit Riders Union, and Be:Seattle appeal the ballot title formulated by the City Attorney for the City of Seattle Proposed Charter Amendment 29, and request amendments thereto. The ballot title should be amended because it fails to meet the requirements of RCW 29A.72.050, incorporated by RCW 29A.36.071, and is prejudicial.

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I. IDENTITY OF PETITIONERS

1. Petitioner Real Change is a not-for-profit corporation whose members and board members include registered voters in the City of Seattle. Real Change, the leading North American street newspaper, was established in 1994. For over 26 years, Real Change has been a trusted leader convening stakeholders against homelessness and poverty. Real Change provides low-barrier employment opportunity through the sale of its award-winning weekly newspaper. About 300 people earn an income through Real Change each month, most of whom are low income and have experienced or are currently experiencing homelessness.

2. Petitioner Nickelsville is an organization of homeless and formerly homeless men and women, and advocates for tiny house eco-villages developed and operated for homeless people. The first Nickelsville site was Seattle's first intentional tiny house village. There are presently two Nickelsville tiny house villages containing over 35 homeless people and numerous pets.

3. Petitioner Transit Riders Union is a democratic membership organization of working and poor people fighting for better public transit, affordable housing, and a better quality of life in the Seattle area. Its 500-plus members include people who are experiencing housing insecurity or homelessness and many Seattle voters.

4. Petitioner Be:Seattle is an organization dedicated to building the power and leadership of renters and people experiencing homelessness to fight displacement and increase access to housing in Seattle that is affordable to all.

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II. JURISDICTION

5. This Court has jurisdiction over this appeal pursuant to RCW 29A.36.090.

6. Pursuant to RCW 29A.36.090, a copy of this petition and notice of its filing was served upon the King County Auditor, King County Director of Elections, and the City Attorney for the City of Seattle.

III. BALLOT TITLES PREPARED BY THE CITY ATTORNEY AND SCOPE OF THIS APPEAL

7. On April 22, 2021, the City Attorney for the City of Seattle filed a ballot title for Proposed Charter Amendment 29. A copy of the transmittal letter containing the assigned title is attached as **Exhibit A**. A true and correct copy of the text of Proposed Charter Amendment 29 is attached as **Exhibit B**.

8. The assigned ballot title states:

City of Seattle proposed Charter Amendment No. 29 concerns actions to address homelessness and keep areas clear of encampments.

This measure would require the City to provide 2,000 housing units within one year; and, until 2028: waive land use regulations and charges for such housing during declared emergencies; fund behavioral health and addiction treatment; dedicate minimum 12% of annual general fund revenue to homelessness and human services without affecting certain parks funding; implement diversion programs for law violations connected to poverty or behavioral health; and balance keeping public spaces clear of encampments with avoiding harm to individuals.

Should this measure be enacted into law?

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IV. STANDARDS FOR BALLOT TITLES

9. RCW 29A.72.050 explicitly recognizes that a clear, unbiased ballot title is critically important to an informed electorate. It requires that the ballot description “be a true and impartial description of the measure’s essential contents, clearly identify the proposition to be voted on, and not, to the extent reasonably possible, create prejudice either for or against the measure.” *Id.*

V. ARGUMENT

Petitioners contend that the ballot title assigned fails to reflect accurately and clearly the measure’s content and is prejudicial.

A. The statement of subject is inaccurate and prejudicial.

The assigned statement of subject says that the proposed amendment “concerns actions to address homelessness and keep areas clear of encampments.” The statement of subject “must be sufficiently broad to reflect the subject of the measure, sufficiently precise to give notice of the measure’s subject, and not exceed ten words.” RCW 29A.72.050. It also must be accurate and not prejudicial. *Id.* The assigned statement of subject does not meet this standard.

First, the statement of subject is too narrow because it suggests that the proposed charter amendment is solely about homelessness, including the related issue of encampments. However, the subject of Proposed Charter Amendment 29 also includes funding for human services, and the statement of subject must be broadened to reflect that content of the measure.

1 Section 3 of the measure deals with funding, and it clearly is not limited to homelessness:

2 Section 3.

3 *There is hereby established in the City Treasury a Human Services Fund to*
4 *support the human services and homeless programs and services of the City.*

5 There shall be placed in the Human Services Fund such moneys as may be
6 budgeted annually for such programs including not less than 12 percent of the City's
7 annual general fund revenues; grants, gifts and bequests for human service purposes
8 received from the general public, businesses and philanthropy; and such other
9 moneys as may be provided by ordinance, without delaying or disrupting full
10 restoration of general fund support for the Department of Parks and Recreation to
11 facilitate repair and restoration of parks and as required by the Interlocal Agreement
12 authorized by City Ordinance 124468.

13 Proposed Charter Amendment 29, Section 3 (emphasis added).

14 Requiring twelve percent of the general fund to be placed in the “Human Services Fund”
15 may not add any funding to homelessness services. The City of Seattle explains that “[t]he
16 Human Services Department (HSD) is one of the largest contributors to Seattle's safety net. We
17 invest nearly \$170M in contracts to more than 150 community-based organizations that support
18 our neighbors and communities and in direct services carried out by our own staff. These
19 programs and services ensure Seattle residents have food and shelter, education and job
20 opportunities, access to health care, opportunities to gain social and economic independence and
21 success, and many more of life's basic necessities.”¹ According to the City’s proposed 2021
22 budget, general fund revenue will be \$1,496.3 million and the HSD budget is supported with \$149
23

¹ <https://www.seattle.gov/humanservices/about-us/budget-and-funding-sources>.

1 million in general fund revenue.² Thus, the proposed charter amendment would require a minor
2 increase in human services appropriation, but not necessarily require any additional funding for
3 homelessness programs.

4
5 Second, the statement of subject is drawn too narrowly in stating that the measure involves
6 only “actions” to address homelessness and encampments. The majority of the measure adopts
7 policies and performance measures. Using the word “actions” is inaccurate and prejudicial.

8 Third, the statement of subject is prejudicial in stating that one of the measure’s two
9 primary subjects is “actions to . . . keep areas clear of encampments.” This issue is controversial,
10 but not one of the two primary subjects of the measure. The concise description demonstrates the
11 inaccuracy. It states that the measure would require the city to “balance keeping public spaces
12 clear of encampments with avoiding harm to individuals.” That is far from “actions to . . . keep
13 areas clear of encampments.” It is prejudicial to elevate one component of the measure into the
14 statement of subject, and this prejudice is increased because the statement of subject describes this
15 component of the measure in an inaccurate and prejudicial way. For example, the words “actions”
16 and “areas” are inaccurate because this component of the measure also adopts policies and
17 performance measures and only addresses encampments in certain public areas. Sec. 3.
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20 Petitioners’ opening brief will propose alternative language to address these problems.
21 Generally, the statement of subject must be broadened to reflect that the measure concerns human
22 services funding, housing, and homelessness, while removing inaccurate and prejudicial language.

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² <http://www.seattle.gov/Documents/Departments/FinanceDepartment/21proposedbudget/GFRevenueSummary.pdf>.

1 **B. The concise description is inaccurate and prejudicial.**

2 The concise description is limited to “a true and impartial description of the measure’s
3 essential content . . . and not, to the extent reasonably possible, create prejudice either for or
4 against the measure.” RCW 29A.72.050.
5

6 The concise description suffers from the following legal problems.

7 **1. The ballot title must reflect that the measure adopts policies.**

8 The concise description fails to mention that the measure adopts housing policies. This is
9 shown in the following excerpts from the first and third paragraphs of Section 2:

10 *It is City's goal* that no one should have to live outdoors in public spaces.

11 *It is City policy* to fully support, advance and invest in any regional governmental
12 homelessness authorities.

13 *It is City policy* to and the City shall work to end chronic homelessness and racial
14 disparities in the homeless population by investing City funds in practices and
15 strategies, including emergency and permanent housing that effectively engage,
16 shelter and house those who live in public spaces; and, work to retain individuals in
17 housing; both with particular focus on the chronically homeless and those with the
18 greatest barriers and greatest community impact.

19 *It is City policy that the effectiveness of strategies and services designed to
20 transition homeless individuals to housing be measured and reported, with
21 specific attention to those who are chronically homeless and facing greatest
22 barriers to engagement, shelter and housing.*

23 *It is City policy to and the City shall measure and report* which City services,
activities, and practices may contribute to people entering or experiencing
homelessness.

Those reports to the public shall occur at least every three months . . .

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It is the City's policy to make available emergency and permanent housing to those living unsheltered so that the City may take actions to ensure that parks, playgrounds, sports fields, public spaces and sidewalks and streets ("public spaces") remain open and clear of unauthorized encampments.

The City shall develop policies and procedures to address those individuals who remain in public spaces, balancing the City's strong interest in keeping public spaces clear of encampments and the possible harm to individuals caused by closing encampments.

The City shall prioritize matching willing individuals to housing based on their specific needs and situation and, as appropriate, to accommodate disabling conditions and family type in housing.

While there is no right to camp in any particular public space, *it is City policy to avoid, as much as possible, dispersing people, except to safe and secure housing*, unless remaining in place poses particular problems related to public health or safety or interferes with the use of the public spaces by others.

(emphasis added).

2. The ballot title must reflect that the measure adopts performance measures.

Numerous provisions in the proposed charter amendment adopt performance measures for housing or related services. For example:

It is City's goal that *no one should have to live outdoors in public spaces*.

[The City] shall . . . *support an innovative and effective regional service network*.

[The] City shall work to *end chronic homelessness and racial disparities* in the homeless population by investing City funds in practices and strategies, including emergency and permanent housing that *effectively engage, shelter and house those who live in public spaces*; and, work to retain individuals in housing; both *with particular focus on the chronically homeless and those with the greatest barriers and greatest community impact*.

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It is City policy that the effectiveness of strategies and services designed to transition homeless individuals to housing be ***measured and reported, with specific attention to those who are chronically homeless and facing greatest barriers to engagement, shelter and housing.***

It is City policy to and the City shall ***measure and report which City services, activities, and practices may contribute to people entering or experiencing homelessness.***

Second. The City in conjunction with King County and through any agreement with a governmental or non-governmental organization, shall help fund ***low-barrier, rapid-access***, mental health and substance use disorder treatment and services (“behavioral health services”) with ***particular focus on individuals who are chronically homeless and face the greatest barriers to engagement***; and also shall help ***fund and deploy a behavioral health rapid-response field capability that is coordinated where appropriate with City and county non-law enforcement crisis response systems and programs.***

The City shall fund ***culturally distinct approaches to behavioral health services*** to individuals for whom those are effective.

The City-funded ***behavioral health programs and services shall be in combination with access to emergency housing*** in enhanced shelters, tiny houses, hotel-motel rooms, other forms of non-congregate temporary housing (“emergency housing”) or permanent housing for those living in shelters and outdoors in public spaces.

It is the City's policy to make available emergency and permanent housing to those living unsheltered ***so that the City may take actions to ensure that parks, playgrounds, sports fields, public spaces and sidewalks and streets (“public spaces”) remain open and clear of unauthorized encampments.***

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The housing and services provided shall acknowledge and be tailored to individual needs and cultural differences and be appropriately person-centered.

The City shall prioritize *matching willing individuals to housing based on their specific needs and situation and, as appropriate, to accommodate disabling conditions and family type in housing.*

The City, or its designee, shall appropriately utilize pathways to permanent housing and *prioritize individuals or family needs in order to limit emergency housing stays* to no longer than necessary.

Fourth. Within six months of the effective date of this Charter Amendment the City shall provide for 1,000 units (in addition to those already funded) of emergency or permanent *housing with services including access to behavioral health services and necessary staffing to serve people with the highest barriers.*

Within one year of the adoption of this Charter Amendment the city shall provide another 1,000 units (in addition to those already funded) of emergency or permanent *housing with services including access to behavioral health services and necessary staffing to serve people with the highest barriers.*

Services to individuals experiencing homelessness shall include identifying and addressing factors known to drive the overrepresentation of Black, Indigenous and People of Color among people experiencing chronic homelessness.

Provision shall also be made to include *culturally competent services and workforce standards to address safety, appropriate compensation, and working conditions* that allow contractors to recruit, retain and stabilize a *diverse, skilled and culturally competent workforce.*

The housing and services provided will acknowledge and be *tailored to individual needs and cultural differences and be appropriately person centered.*

1 (emphasis added). The concise description must reflect this.

2
3 **3. It is prejudicial to state that the measure “requires” 2,000 “housing units,”**
4 **while failing to state other similar aspirational goals.**

5 It is inaccurate and prejudicial to state that the measure would require the City to provide
6 2,000 housing units within one year. This provision is clearly intended to be aspirational since it
7 is not possible to create 1,000 *new* units of fully supported housing for those with the highest
8 barriers within six months, nor to create another 1,000 of such units in the following six months.
9 To state that the measure would “require” an action that is impossible is inaccurate and prejudicial.
10 Also, numerous other aspirational goals are not reflected in the ballot title. *See e.g.*, Sec. 2 (“The
11 City shall fund and provide services to improve the lives of all residents of the City.” “The City-
12 funded behavioral health programs and services shall be in combination with access to emergency
13 housing . . . or permanent housing” “It is the City’s policy to make available emergency and
14 permanent housing to those living unsheltered”).

15
16 It is also inaccurate and prejudicial to use the term “housing units,” when in fact these units
17 may be hotel/motel rooms, tiny houses, or shelter beds. Using the term “housing units” suggests
18 permanent housing, so the term “emergency or permanent” housing must be included. The City
19 Attorney recognized this and included those words in the assigned title for Proposaed Charter
20 Amendment 28.

21 **4. The description of the land use and fee waivers are inaccurate and prejudicial.**

22 The concise description is prejudicial and inaccurate in its description of the requirement to
23 “waive land use regulations and charges for such housing during declared emergencies.” The use

1 of the word “such” falsely suggests that this waiver applies only to 2,000 units, when in fact it
2 applies to all “emergency and permanent housing serving homeless individuals.” Sec. 2. This
3 sentence should also state that certain charges will be refunded.
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5 **5. The title should not call out the vague requirement to “fund” treatment while**
6 **remaining silent on other vague requirements.**

7 The title is prejudicial in calling out one popular but vague funding requirement but
8 remaining silent on the others. The concise description states that the measure would require the
9 City to “fund behavioral health and addiction treatment.” However, the measure is so vague that it
10 is inaccurate and prejudicial to describe this as a requirement. The measure actually states that the
11 City shall “help fund” some specific types of treatment and behavioral health services, subject to
12 certain performance measures. Sec. 2.

13 This is just one of the many vague funding requirements in the measure, and all or none of
14 these vague funding requirements should be stated. For example, the measure states:

15 It is City policy to *fully support, advance and invest* in any regional governmental
16 homelessness authorities.

17 The *City shall fund* and provide services to improve the lives of all residents of the
18 City.

19 *[T]he City shall . . . invest* City funds in practices and strategies, including
20 emergency and permanent housing that effectively engage, shelter and house those
21 who live in public spaces; and, work to retain individuals in housing; both with
22 particular focus on the chronically homeless and those with the greatest barriers and
23 greatest community impact.

Sec. 1 (emphasis added).

6. The statement about balancing is prejudicial.

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It is inaccurate and prejudicial to summarize the provisions about encampments by restating a single one of its clauses. The provision adopts a number of policies to avoid the clearing of encampments, and then states that the City must adopt policies and procedures for addressing individuals that remain in public spaces, which must balance certain interests. To ignore the policies and to simply restate the balancing requirement is inaccurate and prejudicial.

Petitioners' opening brief will suggest alternatives to address these problems in the concise description.

VI. REQUEST FOR RELIEF

WHEREFORE Petitioners request that the Court examine Proposed Charter Amendment 29, along with the ballot title assigned by the City Attorney, and amend the ballot title in the manner requested. Options and suggestions will be provided with the opening brief.

DATED this 6th day of May 2021.

SMITH & LOWNEY, P.L.L.C.

By: /Knoll Lowney
Knoll D. Lowney, WSBA No. 23457
Attorneys for Petitioners

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CERTIFICATE OF SERVICE

I, Kai McDavid, certify that on the 6th day of May 2021, I caused a copy of this Petition and the Notice thereof to be served upon the Seattle City Attorney, the King County Auditor, and the King County Director of Elections.

Dated in Seattle, Washington, this 6th day of May, 2021

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IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
FOR KING COUNTY

IN RE: BALLOT TITLE OF PROPOSED)
SEATTLE CHARTER AMENDMENT 29) NOTICE OF PETITION TO APPEAL
BALLOT TITLE)
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)
_____)

TO SEATTLE CITY ATTORNEY, KING COUNTY AUDITOR, DIRECTOR OF ELECTIONS,
AND OTHER INTERESTED PERSONS:

Please take notice that the attached petition challenges the proposed ballot titles for the
above referenced measure and has been filed with the King County Superior Court.

DATED this 6th day of May, 2021.

SMITH & LOWNEY, P.L.L.C.

By: /Knoll Lowney
Knoll D. Lowney, WSBA No. 23457
Attorneys for Petitioners