



(ENDORSED)
FILED
MAR 15 2023
Clerk of the Court
Superior Court of CA County of Santa Clara
BY Patricia Hill DEPUTY

March 13, 2023

Honorable Beth McGowen
2023 Presiding Judge
Superior Court of California, County of Santa Clara
191 North First Street
San José, CA 95113

Dear Judge McGowen:

Thank you for the opportunity to respond to the 2022 Santa Clara County Civil Grand Jury's Finding and Recommendations pertaining to the Santa Clara Valley Transportation Authority (VTA). Below is VTA's response, as approved by the VTA Board of Directors.

Finding 1

The Civil Grand Jury finds that in the current environment, which is unregulated at the local level, it is easy for the author of a ballot measure question to write the question in a way that is confusing or misleading to voters.

Response to Finding 1

VTA disagrees that the process in which a ballot measure question is drafted is unregulated at the local level. The California Election Code governs the form, content, and timing on drafting and submission of the ballot measure. Ballot language is reviewed by VTA's General Counsel for compliance with state law and approved by the Board of Directors with fiduciary responsibility to the organization and their oath of office. The ballot language is brought to the VTA Board of Directors at least twice, one for introduction and later for adoption, which provides members of the public several opportunities to participate, review, and challenge the question prior to the election. The County Counsel also provides an impartial analysis of the measure.

Recommendation 1b

Governing entities within Santa Clara County should voluntarily submit their ballot questions to the County Counsel for review prior to submission to the Registrar of Voters, unless and until Recommendation 1d is implemented.

Response:

The recommendation will not be implemented because it is not warranted or reasonable. The VTA is empowered by state law to place tax measures on the ballot and is responsible for the drafting of the ballot measure in compliance with state law. It is not reasonable for the County of Santa Clara, a separate governmental entity, to exercise oversight of VTA in an area where the VTA's Board of Directors has discretionary approval authority. These ballot measures require a 2/3 majority for passage. Without exception, they are opposed by well-organized and well-funded organizations that are knowledgeable of election law and campaign vigorously against the measure. To suggest that the specific ballot language is the only source of voter information or engagement is not credible.

In addition, the ballot language is reviewed by VTA's General Counsel for compliance with state law and approved by the Board of Directors with fiduciary responsibility to the organization and their oath of office. The ballot language is brought to the VTA Board of Directors at least twice, one for introduction and later for adoption, which provides members of the public several opportunities to participate, review, and challenge the question prior to the election. The County Counsel also provides an impartial analysis of the measure.

Recommendation 1c

Governing entities within Santa Clara County should, by March 31, 2023, adopt their own resolution or ordinance to require submission of their ballot questions to the County Counsel for review prior to submission to the Registrar of Voters, unless and until Recommendations 1d and 1e are implemented.

Response:

The recommendation will not be implemented because it is not warranted or reasonable. Response to Finding 1 and Recommendation 1b above are incorporated herein fully. The VTA General Counsel has the responsibility of reviewing ballot measure language for compliance with the law, and the Board of Directors approves it prior to submission to the Santa Clara County Registrar of Voters for its review and the County Counsel for its impartial analysis.

Recommendation 1e

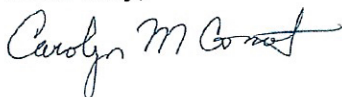
Governing entities within Santa Clara County should submit their ballot questions for review by the Good Governance in Ballots Commission pursuant to Recommendation 1d.

Response:

The recommendation will not be implemented because it is not warranted or reasonable. Response to Finding 1 and Recommendation 1b above are incorporated herein fully. The VTA General Counsel has the responsibility of reviewing ballot measure language for compliance with the law, and the Board of Directors approves it prior to submission to the Santa Clara County Registrar of Voters for its review and the County Counsel for its impartial analysis.

If you have any questions or need further information, please contact Jim Lawson, Chief External Affairs Officer, at (408) 321-5516.

Yours truly,



Carolyn M. Gonot
General Manager and Chief Executive Officer

cc: VTA Board of Directors