

North of Panhandle Neighborhood Association
Alamo Square Neighborhood Association
Hayes Valley Neighborhood Association
Lower Haight Merchants and Neighbors Association
Haight Ashbury Improvement Association
Divisadero Merchants Association

June _15_, 2010

Via E-mail and U.S. Mail

The Honorable Gavin Newsom
Mayor of the City and County of San Francisco
City Hall
Room 200
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102

Email: gavin.newsom@sfgov.org

Cc: Ross Mirkarimi (Ross.Mirkarimi@sfgov.org),
San Francisco Board of Supervisors (Board.of.Supervisors@sfgov.org),
Martha Cohen and Steve Kawa

Re: Bay to Breakers 2010 and 2011

Dear Mayor Newsom:

The neighborhoods of North of Panhandle, Alamo Square, Hayes Valley, Lower Haight and Haight-Ashbury represent a central and integral part of our great city. We represent tens of thousands of constituents, hundreds of small businesses, and many of the city's most prominent historic streets and homes, spanning over 100 city blocks. We are fortunate to have many of the oldest residential structures in the city, having been spared the fires that followed the 1906 San Francisco earthquake. Our neighborhoods are visited by thousands of tourists every year and provide one the main gateways to Golden Gate Park.

Over the last five years, the residences of these neighborhoods have experienced escalating illegal and dangerous conduct during the Bay to Breakers event. This activity has been well known by the City, as each year has brought increasingly brazen acts of illegal activity, violence, San Francisco Municipal Code violations, and Health and Safety violations. While we expect that you are aware of the details, we have nevertheless attached supporting documentation from affected residents.

One aspect is plainly evident. By issuing permits to the race organizers, the City is allowing a public nuisance to occur annually in violation of California Civil Code Sections 3479 and 3480. Civil Code Section 3479 defines a nuisance as:

Anything which is injurious to health . . . or is indecent or offensive to the senses, or an obstruction to the free use of property, so as to interfere with the comfortable enjoyment of life or property, or unlawfully obstructs the free passage or use, in the customary manner, of . . . any public park, square, street, or highway, is a nuisance. Civil Code Sections 3479.

Under Civil Code Section 3480:

A public nuisance is one which affects at the same time an entire community or neighborhood, or any considerable number of persons, although the extent of the annoyance or damage inflicted upon individuals may be unequal. Civil Code Section 3480.

One of the activities at issue is public urination. The California Court of Appeals ruled that it is a public nuisance under State law. *People v. McDonald* 137 Cal.App.4th 521 (1st Dist. 2006).

First, allowing individuals to urinate in public endangers the public health.

...

Second, urinating in public is also “indecent” as that term is used in [the statute]. A common dictionary definition of the word “indecent” is “grossly unseemly or offensive to manners or morals.” As the Supreme Court of the United States has noted, “[t]here are few activities in our society more personal or private than the passing of urine.”

...

Third, urinating in public is also “offensive to the senses.” [U]rine is “nauseating and offensive” when excreted in public places. Indeed, behavior that would arguably be less offensive to the senses than public urination nevertheless constitutes a public nuisance under California law. *People v. McDonald* 137 Cal.App.4th 521 (1st Dist. 2006).

It is also illegal under the San Francisco Municipal Code.

The violence is more striking. Completely separate from the lively boisterous and uniquely San Francisco event, there is a growing presence of drunk, angry and disrespectful participants who think nothing of threatening elderly folks, urinating, defecating, and fighting in the streets. These are not the registered runners. They are not even the usually non-registered, good-natured participants. Rather, they are a disturbing presence and their numbers seem to be growing. This year, there were countless reports of residents being threatened by individuals, mobs verbally attacking residents, children being screamed at, women afraid to venture outdoors, and individuals breaking into yards and side entrances. Captain Mannix reports that this year her officers from Northern station were overwhelmed from Hayes Valley to the Panhandle and could not keep the peace. We will not allow “business as usual” and wait for a resident or participants to get seriously injured.


We are at a crossroads and seek your leadership. The centennial running of the Bay to Breakers could be a historic event for the City, one in which all stakeholders can be proud. However, without a coordinated effort from everyone, including your office, we fear that the centennial Bay to Breakers may result in violence or serious injury.

We do have hope. Our Hayes Valley neighbors have seen notable improvements since 2008's race in terms of the actual race itself but not the post-event behavior. These improvements we attribute to the extensive discussions with city staff and race organizers that happened early and often. This constructive dialog should be extended to all areas of the race route and include participants. That is why we believe the best approach to solving these issues is a collaborative one between the City, the race's organizers, sponsors and participants.

The neighborhood associations wish to partner with the City, race organizers, sponsors and participants to ensure that the race returns to its roots and to dramatically reduce the intolerable behavior that has now become pervasive. To initiate this dialogue, the presidents of the signing neighborhood associations below, would like to meet with you within the next few weeks to begin a good faith discussion as to how to make the centennial running of the Bay to Breakers a success for everyone. Please contact us at board@nopna.org to arrange a meeting


Sincerely,

North of Panhandle Neighborhood Association


Jarie Bolander, President


06/15/2010
Dated

Alamo Square Neighborhood Association


Ben Allison, President

06/15/2010
Dated

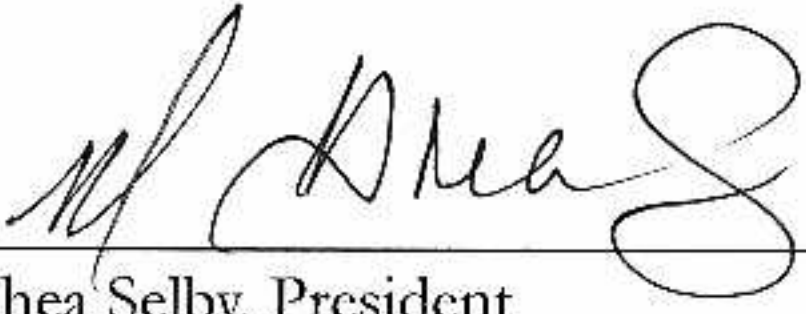
Hayes Valley Neighborhood Association


Karen Mauney-Brodek, President

06/15/2010
Dated

[Signatures Continued On Next Page]

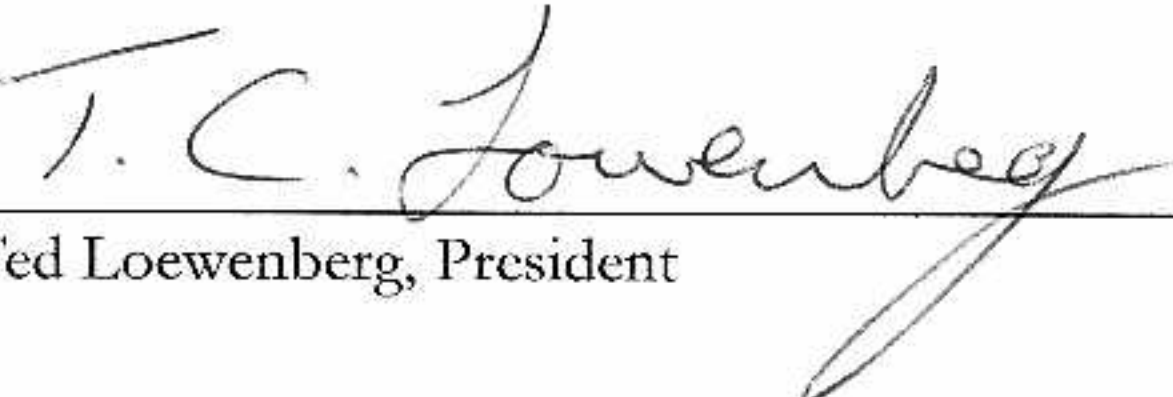
Lower Haight Merchants and Neighbors Association



M. Thea Selby, President

6/15/2010
Dated

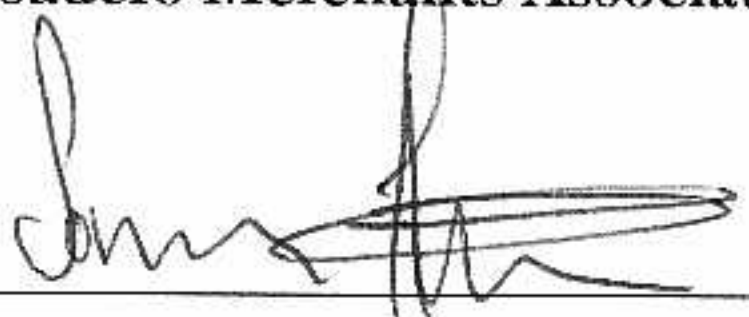
Haight Ashbury Improvement Association



Ted Loewenberg, President

6/18/10
Dated

Divisadero Merchants Association



Sommer Peterson, President

4/13/10
Dated