

LIVEBLOGGING PROP 8 TRIAL: DAY FOUR, THURSDAY AM ONE (FOURTEEN)

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Edwin Egan first witness. Chief Economist of SF.

Egan: Economic development strategy for Toronto, SF. Adjunct Prof at Berkeley, city and regional planning. Regional economic development. Three peer reviewed articles.

Egan: Board of Supervisors, my office reviews that legislation to determine if material economic impact. What is intent of those reports on economic impact of legislation. To make sure Board understands economic impact. Look for a real regulatory power, that it affects behavior of indivs and businesses in the city. How the legislation would constrain their behavior and try to quantify that. If we believe legislation would have more than \$10 M impact we report on that.

Counsel: What kinds of sources?

Egan: Economic impact reports.

Egan: Reliant on govt's statistical data, data generated by city departments to make quantitative estimates. Information provided by people who work in city. We rely on other people's data particularly when it deals with similar impacts.

Counsel: Expert in urban and regional economic policy.

Counsel: Have you undertaken economic analysis on prohibition of gay marriage on SF. Is that analysis you undertook similar or different from kind of work you do as Chief Economist?

Egan: We don't normally review state legislation, we normally deal with local reg.

Counsel: Did you look at positive and negative impacts. Did you reach conclusions.

Egan: Identified several ways in which prohibition of same sex marriage would have negative impact and affect budgeted revenues.

Counsel: Could it be generalized to other jurisdictions?

Egan: I believe they could, but I haven't done that.

Counsel: Prohibition on same sex marriage, wealth generation, and budget of SF.

Egan: If same sex marriage legal, increase in sales tax and property tax revenue.

Counsel: Legalizing same sex couples and revenues.

Egan: Increase in number of married couples in SF. Impact of marital status on wealth over life of indiv. Married indivs accumulate more wealth. To extent more married people, greater wealth accumulation. Two main impacts, higher wealth, higher incomes, higher consumer goods spending. Would tend to increase value of real estate in SF, as you'd have more people bidding on land. Higher consumer spending would lead to higher consumer spending. Greater real estate values would lead to higher taxes.

Counsel: Magnitude?

Egan: We would have to project the increase in married couples, but we'd also have to assess increase in wealth generation.

Counsel: Would you expect other jurisdictions to have effect?

Egan: Other jurisdictions could benefit from SF effect, IE state would have more taxes as well.

Counsel: Health behaviors and impact on city revenue. Marriage, healthy behavior and SF revenue.

Egan: Legalizing same sex marriage would lead to higher behavior, reduction in public health costs. Connection between marital status and healthier behavior. Behave themselves in healthier ways. Two consequences. Also well known connection between health of workforce and higher productivity. Lower rates of absenteeism. More wages earned in SF, more payroll tax earned by city.

Counsel: General relationship between increase in productivity and higher payroll tax?

Egan: Higher productivity, higher wages, higher payroll taxes.

Egan: Less reliance on health care system, including public health care system. City's public health care costs would decline.

Counsel: Magnitude of city's spending on public health.

Egan: \$364 M a year.

Counsel: Rate of savings we would see?

Egan: Not attempting to quantify this here, challenging to quantify, I think they could be, I have not attempted to do so.

Counsel: Productivity and health care costs—other jurisdictions?

Egan: Relatively few jurisdictions have payroll tax, many have business tax, that would lead to higher business tax revenue.

Counsel: Impact of marriage as compared to domestic partnership?

Egan: More than domestic partners, More people would elect to be married than would elect to DP. So you'd have more people benefitting from

those healthy behaviors.

Counsel: Health insurance?

Egan: Increase number of people who have health insurance, fewer uninsured.

Counsel: Basis?

Egan: If same sex marriage were legalized, more companies would extend benefits as married couples, would reduce number of uninsured, number of people in same sex partnerships, they are not covered. If that number of people was reduced, less uninsured people in SF. Reduce burden on covering uninsured.

[Had a tech issue: Defendants are objecting to introduction of document. Said it wasn't part of Egan's expert testimony. They got a copy of the document Sunday evening. It did not exist when Egan did his earlier expert testimony statement.]

Counsel: Effect of letter that purports to be sent by national elevator industry [?? Not sure that's right]. Greg Sass. Any information when he provided doc to you?

Egan: Nothing beyond the doc, said it might be important to consider in my testimony.

Counsel Had he previously given you information in course of helping prepare for testimony.

Walker: Admit for what value it has. National elevator industry benefit plan description. Connection to these proceedings a little uncertain but we'll see.

Counsel: What is the import of this letter?

Egan: It's my understanding that this doc details a change in policy by national elevator industry in how it treats same sex spouses. Used to be same sex spouses were not covered, bc spouse referred to person of opposite sex. Now offers benefits to any spouse.

Counsel: Domestic partners?

Egan: Nothing in this letter in response to domestic partnerships.

Counsel: Does this illustrate how companies will offer benes to same sex married couples but not to DPs.

Egan: If more individuals are covered by spouse's employer bene plan. Reduce burden of SF to provide health care to uninsured. Difficult to quantify how many now in same sex relationship, unmarried, one partner is covered and one is not. Don't know how many in that category.

Counsel: Potential pool of dollars affected?

Egan: \$177M/year providing health care for uninsured.

Counsel: That would be reduced if more people had health insurance.

Egan: Correct.

Counsel: Other local govts?

Egan: This principle would work more broadly than for SF. Just noticed that National Elevator Industry is based in PA. Not just SF-centric thing, companies would provide benes across the country.

Counsel: Other health spending impacts. Relationship between spending on behavioral health services.

Egan: If marriage among same sex couples were legalized, city would see reduction in costs for behavioral and physical health services.

Counsel: Reduced discrimination against LGBT.

Egan: Prohibition against same sex couples form of discrimination, if that were removed, there would be over time lessening of discrimination that those individuals would experience in daily lives.

Counsel: Relationship between discrimination and health services?

Egan: Public health told me LGBT was disproportionately high. If their discrimination was lessened, that demand would be reduced. Hard to quantify. Don't know amount that G&L indivs require of city's behavior health services. Spend \$2.5/year on specialized services for G&L indivs, but that does not include generalized services. \$365M/ year on public health.

Counsel: other jurisdictions?

Egan: In proportion to their G&L population and the degree to which they disproportionately use those services?

Counsel: Local school districts.

Egan; If marriage were legalized, increase in school district revenue and other jurisdictions in CA.

Egan: Discrimination against LGBT, reduced violence and intimidation of children based on sexual orientation.

Counsel: Number of students in CA schools bullied based on sexual orientation.

Egan: Nearly 109,000 school absences due to harassment due to actual or perceived sexual orientation. Attendance less than it would be, school district funding is less than it would be. Report states that it costs CA school districts \$39.9M/year. Some of that would be felt in SF. Ultimate economic value of education is process of education. To extent that excessive absences reduce quality that children receive, economic consequences.

Counsel: To extent that school districts respond to bullying, school resources?

Egan: To extent they respond.

Counsel: other responses to discrimination as well.

[Plaintiffs try to introduce docs on hate crimes]

[Objection: Introduction of documents not relied

on in his expert testimony.]

Walker: if topic was introduced in his report, appropriate to cover in testimony. But not to introduce these documents.

Counsel: Authenticated by state. 2008 hate crimes report released after Egan's deposition had occurred.

[Egan is about 40-45. Short, conservative hair cut. Dark suit and tie. Fairly undemonstrative face.]

Defendant Counsel: Term hate crimes did not appear in his expert report. We have not had opportunity to prepare to discuss that with him.

Walker: did I misunderstand you?

Counsel: Responding to discrimination. We did not discuss hate crimes. May I discuss hate crimes report?

Walker: You didn't cover subject in report or deposition, I think appropriate to move on.

Counsel: Impacts of wedding activity on SF budget.

Egan: If same sex marriage legalized, more same sex weddings, more sales tax revenues and hotel tax revenues.

Counsel: How many marriage licenses issued in 2008?

Egan: For same sex, 5100.

Counsel: Some issued to couples from out of state, other countries? Were weddings taking place? Effect on revenues.

Egan: Source of expenditure. Two effects. Spending on event, and associated consumer spending. Weddings can also draw in guests from out of town, Stay in hotels, generate business for hotel industry.

Counsel: has been lost since same sex marriages prohibited?

Egan: Yes it has. If prohibition raised, \$21M/year on resident weddings. Non-residents who come, they will have event related spending, greatly reduced compared to residents, they will generate hotel business. Third set of new economic activity, out-of-town guests, that would come for resident weddings. Combo of event spending and the per diem spending of visitors on sales tax spending.

Counsel: Magnitude.

Egan: Spending \$35M. Hotel \$2.5M. Tax, \$1.7, \$.9M hotel tax. Based on experience we saw in 2008 with same sex weddings. A short term projection. It's reasonable to think that we will see similar level of activity, I wouldn't expect that rate to continue forever. Even if every same sex couple who resides in SF were able to get married, still more couples forming, people moving to SF. There will always be marriages going on, some economic benefit.

Egan: Income tax benefit. If DOMA were ended.

Egan: \$440 saved in income taxes a year. \$74,000 in revenue for SF. Higher rate for state, bc they get more sales tax. If same sex couples got social security benefits, more to spend.

Counsel: Equal benefits ordinance. Human rights commission, wrt contracting.

Egan: In general, city's policy is to regulate contracting in ways that do not promote discrimination.

Counsel: Goal of equal benefits ordinance.

Egan: Requiring contractors to city to provide benefits to same sex partner. \$1 million investigation of discrimination.

Counsel: Did city incur costs defending equal benefits ordinance from legal challenges.

Counsel: Issue of contracting cost. Other than equal benefits ordinance, combatting discrimination and SF's contracting costs.

Egan: If same sex marriage, reduced contracting

costs. More companies would extend benes to same sex couples who were married. Lead companies to perceive lower compliance cost to EBO. Since already providing benes to married couples. If that were the case, some companies not eligible deterred from bidding would no longer experience taht deterrant. Expanded competition.

Counsel: Reduced pool of people competing for city's business.

Egan: some contractors not eligible or deterred may be lower bidder. Difficult to know what bids of those deterred from bidding would be. More competitors, more price pressure.

Counsel: potential savings.

Egan: Contracting costs, over \$2B/year. Even small reduction in cost could result in significant savings. 1% reduction in costs would be\$ 21M annual figure.

Counsel: Assume no further discrimination, Board repeals EBO, what would contracting cost be from EBO.

Egan: None.

[Walker's got a cheesy grin for some reason.]

Counsel: [Shows summary of costs] Quantifiable and non-quantifiable.

Egan: Importance of quantifiable. By usual methods we would do in office of economic analysis. Prop 8 had negative impact. Losing more than \$10M/year. \$2.8 in hotel revenues, not getting from same sex marriage.

Counsel: Total level that must occur to be material. Not revenue effect. \$35M for weddings, is that material?

Egan: Yes, that exceeds \$10M. Most impacts are not quantifiable. But wouldn't want to minimize impact in long term. Long term advantages of marriage as institution. Long term costs of behaviors that weaken productivity in labor force. Excessive reliance on health services. These are impacts that are hard to quantify, but

can be extremely powerful.

Defense Counsel for Cross

Peter Patterson (DC): Testified that SF incurs costs in forms of forgone revenues. Same sex couples not getting married. New consumer spending. You have not attempted to quantify long term. Not attempted to quantify DPs on SF.

Egan: Correct.

Patterson: Aware if G&L may have religious or other wedding celebrations.

Egan: Not aware of, I don't know.

Patterson: Reasonable to assume? Permitted to have religious wedding ceremonies.

Egan: that's reasonable.

Patterson: You have not accounted for any economic impact generated by those.

Egan: I don't have a count of them, whereas I have a count of legal marriages.

Patterson: If they've had such a religious ceremony, would they have another.

Patterson: Your report assumes that every couple couple that gets married would have celebration. Assumes each has celebration.

Egan: No, it's based on average, it doesn't assume everyone has one.

Patterson: You've based on 2008 period with marriage. Assumed same number of same sex couples would get married, similar rate. You recognize rate was partially due to pent up demand for same sex marriage.

Egan: A number of couples that wanted to be married quickly.

Patterson: Rate that occurred during that time frame. Inflated.

Egan: yes, that's right.

Patterson: You believe that pent up demand not

satisfied.

Egan: I'm simply assuming that there would be the same rate of marriage. To extent that that includes pent up demand, that is correct.

Patterson: based on your opinion living in city, observing pent up demand among same sex couples.

Egan: Assumed reasonable to assume you'd see same level of activity.

Patterson: I believe you testified a little differently at deposition. [Reads line with pent up demand]

Egan: Trying to reconstruct the context.

Patterson: Your basis for assuming that pent up demand not satisfied, there were pending appointments scheduled after November 2008. [Exhibit summary of marriage license appointments, and those issued]

Patterson: from June 2008 to June 30 2008. How many marriage license appointments.

Egan; 1080. 897, 836.

Walker: I think we can read these numbers, let's go to the question.

Patterson: November 36.

Walker: Are you asking the witness whether he sees the print?

Egan: This is as of Nov 24. I don't know how many people canceled appointment between November 5 and November 24.

Patterson: Doesn't show pent up demand.

Egan: if you're asking me to believe that there was pent up demand from June but not after November. I would say that this was not an indicator of pent up demand. The fact that anyone had appointment after November 5. That's not exhaustive.

Patterson: You distinguished pent up and regular demand.

Egan: Pent up demand is not a term I used in my analysis. I simply said we should expect a similar level.

Patterson: as evidence that rate would continue you gave pending appointments. This does not support that this shows pent up demand.

Egan: it does not if you believed that this represents 100% of pent up demand. If you wanted to get married after November 4, it's not clear you would make an appointment. You wouldn't think that every couple would make an appointment that wouldn't happen.

[This is completely disingenuous. Patterson is saying, "well, since there were no people asking to get married when they knew they couldn't, that is proof that no one wants to get married."]

Egan: Marriage licenses when it's legal is a fairly good judge of demand. Licenses when it's not legal is not a fair judgment of demand.

Egan: I don't have basis for pent up demand, or steady state.

Patterson: you can't say that it'd be less than 10 or 20 years.

Egan: that's correct.

Egan: Report prepared in 2008, estimate 3-year impact of legalizing same sex marriage.

Patterson: Your office typically does not do state wide. You believe that Board of Supervisors member wanted to know if revenues would offset costs.

Egan: Believe request was whether add additional resources to county clerk.

Patterson: they thought there might be additional staffing requirements.

Egan: Correct.

Patterson: resident weddings.

Egan: Based on experience of MA, 28% of SF's

same sex couples, and 9% in 2009-10, a 67% drop.

Patterson: I'm interesting 67% drop. In your opinion you have not factored in any drop. You've said that rate obtained in 2008, would last for several years.

Egan: I have not attempted to quantify that drop.

Patterson: for this report, you did project a drop.

Walker: Perhaps you can have the witness explain how to read this.

Patterson: an entry for each marriage that took place. 2 documents, one is confidential weddings, one is weddings on public record. Information in each, weddings broken down between SF resident, SF resident same sex, non SF same sex, opposite sex couples.

Egan: Have to refresh about ordering.

Egan: Summary of reports on numbers of weddings, opposite and same sex marriage, residency of partner.

Patterson: SF residents, same sex marriages. June to November 2331 SF resident marriages. In your calculations based on dividing the activity that took place by .38 to arrive at annualized figures.

Egan: Period during which it was legal represents 38% of 2008.

Patterson: 6134 marriages annualized. You've said marriages would continue at this rate.

Egan: I can't attach a number to it. More than one.

Patterson: After two years, using your methodology, in addition to the 2331, there would be 6134 times two.

Egan: After two years of same sex marriage, 14,599 SF resident same sex marriages.

Egan: table from US census bureau's community

survey.

Moved into evidence.

Patterson: How many male couple households estimates there are in SF. Unmarried partnered households.

Egan: 7033, 25XX

Patterson: 9624 same sex couples living in SF. You think it's reasonable to assume there would be 14,599.

Egan: rate of migration, don't have necessary information to make long term calculation.

Patterson: compare with population in SF.

[This is totally bogus. Patterson is using census data about same sex couple households to argue about how many marriages to expect. But the census data shows only the same sex couple households. That is, he's assuming that only people who already live together would get married.]

Patterson: Your project that over 100% as counted by American community survey.

Egan: Census bureau doesn't count over two year period.

Patteson: Williams uses census bureau, what percentage got married during first three years. Same methodology you used.

Egan: Which methodology are you referring to?

Patterson: How many marriages. Using US community estimates. Figure out percentage of same sex couples. Is that what Williams Institute did, and what you did.

Egan: Williams, same sex, estimate total number. You have extrapolated to produce a two year.

Patterson: 44% got married. Your projection assume over 100% of SF's same sex couples.

Egan: I don't believe that is a correct measure of potential weddings.

Patterson: not asking if correct analysis, I'm asking if it is as a result of that analysis. You've claimed that revenue will be generated from marriages in form of hotel tax revenues, sales tax revenues. Hotel tax revenues, non-resident guests travel to SF to attend weddings.

Egan: As well as when non-resident travel to SF to get married.

Patterson: Sales tax generated by per diem spending. Sales tax also by retail expenditures.

Patterson: You assume out of town guests will attend. You haven't attempted to calculate how many did in 2008. You just picked a number.

Egan: We assumed only 10% of wedding guests would come from out of town.

Patterson: WRT wedding expenditures. You have not studied spending of same sex couples on their weddings.

Egan: Relied on Williams Institute report for that assumption.

Egan: 25% of what opposite sex spending couples spend on weddings.

Patterson: you haven't made similar assumption, you have said 100% of expenditures.

Egan: technically I'm saying that 25% is the real revenue. Reflective of the fact that same sex weddings spend less.

[Egan at this point has raised his eyebrows]

Egan: I believe I misunderstood how Williams Institute made that calculation.

Patterson: Out of state. 2821, non-resident same sex weddings. Some from out of SF, some out of state, different countries. You know that since November 4, 2008, any additional jurisdictions.

Egan: Don't recall details on that now.

Walker; Date?

Patterson: November 4, 2008. I'll represent to

you there are a number of other jurisdictions. MA had allowed out of state to get married. Now four other jurisdictions permit same sex couples to be married. Could those have an impact on out of state couples that come to CA to get married.

Egan; Among locations from which people travel to SF to get married. In some cases from jurisdictions from which they could get married. SF is tourism destination. That would probably continue.

Patterson: Your report assumes that such changes would have no effect.

Egan; There are many other potential changes I don't consider. There may be more couples wanting to get married. It's a fairly simple methodology.

Patterson: If same sex marriage legal in 50 states. Would people coming to SF decrease?

Egan: I'm not sure that would necessarily reduce number. it depends on number wanting to get married across US. I don't know that that's a fixed number.

Patterson: You have not taken that into account.

Patterson: You have not assumed year to year decrease in rate of same sex couples getting married.

Egan: I was following methodology of Williams Institute as closely as I could. Reason I didn't follow it for this report was that that substantially undercounted what we actually had. I thought it more useful to extrapolate out SF.

Patterson: Same sex marriage not legal for multi-year period of time. Not reason to deviate from year to year.

Egan: Williams Institute report.

15 minute break. Will start a new thread afterwards.

Cooper: Clarification. Court was asking for withdrawal of this case from recording program.

Walker: no, that's not been altered.

Cooper: We have put in a request to court, asking that recording be halted. We believe this would require reporting to be halted.

Walker: I don't believe so. Local rule permits the recording for purposes of taking the recording for use in chambers. That is customarily done when we have these overflow courtrooms. I think it would be quite helpful for me to have that recording. That's the purpose for which recording to be made going forward. Not for purposes of public broadcasting or televising. Taking of photographs or recording for those purposes. Recording is not being made for those purposes.