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November 18, 2011

VIA OVERNIGHT COURIER

Honorable Chief Justice
and Associate Justices
California Supreme Court
350 McAllister Street
San Francisco, California 94102-4797

Re: *City of Alhambra, et al. vs. Los Angeles County*
Case No. S185457

To the Honorable Chief Justice and Associate Justices of the California Supreme Court:

On behalf of the County of Los Angeles and its Auditor-Controller, Wendy Watanabe, we write to respond to the November 4, 2011 letter brief submitted by Michael G. Colantuono. That letter was ostensibly submitted to address a recent decision by the First District Court of Appeal (*City of Scotts Valley v. County of Santa Cruz*, 2011 Daily Journal D.A.R. 15684, 2011 WL 5062506) ("*Scotts Valley*"). But counsel's letter simply uses the *Scotts Valley* decision as a platform for repeating Cities' arguments, already addressed and refuted in the merits briefing.

The letter suggests that Los Angeles County looks to county auditors' Uniform Guidelines to implement the statutes rather than to apply and interpret the statutes themselves. The interpretive analysis in each of the County's merits briefs does not rely on the Guidelines in any way, and instead, is based on the wording of the applicable statutes and the statutory scheme in which those statutes reside. (OMB at pp. 21-33; RMB at pp. 2-7.) The County's briefs did note that the County followed those Guidelines as a factual matter, but went on to stress that: the Guidelines "do not have the force and effect of law" (OMB at p. 19); and the County "has cited the Guidelines only in passing — to demonstrate the disciplined basis upon which it proceeded" (RMB at p. 18). Thus, just as they did in their answering brief (e.g. AB at p. 33), the Cities have raised the Guidelines in their letter brief simply to raise a strawman to knock down once more.¹

¹ Although the Cities suggest that the Guidelines were motivated by self-interest, as demonstrated in the County's opening and reply briefs, if one is to interpret Revenue & Taxation Code section 97.75 consistently throughout, the conclusion is inescapable that the

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Elsewhere, the Cities' letter cites the *Scotts' Valley* result (partly overturning County of Santa Cruz's property tax allocations) to suggest that counties in general make self-interested decisions. This does not advance the court's analysis of the statutory scheme. Should it also matter that Los Angeles County has consistently been on the right side of PTAF litigation?²

The County does agree that *Scotts Valley* has narrow relevance to the issues before this Court. It discusses the 2004 evolution of the property tax scheme consistently with the County's view of the the Triple Flip and VLF Swap anti-skewing provisions. (Rev. & Tax. Code, §§ 97.68(f)(3), 97.70(f)(3); compare OMB at pp. 13-14 and RMB at pp. 14-16 with the Cities' Answering Brief at 35.) We would be pleased to expand upon the actual relevance of *Scotts Valley* if the Court desires. Otherwise, we will reserve further comment for oral argument.

Thank you for your consideration of this letter.

Respectfully submitted,

GREENBERG TRAUIG, LLP



Scott D. Bertzyk
Attorneys for COUNTY OF LOS ANGELES AND
WENDY L. WATANABE, ITS AUDITOR-
CONTROLLER

cc: Attached Proof of Service

Guidelines actually advocated the interpretation most financially advantageous to the Cities and most financially disadvantageous to counties. (OMB at pp. 19, 34; RMB at pp. 2-6.) In other words, as a factual matter, if the county auditor-approved Guidelines are to be faulted here, it is for being selfless, rather than self-interested.

² E.g., *Arcadia Redevelopment Association v. Ikemoto* (1993) 16 Cal.App.4th 444; *Community Redevelopment Agency of City of Los Angeles v. County of Los Angeles* (2001) 89 Cal.App.4th 719.

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PROOF OF SERVICE
STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I am employed in the aforesaid county, State of California; I am over the age of 18 years and not a party to the within action; my business address is 2450 Colorado Avenue, Suite 400E, Santa Monica, California 90404.

On November 18, 2011, I served the **RESPONSE TO THE NOVEMBER 4, 2011 LETTER BRIEF SUBMITTED BY MICHAEL G. COLANTUONO.** on the interested parties in this action by placing the true copy thereof, enclosed in a sealed envelope, postage prepaid, addressed as follows:

Supreme Court of California
San Francisco Office
350 McAllister Street
San Francisco, CA 94102-7303

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(Original, plus 13 copies)

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Los Angeles, CA 90012-3014

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(Courtesy Copy)

(BY OVERNIGHT COURIER)

I am readily familiar with the business practice of my place of employment in respect to the collection and processing of correspondence, pleadings and notices for delivery by overnight couriers. Under the practice it would be deposited with an overnight courier on that same day with postage thereon fully prepared at Santa Monica, California in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if delivery by the overnight courier is more than one day after date of deposit with the overnight courier.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on November 18, 2011, at Santa Monica, California.



JESSE RODRIGUEZ