

HOWARD JARVIS
TAXPAYERS
ASSOCIATION



HOWARD JARVIS, Founder (1903-1986)
ESTELLE JARVIS, Honorary Chairwoman
JON COUPAL, President
TREVOR GRIMM, General Counsel
TIMOTHY BITTLE, Director of Legal Affairs

August 2, 2011

Chief Justice Tani Cantil-Sakauye and Associate
Justices of the California Supreme Court
350 McAllister Street
San Francisco, CA 94102-7303

Re: ***OPPOSITION to the Request for Depublication***
Concerned Citizens v. West Point Fire District, No. C061110

Your Honors,

The Howard Jarvis Taxpayers Association (HJTA) opposes the recently filed request to depublish *Concerned Citizens for Responsible Government v. West Point Fire Protection District* (No. C061110), decided June 29, 2011, by the Third District Court of Appeal.

HJTA, the author of Proposition 218, fully concurs with the interpretation of Proposition 218 by the Court of Appeal.

The question presented was whether a fire and paramedic agency that “respond[s] to structural fires, wildland fires, vehicle accidents and medical emergencies within its borders” can be funded via a benefit assessment imposed only on property owners.

The Court of Appeal correctly ruled that fire and medical emergencies are common threats to the general public, and therefore fire and ambulance services are, in the words of Proposition 218, “general governmental services ... available to the public at large.” They benefit all members of a community, not just property owners.

Fire and medical emergencies do not check the recorder’s office before selecting their victims to make sure they are record owners of real estate. Public lands, public facilities, and the lives and property of tenants, employees, out-of-town shoppers, tourists and motorists are just as much at risk. For this reason it was the expressed intent of Proposition 218 that fire protection and ambulance services be funded by taxes—including voter approved special taxes—not benefit assessments paid only by property owners.

The Court of Appeal’s opinion is well-reasoned, supported by prior authority such as this Court’s ruling in *Silicon Valley Taxpayers Assn. v. Santa Clara County Open Space Auth.* (2008) 44 Cal.4th 431, and meets the standards to be certified for publication under Court Rule 8.1105(c).

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In writing this letter, HJTA is aware of the concurring opinion by Justice Butz, lamenting that Proposition 218 made it harder for local agencies to exact more revenue from their citizens. HJTA would remind the Court that California is one of the top five highest taxed states in America, and that many lesser-taxed states seem to have no problem delivering quality public services to their citizens.

As Justice Butz correctly observed, the Voter Guide described Proposition 218 to the voters as a measure that would require greater public consensus to pass new taxes, assessments or fees. Proposition 218 was adopted by an electorate that believed, and according to polls still believes, that California does not have inadequate revenue; it has a problem prioritizing and efficiently spending the enormous amount of revenue it already takes from its overtaxed citizens.

For these reasons, the decision of the Court of Appeal should remain published and the request for depublication should be denied.

Sincerely,



Timothy A. Bittle
Director of Legal Affairs

1 PROOF OF SERVICE

2 CALIFORNIA SUPREME COURT

3 CASE NAME: *Concerned Citizens v. West Point Fire District*

4 CASE NUMBER: Third District Court of Appeal, C061110

5 I, Cindy Perez, declare:

6 I am employed in the County of Sacramento, California. I am over the age of 18 years,
7 and not a party to the within action. My business address is 921 11th Street, Suite 1201,
8 Sacramento, California 95814. I am readily familiar with my employer's business practice for
9 collection and processing of correspondence for FedEx, UPS, U.S. Mail, Fax Transmission
10 and/or Personal Service.

11 On August 3, 2011 I caused the following documents to be served:

12 OPPOSITION TO THE REQUEST FOR DEPUBLICATION

13 on the parties listed as follows:

14 x by placing a true copy thereof enclosed in a sealed envelope and depositing it into
15 a U.S. postal box for delivery.

16 Richard P. Shanahan

17 Bartkiewicz, Kronick & Shanahan

18 1011 22nd Street

19 Sacramento, California 95816

20
21 Robert K. Reeve

22 1919 Vista Del Lago Drive, #2

23 Valley Springs, California 95252

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25 Stephanie J. Finelli

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27 Sacramento, California 95814

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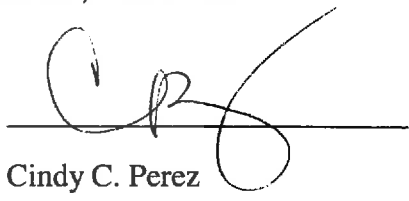
1 Stephen Norvell Roberts
2 Nossaman LLP
3 50 California Street, 34th FL
4 San Francisco, California 94111-4799

5

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

8 Executed on August 3, 2011 at Sacramento, California.

9

10 
11 Cindy C. Perez

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