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September 16, 2008

HONORABLE CITY COUNCIL
Oakland, California

President De La Fuente and Members of the City Council:

Subject: Report and Resolution Authorizing the City of Oakland to Sign an Amicus (Friend of the Court) Brief in *Nordyke v. King* Asking the Court to Uphold Alameda County's Ordinance Banning Possession of Firearms and Ammunition on County Property

Summary of Action Requested

The Legal Community Against Violence, a Bay Area organization that supports firearms regulation and control, has decided to file an amicus (friend of the court) brief in the United States Court of Appeals, asking the Court to uphold the County of Alameda ordinance. Alameda County's ordinance prohibits possession of firearms and ammunition on County Property. The Legal Community Against Violence is the country's only organization devoted exclusively to gun violence prevention and consists of lawyers and law firms from the Bay Area. The Legal Community Against Violence has asked the City of Oakland, the League of California Cities and others to sign onto the amicus brief.

In August 1999, the County of Alameda passed Ordinance § 9.12.120(b) prohibiting the possession of firearms and ammunition on County Property. Plaintiffs Russell and Sally Nordyke sued the County of Alameda in United States District Court, challenging Alameda County's firearms and ammunition prohibition on the ground that the ordinance violates their rights under the First and Second Amendments to the United States Constitution. United States District Judge Martin Jenkins denied plaintiffs' motion for preliminary injunction, and they filed an appeal in the United States Court of Appeals asking the Court to reverse the District Court's ruling.

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SUBJECT: Report and Resolution Authorizing the City of Oakland to Sign an Amicus (Friend of the Court) Brief in *Nordyke v. King* Asking the Court to Uphold Alameda County's Ordinance Banning Possession of Firearms and Ammunition on County Property

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Background

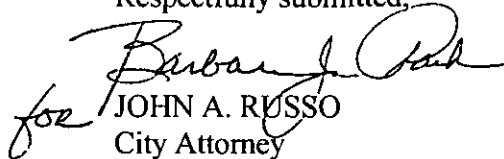
An adverse decision in this case could restrict the right of the City of Oakland and other municipalities to ban the possession of firearms and ammunition on municipal property. The following entities have agreed to sign the amicus brief supporting the validity of Alameda County's ordinance: the Brady Campaign to Prevent Gun Violence, the Violence Policy Center, the Coalition to Stop Gun Violence, the League of California Cities, and the International Municipal Lawyers Association.

Fiscal Impact

None. The brief will be prepared and filed by the Legal Community Against Gun Violence.

Recommendation

We recommend that the City Council authorize the City Attorney to sign onto the amicus brief in the United States Court of Appeals asking the Court to uphold the validity of Alameda County's ordinance banning the possession of firearms and ammunition on County property.

Respectfully submitted,

for JOHN A. RUSSO
City Attorney

Attorney Assigned:
Pelayo A. Llamas, Jr.

(Signature)
Approved as to Form and Legality

Oakland City Council

RESOLUTION NO. 2:22 C.M.S.

RESOLUTION AUTHORIZING THE CITY OF OAKLAND TO SIGN ONTO AN AMICUS (FRIEND OF THE COURT) BRIEF IN THE CASE OF NORDYKE V. KING ASKING THE COURT TO UPHOLD ALAMEDA COUNTY'S ORDINANCE BANNING THE POSSESSION OF FIREARMS AND AMMUNITION ON COUNTY PROPERTY

WHEREAS, the City of Oakland is experiencing a high incidence of firearms violence and crimes and the City has previously enacted ordinances to reduce the availability and use of firearms in its jurisdiction; and

WHEREAS, in August 1999, the County of Alameda passed Ordinance § 9.12.120(b) prohibiting the possession of firearms or ammunition while on County Property; and

WHEREAS, plaintiffs Russell and Sally Nordyke sued the County of Alameda in United States District Court, challenging Alameda County's firearms and ammunition prohibition and alleging a violation of their constitutional rights under the First and Second Amendments to the United States Constitution; and

WHEREAS, United States District Judge Martin Jenkins denied plaintiffs' motion for preliminary injunction, and the Nordykes have filed an appeal in the United States Court of Appeals asking the appellate court to reverse the lower court's ruling; and

WHEREAS, the Legal Community Against Violence, a Bay Area organization that supports firearms regulation and control, will file an amicus (friend of the court) brief in the United States Court of Appeals, supporting the validity of the County of Alameda ordinance; and

WHEREAS, an adverse decision in this case may restrict the ability of municipal agencies to ban the possession of firearms and ammunition on their own property; and

WHEREAS, the following entities have agreed to sign onto the amicus brief: the Brady Campaign to Prevent Gun Violence, the Violence Policy Center, the Coalition to Stop Gun Violence, the League of California Cities, and the International Municipal Lawyers Association; now therefore be it

RESOLVED, that the City Attorney, on behalf of the City of Oakland, is authorized to sign and join in an *amicus* brief that the Legal Community Against Violence will file in the United States Court of Appeal asking that the court uphold the validity of Alameda County's ordinance prohibiting the possession of firearms and ammunition on county property.

IN COUNCIL, OAKLAND, CALIFORNIA,

PASSED BY THE FOLLOWING VOTE:

AYES - BRUNNER, KERNIGHAN, NADEL, QUAN, BROOKS, REID,
CHANG, AND PRESIDENT DE LA FUENTE

NOES -

ABSENT -

ABSTENTION -

ATTEST:

LATONDA SIMMONS
City Clerk and Clerk of the Council of
the City of Oakland, California