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15 SUPERIOR COURT OF THE STATE OF CALIFORNIA
16 COUNTY OF LOS ANGELES, CENTRAL DISTRICT

17 HOWARD JARVIS TAXPAYERS
ASSOCIATION and APARTMENT
18 ASSOCIATION OF GREATER LOS
ANGELES,
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20 Plaintiffs,
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22 v.
23 CITY OF LOS ANGELES, and ALL
PERSONS INTERESTED IN THE MATTER
OF MEASURE ULA of the November 8,
24 2022, ballot, a real property transfer tax,
25 Defendants.

Lead Case No. 22STCV39662
(Consolidated with Case No.: 23STCV00352)

*Assigned for All Purposes to the Honorable
Barbara Scheper; Department 30*

**DEFENDANT CITY OF LOS ANGELES’
REQUEST FOR JUDICIAL NOTICE IN
SUPPORT OF REPLY TO NEWCASTLE
COURTYARD, LLC ET AL.’S
OPPOSITION TO CITY’S MOTION FOR
JUDGMENT ON THE PLEADINGS**

Reservation IDs: 254311419406 (Lead Case)
and 757938091417 (Consolidated Case)
Date: September 26, 2023
Time: 8:30 AM
Dept.: 30 [formerly Dept. 72]

26 AND RELATED CONSOLIDATED CASE
27

Action Filed: December 21, 2022, and
January 6, 2023

1 Defendant City of Los Angeles (“City”) submits this Request for Judicial Notice in
2 Support of its Reply to Plaintiffs Newcastle Courtyards, LLC et al.’s (collectively, “Plaintiffs”)
3 Opposition to the City’s Motion for Judgment on the Pleadings to the Complaint filed by Plaintiffs
4 in the case entitled *Newcastle LLC, et al. v. City of Los Angeles and All Persons Interested in the*
5 *Matter of Measure ULA*, Los Angeles County Superior Court Case No. 23STCV00352
6 (“Newcastle”).

7 Pursuant to Evidence Code sections 451 and 452, the City requests this Court to take
8 judicial notice of Chapter 1332 of the Statutes of 1967 – which added Part 6.7 (commencing with
9 Section 11901) to Division 2 of the Revenue & Taxation Code, the Documentary Stamp Act (now
10 known as the “Documentary Transfer Tax Act”) – a true and correct copy of which is attached
11 hereto as **Exhibit A**. Section 2 of the Documentary Transfer Tax Act (“DTT Act”) states:

12 No city or county shall directly or indirectly impose a tax on
13 transfers of real property which is not in conformity with this
14 part. As used in this section, ‘city’ does not include a chartered
city and ‘county’ does not include a city and county.

15 (Exh. A, p. 5.)

16 The Court is authorized to take judicial notice of Chapter 1332 of the Statutes of 1967 (the
17 DTT Act), including Section 2, because (1) it is a legislative enactment under Evidence Code
18 sections 451(a), 452(a), 452(b), and 452(c) (see also *Union of Medical Marijuana Patients, Inc. v.*
19 *City of Upland* (2016) 245 Cal.App.4th 1265, 1269), and (2) it is not reasonably subject to dispute.
20 (Evid. Code § 452(h); *Linda Vista Village San Diego Homeowners Association, Inc. v. Tecolote*
21 *Investors, LLC* (2015) 234 Cal.App.4th 166, 185; *Jordan v. County of Los Angeles* (1968) 267
22 Cal.App.2d 794, 798.)

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Section 2 of the DTT Act is relevant, as it specifies that charter cities have home rule authority to impose transfer taxes that do not conform to the DTT Act, which further demonstrates that Plaintiffs' contentions regarding the effect of the DTT Act on Measure ULA lack merit.

Dated: September 8, 2023

BURKE, WILLIAMS & SORENSEN, LLP

By: 

Kevin D. Siegel
J. Leah Castella
Eileen L. Ollivier
Attorneys for Defendant
CITY OF LOS ANGELES

EXHIBIT A

Volume 2

STATUTES OF CALIFORNIA

1967

CONSTITUTION OF 1879 AS AMENDED

GENERAL LAWS, AMENDMENTS TO CODES,
AND RESOLUTIONS

PASSED AT

THE 1967 REGULAR SESSION OF THE LEGISLATURE

AND

THE 1967 FIRST EXTRAORDINARY SESSION
OF THE LEGISLATURE



Compiled by
GEORGE H. MURPHY
Legislative Counsel

party requesting the hearing shall have requested a postponement. If, after request for a hearing, the commissioner does not hold a hearing within the fifteen (15) days or does not render a decision within forty-five (45) days after submission of the matter, the order is rescinded.

CHAPTER 1331

An act to amend Section 554 of the Streets and Highways Code, relating to state highways.

[Approved by Governor August 23, 1967. Filed with Secretary of State August 23, 1967.]

The people of the State of California do enact as follows:

SECTION 1. Section 554 of the Streets and Highways Code is amended to read:

554. Route 254 is the Avenue of the Giants, comprising a portion of the former Redwood Highway through and connecting a number of state parks, from Route 101 near the Sylvandale interchange to Route 101 one-tenth of a mile north of Jordan Creek.

CHAPTER 1332

An act to add Part 6.7 (commencing with Section 11901) to Division 2 of the Revenue and Taxation Code, relating to a real property transfer tax.

[Approved by Governor August 23, 1967. Filed with Secretary of State August 23, 1967.]

The people of the State of California do enact as follows:

SECTION 1. Part 6.7 (commencing with Section 11901) is added to Division 2 of the Revenue and Taxation Code, to read:

PART 6.7. DOCUMENTARY STAMP ACT

11901. This act is known and may be cited as the "Documentary Stamp Act"

11902. "Board" means the State Board of Equalization.

11903. "County" shall include a city and county.

11904. "Recorder" means the recorder of a county.

CHAPTER 2. AUTHORIZATION FOR TAX

11911. (a) The board of supervisors of any county or city and county, by an ordinance adopted pursuant to this part, may impose, on each deed, instrument, or writing by which any lands, tenements, or other realty sold within the county shall

be granted, assigned, transferred, or otherwise conveyed to, or vested in, the purchaser or purchasers, or any other person or persons, by his or their direction, when the consideration or value of the interest or property conveyed (exclusive of the value of any lien or encumbrance remaining thereon at the time of sale) exceeds one hundred dollars (\$100) a tax at the rate of fifty-five cents (\$.55) for each five hundred dollars (\$500) or fractional part thereof.

(b) The legislative body of any city which is within a county which has imposed a tax pursuant to subdivision (a) may, by an ordinance adopted pursuant to this part, impose, on each deed, instrument, or writing by which any lands, tenements, or other realty sold within the city shall be granted, assigned, transferred, or otherwise conveyed to, or vested in, the purchaser or purchasers, or any other person or persons, by his or their direction, when the consideration or value of the interest or property conveyed (exclusive of the value of any lien or encumbrance remaining thereon at the time of sale) exceeds one hundred dollars (\$100), a tax at the rate of one-half the amount specified in subdivision (a) for each five hundred dollars (\$500) or fractional part thereof.

(c) A credit shall be allowed against the tax imposed by a county ordinance pursuant to subdivision (a) for the amount of any tax due to any city by reason of an ordinance adopted pursuant to subdivision (b). No credit shall be allowed against any county tax for a city tax which is not in conformity with this part.

11912. Any tax imposed pursuant to Section 11911 shall be paid by any person who makes, signs or issues any document or instrument subject to the tax, or for whose use or benefit the same is made, signed or issued.

CHAPTER 3. EXEMPTIONS

11921. Any tax imposed pursuant to this part shall not apply to any instrument in writing given to secure a debt.

11922. The United States or any agency or instrumentality thereof, any state or territory, or political subdivision thereof, or the District of Columbia shall not be liable for any tax imposed pursuant to this part with respect to any deed, instrument, or writing to which it is a party, but the tax may be collected by assessment from any other party liable therefor.

11923. Any tax imposed pursuant to this part shall not apply to the making, delivering or filing of conveyances to make effective any plan of reorganization or adjustment—

(a) Confirmed under the Federal Bankruptcy Act, as amended;

(b) Approved in an equity receivership proceeding in a court involving a railroad corporation, as defined in subdivision (m) of Section 205 of Title 11 of the United States Code, as amended;

(c) Approved in an equity receivership proceeding in a court involving a corporation, as defined in subdivision (3) of

Section 506 of Title 11 of the United States Code, as amended; or

(d) Whereby a mere change in identity, form or place of organization is effected.

Subdivisions (a) to (d), inclusive, of this section shall only apply if the making, delivery or filing of instruments of transfer or conveyances occurs within five years from the date of such confirmation, approval or change.

11924. Any tax imposed pursuant to this part shall not apply to the making or delivery of conveyances to make effective any order of the Securities and Exchange Commission, as defined in subdivision (a) of Section 1083 of the Internal Revenue Code of 1954; but only if—

(a) The order of the Securities and Exchange Commission in obedience to which such conveyance is made recites that such conveyance is necessary or appropriate to effectuate the provisions of Section 79k of Title 15 of the United States Code, relating to the Public Utility Holding Company Act of 1935;

(b) Such order specifies the property which is ordered to be conveyed;

(c) Such conveyance is made in obedience to such order.

11925. (a) In the case of any realty held by a partnership, no levy shall be imposed pursuant to this part by reason of any transfer of an interest in a partnership or otherwise, if—

(1) Such partnership (or another partnership) is considered a continuing partnership within the meaning of Section 708 of the Internal Revenue Code of 1954; and

(2) Such continuing partnership continues to hold the realty concerned.

(b) If there is a termination of any partnership within the meaning of Section 708 of the Internal Revenue Code of 1954, for purposes of this part, such partnership shall be treated as having executed an instrument whereby there was conveyed, for fair market value (exclusive of the value of any lien or encumbrance remaining thereon), all realty held by such partnership at the time of such termination.

(c) Not more than one tax shall be imposed pursuant to this part by a county, city and county or city by reason of a termination described in subdivision (b), and any transfer pursuant thereto, with respect to the realty held by such partnership at the time of such termination.

CHAPTER 4. ADMINISTRATION

11931. The State Board of Equalization shall furnish, upon the request of any recorder, adhesive stamps in suitable denominations to be affixed to the deeds, instruments and writings subject to tax pursuant to this part. The board shall sell such stamps to county recorders at the actual cost to the board of printing and distributing the stamps. The board shall not furnish stamps to any county or city and county which does not impose a real property transfer tax in conformity with the provisions of this part.

11932. If the legislative body of any city imposes a tax pursuant to subdivision (b) of Section 11911 equal to one-half the amount specified in subdivision (a) of Section 11911, the county in which such city is located shall grant a credit against the county tax in the amount of the city tax if the city's tax conforms to this part. The county shall collect all taxes imposed pursuant to this part and the county auditor shall allocate the proceeds as follows:

(1) All money which relates to transfers of real property located in unincorporated areas of the county or in a city and county shall be allocated to the county or city and county, as the case may be.

(2) All money which relates to transfers of real property located in a city which imposes a tax on transfers of real property pursuant to this part shall be allocated one-half to such city and one-half to the county.

(3) All money which relates to transfers of real property located in a city which imposes a tax on transfers of real property not in conformity with this part shall not be credited against the county tax and the entire amount collected by the county shall be allocated entirely to the county.

(4) All money which relates to transfers of real property in a city which does not impose a tax on transfers of real property shall be allocated entirely to the county.

11933. If a county has imposed a tax pursuant to this part, the county recorder shall sell the stamps at their denominated values, and shall report no information to the State Board of Equalization with respect to sales of stamps.

11934. If a county has imposed a tax pursuant to this part, the recorder shall not record any deed, instrument or writing subject to the tax imposed pursuant to this part, unless the stamps described in Section 11931 are affixed thereto. If the party submitting the document for recordation so requests, the stamps shall be affixed to the document by the recorder after the permanent record is made and before the original is returned as specified in Section 27321 of the Government Code. However, the failure to affix any such stamp shall not affect the constructive notice otherwise imparted by recording such deed, instrument or writing.

11935. Claims for refunds of taxes imposed pursuant to this part shall be governed by the provisions of Chapter 5 (commencing with Section 5096) of Part 9 of Division 1 of this code.

SEC. 2. No city or county shall directly or indirectly impose a tax on transfers of real property which is not in conformity with this part. As used in this section, "city" does not include a chartered city and "county" does not include a city and county.

SEC. 3. The provisions of this act shall be operative on and after 12:01 a.m. on January 1, 1968.

SEC. 4. Notwithstanding the provisions of Section 3, if the Congress of the United States provides for a tax on

transfers of real property on or before January 1, 1968, this act shall have no operative effect. If the Congress of the United States imposes a tax on transfers of real property after January 1, 1968, this act shall have no operative effect on and after the first day of the fiscal year which follows the date such federal tax is imposed.

CHAPTER 1333

An act to amend Section 9260 of the Vehicle Code, relating to foreign commercial vehicle permits.

[Approved by Governor August 23, 1967. Filed with Secretary of State August 23, 1967.]

The people of the State of California do enact as follows:

SECTION 1. Section 9260 of the Vehicle Code is amended to read:

9260. (a) The fee for a temporary registration issued under Section 4004 is one-quarter of the annual fees in Division 3 (commencing with Section 4000) of this code and Part 5 (commencing with Section 10701) of Division 2 of the Revenue and Taxation Code, for the period that the vehicle is to be operated in this state.

(b) The fee for a trip permit issued under Section 4004 is five dollars (\$5) for each vehicle.

(c) A fee of five dollars (\$5) shall be paid for each reciprocity permit issued under Section 8008.

CHAPTER 1334

An act to amend Section 19559.5 of the Education Code, relating to school property.

[Approved by Governor August 23, 1967. Filed with Secretary of State August 23, 1967.]

The people of the State of California do enact as follows:

SECTION 1. Section 19559.5 of the Education Code is amended to read:

19559.5. The board shall prescribe instructions specifying the manner in which property, real or personal, being replaced through the apportionment, shall be disposed of, and compliance with the instructions shall be a condition upon the making of the apportionment. The net proceeds derived from such a disposition shall be contributed in reduction of any apportionment. Any school district affected shall comply with instructions prescribed by the board. The board may require a district to transfer to the state, by any instruments deemed appropri-

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PROOF OF SERVICE

**Howard Jarvis Taxpayers Assoc., et al. v. City of Los Angeles, et al.
Los Angeles County Superior Court**

STATE OF CALIFORNIA, COUNTY OF SAN FRANCISCO

At the time of service, I was over 18 years of age and not a party to this action. I am employed in the County of San Francisco, State of California. My business address is 1 California Street, Suite 3050, San Francisco, CA 94111-5432.

On September 8, 2023, I served true copies of the following document(s) described as

DEFENDANT CITY OF LOS ANGELES' REQUEST FOR JUDICIAL NOTICE IN SUPPORT OF REPLY TO NEWCASTLE COURTYARD, LLC ET AL.'S OPPOSITION TO CITY'S MOTION FOR JUDGMENT ON THE PLEADINGS

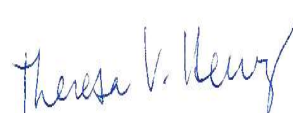
on the interested parties in this action as follows:

SEE ATTACHED SERVICE LIST

BY E-MAIL OR ELECTRONIC TRANSMISSION: I caused a copy of the document(s) to be sent from e-mail address thenry@bwslaw.com to the persons at the e-mail addresses listed in the Service List. I did not receive, within a reasonable time after the transmission, any electronic message or other indication that the transmission was unsuccessful.

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

Executed on September 8, 2023, at San Francisco, California.



Theresa V. Henry

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SERVICE LIST
Howard Jarvis Taxpayers Assoc., et al. v. City of Los Angeles, et al.
Los Angeles County Superior Court
Lead Case No. 22STCV39662
(Consolidated with Case No.: 23STCV00352)

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