

1 Roderick M. Thompson (State Bar No. 96192)
2 Cory Mason (State Bar No. 240987)
3 FARELLA BRAUN & MARTEL LLP
4 235 Montgomery Street, 30th Floor
5 San Francisco, CA 94104
6 Telephone: (415) 954-4400
7 Facsimile: (415) 954-4480

8 Attorneys for Amicus Curiae
9 Legal Community Against Violence

**ENDORSED
FILED**
San Francisco County Superior Court

JAN 25 2006

GORDON PARK-LI, Clerk
BY: CAROLYN BALISTRERI
Deputy Clerk

10 IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
11 IN AND FOR THE COUNTY OF SAN FRANCISCO
12 UNLIMITED JURISDICTION

13 PAULA FISCAL, et al.,
14 Plaintiffs and Petitioners,
15 vs.
16 CITY AND COUNTY OF SAN
17 FRANCISCO, et al.,
18 Defendants and Respondents.

Case No. CPF-05-505960

**AMICUS LCAV'S REQUEST FOR
JUDICIAL NOTICE; SUPPORTING
DECLARATION OF RODERICK M.
THOMPSON**

Hearing Date: February 15, 2006
Time: 9:30 a.m.
Department: 301
Judge: Honorable James L. Warren

Date Action Filed: December 29, 2005
Trial Date: None scheduled

19 Pursuant to California Rules of Court 22 and 41 and California Evidence Code sections
20 452, 453 and 459, Amicus Curiae Legal Community Against Violence ("LCAV") respectfully
21 requests that the Court take judicial notice of the following:
22

- 23 1. The full text of Proposition H, as well as the full texts of statements by the
24 sponsors and opponents that were placed on the ballot before the voters of San Francisco;
- 25 2. The Third Reading analysis of Assembly Bill 92 dated May 31, 1995, prepared by
26 the Assembly Office of the Floor Coordinator;

27 These documents are attached as Exhibits A and B respectively to the Declaration of
28 Roderick M. Thompson accompanying this Request.

1 The full text of Proposition H plus the sponsoring and opposing commentaries are at the
2 heart of this proceeding, and are necessary for this Court's proper consideration of the issues.
3 Judicial notice of the arguments presented to the voters with ballot materials is proper. *Robert L.*
4 *v. Superior Court*, 30 Cal. 4th 894, 903 (2004) .

5 It is well settled that legislative history materials can aid a court in construing a statute,
6 especially if the language is capable of more than one interpretation. *See, e.g., Kavanaugh v.*
7 *West Sonoma County Union High School Dist*, 29 Cal. 4th 911, 920 (2003) ("In order to ascertain
8 a statute's most reasonable meaning, we often examine its legislative history.") A court may
9 properly take judicial notice of an analysis of a bill by Assembly staff. *Clemente v. Amundsen*,
10 60 Cal. App. 4th 1094, 1107 (1998); *Kauffman & Broad Communities, Inc. v. Performance*
11 *Plastering, Inc.*, 133 Cal. App. 4th 26, 34 (2005).

12 The legislative analysis of which we ask the Court to take judicial notice is significant, in
13 that—as discussed in the LCAV brief—it tends to refute the Petitioner's reading of the purpose of
14 the 1995 amendments to Penal Code § 12026.

15 For the foregoing reasons, the LCAV respectfully requests that this Court take judicial
16 notice of these materials.

17 DATED: January 24, 2006

FARELLA BRAUN & MARTEL LLP

18
19 By: 
Roderick M. Thompson

Attorneys for Amicus Curiae
Legal Community Against Violence

EXHIBIT A

TO

**AMICUS LCAV'S REQUEST FOR JUDICIAL
NOTICE; SUPPORTING DECLARATION OF
RODERICK M. THOMPSON**

