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December 28, 2010

Molly C. Dwyer
Clerk of Court
United States Court of Appeals for the Ninth Circuit
P.O. Box 193939
San Francisco, CA 94119-3939

Re: *Perry v. Schwarzenegger*, Case No. 10-16696
Argued December 6, 2010

Dear Ms. Dwyer:

Pursuant to Fed. R. App. P. 28(j), appellee and plaintiff-intervenor City and County of San Francisco submits this letter advising the Court of a memorandum opinion issued on December 20, 2010, in *LaRoque v. Holder*, Civ. Action No. 10-0561 (JDB), U.S. District Court for the District of Columbia, a copy of which is attached.

LaRoque holds that the proponents of a referendum establishing a nonpartisan municipal electoral system lack standing to challenge the United States Attorney General's decision not to preclear the electoral system pursuant to Section 5 of the Voting Rights Act, 42 U.S.C. § 1973c. At pages 20-27, *LaRoque* offers a thorough discussion of referendum/initiative proponent standing. It rejects proponents' argument that they have standing as quasi-legislators, noting the majority view that initiative proponents do not suffer an Article III injury-in-fact when initiatives they have supported are nullified. Mem. Op. at 24-27 (citing *Nolles v. State Comm. for the Reorg. of Sch. Dists.* 524 F.3d 892, 989 (8th Cir. 2008) and *Providence Baptist Church v. Hillandale Comm., Ltd.*, 425 F.3d 309, 318 (6th Cir. 2005)). *LaRoque* demonstrates that the Proposition 8 Proponents are incorrect to claim, as they do at pages 22-24 of their opening brief, that California's laws securing the right to propose and vote for initiatives created in them a particularized interest that is injured by a judicial order invalidating Proposition 8. The Proposition 8 Proponents share the same injury as the referendum proponents in *LaRoque* and *Providence Baptist Church*, each of whom had state-created rights to propose initiatives but none of whom had Article III standing when the measures they supported were nullified.

Very truly yours,

DENNIS J. HERRERA
City Attorney

/s/
THERESE M. STEWART
Chief Deputy City Attorney