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December 16, 2015

Molly Dwyer
Clerk of the Court
United States Court of Appeals for the Ninth Circuit
95 7th Street
San Francisco, CA 94103

RE: *Teixeira v. County of Alameda, et al.*
United States Court of Appeals for the Ninth Circuit, Case No. 13-17132

Dear Ms. Dwyer:

Per Federal Rule of Appellate Procedure 28(j), Defendants-Appellees submit this letter to bring to the Court's attention a recent Supreme Court decision bearing on this case.

Recently, in *Freidman v. City of Highland Park, Ill.*, No. 15-133, 2015 WL 455141, at *1 (U.S. Dec. 7, 2015), the Supreme Court denied the plaintiffs' petition for a writ of certiorari. The petition sought relief from a Seventh Circuit decision upholding a city ordinance prohibiting the possession, sale, or manufacture of semi-automatic assault weapons and large capacity magazines. See *Freidman v. City of Highland Park, Ill.*, 784 F.3d 406 (7th Cir. 2015).

The Seventh Circuit's decision was based on its reasoning that the Second Amendment—as interpreted by the Supreme Court in *District of Columbia v. Heller*, 554 U.S. 570 (2008) and *McDonald v. City of Chicago*, 561 U.S. 742 (2010)—“does not imperil every law regulating firearms.” *Friedman*, 784 F.3d at 410 (quoting *McDonald*, 561 U.S. at 786). While these decisions “circumscribe[] the scope of permissible experimentation by state and local governments [related to the right to keep and bear arms], . . . [they] do[] not foreclose *all* possibility of experimentation. *Id.* at 412.

During oral argument, Plaintiffs' counsel argued that Alameda County Ordinance Number 17.57.131—which prohibits a gun store from operating within 500 feet of a residentially zoned district—was superfluous given the fact that state and federal laws heavily regulate firearms transactions. However, *Freidman* belies Plaintiffs' position by holding that local entities are free to enact legislation placing additional reasonable restrictions on the sale of firearms—such as the 500-foot zoning ordinance at issue here. The fact that the Supreme Court declined the opportunity to alter this holding, coupled with its statement in *Heller* that “laws imposing conditions and qualifications on the commercial sale of firearms” are “presumptively valid,”

Molly Dwyer, Clerk of the Court
December 16, 2015
Page 2

Heller, 554 U.S. at 626-27 & n. 26, shows that the County's 500-foot zoning ordinance does not offend the Second Amendment.

Very truly yours,

DONNA R. ZIEGLER
County Counsel

By 

SCOTT J. FEUDALE
Deputy County Counsel

cc: Donald Kilmer, Attorneys for Plaintiff-Appellants John Teixeira, et al.