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Judge Denies Plaintiffs' Motion for Summary Judgment in Measure H Lawsuit

***2nd Set of Plaintiffs Fail to Demonstrate that Measure H Is
Not Uniformly Applied***

Alameda, Calif. – Thursday, July 9, 2009 - Today, Judge Kenneth Mark Burr of the Alameda County Superior Court denied Plaintiffs' motion for summary judgment in the case of *Beery et al v. Alameda Unified School District*. Plaintiffs in the *Beery* case have been seeking to overturn Measure H, the parcel tax supporting Alameda schools that was passed by 66.9% of Alameda voters in June 2008.

Judge Burr's ruling in the *Beery* case reaffirms his previous ruling of March 17, 2009, denying Plaintiff's motion for summary judgment in *Borikas v. Alameda Unified School District*. That motion also unsuccessfully sought to overturn Measure H on the grounds that it was not uniform.

In his ruling Judge Burr explained that the Court was not persuaded to change its prior ruling. Specifically, the ruling states: "*The Court adopts its holding in its prior ruling that the parcel tax imposed by Measure H is uniformly imposed. The Court is not persuaded to change its prior ruling by the new arguments and evidence submitted by Plaintiffs.*"

Judge Burr also rejected Plaintiff's assertion that Measure H should be invalidated because it is a general tax, rather a special tax allowed by school districts for a specific project(s). According to the Judge's ruling, the specific purposes in Measure H all relate to improvements to education within the Alameda Unified School District, and therefore satisfy the legal requirement that proceeds of special taxes are earmarked or dedicated in some manner to a specific project or projects.

"On behalf of the School Board, I'm very pleased with Judge Burr's ruling. For a second time, we have demonstrated that the district is on solid legal ground," stated AUSD Board President Mike McMahon. "On behalf of the school district, we will continue to vigorously defend Measure H and the critical funds it provides our schools and our students," he said.

The plaintiffs had requested judgment in their favor on the grounds that there were no triable issues of fact and that they were entitled to judgment in their favor as a matter of law. A September 17th date has been set for trial of the consolidated actions before Judge Burr.

Measure H is expected to raise over \$4 million in new revenue per year over the next four years to help close the budget gap caused by reductions in funding the District receives from the State. Because of Measure H, drastic cuts have been averted, including the elimination of AP and music classes, athletics and increased class sizes".