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HOWARD JARVIS TAXPAYERS ASSOCIATION

August 28, 2014

Presiding Justice Vance W. Raye
Associate Justice Ronald B. Robie
Associate Justice M. Kathleen Butz
Third District Court of Appeal
914 Capitol Mall,
Sacramento, CA 95814

Re: *California High-Speed Rail Authority, et al., v. Superior Court, County of Sacramento*
Court of Appeal Case No. C075668

Presiding Justice and Associate Justices of the Court of Appeal:

Petitioners assert that Real Parties in Interest failed to brief the issue of whether the Finance Committee's discretion was limited by two separate requirements embodied in Streets and Highways Code § 2704.13 such that it is waived. However, Petitioners' argument misapprehends Real Parties' argument and the nature of the record in this matter.

In its Answer to the Alternative Writ of Mandate, Real Party Howard Jarvis Taxpayers Association argued that the trial court ruled correctly when it found that some evidence is required to satisfy the twofold limitation imposed by § 2704.13. (At p. 2.) The brief included a citation of the relevant statutory language, and emphasized the phrase "the amount" to highlight the second requirement. (*Ibid.*) Real Party emphasized this twofold requirement again in the summary portion of its Answer. (*Id.* at pp. 23-24.) This Court overlooked the second requirement, stating "... the Finance Committee's determination that it is 'necessary or desirable' to authorize issuance of the bonds to carry out the purposes of the Bond Act rests on the draft resolution and the Finance Committee's assessment of need, unencumbered by the need to identify the facts or express reasons for supporting the determination." By its plain language, this holding addresses the first requirement of § 2704.13, but not the second.

Petitioners' assertion that Real Parties waived this argument is wrong, and misconstrues the very simple nature of this argument: to satisfy the statute's two limitations on the Finance Committee's discretion, the Finance Committee must have considered *some* evidence. Because the Finance Committee considered no evidence, it cannot have satisfied either limitation. This argument applies especially to the second limitation, which requires the Committee to determine whether the specific amount requested is appropriate, not simply whether issuing bonds in some

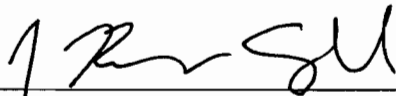
amount is “desirable.” And because the Finance Committee considered no evidence, there is no further argument or discussion to be had on this point.

Real Parties did not fail to brief this issue discussed herein, so it is not waived. This Court should rehear this aspect of the case.

Dated: August 28, 2014

Respectfully submitted,

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