

C089466

CALIFORNIA COURT OF APPEAL  
THIRD APPELLATE DISTRICT

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JOHN TOS *et al.*

Appellants

v.

STATE OF CALIFORNIA *et al.*

Respondents

Sacramento County Superior Court Case Number 34-2016-00204740  
on appeal from the final judgment of Hon. Richard Sueyoshi  
Additional judges: Hon. Michael P. Kenny, Hon Raymond M. Cadei

APPELLANTS' MOTION FOR JUDICIAL NOTICE

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Attorneys for Appellants

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LOUISE HOGAN-GIORNI, ANTHONY WYNNE,  
COMMUNITY COALITION ON HIGH-SPEED  
RAIL, TRANSPORTATION SOLUTIONS DEFENSE  
AND EDUCATION FUND, and CALIFORNIA RAIL  
FOUNDATION

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Pursuant to California Rule of Court 8.252 and Evidence Code Section 459, Appellants John Tos *et al.* hereby move that the Court take judicial notice of the following facts and document:

1. Pursuant to Evidence Code Section 452(g) and (h), of the fact that in 2016, California State Assembly Member Kevin Mullin represented the 22nd Assembly District, which encompasses a major portion of the Caltrain right-of way along the San Francisco Peninsula. In support of this request, attached hereto as Exhibit A is a true and correct copy of a portion of Assembly Member Mullin's official State Assembly webpage containing a map of his assembly district. This document is subject to judicial notice as an official act of the legislative department of the State of California, and is relevant because it demonstrates Assembly Member Mullin's interest in matters concerning Caltrain electrification, which, it turn, relates to the subject matter of AB 1889, which allowed funding of that electrification.

2. Pursuant to Evidence Code Section 452(c), of the following documents, all of which were presented to and granted judicial notice by the trial court. True and correct copies of the documents are included in Appellants' Appendix in Lieu of Clerk's Transcript at the indicated pages. All of these documents are properly subject to judicial notice under Evidence Code Section 452(c) as official acts of the legislative, executive, or judicial department of the State of California as well as under Evidence

Code Section 459(a)(1), and are relevant to the subject of this appeal – the constitutionality of AB 1889.

a. The Supplemental Voter Information Guide for Proposition 1A for the November 2008 General Election. This appears as 3 AA 762 in the trial court record for this case.

b. The text of AB 3034 as introduced in the 2008 legislative session. This appears as 3 AA 697 in the trial court record for this case.

c. The text of AB 3034 as amended in the Senate Transportation Committee. This appears as 3 AA 714 in the trial court record for this case.

d. Senate Transportation & Housing Committee staff analysis of AB 3034. This appear at 3 AA 738 in the trial court record for this case.

e. The Governor’s May revision to the 2008 California State Budget, as transmitted to the California Legislature. This appears at 4 AA 1047 et seq. in the trial court record for this case.

f. The chaptered text of AB 1889 from the 2016 legislative session. This appears at 3 AA 803 in the trial cout record for this case.

Appellants respectfully request that, pursuant to Evidence Code Section 459, the Court grant the motion and take judicial notice of the requested fact and documents.

Dated: September 16, 2019

Respectfully submitted,

Michael J. Brady  
Stuart M. Flashman

Attorneys for Appellants John Tos et al.

By: /s/ Stuart M. Flashman

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# Exhibit A

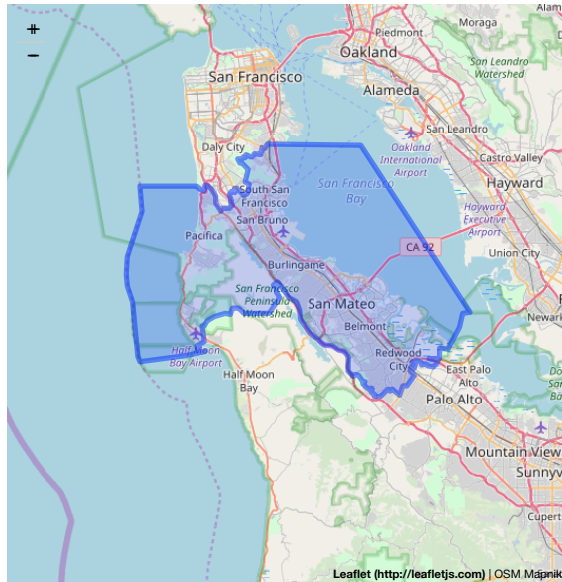


SPEAKER PRO TEMPORE  
**Kevin Mullin**  
DISTRICT 22

(0)



### District Map



**CONTACT KEVIN** (<https://lcmsubcontact.lc.ca.gov/PublicLCMS/C>)

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(<https://www.facebook.com/AssemblymemberKevinMullin>)

### Upcoming Events



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### Resources



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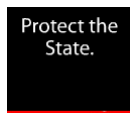
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