

Supreme Court Case No. S279242

**IN THE SUPREME COURT  
OF THE  
STATE OF CALIFORNIA**

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MAKE UC A GOOD NEIGHBORHOOD, et al.,  
*Petitioners and Appellants*

v.

THE REGENTS OF THE UNIVERSITY OF CALIFORNIA, et al.,  
*Respondents,*

RESOURCES FOR COMMUNITY DEVELOPMENT,  
*Real Party in Interest.*

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**OPPOSITION TO SECOND MOTION FOR JUDICIAL NOTICE**

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After a published opinion of the Court of Appeal,  
First Appellate District, Division 5, Case No. A165451

Appeal from July 29, 2022, Order and August 2, 2022, Order and Judgment of  
the Alameda Superior Court; Hon. Frank Roesch, Dept. 17, tel: 510-267-6933,  
Case No. RG21110142 (Consolidated for Purposes of Trial Only with Case Nos.  
RG21109910, RG21110157 and 21CV000995)

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Make UC A Good Neighbor and The People's Park Historic District Advocacy Group ("Good Neighbors") opposes judicial notice of Exhibits 2 through 9 of the Second Motion for Judicial Notice ("motion") filed by the Regents of the University of California ("UC").

UC's motion fails to explain why the AB 1307 legislative history materials at Exhibits 2 through 9 are relevant to the issues before this court, in violation of CRC, rule 8.252, subdivision(a)(2)(A). "[O]nly relevant evidence is subject to judicial notice." (*Western States Petroleum Assn. v. Superior Court* (1995) 9 Cal.4th 559, 574, n. 4.) Instead, UC's motion vaguely argues that "the Court would benefit from a more complete understanding of the Legislature's purpose in enacting this amendment to CEQA" and "the legislative history can shed light on the proper interpretation of CEQA as amended." (Motion 6.)

Legislative history is relevant and admissible only "when there is ambiguity in the statute." (*Pandazos v. Superior Court (Thompson)* (1997) 60 Cal.App.4th 324, 326 ["When interpreting the meaning of a statute, '[w]e look first to the language selected by the Legislature and only review legislative history materials when there is ambiguity in the statute' ".]) UC's Opening Supplemental Brief ("OSB") cites several legislative history documents, but for all of these cites UC fails to explain how the legislative history might clear up ambiguous language in the statute.

The OSB cites MJN, Exhibit 8, pages 44 and 45, for the propositions that AB 1307 "responds directly to the Court of

Appeal Opinion in this case,” and “will enable UC Berkeley to move forward expeditiously with its People’s Park project” (OSB 6; see also OSB 9, citing MJN 45), but fails to explain why these assertions are relevant to any legal issue or any question of statutory construction before the Court.

The OSB quotes the text from the author’s statement that AB 1307 would “reestablish existing precedent that minor and intermittent noise nuisances, such as from unamplified human voices, be addressed through local nuisance ordinances and not via CEQA.” (OSB 7, citing MJN, Exhibit 2, page 16; Exhibit 3, page 20; Exhibit 4, page 23, Exhibit 6, page 32; Exhibit 7, page 37; and Exhibit 8, page 42; see also OSB 8, citing MJN 32-33.) Again, the OSB fails to explain why the quoted text is relevant to any legal issue or any question of statutory construction before the Court.

UC waived any argument that new CEQA section 21085 is declarative of existing law (see Supplemental Answer Brief (“SAB”) 17), and the quoted text cannot be relevant to an issue that is not before the Court.

And even if that issue is before the Court, the quoted text is not relevant to the Court's construction of new CEQA section 21085, because the quote is from the author's statement.

(*Quintano v. Mercury Casualty Co.* (1995) 11 Cal.4th 1049, 1062 [“statements of an individual legislator, including the author of a bill, are generally not considered in construing a statute, as the court's task is to ascertain the intent of the Legislature as a whole in adopting a piece of legislation”], citing *Williams v. Garcetti*

(1993) 5 Cal.4th 561, 569; *Grupe Development Co. v. Superior Court* (1993) 4 Cal.4th 911, 922; *California Teachers Assn. v. San Diego Community College Dist.* (1981) 28 Cal.3d 692, 699–700; *In re Marriage of Bouquet* (1976) 16 Cal.3d 583, 589.)

The OSB cites Exhibit 8, page 42, for the proposition that AB 1307 “leaves no doubt the Legislature meant to stop CEQA from considering the noise generated by students.” (OSB 7) but fails to specify the text from MJN 42 to which it refers. The only text on MJN 42 that might be construed as supporting UC’s overbroad interpretation of new CEQA section 21085 is the text attributed to the author’s statement. But, as noted above, the author’s statement is not relevant to, much less dispositive of, the Court’s construction of new CEQA section 21085. (*Quintano v. Mercury Casualty Co.*, *supra*.)

The OSB cites Exhibit 6, page 32, and Exhibit 9, page 56, for the proposition that the Legislature “criticized the Court of Appeal ruling.” Again, the OSB fails to explain why the quoted text is relevant to any legal issue or any question of statutory construction before the Court. (OSB 8.)<sup>1</sup>

As discussed in Good Neighbors Supplemental Answer Brief (see p. 8), the relevant questions posed by the adoption of AB 1307 are whether its moots any of Good Neighbors pending claims by making it impossible for the Court to grant effective

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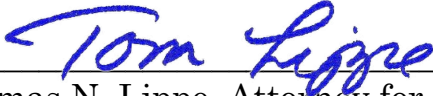
<sup>1</sup>UC also cites MJN 56, but this page contains only statements of support and opposition from third parties, it does not reflect legislative intent.

relief, and if so, whether the Court should nevertheless decide the claims because they raise issues of broad public interest that are likely to recur. UC's motion fail to address these questions.

Therefore, the Court should deny UC's motion.

DATED: October 4, 2023

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By:   
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Advocacy Group

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STATE OF CALIFORNIA  
Supreme Court of California

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STATE OF CALIFORNIA  
Supreme Court of California

Case Name: **MAKE UC A GOOD NEIGHBOR v. REGENTS OF THE UNIVERSITY OF CALIFORNIA (RESOURCES FOR COMMUNITY DEVELOPMENT)**

Case Number: **S279242**

Lower Court Case Number: **A165451**

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OPPOSITION	AB311b SENT Opp to UC MJN
REQUEST FOR JUDICIAL NOTICE	AB312a SENT Good Neighbor MJN
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