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Attorney for Petitioner  
Sean Patrick Monette-Shaw

IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA  
COUNTY OF SAN FRANCISCO - UNLIMITED JURISDICTION

SEAN PATRICK MONETTE-SHAW,

Civil No. 04-504777

Petitioner,

-vs.-

SAN FRANCISCO BOARD OF SUPERVISORS,  
the Board of Supervisors of the City and County of  
San Francisco; GAVIN NEWSOM, Mayor of the  
City and County of San Francisco, a city and county  
of the State of California; SAN FRANCISCO  
HEALTH COMMISSION, a board of the City and  
County of San Francisco; and EDWARD  
HARRINGTON, Controller of the City and  
County of San Francisco,

PETITIONER'S REQUEST  
TO SET ASIDE SUBMISSION,  
AND TO TAKE JUDICIAL  
NOTICE OF A NEW  
REPORT OF MARK LANE,  
PROGRAM MANAGER

Date : N/A  
Time : N/A  
Dept. : 301  
Judge : Hon. James Warren

Respondents.

First Filed 11/23/04

**TO THE COURT, THE RESPONDENTS, AND THEIR COUNSEL OF RECORD:**  
**PLEASE TAKE NOTICE** that the petitioner Patrick Monette-Shaw requests and

moves the Court **first**, to vacate and set aside the March 15, 2005 order of submission of the motion for peremptory writ of mandamus in the above-entitled case; and **second**, to take mandatory judicial notice, pursuant to § 452(h) Evidence Code, of the contents of the official report of Mark Lane, Program Manager of the Laguna Honda Hospital Replacement Program, dated March 15, 2005, entitled:

“Laguna Honda Hospital Replacement Program Update,”

which Project Manager Lane filed with the respondent Health Commission at its March 15, 2005 meeting.

A copy of the “Laguna Honda Hospital Replacement Program” report (herein, “LH report”) is attached labeled **Exhibit A**.

#### **SUPPORTING MEMORANDUM**

##### **Relevancy of the request for judicial notice of the LH report**

The LH report establishes that the cost to build the new South Building (300 beds), East Building (420 beds), and Links Building (60 beds), has escalated to \$445 million. This alone is \$44 million over the amount of \$41 million which the respondents had originally budgeted for the cost to construct the entire project of 1,200 beds.

The LH report further establishes that, in reaction to this increase in construction costs, that the respondents are now only going to build two buildings (the South building and the Links building) which have **only 360 beds** in total, by using **less than \$100 million** in TSRs, plus \$299 million in Prop. A bond proceeds to do so; **instead of using all the TSRs** received and to be received, plus the \$299 million Prop. A bond proceeds, to build all three of the South, Links, and East buildings which would have a total of 780 beds.

The LH report therefore is relevant on the issue of the necessity for the Court to order the respondents to use all the TSRs received in trust, pursuant to the terms of the Prop. A **bond proposal** set forth on the ballot and Page 33 of the voters pamphlet, for construction to service Prop. A bond debt; i.e., by a peremptory writ of mandamus which orders the respondents **first**, to cause \$25 million misappropriated from the trust in fiscal 2002-2003, to be restored to the trust fund; **second**, to use \$146 million in TSRs received and to be received, plus \$299 million in Prop. A bond proceeds, to **build at least three buildings with 780 beds**, (instead of only two buildings with only 360 beds), so as to approximate as most reasonably possible, the contract which was entered into between the City and the electorate, to use all TSRs received, plus the \$299 million Proposition A bond proceeds, to build a 1,200-bed skilled nursing facility.

(The foregoing statement is without waiver of the request of the petitioner, which is set forth in the proposed writ of mandamus lodged with the Court, that the City not issue

any construction contracts for buildings which are reduced in the individual scope or size for less than a four-building, 1,200-bed build out, unless an officer of the City files a report with the Court that it has become impossible for the entire 1,200-bed build out to be accomplished at Laguna Honda.)

Dated: March 22, 2005

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Attorney for Petitioner  
Sean Patrick Monette-Shaw