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San Francisco, December 19, 2008 – A challenge to Proposition M, passed by San Francisco voters on the November 4, 2008 ballot, was filed in San Francisco Superior Court today by a coalition of individuals and housing industry organizations, including the San Francisco Apartment Association, the San Francisco Association of Realtors and the Coalition for Better Housing.

Proposition M, spearheaded by Supervisor Chris Daly, amended the San Francisco Residential Rent Stabilization and Arbitration Ordinance under the guise of prohibiting harassment of tenants by landlords.

In fact, specific acts prohibited in the ballot measure are already illegal under federal, state and local law. Additionally, the measure adds to the rent ordinance a vague and unworkable definition of “harassment” that will have a chilling affect on all communication between landlords and tenants.

Similar legislation, sponsored by Daly was ruled unconstitutional by the Court of Appeal and thrown out in 2002.

Proposition M prohibits a landlord from making an offer to buy out a tenant in exchange for offers of payments. Such a prohibition is a violation of a landlord’s First Amendment rights of free speech. The Court of Appeal made it clear in *Baba v. San Francisco Board of Supervisors* that landlords have free speech rights, and in its 2002 decision gave the green light to landlords to approach their tenants with offers to buy them out. The law under Prop M makes it difficult for landlords to communicate with their tenants for fear of violating the law.

“The courts have already weighed in on this issue,” said Clifford Fried, the attorney for the plaintiffs. “It’s unconstitutional, and it is unfortunate that the City will once again be forced to defend legislation that is placed on the ballot in total disregard of established case law.”

“It’s a shame that when San Francisco is facing a \$575 million budget deficit, services are being cut and city workers are being laid off, Supervisor Daly has forced the City Attorney to once again fight his political battles, regardless of how much they cost San Francisco taxpayers,” continued Fried.

The definition of “harassment” is unworkable under Proposition M and will make it difficult for landlords to communicate with their tenants for fear of violating the law.

According to Janan New, Executive Director of the San Francisco Apartment Association, the law is so vague that simply asking a tenant to respect the rights of fellow tenants could constitute harassment, even if asked on behalf of other tenants in the building.

“If I am a landlord and I ask a tenant to turn down their music in response to a complaint by another tenant, is that a warning? What if they don’t comply and I ask again? At what point do my requests constitute harassment, and subject me to fines, or even possible jail time, which is one of the penalties called for in Proposition M?” explained New.

Proposition M prohibits 15 different kinds of conduct by a landlord, or any agent, contractor, subcontractor or employee of the landlord. Many of the actions prohibited under the new law are problematic, in conflict with other laws, and in violation of the Federal and State Constitutions.

Other prohibitions in Proposition M prohibit questioning a tenant about his or her residency or social security number, thereby making it impossible for a landlord to obtain a credit report.

The plaintiffs in the case will be asking to stay the implementation of the law while the judge reviews the case.