Appeal No. 13-17132

IN THE

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

JOHN TEIXEIRA, et al.,

Appellant,

vs.

COUNTY OF ALAMEDA, et al.

Respondent.

On Appeal From the United States District Court
for the Northern District of California
Hon. William Horsley Orrick, III
Case No. 3:12-cv-03288-WHO

BRIEF OF *AMICI CURIAE* LAW CENTER TO PREVENT GUN VIOLENCE & YOUTH ALIVE! IN SUPPORT OF DEFENDANTS APPELLEES AND AFFIRMANCE

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CORPORATE DISCLOSURE STATEMENT

Pursuant to Federal Rule of Appellate Procedure 26.1, *amici curiae* Law Center to Prevent Gun Violence and Youth ALIVE! state that they are non-profit organizations, have no parent companies, and have not issued shares of stock.

Dated: August 15, 2014

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STATEMENT OF INTEREST

Amicus curiae Law Center to Prevent Gun Violence (the "Law Center") is a non-profit, national law center dedicated to reducing gun violence and the destructive impact it has on communities. The Law Center, which was founded by lawyers after an assault weapon massacre at a San Francisco law firm in 1993, focuses on providing comprehensive legal expertise to promote smart gun laws. These efforts include tracking all Second Amendment litigation nationwide and providing support to jurisdictions facing legal challenges. The Law Center has filed amicus briefs in many important Second Amendment cases, including *District of Columbia v. Heller*, 554 U.S. 570 (2008) and *McDonald v. City of Chicago*, 130 S. Ct. 320 (2010).

The Law Center has worked with California cities and counties on the development of local laws to reduce gun violence for twenty years and has a substantial interest in ensuring that localities retain the authority to enact and enforce such laws. Accordingly, the Law Center submits this brief pursuant to Rule 29(a) to assist the Court in developing appropriate jurisprudence for local laws regulating the commercial sale of guns by firearms dealers, such as Alameda County Land Use Ordinance § 17.54.131, which is intended to provide a safe distance between gun shops and sensitive areas such as residential neighborhoods and school zones. All parties have consented to the filing of this brief.

Amicus curiae Youth ALIVE! is an Alameda County-based non-profit agency dedicated to preventing violence and developing youth leaders who advocate for smart anti-violence policies. Youth ALIVE! was founded in 1991 by a public health worker and a group of East Oakland high school students in response to a number of shootings that were happening on and around their campus. Sadly, gun violence, and the threat of gun violence, is a stressor that our youth live with daily. A large part of Youth ALIVE!'s work is ministering directly to youth who have suffered firearm injuries and to families who have lost loved ones to gun violence. Youth ALIVE! stands with victims of gun violence, who are represented among its board, staff, and youth leadership, and whose voices must be heard in legal challenges to common sense gun laws to help prevent future suffering by Alameda County residents. All parties have consented to the filing of this brief.

RULE 29(C)(5) STATEMENT

No party's counsel authored this brief in whole or in part. No party's counsel contributed money that was intended to fund the preparation or submission of this brief, and no person other than the *amici curiae*, their members, or their counsel contributed money that was intended to fund the preparation or submission this brief.

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ARGUMENT

I. INTRODUCTION

Alameda County (the "County") has one of the highest rates of homicide in the State of California, exceeding the statewide rate by 50%.[1] An overwhelming majority of those homicides are committed using firearms.[2] Facing this unprecedented level of gun violence, the County carefully crafted an ordinance to regulate the sale of firearms in the County, which included a modest provision designed to ensure that those sales were conducted a reasonable distance away from schools, residential areas, and other sensitive places. As the district court correctly held, these distance limitations do not violate the Second Amendment because they simply serve to regulate the commercial sale of firearms and keep gun sales away from sensitive locations. Accordingly, the district court's judgment should be affirmed.

II. BACKGROUND

A. Alameda County's Ordinance And This Case

Alameda County is plagued by gun violence. As noted above, Alameda

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[1] *See Alameda County Violent Crime Factsheet 2001-2012, available at* http://www.infoalamedacounty.org/index.php/Research/Crime-Safety/Violence-Prevention.html.

[2] *Id.*; *see also Homicides in Oakland, 2010 Homicide Report: An Analysis of Homicides in Oakland from January through December, 2010*, Urban Strategies Council, November 2011, *available at* www.infoalamedacounty.org/images/stories/Reports/OPD/2010_Homicide_Fact_Sheet.pdf.

County has one of the highest homicide rates in the State of California[3] and shooting deaths account for nearly 80% of those homicides.[4] Between the years of 2008-2010, Alameda County had the second highest firearm-related death rate in California for counties with populations over one million, averaging 168.7 firearm related homicides per year.[5] In 1998, as part of a comprehensive scheme regulating the conduct of firearm dealers in Alameda County, the County enacted Alameda County Land Use Ordinance § 17.54.131 (the "Ordinance") to ensure that no conditional use permits for gun shops would be granted if the subject premises were located within 500 feet of any of the following: "Residentially zoned district[s]; elementary, middle or high school[s]; pre-school or day care center[s]; other firearms sales business[es]; or liquor stores or establishments in which liquor is served."

Appellants, three individual California residents along with various pro-firearm organizations, filed this Second Amendment challenge to the Ordinance after the denial by the West County Board of Zoning Adjustments of the individual appellants' application for a conditional use permit and a variance to open a gun

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[3] *Id.* Oakland, the largest city in Alameda County, was ranked as the most violent city in California. *Id.*

[4] *Id.*

[5] *See County Health Status Profiles 2012,* California Department of Public Health, Health Information and Strategic Planning at 38, *available at* http://www.cdph.ca.gov/pubsforms/Pubs/OHIRProfiles2012.pdf.

store in Alameda County.[6] The district court was correct in finding that the Ordinance is consistent with the Second Amendment. The Ordinance does not in any way limit a person's ability to purchase, possess, or use firearms for self-defense. Instead, it simply imposes exactly the type of reasonable "condition[] . . . on the commercial sale of arms," explicitly endorsed by the Supreme Court in *District of Columbia v. Heller*, 554 U.S. 570, 626-27 (2008).

B. Local Authority to Regulate Firearms in California

Article XI, §7 of the California Constitution provides that "[a] county or city may make and enforce within its limits all local, police, sanitary, and other ordinances and regulations not in conflict with general laws." A local government's police power under this provision includes the power to regulate the sale of firearms. *See, e.g., Sutter v. City of Lafayette*, 57 Cal. App. 4th 1109, 1117 -31 (1997) (rejecting preemption challenge to ordinance limiting firearms dealerships to certain commercially zoned areas and requiring city planning commission to consider proposed firearm retailer's "locational compatibility" with other existing uses in close proximity, in particular schools, other firearms dealers, liquor stores, bars, or residential areas); *see also Great Western Shows v. County of Los Angeles*, 27 Cal. 4th 853, 867 (2002) (upholding county authority to regulate firearms sales on its property and noting that "[i]t is true today as it was more than

[6] *See*, Revised Excerpt of the Record, Docket Entry 30 (hereinafter "Excerpt of Record") at ER 12-13 (Order Granting Motion to Dismiss First Amended Complaint With Prejudice.).

30 years ago…[t]hat problems with firearms are likely to require different treatment in San Francisco County than in Mono County.") (quotations and citations omitted). Ordinances enacted pursuant to police powers are valid unless they conflict with federal or state law. *Sherwin-Williams Co. v. City of Los Angeles*, 4 Cal. 4th 893, 896 (1993).

Pursuant to this well-settled legal authority, no less than twenty California cities and counties have enacted laws just like the one at issue here, regulating the location of firearms dealers.[7] In some jurisdictions, such regulations date back several decades. These local firearms dealer laws are consistent with California Penal Code section 26700(e), which requires firearms dealers to obtain and maintain, in addition to state and federal licenses, a license granted "by the duly constituted licensing authority of any city, county, or city and county" which is valid for not more than one year after the date of issuance. Cal. Penal Code §§ 26700(e), 26705.[8]

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[7] *See, e.g.*, Albany City Code § 8.19.6(i)(3); Burbank Municipal Code § 10-1-673.1(A)(5); Cathedral City Municipal Code chapter 5 32 section 040(A); El Cerrito City Code § 6.70.100(D); Hercules City Code chapter 14 section 4.14.06(i)(3); Oakland City Code § 5.26.070(I)(3); Pacifica City Code § 9.4.2316(d); Palo Alto Municipal Code chapter 4.57 § 050(a)(9)(c); Pinole Municipal Code chapter 17.63. § 140(C), (D); Salinas City Code § 12A.6(i)(3); San Bruno Municipal Code chapter 6.08. § 070(H)(3); San Francisco Police Code No. 9 § 613.3(i)(2), (4); San Pablo Municipal Code chapter 9.10 § 140(C),(D); San Rafael Municipal Code chapter 14.17 § 075(c)(4); Santa Cruz Municipal Code chapter 9.26 § 080(a); West Hollywood Municipal Code chapter 5.60 § 030(6)(A); Alameda County Land Use Ordinance § 17.54.131(B); Contra Costa County Ordinance chapter 8 article 82.36.604(2); Monterey County Ordinance chapter 7 article 7.70.060(F); Santa Cruz County Code § 5.62.080(B).

[8] This requirement is also satisfied if the licensee obtains "[a] letter from the duly constituted

III. LEGAL STANDARD

Appellants have facially challenged the Ordinance under the Second Amendment. "A facial challenge to a legislative [a]ct is, of course, the most difficult challenge to mount successfully, since the challenger must establish that no set of circumstances exists under which the [a]ct would be valid." *United States v. Salerno*, 481 U.S. 739, 745 (1987).

In *District of Columbia v. Heller*, the Supreme Court held that the Second Amendment[9] confers a right on responsible, law-abiding citizens to possess a handgun in the home for self-defense. 554 U.S. 570, 635 (2008). The *Heller* Court struck down Washington, D.C. ordinances which prohibited the possession of an operable handgun in the home. However, the Court noted that the right to bear arms is "not unlimited" and that "nothing in our opinion should be taken to cast doubt on longstanding prohibitions on the possession of firearms by felons and the mentally ill, or laws forbidding the carrying of firearms in sensitive places such as schools and government buildings, or *laws imposing conditions and qualifications on the commercial sale of arms*." *Id*. at 626-27 (emphasis added). The Supreme Court identified these sorts of laws as "presumptively lawful regulatory measures" and emphasized that "our list does not purport to be

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licensing authority having primary jurisdiction for the applicant's intended business location stating that the jurisdiction does not require any form of regulatory or business license or does not otherwise restrict or regulate the sale of firearms." Cal. Penal Code § 26705(c)(3).

[9] The Second Amendment states: "A well regulated Militia, being necessary to the security of a free State, the right of the people to keep and bear Arms, shall not be infringed."

exhaustive." *Id*. at 627 n. 26.

In *United States v. Chovan*, this Court set forth the framework for analyzing firearms laws under the Second Amendment. 735 F.3d 1127, 1137 (9th Cir. 2013). In that case, this Court adopted a two-part test widely utilized in other circuits. *Id*. That test: (1) asks whether the challenged law burdens conduct protected by the Second Amendment; and (2) if so, directs courts to apply the appropriate level of scrutiny. *See, e.g., United States v. Chester*, 628 F.3d 673, 680 (4th Cir. 2010); *United States v. Marzzarella*, 614 F.3d 85, 89 (3d Cir. 2010). Specifically, the court in *Chovan* held that if the law burdens conduct protected by the Second Amendment, the level of scrutiny applied depends upon: (1) how close the law comes to the right of "law-abiding, responsible citizens to use arms in defense of hearth and home;" and (2) "the severity of the law's burden on the right." 735 F.3d at 1138 (citing *Ezell v. City of Chicago*, 651 F.3d 684, 703 (7th Cir. 2011)).[10]

IV. ARGUMENT

Appellants' challenge fails at both steps of the *Chovan* analysis. Alameda County's Ordinance does not burden any conduct protected by the Second Amendment and in fact, is presumptively lawful under *Heller*. Moreover, even if

[10] In *Peruta v. County of San Diego*, 742 F.3d 1144 (9th Cir. 2014), this Court described another methodology for reviewing those "rare" laws that "destroy" the right to bear arms. However, as discussed below, that approach is not appropriate here since the Ordinance imposes no burden whatsoever on the right to possess firearms for self-defense and certainly does not "destroy" that right. Instead, the law merely restricts the sale of firearms to certain locations. *See id.* ("*[R]egulation* of the right to bear arms is not only legitimate but quite appropriate.")

the Ordinance does implicate the Second Amendment, intermediate scrutiny would be the appropriate standard of review since the Ordinance does not prohibit the possession or purchase of firearms, but instead merely regulates the location of firearm dealerships. The Ordinance easily satisfies this standard since maintaining a reasonable distance between gun dealerships and schools, residential areas, establishments that serve liquor and other gun stores is substantially related to the County's important interest in protecting the health and safety of its community members.

A. The Ordinance Does Not Implicate the Second Amendment

The Ordinance does not implicate the Second Amendment for at least two reasons. First, the Ordinance is a regulation on the commercial sale of firearms, which the Supreme Court explicitly endorsed as "presumptively lawful" in *Heller*. Second, even if the Ordinance does not fall into a categorical exclusion, it still does not implicate the Second Amendment because it simply does not burden the right of citizens to keep, bear, or acquire arms.

1. The Ordinance is Presumptively Lawful Under *Heller*

As the district court correctly observed, "[t]he Ordinance, which requires that gun stores obtain a permit to operate and be at least 500 feet away from sensitive locations . . ., is quite literally a 'law[] imposing conditions and qualifications on the commercial sale of arms,' which the Supreme Court identified

[in *Heller*] as a type of regulatory measure that is presumptively lawful."[11]

In *United States v. Vongxay*, this Court found, just as several other circuits have, that if one of the "presumptively lawful" categories of regulation under *Heller* is at issue, means-end scrutiny is unnecessary and a Second Amendment claim should be rejected outright. 594 F.3d 1111 (9th Cir. 2010) (upholding federal statute prohibiting possession of firearms by convicted felons as "presumptively lawful" without applying means-ends scrutiny). *See also*, *e.g.*, *United States v. Bogle*, 717 F.3d 281, 281-82 (2d Cir. 2013) (same); *United States v. Torres-Rosario*, 658 F.3d 110, 112-13 (1st Cir. 2011) (same).

This court should apply the same analysis here. The Ordinance is part of a regulatory scheme placing "conditions" on the commercial sale of firearms, including provisions not challenged here such as requiring firearms dealers to be licensed and requiring that dealers store their guns in a safe manner. *See* Alameda County Land Use Ordinance §§ 17.54.131 (D)-(F). Thus, the Ordinance does not implicate the Second Amendment and may be upheld on that basis alone.

2. The Ordinance Does Not Burden the Second Amendment

Even if the Ordinance is not within the category of presumptively lawful regulations, it still does not in any way burden the right conferred by the Second Amendment. This Court in *Chovan* characterized the Second Amendment right as

[11] Excerpt of the Record at ER 18. (Order Granting Motion to Dismiss First Amended Complaint With Prejudice.)

the right of "law-abiding, responsible citizens to use arms in defense of hearth and home." 735 F.3d at 1133. This right is "subject to 'traditional restrictions,' which themselves—and this is a critical point—tend 'to show the scope of the right.'" *Peruta v. County of San Diego*, 742 F.3d 114, 1150 (9th Cir. 2014).[12]

The Ordinance does not burden this right for two primary reasons. First, the Ordinance does not ban any guns or restrict the use of guns in any way whatsoever. Instead, the Ordinance places a reasonable and modest restriction on the places where a gun dealer may operate—specifically, requiring gun dealers to operate at least 500 feet away from any "[r]esidentially zoned district; elementary, middle or high school; pre-school or day care center; other firearms sales business; or liquor stores or establishments in which liquor is served." Second, even with the Ordinance in place, Alameda County currently has at least *ten* licensed firearms dealers selling guns from retail stores in compliance with the Ordinance. *See* Excerpt of Record at ER 121. Therefore, residents may still easily acquire firearms and utilize them for self-defense.

Without diminishing in the slightest the ability of Alameda County residents

[12] *Peruta* held that this right extends to the "the carrying of an operable handgun outside the home for the lawful purpose of self-defense, though subject to traditional restrictions." 742 F.3d at 1166. For purposes of the analysis of this case, however, the distinction between in-home gun use and public gun use is irrelevant as the Ordinance imposes a burden on neither of these activities. Thus, Appellants' lengthy discussion about the extension of the Second Amendment beyond the home is irrelevant. Also note that on February 27, 2014, the State of California filed a motion to intervene in the case for the purpose of seeking en banc review. This motion is still pending before the Court.

to obtain, possess, or use firearms for lawful self-defense purposes, the Ordinance simply places no burden on the Second Amendment. The Court should end its inquiry there and affirm the district court's judgment.

B. If Means-End Scrutiny Is Applied, Intermediate Scrutiny Is The Appropriate Standard of Review, Which The Ordinance Easily Satisfies

Even if the Ordinance is somehow found to burden the Second Amendment, the Court should evaluate the Ordinance under intermediate scrutiny, which the Ordinance easily survives.

1. The Ordinance Should Be Evaluated Under Intermediate Scrutiny

In *Chovan*, this Court found that a statute prohibiting domestic violence misdemeanants from possessing firearms did not burden the Second Amendment because such misdemeanants are not "responsible, law-abiding citizens." 735 F.3d at 1138. Thus, the Court held that intermediate scrutiny was the appropriate standard to apply to that statute. *Id*.

The Ordinance at issue here likewise does not burden the Second Amendment because it does not prevent anyone from possessing or purchasing firearms. *See Jackson v. City & County of San Francisco*, 746 F.3d 953, 964-65 (9th Cir. 2014) (finding intermediate scrutiny appropriate where "the challenged regulation . . . [did] not substantially prevent law-abiding citizens from using firearms to defend themselves in the home."). In that sense, the Ordinance is even

further removed from burdening the Second Amendment right than the statute in *Chovan*, which completely prohibited firearm possession for an entire class of people. *Chovan*, 735 F.3d at 1138.

Moreover, the application of intermediate scrutiny would be consistent with the approach of most courts choosing the appropriate level of scrutiny to apply to a Second Amendment challenge since *Heller*. *See, e.g.*, *Woollard v. Gallagher*, 712 F.3d 865 (4th Cir. 2013); *Kachalsky v. County of Westchester*, 701 F.3d 81 (2nd Cir. 2012); *United States v. Masciandaro*, 638 F.3d 458 (4th Cir. 2011); *United States v. Marzzarella*, 614 F.3d 85 (3d Cir. 2010); *United States v. Williams*, 616 F.3d 685 (7th Cir. 2010); *United States v. Reese*, 627 F.3d 792 (10th Cir. 2010); *United States v. Skoien*, 614 F.3d 638 (7th Cir. 2010). Each of these cases applied intermediate scrutiny as the appropriate level of review for various Second Amendment challenges.

Appellants argue that a higher form of scrutiny is appropriate based primarily on one case: *Ezell v. City of Chicago*, 651 F.3d 684 (7th Cir. 2011). However, the ordinance at issue in that case made firing range training a condition of gun ownership in the City of Chicago while at the same time banning the operation of firing ranges. *See id*. at 689-90. Because the ban on firing ranges acted as a *de facto* ban on firearm possession for residents in the city, the court required "an extremely strong public-interest justification and a close fit between

the government's means and its end." *Id*. at 708. However, the court also noted that "laws restricting activity lying closer to the margins of the Second Amendment right, *laws that merely regulate rather than restrict*, and modest burdens on the right may be more easily justified." *Id*. (emphasis added). Unlike the law in *Ezell*, the Ordinance here does not operate as a *de facto* ban on firearm posession in any manner; it simply restricts the locations in which gun dealers may operate. Thus, under *Ezell*'s standard, since the Ordinance here "merely regulate[s] rather than restrict[s]" the exercise of the Second Amendment right, intermediate scrutiny is the appropriate standard, assuming any level of heightened scrutiny is required here at all. *See id*.

Nor does Appellants' reliance on First Amendment analogies help their case for the application of higher scrutiny. At the outset, because of important differences in their text and history, "the precise standards of scrutiny and how they apply may differ under the Second Amendment" from the First. *Marzzarella*, 614 F. 3d at 97 n.15. However, more fundamentally, the line of First Amendment cases dealing with zoning ordinances unequivocally points *towards* the use of intermediate scrutiny here. *See City of Renton v. Playtime Theaters, Inc.*, 475 U.S. 41, 50 (1986) (applying intermediate scrutiny to zoning ordinance limiting the location of adult movie theatres); *see also Young v. American Mini Theatres, Inc.*, 427 U. S. 50, 62 (1976) ("The mere fact that the commercial exploitation of

material protected by the First Amendment is subject to zoning and other licensing requirements is not a sufficient reason for invalidating these ordinances.").[13]

Thus, if any level of scrutiny is to be applied at all, this Court should apply intermediate scrutiny to the Ordinance.

2. The Ordinance Easily Satisfies Intermediate Scrutiny

Intermediate scrutiny requires a showing that the asserted governmental end is "significant," "substantial," or "important." *See, e.g.*, *Turner Broad. Sys., Inc. v. Fed. Commc'n Comm'n.*, 512 U.S. 622, 661-62 (1994); *Ward v. Rock Against Racism*, 491 U.S. 781, 791 (1989); *Chovan*, 735 F.3d at 1139. In addition, it requires that the "fit" between the challenged regulation and the stated objective be "reasonable"—not perfect—and does not require that the regulation be the least restrictive means of serving the interest. *See, e.g.*, *Lorillard Tobacco Co. v. Reilly*, 533 U.S. 525, 556 (2001); *Marzzarella*, 614 F.3d at 98.

Public safety is plainly a substantial governmental interest. *See, e.g.*, *Schall v. Martin*, 467 U.S. 253, 264 (1984) ("The 'legitimate and compelling state interest' in protecting the community from crime cannot be doubted."); *Schneider v. State of N.J., Town of Irvington*, 308 U.S. 147, 160 (1938) (holding that municipalities have an interest in "public safety, health, [and] welfare"); *Hall v. Garcia*, 2011 WL 995933, at *5 (N.D. Cal. Mar. 17, 2011) (recognizing the

[13] Nor does the Ordinance unfairly single out gun dealers. The County similarly restricts the location of adult entertainment facilities. *See* Alameda County Land Use Ordinance § 17.32.025.

substantial government interest of protecting citizens from gun violence in sensitive spaces).

As discussed above, Alameda County has been confronted with a gun violence crisis. In the face of this crisis, the County made the same reasonable judgment many other California localities have made to restrict the areas in which the sellers of firearms may operate. The reasonable fit between these restrictions and public safety is highlighted by at least one recent study showing that the location of firearm dealers may be a risk factor for gun homicide.[14] Moreover, the Ordinance is narrowly tailored to achieving its goal as it only restricts gun dealers within 500 feet of sensitive locations. The law even allows the granting of variances from this already modest requirement where there is a good reason for doing so. *See* Alameda County Land Use Ordinance § 17.54.081; *Chovan*, 735 F.3d at 1138 (noting that the existence of exceptions to the domestic violence firearms prohibition "lightened" the burden on the Second Amendment).

As the district court stated, "[w]hile keeping a gun store 500 feet away from a residential area does not guarantee that gun-related violence or crimes will not occur, the law does not require a perfect match between the Ordinance's means

[14] *See* Douglas J. Wiebe et al., *Homicide and Geographic Access to Gun Dealers in the United States*, BMC Public Health 2009, 9:199, at 2, 6, *available at* http://www.biomedcentral.com/1471-2458/9/199.

and objectives, nor does the law require the Ordinance to be foolproof."[15] Instead, the law merely requires that the Ordinance be reasonably related to its objective, which is plainly the case here. *See Hall v. Garcia*, 2011 WL 995933 at *4 (holding that restriction against gun possession within 1,000 feet of a school is constitutional "[u]nder any of the applicable levels of scrutiny."). For the reasons stated above, the Ordinance easily passes muster under intermediate scrutiny review.

V. CONCLUSION

Alameda County enacted the Ordinance as a common sense way to combat gun violence by ensuring that gun dealers operate at a safe distance from sensitive areas. The Ordinance does not implicate the Second Amendment, nor does it burden the Second Amendment at all. Even if it does, however, the Ordinance is easily upheld under intermediate scrutiny. For these reasons, the district court's judgment should be affirmed.

[15] Excerpt of the Record at ER 21 (Order Granting Motion to Dismiss First Amended Complaint With Prejudice.)

CERTIFICATE OF COMPLIANCE

I certify that pursuant to Fed. R. App. P. 29(c)(7), Fed. R. App. P. 32(a)(7)(C), and Ninth Circuit Rule 32-1, the attached answering brief is proportionately spaced, has a typeface of 14 points or more, and contains 3,673 words.

Dated: August 15, 2014

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CERTIFICATE OF SERVICE

I hereby certify that on August 15, 2014, an electronic PDF of the foregoing Brief of *Amici Curiae* Law Center to Prevent Gun Violence in Support of Defendants-Appellees and Affirmance was uploaded to the 9th Circuit Court's CM/ECF system, which will automatically generate and send by electronic mail and Notice of Docket Activity to all registered attorneys participating in the case. Such notice constitutes service on those registered attorneys.

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