

1 [Resolution Opposing California Assembly Bill 934 which would fundamentally change
2 existing appeal procedures by, in effect, vacating assessment appeals board valuation
3 decisions regarding local property tax assessments that are appealed by a taxpayer and
4 providing for a Superior Court trial *de novo* (new trial).]

5 **Resolution opposing California Assembly Bill 934 (AB 934), which would fundamentally**
6 **change existing appeal procedures by, in effect, vacating assessment appeals board**
7 **valuation decisions regarding local property tax assessments that are appealed by a**
8 **taxpayer and providing for a trial *de novo* (a new trial) in Superior Court, instead of**
9 **continuing with the current procedure which provides for Superior Court review of the**
10 **administrative record of the quasi-judicial assessment appeals board valuation hearing**
11 **and decision where the court reviews the administrative record only for arbitrariness,**
12 **abuse of discretion, or failure to follow standards prescribed by the legislature,**
13 **including review of whether the assessment appeals board's findings are supported by**
14 **substantial credible evidence in the administrative record; Joining in the California**
15 **State Association of Counties (CSAC) opposition to AB 934; Instructing the City's**
16 **lobbyists in Sacramento to oppose AB 934; And urging the City's state legislative**
17 **delegation to oppose AB 934.**

18
19 WHEREAS, Assembly Bill 934 (AB 934), introduced February 23, 2001, is pending in
20 the California State Assembly; and

21 WHEREAS, AB 934 would fundamentally change the procedure for taxpayer appeals
22 of local property tax valuation decisions by County assessment appeals boards, by amending
23 California Revenue and Taxation Code §5170 to provide that the Superior Court will hear
24 such cases by conducting a trial *de novo* (*i.e.*, a new trial, as if the assessment appeals board
25 hearing and decision on valuation had not occurred) instead of following the current procedure

1 where the Superior Court reviews such cases only for arbitrariness, abuse of discretion, or
2 failure to follow standards prescribed by the legislature, including review of whether the
3 assessment appeals board's findings are supported by substantial credible evidence in the
4 administrative record; and,

5 WHEREAS, a copy of AB 934 as introduced February 23, 2001 is on file with the Clerk
6 of the Board of Supervisors in File No. , which is hereby declared to be a part of this
7 Resolution as if set forth fully herein; and,

8 WHEREAS, under current state law county assessors are charged with determining the
9 value of properties for local property tax purposes (see, California Constitution Articles XI and
10 XIII; and, California Revenue and Taxation Code §§1 et seq.); and,

11 WHEREAS, under current state law a taxpayer disputing the assessor's valuation may
12 file an application for hearing and decision by the county's assessment appeals board (see,
13 California Revenue and Taxation Code §§1601 et seq.); and,

14 WHEREAS, under current state law the county's assessment appeals board is a quasi-
15 judicial body that hears disputed assessments by conducting an evidentiary hearing in which
16 oral and documentary evidence is received from both the taxpayer and the assessor, where
17 witnesses testify under oath and are cross-examined, and where a decision is issued
18 according to due process provisions of the California Revenue and Taxation Code and related
19 regulations promulgated by the California State Board of Equalization (see, California
20 Constitution Articles XI Section 16; California Revenue and Taxation Code §§1601 et seq.;
21 and, Title 18, California Code of Regulations, Property Tax Rules, Rules 1 et seq.); and,

22 WHEREAS, under current state law a county assessment appeals board's valuation
23 decision may be appealed to the Superior Court where the administrative record of the
24 assessment appeals board hearing is reviewed only for arbitrariness, abuse of discretion, or
25 failure to follow the standards prescribed by the legislature, including review of whether the

1 assessment appeals board's findings are supported by substantial credible evidence in the
2 administrative record (see, California Revenue and Taxation Code §§5140 *et seq.*); and,

3 WHEREAS, if AB 934 is enacted, any county assessment appeals board decision
4 would in effect be vacated by a taxpayer appeal to the Superior Court and the Court would
5 then hear the case *de novo* (*i.e.*, as a new trial), so that both the taxpayer and the Assessor
6 would then present oral and documentary evidence to the Court as if no assessment appeals
7 board evidentiary hearing and decision on valuation had previously occurred; and,

8 WHEREAS, in most cases in the City and County of San Francisco the Assessor
9 presents its evidence to the assessment appeals board using the Assessor's own professional
10 staff without the necessity of its legal counsel being present; and,

11 WHEREAS, if AB 934 is enacted the Assessor's professional staff together with its
12 legal counsel would be required to present a second complete evidentiary hearing before the
13 court whenever a taxpayer appeals an assessment appeals board valuation decision, which
14 would be a tremendous drain on the limited resources of the Assessor, and which would
15 undoubtedly require increased appropriations from the Board of Supervisors; and,

16 WHEREAS, if AB 934 is enacted it would impose additional burdens on an already
17 over-burdened court system; and,

18 WHEREAS, in addition, AB 934 appears to be in conflict with California Constitution
19 Article XIII Section 16, which provides that county assessment appeals boards (also called
20 County Boards of Equalization) "shall equalize the values of all property on the local
21 assessment roll by adjusting individual assessments," and which has been consistently
22 interpreted by California courts to mean that County Boards of Equalization and not the courts
23 are the proper tribunals for exercising judgment on valuation questions concerning individual
24 assessments on the local roll and on equalization of local assessments (see, *e.g.*, *Plaza*
25 *Hollister Limited Partnership v. San Benito County* (1999) 72 Cal.App.4th 1; *Mission Housing*

1 *Development Company v. City and County of San Francisco* (1997) 59 Cal.App.4th 55;
2 *Sunrise Retirement Villa v. Dear* (1997) 58 Cal.App.4th 948; and, *Universal Consolidated Oil*
3 *Company v. Byram* (1944) 25 Cal.2d 353); now, therefore, be it

4 RESOLVED, That this Board of Supervisors opposes AB 934; and, be it

5 FURTHER RESOLVED, That this Board of Supervisors joins in the California State
6 Association of Counties (CSAC) opposition to AB 934; and, be it

7 FURTHER RESOLVED, That the City's lobbyists in Sacramento are hereby instructed
8 to oppose AB 934; and, be it

9 FURTHER RESOLVED, That the City's state legislative delegation is urged to oppose
10 AB 934; and, be it

11 FURTHER RESOLVED, That the Board of Supervisors of the City and County of San
12 Francisco directs the Clerk of the Board of Supervisors to forward copies of this Resolution to
13 the California State Association of Counties (CSAC), the City's lobbyists in Sacramento, and
14 the City's state legislative delegation, together with a request that they each take all action
15 necessary to achieve the objectives of this Resolution, and that they each keep this Board
16 through its Clerk advised of their progress in this regard.

17

18

19

20

21

22

23

24

25