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CITY AND COUNTY OF SAN FRANCISCO,  
MAYOR EDWIN LEE and ACTING POLICE CHIEF  
JEFF GODOWN

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

ESPANOLA JACKSON, PAUL COLVIN,  
THOMAS BOYER, LARRY BARSETTI,  
DAVID GOLDEN, NOEMI MARGARET  
ROBINSON, NATIONAL RIFLE  
ASSOCIATION OF AMERICA, INC. SAN  
FRANCISCO VETERAN POLICE  
OFFICERS ASSOCIATION,

Plaintiffs,

vs.

CITY AND COUNTY OF SAN  
FRANCISCO, MAYOR EDWIN LEE, in his  
official capacity; ACTING POLICE CHIEF  
JEFF GODOWN, in his official capacity, and  
Does 1-10,

Defendants.

Case No. C09-2143 RS

**[PROPOSED] ORDER GRANTING  
DEFENDANTS' MOTION TO DISMISS  
AMENDED COMPLAINT FOR LACK OF  
JURISDICTION**

Hearing Date: April 7, 2011  
Time: 1:30 p.m.  
Place: Courtroom 3, 17<sup>th</sup> Floor

On August 24, 2009, the National Rifle Association (NRA), along with six San Francisco residents and the San Francisco Veteran Police Officers Association (SFVPOA) (collectively, plaintiffs), filed the amended complaint in this matter against the City and County of San Francisco, its Mayor, and its Chief of Police (collectively, defendants or the City). Plaintiffs' suit is a pre-enforcement challenge to three local gun-related ordinances, each of which they allege to be in violation of the Second Amendment, and one of which they also believe to be unconstitutionally vague. Defendants have moved to dismiss the amended complaint in its entirety for lack of subject-matter jurisdiction.

Plaintiffs' amended complaint fails to allege that the challenged statutes have been enforced against any of the plaintiffs, or even that any of them faces a particularized threat of enforcement. Accordingly, none of the plaintiffs has alleged an injury-in-fact, whether actual or imminent, sufficient to establish standing to seek relief in federal court. Moreover, one of the challenged ordinances is a permit condition that only affects licensed San Francisco gun dealers. None of the plaintiffs are alleged to be licensed gun dealers, nor do they allege that San Francisco gun dealers face significant obstacles to asserting their own rights if they so choose. In the absence of such showings, plaintiffs do not have third-party standing to pursue those claims.

It is also evident that plaintiffs' claims are not ripe for judicial consideration. The Court is not convinced that plaintiffs will ever suffer an injury-in-fact adequate to invoke this Court's jurisdiction. Nor does the Court believe that it should, as a matter of prudential ripeness, accept plaintiffs' invitation to engage in sensitive and unprecedented constitutional decision making that risks voiding a legislative enactment without the benefits of a developed factual context and the further guidance of sister courts that may develop if this controversy is allowed to mature.

For all of these reasons, the Court holds that the plaintiffs have failed to allege a sufficient factual basis to establish federal jurisdiction, and the amended complaint must be and hereby is **DISMISSED**.

IT IS SO ORDERED:

Date: \_\_\_\_\_

\_\_\_\_\_  
The Honorable Richard Seeborg  
Judge of the United States District Court