



Case & Project Experience

NERA's Role in Litigation Involving Bans on Assault Weapons and Large Capacity Magazines

The Cases

- New York: New York State Rifle and Pistol Association v. Andrew Cuomo, Governor of the State of New York
- San Francisco: San Francisco Veteran Police Officers Association v. the City and County of San Francisco
- Sunnyvale: Leonard Fyock v. the City of Sunnyvale

The Situations

In January 2013, New York State Governor Andrew Cuomo signed into law the New York State Ammunition and Firearms Act ("SAFE Act"). The Safe Act bans assault weapons and firearm magazines that have a capacity to hold more than ten rounds of ammunition, and prohibits users from loading more than seven rounds into a magazine.

In November 2013, the cities of San Francisco and Sunnyvale enacted laws that prohibit the possession of firearm magazines with the capacity to hold more than ten rounds of ammunition.

Plaintiffs, comprised of various associations of gun advocates including the New York State Rifle and Pistol Association, claim that the laws infringe on the core right of self-defense guaranteed by the Second Amendment of the United States Constitution. Plaintiffs claim that the banned assault weapons and large capacity magazines are commonly possessed for lawful purposes including for self-defense in the home.

The New York case was heard by Judge William Skretny of the Western District of New York, the San Francisco case was heard by Judge William Alsup of the Northern District of California, and the Sunnyvale case was heard by Judge Ronald Whyte of the Northern District of California.

NERA's Role

NERA was retained by the Office of the Attorney General of the State of New York, the San Francisco City Attorney's Office, and the City of Sunnyvale to provide quantitative analysis of firearm use. A NERA team led by Senior Vice President Lucy Allen examined statistical issues regarding assault weapons, large capacity magazines, and mass shootings.

The New York, San Francisco, and Sunnyvale courts, relying in part upon NERA's analyses, denied plaintiffs' preliminary injunctions. For example, all three courts cited NERA's analyses of self-defense data from the National Rifle Association (NRA). NERA found that, according to the NRA data, it is rare for a person, when using a firearm in self-defense, to fire more than ten rounds. The courts also cited NERA's analysis of historical mass shootings and its finding that the average number of fatalities or injuries was higher when a shooter used a large-capacity magazine.

The Result

On 31 December 2013, a federal judge upheld New York State's SAFE Act restriction of assault weapons and large capacity magazines, and denied plaintiffs' move for a preliminary injunction.

On 19 February 2014, a federal judge upheld San Francisco's ban on firearm magazines with the capacity to accept more than ten rounds of ammunition and denied plaintiffs' motion for preliminary injunction.

On 5 March 2014, a federal judge upheld Sunnyvale's ban on large capacity magazines and denied plaintiffs' move for a preliminary injunction.

About NERA

NERA Economic Consulting (www.nera.com) is a global firm of experts dedicated to applying economic, finance, and quantitative principles to complex business and legal challenges. For over half a century, NERA's economists have been creating strategies, studies, reports, expert testimony, and policy recommendations for government authorities and the world's leading law firms and corporations. We bring academic rigor, objectivity, and real world industry experience to bear on issues arising from competition, regulation, public policy, strategy, finance, and litigation.

NERA's clients value our ability to apply and communicate state-of-the-art approaches clearly and convincingly, our commitment to deliver unbiased findings, and our reputation for quality and independence. Our clients rely on the integrity and skills of our unparalleled team of economists and other experts backed by the resources and reliability of one of the world's largest economic consultancies. With its main office in New York City, NERA serves clients from more than 25 offices across North America, Europe, and Asia Pacific.

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