



OFFICE OF THE
DISTRICT ATTORNEY
ORANGE COUNTY, CALIFORNIA
TODD SPITZER

VIA OVERNIGHT DELIVERY

September 21, 2021

Philip D. Kohn, Esq.
Laguna Beach City Attorney
c/o Rutan & Tucker, LLP
18575 Jamboree Road, 9th Floor
Irvine, CA 92612

RE: Potential Violations of the Ralph M. Brown Act Related to June 29, 2021, Laguna Beach City Council Closed Session

Dear Mr. Kohn:

Following complaints of alleged violations of the Ralph M. Brown Act, the Orange County District Attorney's Office ("OCDA") reviewed the Laguna Beach City Council's June 29, 2021, closed session regarding the renovation of Hotel Laguna. This meeting was identified on the closed session agenda as follows:

"Conference with Legal Counsel Regarding Anticipated Litigation (pursuant to Government Code section 54956.9(d)(4); one item – consideration of whether to initiate litigation."

Having completed this review, there is substantial evidence that the City Council violated the Brown Act by giving improper notice of the meeting or exceeding the scope of permissible discussion and action during the meeting. Of particular concern is the public notice that identified the subject of the meeting as "consideration of whether to initiate litigation," when the substance actually appears to have concerned lifting the "stop-work order," completing first-floor renovations to the Hotel Laguna, and reopening the landmark's restaurant.

In addition, there is considerable evidence that Council Member George Weiss further violated the Brown Act subsequent to the closed session. Public admissions corroborate allegations that he disclosed confidential information to members of the public concerning the substance of the closed session.

As you are aware, the Brown Act promotes government transparency and provides only limited exceptions for confidential action by legislative bodies. Strict compliance with its provisions is mandatory, including providing accurate advance public notice of closed session topics. Violations are of serious concern and may result in criminal and civil prosecution. By the same token, the Brown Act provides opportunities to remediate past improper conduct and prevent future violations.

REPLY TO: ORANGE COUNTY DISTRICT ATTORNEY'S OFFICE

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To that end and in lieu of pursuing criminal or civil actions, OCDA seeks the City Council's commitment to take remedial measures to avoid future violations. This includes electronically recording all closed session hearings for a period of six months. The recordings need not be made available to OCDA or publicly disclosed, but rather be maintained for at least one year thereafter in the event they are necessary to address further allegations of Brown Act violations.

In addition, OCDA is requesting that particular care be taken and additional scrutiny be given by you and the City Council to closed session notices and announcements to ensure that they are specifically tailored to reflect the true substance of the confidential meetings. The public is entitled to advance notice of all closed sessions, including agendas that accurately reflect the topics of discussion.

Lastly, we request that closed session attendees be advised in advance as to the limited scope of each confidential item under consideration. Together with clearly defined meeting agendas and objectives, increased education of and vigilance by attendees to the limits of the subject matter will ensure the City Council does not exceed the Brown Act's constraints for confidential meetings.

With renewed attention to closed session notices and the limited scope of closed session discussions, as well as the recording of closed session proceedings, strict compliance with the Brown Act will be maintained. Equally important, these measures will promote trust in the legislative process, and maintain public confidence in the City Council itself.

Should the City Council agree to implement these measures, OCDA will not pursue the matter any further. Accordingly, please provide me in writing with a record of reportable action by the City Council, including the vote count taken, no later than **October 8, 2021**, as to whether the City Council will implement these closed session safeguards.

Respectfully,



Steven Schriver
Senior Deputy District Attorney
Special Prosecutions Unit

cc: Laguna Beach City Council Member George Weiss