

From: [Kohn, Phil](#)
To: [McKay, Ann Marie CC](#)
Cc: [Dupuis, Shohreh CM](#)
Subject: FW: City of Laguna Beach/Allegations of Brown Act Violations
Date: Thursday, October 21, 2021 10:10:45 AM
Attachments: [HotelLagunaBrownAct.pdf](#)
[MOHotel \(5\).pdf](#)
[image001.png](#)

From: Kohn, Phil [<mailto:pkohn@rutan.com>]
Sent: Wednesday, September 29, 2021 3:16 PM
To: 'Schriver, Steven' <Steven.Schriver@da.ocgov.com>
Cc: 'Spitzer, Todd' <Todd.Spitzer@da.ocgov.com>; 'Kim, Barbara' <barbara.kim@da.ocgov.com>; 'Claustro, Israel' <Israel.Claustro@da.ocgov.com>
Subject: RE: City of Laguna Beach/Allegations of Brown Act Violations

Mr. Schriver,

The City has been made aware of the attached two documents, which purport to be unsigned letters from Councilmember Weiss to your office regarding his complaint. One is dated and the other is not. It is not known whether either, both or neither was actually sent. To the extent you are able to do so, it would be helpful in advance of our requested meeting for the City to review and comment on what was received by your office. This is because the City is anxious to furnish to you appropriate facts that are responsive to the specific claims you evaluated, and because it turns out both documents contain materially false information.

I also want to let you know that with respect to the scheduling of a meeting, whether in-person or virtually, Ms. Dupuis (the City Manager) is leaving tomorrow for a pre-planned family event on the East Coast and will be returning Monday evening. Our calendars are relatively open Wednesday, Thursday and Friday if those days are not too soon to get together. Thank you.

Philip D. Kohn

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From: Kohn, Phil

Sent: Wednesday, September 29, 2021 9:26 AM

To: 'Schrive, Steven' <Steven.Schrive@da.ocgov.com>

Cc: 'Spitzer, Todd' <Todd.Spitzer@da.ocgov.com>; 'Kim, Barbara' <barbara.kim@da.ocgov.com>; 'Claustro, Israel' <Israel.Claustro@da.ocgov.com>

Subject: RE: City of Laguna Beach/Allegations of Brown Act Violations

Good morning, Mr. Schriver. Attached is the letter I was authorized by the Laguna Beach City Council last night to send to you. (As was reported publicly at the conclusion of the closed session, the sending of the letter was authorized by a 3-2 vote, with Councilmembers Iseman and Weiss dissenting.) Your first attention to the timing and other issues raised in the second paragraph of the letter would be appreciated. We look forward to continuing our dialog at your earliest convenience. Thank you.

Best regards,

Philip D. Kohn

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Mr. Todd Spitzer
District Attorney, County of
Orange 300 N Flower St,
Santa Ana, CA 92703

July 29th, 2021

Dear Mr. Spitzer,

As an elected Laguna Beach City Council Member. I am writing to report what I believe to be unlawful conduct by our City Manager, City Attorney and City Council colleagues. This unlawful conduct includes their engaging in a conspiracy to violate California's Brown Act, to disregard the City's own municipal code, and to fail to disclose actions taken in closed session.

For example, the Council at staff's urging voted in closed session, on June 29th, to grant after-the-fact building permits for the benefit of one applicant — almost immediately in the wake of stop-work orders issued to that same applicant just weeks before by both the City and the Coastal Commission. The Council voted at this same closed session to issue business use permits — although the City's Municipal Code requires applicants to submit complete plans, and to participate in public hearings, prior to the issuance of building- and conditional use permits.

In addition, I am writing to report the efforts of our City staff and Council colleagues to intimidate us via threats. They have warned us that should we fail to forebear from public disclosure of the facts stated above, i.e., should we engage in any whistle-blowing, they will have us censured and will contact your office — to ask that you investigate our actions and initiate any appropriate legal actions against us. They have done this with no sense of the irony.

The irony of course is they warn City Council about violating the Brown Act as they violate the Brown Act.

I find myself in an untenable, but solvable, position. We can keep quiet, risking censure and investigation by your office, or do the right thing and speak out against unlawful process and unlawful actions. I believe I am doing the right thing in disclosing to the public what has happened, and by contacting your office to request that you investigate and, if warranted, initiate legal actions against the City Manager and City Council majority.

I am available to answer any questions or to discuss the situation in general.

George Weiss, Laguna Beach City Councilmember

Mr. Todd Spitzer
District Attorney,
County of Orange
300 N Flower St,
Santa Ana, CA
92703

Dear Mr. Spitzer,

I am concerned that the City, on June 29th, violated the Brown Act during a City Council Meeting closed session. I recently submitted concerns regarding former Police Chief, Robert Thompson being relieved of duty.

The June 29th City Council closed session was noticed in our City Council written packet agenda as "An update on the Hotel Laguna". On the City's website it was described as possible litigation between the City and developer, Mohammad Honarkar. In a previous closed session meeting City Council had voted to approve a Stop Work Order for the Hotel Laguna project due to unpermitted work. The City had previously issued three previous Stop Work Orders for unpermitted work violations. At the meeting on the 29th, instead of a discussion of possible litigation the entire time spent on the project was discussing what work had been completed followed by a request for City Council to vote on revoking the stop work order and issuing a Temporary Use Permit. We feel that that proper noticing was not given and therefore the decision made was not valid.

City management said they could work on approving the unpermitted work at a later date, once the first floor restaurant and bar was opened. After the majority voted to revoke the stop work order and approve a TUP so the ground floor restaurant and bar could open City Council held normally scheduled public City Council meeting. When asked by the Mayor, if the City Attorney had anything to report from closed session, the City Attorney said "No, nothing to report"

This in contrast to the announcement made after the closed session in which City Council voted to stop the project a month or so earlier. We feel that the public should have had the opportunity to engage in this discussion as the Hotel Laguna is an important landmark and it's re-opening of great interest to residents.

The normal process would have been for the applicant to provide a plan for the use of the first floor of the Hotel, (the applicant did extensive work on the basement level including the removal of a structural support beam all without permits). There are also numerous violations cited by the California Coastal Commission regarding this project. While I support the opening of this iconic and historic hotel, I am worried that proper process is not being following concerning land use issues and that the City may have violated the Brown Act to allow work to continue.

Thanks,
George Weiss
Laguna Beach City Councilman
949-295-0832