

October 8, 2021

**VIA E-MAIL**

Steven Schriver, Esq.  
Senior Deputy District Attorney  
Special Prosecutions Unit  
Office of the District Attorney  
Post Office Box 808  
Santa Ana, CA 92702

Re: Potential Violations of Ralph M. Brown Act Related to June 29, 2021 Laguna Beach City Council Closed Session (Supplemental Letter)

Dear Mr. Schriver:

I am writing on behalf of and with the authorization of a majority of the members of the Laguna Beach City Council to supplement my prior letter to you dated September 29, 2021 on the above subject.

Following transmittal of my prior letter, the City Council became aware of what appeared to be two unsigned letters from Councilmember George Weiss to your office regarding his complaint. I sent these documents to you later in the day on September 29, explaining that the City did not know if either, both or neither was actually sent. Councilmember Weiss subsequently informed his colleagues that the enclosed undated letter was a copy of the one he sent.

The City Council asked me to confirm with your office that the letter described above was received by your office. The City Council further asked that assuming it to be the one actually sent by Councilmember Weiss to your office, I write to clarify some of the incomplete or inaccurate matters stated in the letter to the extent they were material to your initial evaluation.

- Councilmember Weiss' letter states: "The June 29<sup>th</sup> 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."

This statement is not correct. The official closed session notice and the one posted on the City's website, as recognized in your prior letters, described the closed session as Anticipated Litigation – consideration of whether to initiate litigation. The basis for that description was explained in my September 29 letter. The City Council regularly receives a memo from the City Manager, in addition to the official closed session notice, that provides a shorthand identification of the closed session items for discussion. It is that memo that made mention to an update on the Hotel Laguna renovation project.

Steven Schriver, Esq.  
October 8, 2021  
Page 2

- Councilmember Weiss’ letter states: “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 letter also states: “At the meeting on the 29<sup>th</sup>, . . . [there was] a request for City Council to vote on revoking the stop work order and issuing a Temporary Use Permit. . . . [¶] . . . After the majority voted to revoke the stop work order and approve a TUP . . . .”

This statement is not correct. As to stop work orders, and as explained in my prior letter, all matters pertaining to stop work orders – whether issuance, modification or termination – are handled by staff as administrative matters. They were not in this instance, or in any other instance, the subject of action by the City Council. Indeed, the actual staff determination to modify (not revoke) the stop work order in place for the Hotel Laguna renovation project was not made until July 14, as reflected in a public Media Release on that same date (see enclosures), after consultation with staff of the California Coastal Commission. Further, there was no discussion on June 29, much less action, relating to a “Temporary Use Permit.” To be sure, such a permit was not even required inasmuch as the hotel restaurant and lobby were already expressly allowed uses and no additional entitlements were necessary to reestablish those uses. The City has faithfully complied with the provisions of State law and the Municipal Code for the noticing, hearing and disposition of discretionary permits, approvals and other authorizations for the renovation project required in connection with public meetings, and there is no evidence to the contrary.

- Councilmember Weiss’ letter states: “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 statement is not correct. A review of the video recording of the meeting (see [https://lagunabeachcity.granicus.com/player/clip/1410?view\\_id=3&redirect=true](https://lagunabeachcity.granicus.com/player/clip/1410?view_id=3&redirect=true) at approximately 14:05) plainly discloses that the City Attorney stated no “reportable action” had been taken. The qualification of “reportable” is important because the Brown Act does not require that any and all actions taken at a closed session be reported publicly when the legislative body reconvenes in open session. Rather, Government Code section 54957.1 explicitly prescribes the items to be reported, and none of the categories for a mandatory report was triggered in this instance. Thus, the absence of an open session report on June 29 was of no consequence.

Steven Schriver, Esq.  
October 8, 2021  
Page 3

Thank you once more for your attention to this matter. The City Manager and I are looking forward to our meeting with you next week and would be pleased to provide any further information that may be requested.

Very truly yours,

RUTAN & TUCKER, LLP



Philip D. Kohn  
City Attorney, City of Laguna Beach

PDK:mrs

Enclosures

cc: Hon. Todd Spitzer, District Attorney (via e-mail)  
City Council (via e-mail)  
City Manager (via e-mail)

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 29<sup>th</sup>, 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 29<sup>th</sup> 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 29<sup>th</sup>, 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



July 14, 2021

MEDIA RELEASE

Shohreh Dupuis, City Manager  
(949) 497-0704

**City to Partially Lift Stop-Work Order on Hotel Laguna**

**LAGUNA BEACH, CA** – The City of Laguna Beach has completed a series of inspections and confirmed that the interior work to date on portions of Hotel Laguna undertaken by developer Mo Honarkar meets the required construction standards. As a result, effective Thursday, July 15, the City is planning to partially lift the stop-work order on the hotel to allow the remodel of the first-floor restaurant, lobby, bar, and kitchen areas to be completed. No work will be permitted in other areas of the hotel until the developer submits a comprehensive plan for the overall restoration of Hotel Laguna and receives permits.

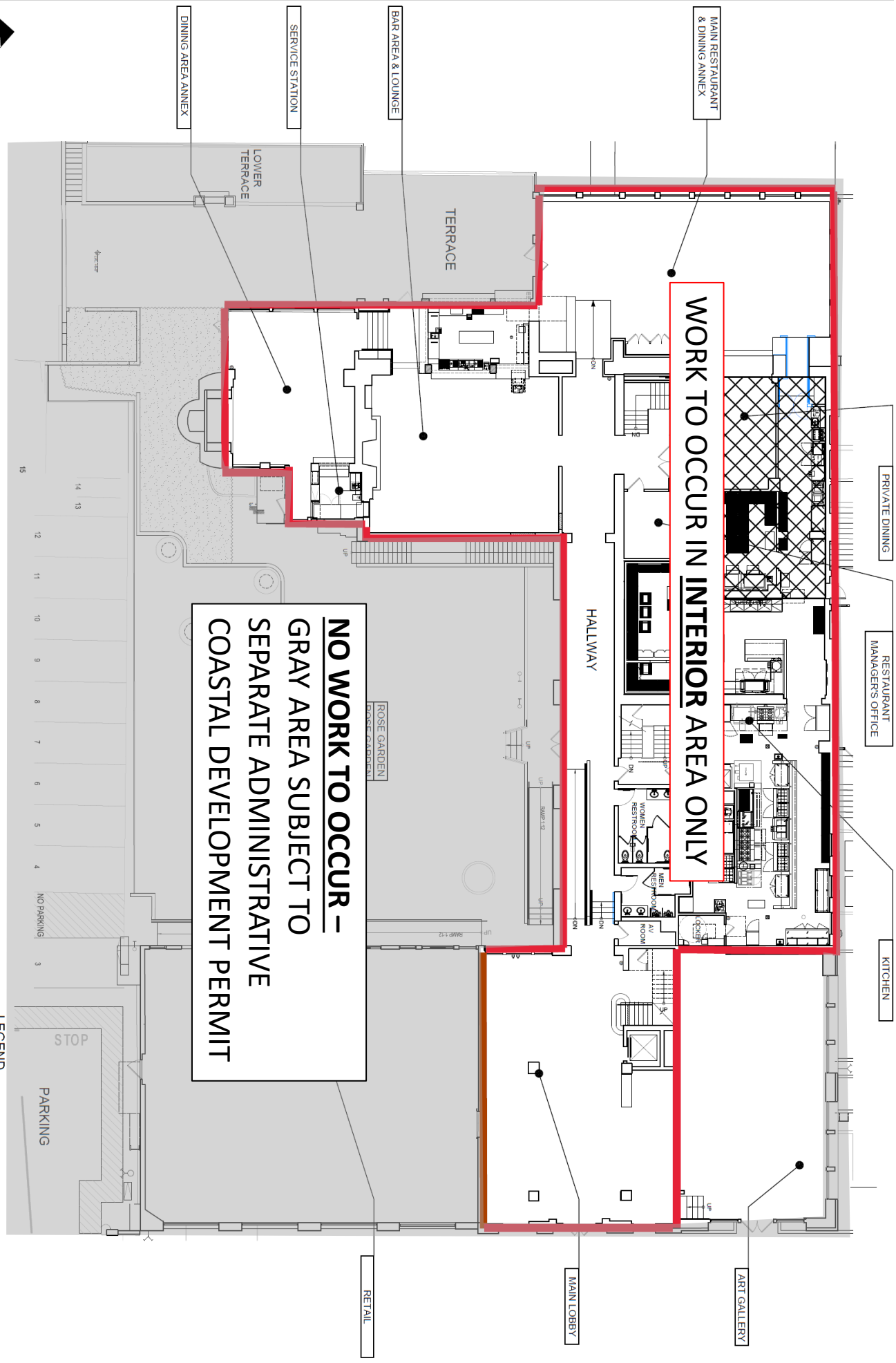
The remodel of the first-floor restaurant, lobby, bar, and kitchen areas of Hotel Laguna does not require a Coastal Development Permit (CDP) because the work consists of interior renovations to existing spaces and does not include changes in use. A building permit for these interior improvements was issued in December 2019 and the work is near completion. By removing the stop-work order on this portion of the hotel, the developer will be allowed to finish the permitted work which includes the fire-related improvements and other minor work needed to pass fire inspection, building inspection and to obtain a health department permit to reopen first-floor restaurant, lobby, bar and kitchen areas and small portions of the lower level related to the kitchen use. None of the areas where work will resume are part of the CDP currently under appeal to the California Coastal Commission (see attached Exhibit A) and are under the jurisdiction of the City of Laguna Beach. The City has notified the Coastal Commission staff that the remaining minor work resuming in the restaurant, lobby, bar, and kitchen areas delineated by the City (see attached Exhibit A) does not constitute “development” and is not subject to a CDP.

The developer is currently working to submit a comprehensive plan for the overall restoration of Hotel Laguna. A comprehensive plan must include a schedule and description of the future work that is proposed, including all interior and exterior renovations, a summary of the intended use of the lower-level spaces, including the conference room, as well as the commercial spaces fronting Coast Highway. Staff will then evaluate the proposed uses and determine if use permits and/or Coastal Development Permits are necessary for the comprehensive plan to proceed, and the comprehensive plan will be brought before the Planning Commission for review and approval prior to any further construction taking place in these areas.

Staff will continue making regular daily visits to the project site to ensure that no unpermitted work is occurring. As an extra measure of oversight, prior to the issuance of a Temporary Occupancy Permit for the first-floor restaurant, lobby, bar, and kitchen areas, a comprehensive report will be required from a structural engineer concluding that the Hotel Laguna remains in structurally sound condition and is safe to occupy.

“Hotel Laguna is a historic landmark and an important asset to this community, and we are supportive of the end-goal of restoring Hotel Laguna,” said Laguna Beach City Manager Shohreh Dupuis. “At the same time, we will continue to make it clear that all the procedures and requirements applicable to the project are to be followed.”

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**WORK TO OCCUR IN INTERIOR AREA ONLY**

**NO WORK TO OCCUR -**  
**GRAY AREA SUBJECT TO**  
**SEPARATE ADMINISTRATIVE**  
**COASTAL DEVELOPMENT PERMIT**



**LEGEND**  
 THE CAPTAIN'S CABIN AREA USED TO BE LARGER THAN THE EXISTING PRIVATE DINING AREA.