



OFFICE OF THE
DISTRICT ATTORNEY
ORANGE COUNTY, CALIFORNIA

TODD SPITZER

RECEIVED

SEP 23 2021

City Manager's Office

VIA OVERNIGHT DELIVERY

September 21, 2021

The Honorable George Weiss
505 Forest Avenue
Laguna Beach, CA 92651

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

Dear Council Member Weiss:

In response to complaints concerning possible violations of the Ralph M. Brown Act by the Laguna Beach City Council, the Orange County District Attorney's Office ("OCDA") conducted a review of the City Council's June 29, 2021, closed session regarding Hotel Laguna. Based on this review, there is substantial evidence that the City Council Members violated the Brown Act with respect to the public notice of the closed session and/or the scope of the matters considered during the meeting. In addition, there is significant evidence that you potentially violated the Brown Act by also subsequently disclosing to members of the public confidential information obtained during the same closed session.

Any violation of the Brown Act is extremely concerning, as it undermines not only transparency in government, but faith in the legislative process. Recognizing the importance of public access to government proceedings, the Brown Act allows closed sessions only in specific limited circumstances and requires particularized advance notice. Nevertheless when permitted, closed session proceedings are endowed with the privilege of confidentiality. This allows attendees to speak with candor, debate freely, and gather necessary information without risk of public reprobation.

Although violations may be addressed through criminal prosecution and civil proceedings, the interests of justice are better served at this time by remediation and other measures that ensure strict compliance with the Brown Act's provisions. For its part, the City Council waived confidentiality with respect to the June 29, 2021, closed session and openly discussed the proceedings during its August 24, 2021, meeting. To prevent future issues, guarantee that meeting agendas provide accurate and proper notice of topics to be discussed, and promote compliance with other requirements in the Brown Act, we are proposing additional safeguards for the City Council to institute with respect to closed sessions.

REPLY TO: ORANGE COUNTY DISTRICT ATTORNEY'S OFFICE

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If the City Council takes formal action to properly notice and conduct closed session meetings, agrees to record its closed sessions for six months, and agrees to retain those recordings for one year, OCDA will take no further action against you or the City Council. These measures are further detailed in separate correspondence to the Laguna Beach City Attorney, a copy of which will be provided to you.

By the same token, and to avoid future concerns with respect to the disclosure of potentially confidential information, we encourage you to review the provisions of the Brown Act, especially those pertaining to closed sessions.

Respectfully,



Steven Schriver
Senior Deputy District Attorney
Special Prosecutions Unit

cc: Philip Kohn, Esq.