

June 29, 2018

SENT VIA EMAIL

Chairperson James T. Butts, Jr.
Members of the Oversight Board of the Inglewood Successor Agency
1 Manchester Blvd.
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**Re: Demand to Cure and Correct - Oversight Board's Action
Concerning the Proposed Disposition of Properties**

Dear Chairperson and Members of the City of Inglewood's Oversight Board:

Public Counsel, the Public Interest Law Project, and Cozen O'Connor write on behalf of the Uplift Inglewood Coalition and community partners to call your attention to what we believe was a substantial violation of a central provision of the Ralph M. Brown Act (hereinafter referred to as "the Act"), one which may jeopardize the finality of the action taken by the City of Inglewood's Oversight Board (hereinafter referred to as "the Oversight Board" or "Board").

The nature of the violation is as follows: In the Oversight Board's meeting of *June 27th, 2018* (hereinafter referred to as "the Meeting"), the Oversight Board took action through a formal vote to approve the City of Inglewood and the Inglewood Successor Agency's disposition of the parcels B-1.1 through B-3 (also known as Parcels 1-13) as identified in the Long Range Property Management Plan (hereinafter referred to as "the Item"). The action taken was not in compliance with the Brown Act for the reasons stated below.

- 1. The decision to approve the Item failed to occur as the culmination of a discussion among members of the Board in open session.** Pursuant to Section 54952.2(b)(1) "a majority of the members of a legislative body shall not, outside a meeting authorized by this chapter, use a series of communications of any kind, directly or through intermediaries, to discuss, deliberate, or take action on any item of business that is within the subject matter jurisdiction of the legislative body." However, during the Meeting, the members of the Board failed to engage in reasonably adequate discussion of the Item, one that the Act does not permit to be discussed in closed session pursuant to Sections 54954.5, 54956.7, *et seq.* This is especially egregious given the fact that the Successor Agency requested "specific direction from the Oversight Board with respect to the disposition of the Mitigation Properties in accordance with the Amended LRPMP subject to the applicable disposition requirements of

the FAA Agreements and LAWA Agreements.”¹ No specific direction was given during the open meeting. Considering that the goal of the Act is to require “[the] actions be taken openly and that their deliberations be conducted openly,” and “[to] facilitate[e] public participation in local government decisions and curbing misuse of the democratic process by secret legislation,” the deliberation process as conducted by the Board during the Meeting is in violation of Section 54950 of the Act. Cal. Gov’t Code § 54950; *Morrow v. Los Angeles Unified School Dist.* (App. 2 Dist. 2007) 57 Cal.Rptr.3d 885, 149 Cal.App.4th 1424. See also *Golightly v. Molina* (App. 2 Dist. 2014) 178 Cal.Rptr.3d 168, 229 Cal.App.4th 1501 (“The intent of the Brown Act cannot be avoided by subterfuge; a concerted plan to engage in collective deliberation on public business through a series of letters or telephone calls passing from one member of the governing body to the next would violate the open meeting requirement.”).

2. The Board failed to provide adequate notice to the public on the posted agenda for the Meeting that the Item acted upon would be discussed:

- a. **The agenda and report for the public provide insufficient detail for the public to determine what action the Board was actually considering.** Section 54954.2(a)(1) stipulates that the agenda shall contain “a brief general description of each item of business to be transacted or discussed at the meeting.” This requirement “should be construed liberally in favor of openness so as to accomplish [the Act’s] purpose and suppress the mischief at which [the Act] is directed.” *McKee v. Los Angeles Interagency Metropolitan Police Apprehension Crime Task Force* (App. 2 Dist. 2005) 36 Cal.Rptr.3d 47, 134 Cal.App.4th 354. This provision requires that the “agenda drafters must give the public a fair chance to participate in matters of particular or general concern by providing the public with **more than mere clues** from which they must then guess or surmise the essential nature of the business to be considered by a local agency.” *San Diegans for Open Government v. City of Oceanside* (App. 4 Dist. 2016) 209 Cal.Rptr.3d 305, as modified (emphasis added). The terms used in the agenda in describing the Item are so vague in that they fail to provide any information as to whom the parcels are being sold, or for what proposed purpose the parcels will be used for, that they would not allow a reasonable person to unambiguously understand the nature of the Item discussed. See *Moreno v. City of King* (App. 6 Dist. 2005) 25 Cal.Rptr.3d 29, 127 Cal.App.4th 17 (“City’s description of agenda of special meeting as ‘Public Employee (employment contract)’ was not sufficient to apprise that dismissal of public employee would be discussed at city council meeting so as to satisfy open meeting requirements of Brown Act.”). It would thus constitute a violation to Section 54954.2(a)(1) of the Act.

¹ <https://www.cityofinglewood.org/AgendaCenter/ViewFile/Item/4469?fileID=2583>.

- b. **The agenda packet failed to provide supporting documents to the Item online and onsite.** Similarly, the notice of the Item violates Section 54954.2(a)(1) because the agenda packet lacked supporting documents identified in the staff report, such as the FAA Agreements and the LAWA Agreements that would allow the public to understand the nature of the matter and to participate effectively. *Id.* Additionally, Section 54957.5 (a) requires that “any other writings, when distributed to all, or a majority of all, of the members of a legislative body of a local agency by any person in connection with a matter subject to discussion or consideration at an open meeting of the body, are disclosable public records under the California Public Records Act.” Considering that the supporting documents to the item are prerequisites to any meaningful deliberation or discussion by the members of the Board to reach a decision on the Item, such documents are regarded as “public record” under Section 54957.5 (a). Therefore, the Board’s failure to make such public record available either prior to the hearing as attachments to the agenda, or available for inspection at the time of the meeting, hinders the Act’s efforts to “facilitate public participation in local government decisions and to curb misuse of democratic process by secret legislation by public bodies.” *Boyle v. City of Redondo Beach* (App. 2 Dist. 1999) 83 Cal.Rptr.2d 164, 70 Cal.App.4th 1109.

As you are aware, the Brown Act creates specific agenda obligations for conducting open and noticed meetings and also creates a legal remedy for illegally taken actions—namely, the judicial invalidation of them upon proper findings of fact and conclusions of law.

Pursuant to Government Code Section 54960.1, we demand that the Oversight Board cure and correct the illegally taken actions as follows: (1) disclosure of any meeting privately held among the members of the Board regarding the Item, (2) formally withdraw its decision to approve the Item, (3) direct the successor oversight board authorized by Health and Safety Code Section 34179(j) to conduct another meeting to rehear the Item, (4) provide adequately clear description of the Item on the agenda of the new meeting, (5) offer sufficient supporting documents to the Item in the new meeting’s agenda packet, (6) allow full opportunity for public testimony at the new meeting, and (7) engage in ample deliberation and decision during the new meeting.

As provided by Section 54960.1, you have 30 days from the receipt of this demand to either cure or correct the challenged action or inform us of your decision not to do so. If you fail to cure or correct as demanded, such inaction may leave us no recourse but to seek a judicial invalidation of the challenged action pursuant to Section 54960.1, in which case we would also ask the court to order you to pay us seek court costs and reasonable attorney fees in this matter, pursuant to Section 54960.5.

Very Truly Yours,

Cozen O'Connor
Public Counsel
Public Interest Law Project (PILP)
Uplift Inglewood Coalition

CC: Members of the Oversight Board

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