

THE OFFICES OF
HASKINS & ASSOCIATES, APC

STEVEN W. HASKINS*
ELENA L. HASKINS

CYRUS E. SERADJ*
MARGARET PITCHKOLAN*
CRAIG SANDERS*

OF COUNSEL

STEVEN F. WINGFIELD

*ALSO A LICENSED REAL ESTATE BROKER

A PROFESSIONAL LAW CORPORATION

ATTORNEYS AT LAW

4045 BONITA ROAD, SUITE 206

BONITA, CALIFORNIA 91902-1336

TELEPHONE (619) 479-4351

FACSIMILE (619) 479-0337

WWW.HASKINSLAW.COM

LETICIA SORIANO, NP, AICBP, PARALEGAL
VICKI M. WALKER, PARALEGAL

RANCHO SANTA FE OFFICE
8108 LA FLECHA, SUITE 203
P.O. BOX 1907
RANCHO SANTA FE, CALIFORNIA 92067
TELEPHONE (800) 869-1667

SENDER'S E-MAIL ADDRESS:

SteveH@HaskinsLaw.com

March 18, 2008

BY HAND DELIVERY

Hon. Michael Aguirre
City Attorney, City of San Diego
ATT: Michael Calabrese, Esq.
1200 Third Ave., Ste. 1620
San Diego, CA 92101

RE: La Jollans for Clean Government, Inc./ LJCPDAB/ Brown Act Violations

Dear Mr. Calabrese:

As you know this firm represents *La Jollans for Clean Government, Inc.*, a watchdog group created by La Jolla residents to insure openness and legal compliance in local City sponsored boards and committees.

La Jollans for Clean Government, Inc. has found evidence of serious and chronic violations of the Brown Act by the La Jolla Community Parking District Advisory Board ("LJCPDAB" or "Parking Board"). These violations go to the heart of the Board's functioning. The legal failings are particularly disturbing because the Board's primary mission was to solicit and synthesize public opinion into a recommendation for presentation to the City Council. Instead, the Parking Board plotted and planned, often in secret, how to achieve a pre-selected result. These violations have culminated in three Board-generated parking plans – all calling for paid street parking. To cure this violation, it is necessary for: (1) the Board to set aside the illegally developed plans; (2) have an open and public debate on a preferred plan; and (3) then (in accordance with its established process) provide that untainted plan to the public for a 45-day comment period before taking final action on it. While it is impossible to undo past violations of law, the Parking Board can take corrective action before proceeding and compounding prior illegal violations. The public deserves corrective measures, and the law demands it.

If the Board proceeds without taking corrective measures, the only option may be to seek an injunction or other relief, prove the violations through documentary evidence and depositions, and let a court decide whether the Board Members violated the law and, if so, the remedy.

Hon. Michael Aguirre
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I LEGAL BACKGROUND

The Parking Board fails to comprehend the trust under which they operate, as explained in the Brown Act:

“In enacting this chapter, the Legislature finds and declares that the public commissions, boards and councils and the other public agencies in this State exist to aid in the conduct of the people's business. **It is the intent of the law that...their deliberations be conducted openly.**” Cal. Gov. Code §54950.

The nature of the violation is explained by the California Attorney General (84 Ops.Cal.Atty.Gen.30):

“The purposes of the Brown Act are thus to allow the public to attend, observe, monitor, and participate in the decision-making process at the local level of government. Not only are the actions taken . . . to be monitored by the public but also the deliberations leading to the actions taken. (See *Roberts v. City of Palmdale* (1993) 5 Cal.4th 363, 373, 375; *Frazer v. Dixon Unified School Dist.* (1993) 18 Cal.App.4th 781, 795-797; *Stockton Newspaper, Inc. v. Redevelopment Agency* (1985) 171 Cal.App.3d 95, 100; *Sacramento Newspaper Guild v. Sacramento County Bd. of Suprs.* (1968) 263 Cal.App.2d 41, 45.) **“The term ‘deliberation’ has been broadly construed to connote ‘not only collective discussion, but the collective acquisition and exchange of facts preliminary to the ultimate decision.’** [Citation.]” (*Rowen v. Santa Clara Unified School Dist.* (1981) 121 Cal.App.3d 231, 234; see *Roberts v. City of Palmdale, supra*, 5 Cal.4th at p. 376.)”¹

As used in the Brown Act, collective decisionmaking includes deliberations:

“The collective decisionmaking process consists of both “actions” and “deliberations” which must respectively be taken and conducted “openly”

¹ “It declares the law's intent that deliberation as well as action occur openly and publicly. Recognition of deliberation and action as dual components of the collective decision-making process brings awareness that the meeting concept cannot be split off and confined to one component only, but rather comprehends both and either.” *Frazer v Dixon Unified School District*, (1993) 18 Cal.App.4th 781, 22 Cal.Rptr.2d 641.

