

BRIGGS LAW CORPORATION

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BLC File(s): 1593.11

14 August 2012

Board of Supervisors
County of San Diego
c/o Board Clerk Thomas Pastuszka
1600 Pacific Highway
San Diego, CA 92101

Via Facsimile Only to 619-531-6098

Re: Request to Cure Violation of Ralph M. Brown Act

Dear Board of Supervisors:

On behalf of my client, San Diegans for Open Government, I am writing to request the cure of your latest violation of the Ralph M. Brown Act (Government Code Section 54950 *et seq.*), which was committed by you at your meeting on August 8, 2012.

In particular, you went into closed session to take action on a matter that was not on the meeting's posted agenda: namely, the appointment of a replacement for Chief Administrative Officer Walter Ekard. You attempted to justify the closed session's addition to the agenda under Government Code Section 54954.2(b)(2) based on a "need to take immediate action" that came to your attention after the meeting's agenda was posted. However, no such "need" existed. Among other things, the replacement has been Mr. Ekard's assistant for a considerable amount of time, and there is no evidence that she would not have remained his assistant if she had not been appointed as his replacement until your next regularly scheduled meeting or until you could hold a special meeting on the subject. In other words, there is simply no reason to believe that the County would have been harmed in any meaningful way if you would have taken the time to properly notify the public that you would be considering the appointment of a replacement. Your haste in appointing a replacement, without first giving the public an opportunity to comment on the matter, constituted a violation of the Brown Act.

Under the Brown Act, this violation must be cured not more than 30 days after receipt of this letter. Please notify me ***in writing*** as soon as possible to let me know whether the violation will be cured and, if so, when the cure will take place. (Note, however, that my client may sue before receiving your response.)

Lastly, please note that each of you may be ***criminally prosecuted*** under Government Code Section 54959 for your participation in the closed-session meeting if you intended to deprive the public of information that you had reason to know the public was entitled to have.



Thank you for your prompt attention to this important matter.

Sincerely,

BRIGGS LAW CORPORATION

Cory J. Briggs

cc: District Attorney Bonnie Dumanis (via e-mail only)

