

Sample Demand for Cure or Correction; Alleged Violation of Brown Act

(Send registered mail, return receipt requested)

Presiding Officer, Members
Name of Legislative Body
Name of Local Agency

Dear _____:

This letter is to call your attention to what I believe was a substantial violation of a central provision of the Ralph M. Brown Act and Article I, Section 3 of the California Constitution, which may jeopardize the finality of the action taken by (name of legislative body and local agency).

The nature of the violation is as follows. In its meeting of (date), the (name of legislative body) took action to (describe the action taken, specifying the proposal and the manner in which it was acted upon, i.e. by either a formal vote, an "approval in concept" or some other expression of a consensus that the body would or would not act in a certain manner in the future).

The action taken was not in compliance with the Brown Act and Article I, Section 3 of the California Constitution because (specify one or both) it occurred as the culmination of a discussion in closed session of a matter which the Act does not permit to be discussed in closed session (and/or) there was no adequate notice to the public on the posted agenda for the meeting that the matter acted upon would be discussed, and there was no finding of fact by the (name of the legislative body) that urgent action was necessary on a matter unforeseen at the time the agenda was posted.

In the event it appears to you that the conduct of the (name of the legislative body) specified herein did not amount to the taking of action, I call your attention to Government Code Section 54952.6, which defines "action taken" for purposes of the Act very expansively.

As you are aware, the Brown Act allows the legal remedy of judicial invalidation of illegally taken action. Pursuant to Government Code Section 54960.1, I demand that the (name of the legislative body) cure or correct the illegally taken action as follows: (specify whatever corrective action you believe necessary to redress the illegality by providing the public with access to the information acquisition, deliberative process and opportunity to comment of which it was deprived. Examples might include the formal and explicit withdrawal from any commitment made, coupled with a disclosure at a subsequent meeting of the reasons why individual members of the legislative body took the positions that they did, with the full opportunity for informed comment by members of the public at the same meeting, notice of which is properly included on the posted agenda. In some cases informed comment might require public access to any and all documents in the possession of the public agency related to the action taken, with copies available to the public on request at the offices of the agency and also at the meeting at which reconsideration of the matter is to occur).

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 me of your decision not to do so. If you fail to cure or correct as demanded, I am entitled to seek judicial invalidation of the action pursuant to Section 54960.1, in which case I would seek the award of court costs and reasonable attorney fees pursuant to Section 54960.5.

Sincerely,
S/ _____

cc: Name and title of agency's legal adviser