

City of Alameda



OPEN GOVERNMENT COMMISSION
2263 Santa Clara Avenue, Suite 380
Alameda, CA 94501
(510) 747-4800

FILED
FEB 25 2021

CITY OF ALAMEDA
CITY CLERK'S OFFICE

SUNSHINE ORDINANCE COMPLAINT

Complaint against which Department or Commission: Alameda City Council

Name of individual contacted at Department or Commission: N/A

☒ Alleged violation of public records access.

☒ Alleged violation of public meeting. Date of meeting: February 16, 2021

Sunshine Ordinance Section: Violation of the Brown Act
(If known, please cite specific provision(s) being violated)

Please describe alleged violation. Use additional paper if needed. Please attach all relevant documentation supporting your complaint. Documentation is required.

See attached re Item 5E on the Consent Calendar of the Agenda for the February 16, 2016 City Council meeting:

A complaint must be filed no more than fifteen (15) days after an alleged violation of the Sunshine Ordinance.

Name: Jay Garfinkle Address: 352 Capetown Drive, Alameda, CA 94502

Telephone No: 510-521-5071 E-mail Address: garsurg@comcast.net

Date: February 25, 2021 
Signature

February 25, 2021

Attachment to Complaint:

RE: Item 5E on February 16, 2021 City Council Agenda

A motion was made and passed which called for adding support for SB-271 to the City's Legislative Agenda. This item was not listed on the meeting agenda and, the City Attorney's opinion notwithstanding, I believe that discussion and passage of this motion constituted a violation of the Brown Act. And given that SB-271 has the potential of leading to significant political ramifications about which many voters may have reasonable concerns, it seems obvious that the public should have been informed of the plan to pull this item from the Consent Calendar in order to present and discuss this motion. The Brown Act was passed into law so that the public would have the opportunity to participate in discussions of this sort. In my opinion, while the City Attorney's opinion may possibly have been correct in terms of the letter of the law, it appears, in my opinion, to be contrary to the spirit of the law, to wit: The Brown Act..

I would point out that, based on comments made during the discussion, it appears that this process was prompted by the Council's receipt of an email from a person or persons who support SB-271. My concern regarding this issue is amplified by the appearance that outside political influence was in play as demonstrated by my observation that only a single person, who quite likely was not an Alameda resident and who just coincidentally was aware of this plan in advance of the Council meeting and who was prepared to address it during the public comment period and who, just as coincidentally, represented an Oakland based special interest group backing the bill.

Please understand that I am neither in favor of nor opposed to SB-271. My concern is that the City Council appears to have violated the spirit of the Brown Act in lending OUR, the residents of Alameda, support to a State bill without permitting residents the opportunity to participate in the decision making process. It is noteworthy, though possibly irrelevant, that the bill was authored by State Senator Wiener who has a history of working vigorously to take local zoning authority away from individual cities throughout the State. In this regard, two of his current bills, SB-9 and SB-10, if passed, would require that the City permit subdivision of single family lots into as many as six separate parcels plus an ADU and a JADU, at least eight units in all, and would allow our City Council to override our recent vote to preserve Article 26 of our City Charter.

I believe that the Open Government Commission, at the very least, should request that the City instruct its contracted lobbyists not to support SB-271 pending an open review by the residents of Alameda.

I am submitting this complaint as it relates to the about the process and not necessarily to the result.

Jay Garfinkle