



LOS ANGELES COUNTY DISTRICT ATTORNEY'S OFFICE  
BUREAU OF FRAUD AND CORRUPTION PROSECUTIONS  
PUBLIC INTEGRITY DIVISION

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January 28, 2008

Ms. Hillarie Levy  
2958 Chippewa Avenue  
Simi Valley, CA 93063

Subject: Allegations of Brown Act Violations by the Los Angeles County  
Board of Supervisors, PID Case 07-0236

Dear Ms. Levy,

Some time ago, we received your complaint alleging that the Los Angeles County Board of Supervisors violated the Brown Act when you were not permitted to address the Board at the regular meeting on February 27, 2007. You reported that the Board cited a "3 month rule" as the basis upon which you were not permitted to speak. We conducted an inquiry regarding the Brown Act issue you raised. We found that there was, in fact, a county regulation that restricted members of the public from making general comments more than once in a three month period.

While we found no published opinions or other legal authorities that address the facts your complaint presented, we nonetheless concluded that restrictions based on frequency of appearances cannot be said to be a reasonable regulation of the time, place and manner of the public's right to participate in the decision making process, which an agency is permitted to enforce. Government Code Section 54954.3 (b), *Baca v. Moreno Valley Unified School District*, 936 F. Supp. 719 (1996), *Kindt v. Santa Monica Rent Control Board*, 67 F.3d 266 (1995). The frequency with which a member of the public might seek to address the Board over a period of months could be the product of factors that cannot reasonably be predicted, and none of which, in our opinion, would constitute legal grounds for a blanket restriction like the "three month rule". We communicated our concern to County Counsel regarding the existing rule because we believed that the ordinance would not pass appellate scrutiny. Our ultimate goal in Brown Act cases is compliance, and in this case, we afforded the Board the opportunity to take corrective action in a more global way in order to ensure compliance and prevent continuing violations, based upon an inappropriate Board rule.

County counsel acknowledged our concerns, and brought the matter to the attention of the Board. After careful consideration, changes in the rules regarding public participation were drafted and were adopted by the Board, including rescission of the so-called "three month

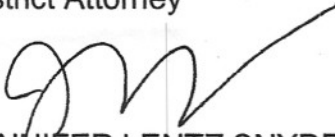
rule". The changes were adopted at the Board's regular meeting held on November 27, 2007. A copy of the revisions is included herein.

We commend your vigilance and concern about the Brown Act. We will continue to protect the public's right to open access and active participation in the decision-making process. Thank you for taking the time to lodge your complaint. Only through the efforts of citizens like you who take the time to report potential violations of the public's right to open and transparent government can we effectively address the issues and take appropriate action to ensure compliance with the letter and the spirit of the Brown Act.

Very truly yours,

STEVE COOLEY  
District Attorney

By



JENNIFER LENTZ SNYDER  
Assistant Head Deputy  
Public Integrity Division

Enclosure

**Section 39. PUBLIC COMMENT - NON-AGENDA ITEMS.** Notwithstanding any other provision of these rules, members of the public shall have the right to address the Board on items of interest which are within the subject matter jurisdiction of the Board. A person requesting to address the Board on a non-agenda item will be allowed up to three (3) minutes per meeting. ~~may make one presentation in any three-month period, on a non-agenda item, but shall not exceed three minutes in length. Not more than five persons may address the Board on non-agenda items at any meeting.~~ A person addressing the Board shall avoid personalities on an agenda or non-agenda item. Any individual found to exhibit disruptive conduct, as defined in Section 10 of these Rules, may be prohibited from addressing the Board on agenda items and during public comment at future meetings as set forth in Section 10 (e).

**Section 41. CHIEF ADMINISTRATIVE EXECUTIVE OFFICER AND COUNTY COUNSEL TO ATTEND MEETINGS.** The Chief Administrative Executive Officer and the County Counsel, or a representative designated by each such officer, shall attend all regular, adjourned regular and special meetings of the Board.