



OFFICE OF THE CITY ATTORNEY
ROCKARD J. DELGADILLO
CITY ATTORNEY

Telephone: (213) 978-8130
Facsimile: (213) 978-8222

May 7, 2008

VIA ELECTRONIC AND REGULAR MAIL

BongHwan Kim, Interim General Manager
Department of Neighborhood Empowerment
340 East Second Street, Suite 406
Los Angeles, California 90012

Re: Amendments to the Brown Act that affect the agenda and distribution of writings to members of the public

Dear Mr. Kim.

We wish to bring to your attention a recent amendment to the Brown Act^{*} that takes effect on July 1, 2008, and impacts the wording of board agendas and also impacts how the records, which are reviewed by board members in anticipation of a meeting, are to be made available to the public. This letter is intended to provide you with guidance in preparing the agendas for the Board of Neighborhood Commissioners and should also be provided to the Neighborhood Councils.

The pertinent amendment is contained in Government Code section 54957.5 paragraph (b) reads as follows:

“(b) (1) If a writing that is a public record under subdivision (a), and that relates to an agenda item for an open session of a regular meeting of the legislative body of a local agency, is distributed less than 72 hours prior to that meeting, the writing shall be made available for public inspection pursuant to paragraph (2) at the time the writing is distributed to all, or a majority of all, of the members of the body.

(2) A local agency shall make any writing described in paragraph (1) available for public inspection at a public office or location that the agency shall designate for this purpose. Each local agency shall list the address of this office or location on the agendas for all meetings of the legislative body of that agency. The local agency also may post the writing on the local agency's Internet Web site in a position and manner that makes it clear that the writing relates to an agenda item for an upcoming meeting.

(3) This subdivision shall become operative on July 1, 2008.”

Typically, board members receive an agenda and written materials to review in advance of a meeting (the "agenda packet"). Government Code section 54957.5 clarifies that once the writings or agenda packet are delivered to a majority of the members on the board, the records, unless specifically protected from disclosure by the Public Records Act, must be made immediately available upon request. If written materials are submitted to the board after the posting of the agenda, then the agency shall designate a location (and an optional website link) where the public may view the records.

We recommend that the Department of Neighborhood Empowerment provide for easy access to the records for the Board of Neighborhood Commissioners by making them available on the website in addition to a physical location. Therefore, the Board of Neighborhood Commissioners should add the following to their agendas:

"In compliance with Government Code section 54957.5, non-exempt writings that are distributed to a majority or all of the Board of Neighborhood Commissioners in advance of their meetings, may be viewed at the offices of the Department of Neighborhood Empowerment, located at 334-B East 2nd Street, Los Angeles, California 90012, by clicking on the Department's website at http://www.lacityneighborhoods.com/page2.cfm?doc=staff_reports, or at the Commission meeting. In addition, if you would like a copy of any record related to an item on the agenda, please contact Bianca Vite, Commission Executive Assistant, at (213) 847-7155 or e-mail: Bianca.Vite@lacity.org."

It will be important to insure that upon distribution of the agenda packet to a majority or all of the board members, the documents are promptly placed in the correct location and posted on the website.

The suggested addition to the agendas for Neighborhood Councils should read:

"In compliance with Government Code section 54957.5, non-exempt writings that are distributed to a majority or all of the board in advance of a meeting, may be viewed at [insert address], [optional: at our website by clicking on the following link: _____,] or at the scheduled meeting. In addition, if you would like a copy of any record related to an item on the agenda, please contact _____"

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Please feel free to contact me if you have any further questions regarding this matter.

Very truly yours,

A handwritten signature in black ink, appearing to read "Darren R. Martinez". The signature is fluid and cursive, with a large, sweeping flourish at the end.

Darren R. Martinez
Deputy City Attorney

cc: Bianca Vite, Commission Executive Assistant
Mark Lewis, Field Director of Operations

DRM:pb