

March 20, 2020

Alameda County Board of Supervisors
1221 Oak Street, #536
Oakland, CA 94612

Re: Cure and Correct Demand Letter

Dear Members of the Alameda County Board of Supervisors:

This letter is to call your attention to what we believe was and will continue to be a substantial violation of a central provision of the Ralph M. Brown Act, one which may jeopardize the finality of any action taken by the Alameda County Board of Supervisors.

The nature of the violation is as follows: In its meeting **Tuesday March 17th**, the **Alameda County Board of Supervisors took action to on a wide range of issues in the form of formal votes being taken, with no practical way for members of the general public to participate while complying with order to shelter in place.**

Pursuant to the governor's executive order N-25-20, a legislative body was "authorized to make public meetings accessible telephonically or otherwise electronically to all members of the public seeking to attend and to address the local legislative body... during the period in which state or local public officials impose or recommend measures to promote social distancing." N-33-20 mandates all individuals living in the State of California to stay home or at their place of residence, except as to maintain continuity of operations of the federal critical infrastructures and additional sectors designated as critical to protect the health and well-being of all Californians.

While the executive orders do not mandate telephonic or other electronic public accessibility to the Board of Supervisors meeting, by not making this option available, the Board is violating the spirit of the Brown Act. The purpose behind the Brown Act is to guarantee the public's right to attend and participate in meetings of local legislative bodies. Given EO N-33-20 ordering the public to shelter in place but for certain exceptions that do not include attending county Board of Supervisors meetings, the Board would be in contravention of the express purpose of the Act if it does not provide a mechanism for the public to attend electronically or telephonically.

In these unprecedented times, the Board, with the input of other public agencies such as the Alameda County Healthcare Services Agency and the Alameda County Social Services Agency, is making decisions of the highest importance that affect every resident of Alameda County. The public both deserves and demands safe access to these meetings.

The action taken was not in compliance with the Brown Act because 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

Pursuant to that provision (Government Code Section 54960.1), we demand that the Alameda County Board of Supervisors cure and correct the illegally taken action as follows:
immediately provide telephonic or electronic public access to any and all meetings until the EO N-33-20 is lifted, coupled with a disclosure at the next meeting of why individual members of the legislative body took the positions — by vote or otherwise — that they did, accompanied by the full opportunity for informed electronic or telephonic comment by members of the public at the same meeting, notice of which is properly included on the posted agenda. Informed comment might in certain circumstances include the provision of any and all documents in the possession of the local agency related to the action taken, with electronic copies available to the public on request from the Board of Supervisors.

As provided by Section 54960.1, you have 30 days from the receipt of this demand regarding the previous meeting to either cure or correct the challenged action or inform us of your decision not to do so. Prospectively, as we understand that the next Board of Supervisors meeting is set for Monday, March 23, 2020, we demand that telephonic or electronic public access be in place for that meeting and all further Board of Supervisors meetings that occur during the order to shelter in place.

If you fail to cure or correct as demanded, such inaction may leave us no recourse but to seek a judicial invalidation of any prior actions pursuant to Section 54960.1, in which case we would also ask the court to order you to pay court costs and reasonable attorney fees in this matter, pursuant to Section 54960.5.

Respectfully yours,

Angelo Isaac Sandoval, Esq.
Attorney
Ella Baker Center for Human Rights

Maureen Kildee
Supervising Attorney
East Bay Community Law Center

cc Donna Ziegler, County Counsel
Nancy O'Malley, District Attorney