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BLC File(s): 2060.99

10 March 2022

Mayor and City Council
City of Lemon Grove
c/o City Clerk Audrey Malone
Via e-mail: amalone@lemongrove.ca.gov

Re: Demand for Cure and Correction of Violations of Ralph M. Brown Act; Notice of Intent to Sue

Dear Mayor and City Council:

On behalf of my client, Project for Open Government, I am writing to demand the cure and correction of multiple violations of the Ralph M. Brown Act (Government Code Section 54950 *et seq.*) committed by the City Council; and to notify you of my client's intent to sue the City for a determination of whether any rule or action by the legislative body to penalize or otherwise discourage the expression of one or more of its members is invalid under federal or state law.

I begin with the Brown Act violations.

Last month, at the direction of the City Council, the City Attorney sent a February 8, 2022 memorandum to everyone at City Hall. Among other things, the memo mandates that members of the Council deal with the internal and external services provided by the City only through the City Manager and not through either individual members of the staff or third-party contractors. If the action to approve this mandate did not appear on an agenda, then it would have been action taken in violation of Government Code Section 54954.2(a)(3) ("No action or discussion shall be undertaken on any item not appearing on the posted agenda...."). My client has been unable to find anything in the Council's agendas giving prior notice of any proposed action to approve this mandate, and thus my client believes that the Council violated the Brown Act when it approved the mandate.

Two days ago, Councilmember Jerry Jones publicly admitted at a City Council meeting that the Council had taken certain steps motivated by its antipathy toward the viewpoints and advocacy of Councilmember Liana LeBaron. Mr. Jones stated:

We've tried to take steps incrementally in order to deal with the situation, the interruptions, the dysfunction, and so on. The first step we took was the manual that we created, and we put restrictions not just on Councilmember LeBaron; we put restrictions on all of us, all of us. The last restriction we put on ourselves was, all contact between staff [and any member of the Council] would be made through the City Manager. And that wasn't a restriction on just Councilmember LeBaron; that was on all of us, because you know



obviously we cannot operate as a little, small city any more.... * * *
So we put that restriction on all of us. The memo went out. All
contact between the City Manager and the staff must be through the
City Manager.

My client has been unable to find anything in the Council's agendas giving prior notice of any proposed action to approve the so-called "last restriction," and thus my client believes that the Council has again violated the Brown Act.

Illegal action to block Councilmember LeBaron's access to staff is not your only Brown Act violation. Last week the City Attorney indicated, pursuant to instructions received from the City Council, that Councilmembers' access codes to City Hall have been revoked and the conference room has been locked (even when unused by others). Once more, my client has been unable to find anything in the Council's agendas giving prior notice of any proposed action to approve the revocation of Councilmembers' access codes for City Hall or keeping them out of the conference room when it is not in use, and so my client believes that the Council has once again violated the Brown Act.

I now turn to the City Council's punishment and discouragement of Councilmember LeBaron's exercise of federal, state, and local rights to expression on her own behalf and on behalf of her constituents.

The mandate, the "last restriction," and the physical-access revocation described above, collectively if not separately, deprive Councilmember LeBaron of her legal right as an individual member of the City Council to "deal with the administrative services of the city ... for the purpose of inquiry...." See Lemon Grove Mun. Code § 2.04.070(A). While the Municipal Code gives her the right of direct contact with all staff members for inquiry purposes, your mandate, last restriction, and access revocation each make it unduly difficult (if not impossible) for her to adequately respond to inquiries from her constituents and other members of the public. Each action violates her constitutional rights of expression (which are no less than the free-expression rights of any ordinary member of the public) as well as the applicable local legal authority.

Furthermore, by denying Councilmember LeBaron of a place to meet with her constituents on confidential or otherwise sensitive matters, you are outrageously burdening her freedom of expression and right of inquiry because she is left with no choice but to meet people in her own residence or in someone else's private residence or office. That would be bad enough at any point in history, but especially today – with all the social unrest and threats directed against public servants – your physical-access revocation forces Councilmember LeBaron and those with whom she meets to bear an unreasonable risk to their safety. There is a reason why City Hall is in the same building as – indeed, is right next door to – the Sheriff's Department. Whether for reasons of ethics or personal safety, elected officials and the public should not be forced to interact in an insecure setting.

For these reasons, my client respectfully demands that the City Council promptly cure and correct the foregoing Brown Act violations and the unlawful intrusion on Councilmember LeBaron's rights of expression and inquiry under federal, state, and local law. Under the Brown Act, the violations must be cured not more than 30 days after receipt of this letter. Please notify me *in*

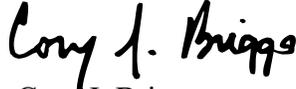


writing as soon as possible to let me know whether the violations will be cured/corrected and, if so, when the cure/correction will take place.¹ (My client may sue before receiving your response.)

Thank you for your prompt attention to this important matter.

Sincerely,

BRIGGS LAW CORPORATION


Cory J. Briggs

cc: Mayor Racquel Vasquez
Councilmember Jennifer Mendoza
Councilmember Jerry Jones
Councilmember Liana LeBaron
Councilmember George Gastil

¹ If you believe that the three actions did not violate the Brown Act, then please consider this a California Public Records Act request and please provide: (i) for each proposed action, any and all agendas identifying the proposed action; and (ii) for each approved action, any and all minutes reporting the approved action.

