



Housing Authority
of the
City of Alameda

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Sent:
Monday, October 13, 2025
10:49 AM

Subject:
Fwd: Error in released
Board of Commissioners
Agenda



From: Jay Faustini [REDACTED]
Sent: Monday, October 13, 2025 10:49 AM
To: Jhaila R. Brown <jbrown@goldfarbblipman.com>
Cc: Robert Shaye [REDACTED]
Subject: Fwd: Error in released Board of Commissioners Agenda

Dear Ms. Brown,

Thank you for your considered review of the Board's disclosure failures. And thank you for addressing some of my concerns regarding the Board's specific actions regarding the site at 2615 Eagle Ave.

It is rather distressing to be informed that the Board makes a regular practice of intentionally concealing discussions of litigation in closed session and verifying false information in the approved minutes.

And especially troubling is the admission that the Board's concealment extends beyond the inadvertent "mis-classifications" regarding the site at 2615 Eagle Ave. These were obviously not just "mis-classifications". Intent is clearly indicated in the series of misrepresentations of litigation discussions. I think "entirely fabricated disclosures" would be a more accurate way to describe the Board's actions.

Apparently litigation discussions were routinely disclosed and verified as having been only Real Estate Transactions with only "Price and terms of payment" being discussed. In fact, "Price and terms of payment" seems to be the Board's code words for actually discussing litigation without letting the public know.

I remind you and the Board that the safe harbor which the Board is relying upon to avoid repercussions from its improper acts does not diminish the magnitude of the apparent legal violations.

Additionally, in light the evident ongoing conspiracy to violate disclosure requirements, the postponement of the improperly disclosed Sept. closed session should not be viewed as an act of regulatory compliance in any way. And the agenda documents do make it seem as such.

Rather the postponement was an evasive act made in furtherance of the established scheme to conceal. When initially confronted with the disclosure errors, compliance should have taken the form of the simple disclosure of the truth, a disclosure that was eventually made properly in the October Agenda with only several words.

I understand that the Board's liability over improper disclosures may have expired for previous years. But I urge you to extend the scope of your audit to beyond just the scope of the Board's liability. Given the extent of the systematic concealment of the topics discussed in closed session in just this year, limiting the audit to such a short time frame also gives the appearance of a continued intentional cover-up of disclosure requirement violations.

The improper discussions in closed session that have been admitted to all appear to had no board action. But clearly this was an established scheme. Improper closed sessions occurring prior to 2025 may have had action taken. I urge you to discover if this is the case. There are other stakeholders in the community who deserve the truth about these improperly concealed discussions and any resulting Board actions. A response to this situation that fails to fully investigate the extent of the Board's violations is not really an adequate correction of the Board's violations.

Regarding the specific issues at hand, I have a concern that remains unaddressed regarding the adequacy of the Board's response to this closed session concealment scheme. I believe addressing this issue is necessary for the Board to fully claim the safe harbor offered under the Brown Act for all of their problematic actions.

I understand that during the audit, the focus was necessarily on all deliberately falsified disclosures contained in all of the closed sessions for all of the different sites located in the minutes and Agenda materials. But the false disclosures in the approved minutes are not the only questionable Board actions described in my emails. Overlooked were the issues I raised in my emails of September 25, 2025 and October 1, 2025 concerning the misleading and false statements made by the Board during the "correction" process.

Those emails also contained objections to the email sent by the Board's staff on September 22, 2025 (appearing in full below). At the time, the Board was aware of the "erroneous mis-classifications" made, was aware of the Board's regular practice of falsely disclosing litigation discussions and knew that litigation was the only topic that was actually discussed in closed session. Therefore, the email is rather problematic. Especially the actual correction offered:

"Closed Session Item No. 5A was pulled and the Board did not discuss the matter during closed session on September 17, 2025. In addition, no action was taken in connection with Closed Session Item No. 5.C on April 16, 2025. We will clarify the record in open session at the October Board meeting to notify the public of the mis-categorization.

I would like to assure you that no information has been shared in closed session that should have been made public.

All Board closed session discussions regarding 2615 Eagle Ave. to date have been authorized under Section 54656.8 in regard to the now completed purchase and future lease(s) of the real property. Additional public information will be available at several upcoming community meetings."

Given that the Board has finally admitted litigation was, in fact, the only topic discussed in the April closed session, these corrections of the "accidental mis-clarifications" contain deliberate distractions and false statements. These misleading and false statements made by the Board were intended to deceive the public and cover-up the ongoing scheme of intentionally concealing closed session discussions in violation of the Brown Act.

The first two sentences in corrections above are clearly intentional distractions. The last two sentences are false as well as being intentional distractions. Clearly litigation related information that should have been made public was shared in closed session, specifically the relevant Section 54956.9 disclosure information that the Board diligently struggled to keep improperly concealed. And the two potential topics offered as having possibly been discussed are clearly false: "*the now completed purchase*" which was concluded three years ago and some apparently fictional "*future lease(s)*".

What is especially disturbing is that the "Potential Litigation" was, in fact, a TRUE disclosure. And the email is clearly a deliberate attempt to obfuscate that fact. It is quite clear that the sender viewed the actual "error" that had been made was that a true disclosure was accidentally released which might reveal the scheme. The drafter was clearly attempting to cover-up the true disclosure by again falsely claiming the Board's favorite obfuscation (i.e. an imaginary real estate transaction).

The email of September 22 is rather cleverly crafted, and I could be wrong, but does not appear to be written by an executive assistant, even a senior one. The drafter was clearly continuing the scheme and perpetuating the cover-up of prior Brown Act violations. By again attempting to use the Board's established ruse: that the litigation discussion was "ONLY a discussion of a real estate transaction."

The disclosure corrections contained in the Board email of September 22 are Brown Act violations, in and of themselves. I have worked in your line of work, providing general counsel, both outside and in-house, and I would consider the drafting of that email as a fireable offense for cause due to its legal violations, regardless of the drafter's employment/contracting status. I urge you to consider the same. And if the language in this email was drafted by an attorney, there are also ethical concerns raised.

In the interest of allowing closure of these disclosure issues in a form acceptable to the Board, I believe that adding the below third item to the unconditional commitment letter to me will address the concern of the cover-up being overlooked. I trust you will agree. I have left the actions to be taken to your considered judgment. However, again, I do

suggest some disciplinary action for the drafter is appropriate; due to the severity of the violations committed during this deliberate attempt to cover-up the ongoing scheme.

This is very specific commitment and only binds the Board's actions in extremely limited situations. Given the circumstances and the Board's past actions, I believe this limited scope third item is appropriate and that its addition should not be objectionable to the Housing Authority. And I trust you agree, that as a general matter the public disclosure of these specific details of the attempted cover up is also warranted.

Given the above, and since there is some truth to the old trope "It's not the crime, it's the cover-up", I am requesting that the Board's unconditional commitments be revised as requested, so that their scope also covers the Board's problematic actions related to the cover-up of the established scheme.

Thank you for waiving the formal requirements for Brown Act cease and desist letters. In fact, I initially did not even consider my requests to rise to that level. At first I was simply requesting AHA to correct what appeared to be a simple disclosure error. Thank you for considering them as such.

Now that the wide extent of the disclosure violations is more apparent, I do agree that it is now proper that they should effectively function as cease and desist letters. And I trust you will continue to apply the waiver to my emails of September 25 and October 1 which are referenced above for the issues raised above. And to this email.

Also, there are some corrections needed to the Agenda, in the last paragraph on the bottom of page 2 there is an apparent typo: "*past allegation alleged*" should probably read "*past action alleged*" as in the other related sections.

And on page 5 there is an inaccurate characterization of my email of September 18.

The fifth line from the bottom states: "*The email also provides that the April 16, 2025 meeting minutes did not reflect such miscategorization.*" The email provided no such thing. Nor is it true that the minutes did not reflect "such miscategorization".

This erroneous sentence makes it appear that a correction was made in the minutes when, in fact, the minutes continued to show the original, intentionally false disclosure. My email of September 18 only referenced that no correction announcement was made. (The email was directly quoted correctly in the unconditional commitment letter to me, appearing on pages 10 and 18 of the Agenda.) Perhaps the sentence was meant to read "*meeting minutes did not **correct** such miscategorization*" instead of "*reflect*"? Please correct this due to the inaccurate impression the error creates.

Please let me know, if you are not willing to extend the waiver or unable to include the requested additions/corrections to the unconditional commitment letter and Agenda. And if so, also kindly include AHA's fax number that can receive a compliant cease and desist letter.

Also I would like the opportunity to make a public comment at the meeting. Please schedule me for before the Board members go into THE private session, the improper disclosure of which began all of this. And also after the session.

The Board has the discretion to allow public comments for longer than typical period for complicated matters as long as the extensions are not applied unreasonably or arbitrarily. I believe that, in this situation, it would not be unreasonable nor arbitrary to allow Mr. Shaye and I to address the only matter remaining on the Agenda without the overhang of a 3 minute limitation.

If you have concerns about the item added to the unconditional commitment letter, but have an alternate method of addressing the issue, please do not hesitate to contact me. I hope you agree that the cover-up was as bad as the crime in this instance, if not worse. And that it is necessary and proper to also address the actions taken in an attempt to cover-up the violations.

In conclusion, I have to say that in all my recent interactions with the Housing Authority, I am shocked and frankly appalled at AHA's embedded culture of secrecy and hostility toward the transparency required of a public agency. I trust that you, as general counsel, are committed to the remediation of this obvious problem and I look forward to a continuing dialog regarding these issues.

ITEM TO BE ADDED:

3. Emails of September 25, 2025. October 1, 2025 and October 13, 2025 regarding September 22, 2025 email from the Board containing corrections to minutes concerning April 16, 2025 Closed Session Item No.5.C .

False and misleading correction of mis-categorized caption identified:

"Closed Session Item No. 5A was pulled and the Board did not discuss the matter during closed session on September 17, 2025. In addition, no action was taken in connection with Closed Session Item No. 5.C on April 16, 2025. We will clarify the record in open session at the October Board meeting to notify the public of the mis-categorization. I would like to assure you that no information has been shared in closed session that should have been made public.

All Board closed session discussions regarding 2615 Eagle Ave. to date have been authorized under Section 54656.8 in regard to the now completed purchase and future lease(s) of the real property."

Concerns regarding the correction of the citation for closed session agenda and minutes including:

"Given that the Board has finally admitted litigation was, in fact, the only topic discussed in the April closed session, these corrections of the "accidental mis-clarifications" contain deliberate distractions and false statements. These misleading and false statements made by the Board were intended to deceive the public and cover-up the ongoing scheme of intentionally concealing closed session discussions in violation of the Brown Act."

Action taken: ...

Regards,

F. Jay Faustini Jr.

A solid black rectangular box redacting the signature of F. Jay Faustini Jr.