



Housing Authority
— of the —
City of Alameda

PHONE: (510) 747-4300
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TTY/TRS: 711

701 Atlantic Avenue • Alameda, California 94501-2161

Sent:
Tuesday, October 14, 2025
12:46 PM

Subject:
Re: Board's Unconditional
Commitment

Vanessa Cooper

From: Jay Faustini [REDACTED]
Sent: Tuesday, October 14, 2025 12:46 PM
To: Jhaila R. Brown
Cc: Vanessa Cooper; atorbitt@nixonpeabody.com; Carly Grob; Robert Shaye
Subject: Re: Board's Unconditional Commitment

[External Email]

Ms. Brown,

Thank you for the acknowledgement of yesterday's email. Kindly also provide acknowledgement of this morning's email below.

Since you mentioned only that you shared yesterday's email with your client, I have copied some AHA's Board/Staff to ensure their receipt of this morning's email as well.

I do await your decision on whether you will continue to waive formal cease and desist letter requirements.

And i await AHA's response regarding inclusion of the requested additions/corrections to the unconditional commitment letter and Agenda.

Also, I do need to request a prompt response regarding the comment time extension request. The request was made over 24 hours ago and I have not even received confirmation of any allowance to speak. And the meeting is in less than 24 hours. If the Board it going to enforce a time constraint, kindly let me know as soon as possible so that I may prepare my comment appropriately.

Please understand that I am not attempting to force unreasonable time frames for your responses. I am simply attempting to find an acceptable solution to all so that this entire false disclosure matter can be concluded by Wednesday.

Kindly also let me know if you will be responding by the time frame described in this mornings email below. Otherwise provide the proper fax number so that I may send a Brown Act compliant cease and desist letter regarding the unaddressed Board actions.

Thank you,

F. Jay Faustini Jr.
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

On 10/14/2025 9:57 AM, Jay Faustini wrote:

Ms. Brown,

Due to the AHA taking nearly a month to properly correct the intentional "errors" it made and releasing its Brown Act safe harbor claim just three business days before the Board meeting, we have very little time to resolve these issues.

I was very prompt responding to AHA incomplete Brown Act safe harbor claims, taking only 2 business hours. So I am requesting the same promptness in the 34 hours remaining before the meeting.

Kindly confirm receipt of the below email this morning

And please provide a decision on the extended public comment time requested by the end of the day.

And by noon tomorrow, kindly inform me of your position on actually addressing the cover-up and adding my suggested Item 3.

If you are unable to meet any of these deadlines, kindly let me know today and please also forward AHA's fax number for receiving compliant cease and desist letters.

Again, due to the Board's attempted cover-up, an inordinate amount of my personal time was spent obtaining what should have been a very simple required disclosure. Given the situation, I believe that the Board has waived its right to assert a time limit for the public comments Mr. Shaye and I would like to make on the topic, especially since there are no other topics on the Agenda. I trust you will agree.

Also, I'm sorry but with all of the descriptions that were spun by AHA during the cover-up to describe the deliberate errors, including both "mis-classification" and "mis-categorization", I made an error in and used "accidental mis-clarifications" in my suggested Item 3 text.

Of course, I meant to use the first term used in AHA's cover-up: *"accidental mis-classification"*. So, "accidental mis-clarifications" will need to be changed to "accidental mis-clarifications" in Item 3 when added to the Agenda materials.

I look forward to your prompt response.

Best Regards,

F. Jay Faustini Jr.

[REDACTED]

On 10/13/2025 10:48 AM, Jay Faustini wrote:

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 darning 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.
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

----- Forwarded Message -----

Subject:RE: Error in released Board of Commissioners Agenda

Date:Mon, 22 Sep 2025 23:35:48 +0000

From:Jasmine Polar <jpolar@alamedahsg.org>

To:Jay Faustini [REDACTED]

Good afternoon, Mr. Faustini:

Thank you again for your participation. 2615 Eagle Ave. is a development site owned by the Housing Authority of the City of Alameda, with additional information available

here: <https://link.edgepilot.com/s/835ade4b/UuLakKYkAUuKQ-W1jvzXIA?u=https://www.alamedahsg.org/project/poplar/>.

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. We look forward to your continued participation.

Best regards,
Jasmine Polar
Senior Executive Assistant
Housing Authority of the City of Alameda
701 Atlantic Avenue
Alameda, CA 94501
Phone: 510-747-4325
Email: jpolar@alamedahsg.org
Pronouns I use: she, her, hers



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From: Jay Faustini [REDACTED]
Sent: Sunday, September 21, 2025 1:59 PM
To: Jasmine Polar <jpolar@alamedahsg.org>
Subject: Re: Error in released Board of Commissioners Agenda

[External Email]

Great. And thank you for the prompt response Jasmine.

Have a nice weekend,

F. Jay Faustini Jr.

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

On 9/19/2025 9:37 AM, Jasmine Polar wrote:

Good morning, Mr. Faustini:

The Housing Authority of the City of Alameda (AHA) expects to respond to your inquiry next week.

Best regards,
Jasmine Polar
Senior Executive Assistant
Housing Authority of the City of Alameda
701 Atlantic Avenue
Alameda, CA 94501
Phone: 510-747-4325
Email: jpolar@alamedahsg.org
Pronouns I use: she, her, hers



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From: Jay Faustini [REDACTED]
Sent: Friday, September 19, 2025 7:48 AM
To: Jasmine Polar <jpolar@alamedahsg.org>
Subject: Fwd: Error in released Board of Commissioners Agenda

[External Email]

Hi Jasmine,

I was wondering when this error will be corrected. When can community can expect to receive the disclosures that should have been made last April?

Thank you for the prompt correction to the other accidental error. That correction was made in about 24 hours. Can we expect the same for this correction?

Best Regards,

F. Jay Faustini Jr.
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

----- Forwarded Message -----

Subject:Re: Error in released Board of Commissioners Agenda
Date:Thu, 18 Sep 2025 12:12:53 -0700
From:Jay Faustini [REDACTED]
To:Jasmine Polar <jpolar@alamedahsg.org>, Vanessa Cooper <vcooper@alamedaatorbitt@nixonpeabody.com <atorbitt@nixonpeabody.com>
CC:Robert Shaye [REDACTED]

Dear Ms. Cooper, Ms.Torbitt and Ms. Polar,

Thank you again for your prompt remediation of the accidental mis-categorization in the agenda for the September 17th Board of Commissioners meeting.

Unfortunately, this is not the first time AHA staff made this same mis-categorization error regarding a

discussion of the 2615 Eagle Ave. site in closed session.

The April 16 meeting also had a mis-categorization on its Agenda (Item 5C) and the minutes do not indicate any announcement at the meeting regarding the mis-categorization. Stakeholders within the community are also seeking clarification regarding the required disclosures for this closed session due to the error.

If the authorization cite of Section 54656.8 is correct, kindly provide the correct real estate transaction topic (purchase, sale, exchange or lease) that was the actual discussed topic under negotiation in the closed session (i.e. replacing "potential litigation").

If potential litigation was in fact the actual topic under negotiation that was discussed in the closed session, then kindly provide the additional Section 54656.9 disclosures required. We trust that you will agree the public is clearly entitled to the proper disclosures and the existing facts and circumstances regarding any potential litigation that may have been discussed in closed session last spring.

To correct the mis-categorization error, the correct information that should have been disclosed must be made public. We understand that a correction would only apply to the existing facts and circumstances as of the date of the closed session.

We look forward to the Board providing the required additional public information. Your prompt attention to this matter is appreciated.

Best Regards,

F. Jay Faustini Jr.
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

On 9/17/2025 9:29 AM, Jasmine Polar wrote:

Hello, Mr. Faustini:

Thank you for your participation and cooperation in identifying this accidental mis-categorization in our agenda. This Board of Commissioner agenda item will not be discussed during the September 17, 2025 meeting and will be moved to the next meeting (October 15, 2025).

We again thank you for your good attention.

Best regards,
Jasmine Polar
Senior Executive Assistant
Housing Authority of the City of Alameda
701 Atlantic Avenue
Alameda, CA 94501
Phone: 510-747-4325
Email: jpolar@alamedahsg.org
Pronouns I use: she, her, hers



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From: Jay Faustini [REDACTED]
Sent: Tuesday, September 16, 2025 10:24 AM
To: Jasmine Polar <jpolar@alamedahsg.org>; Vanessa

Cooper <vcoper@alamedahsg.org>
atorbitt@nixonpeabody.com
Cc: Robert Shaye [REDACTED]
Subject: Error in released Board of Commissioner
Agenda

[External Email]

Dear Ms. Cooper, Ms.Torbitt and Ms.
Polar.

I am writing to you it appears that there is
an error in the agenda that has been
released for of Alameda Housing
Authority's meeting of Board
Members/Commissioners. on Wednesday
September 17th.

Stakeholders within the community are
seeking clarification due to this apparent
error.

The section of the agenda that pertains to
the portion of closed session regarding the
property at 2615 Eagle Ave. cites Gov.
Code Sect. 54956.8. as authorization for
this portion of the closed
session, However, it also cites "potential
litigation" as the topic under negotiation.

Section 54956.8 only covers the purchase,
sale exchange or lease of real
property. This section does not appear to
apply, nor give authorization to discuss a
pending litigation topic in closed session.

If the topic of pending litigation is actually
incorrect, and the discussions will actually
be limited to the purchase, sale exchange
or lease of the property at 2615 Eagle
Ave., kindly inform stakeholders that
"pending litigation" appearing as the topic
under negotiation is in error.

The following Section 54956.9 actually covers litigation and potential litigation. And to discuss a potential litigation that is not yet filed, the section adds additional public disclosure requirements, including which sub-part of Section 54956.9 is being relied upon.

As the extra disclosures must be in the agenda or announced prior to the closed session, please inform us of any corrections and any additional required disclosures prior to the meeting, if possible.

If not possible, kindly confirm that a clarification of this apparent error will be announced at the meeting prior to the closed session.

I will also will like time to make a comment, obviously during the public comment section that is prior to the closed session.

Thank you.

Best Regards,

F. Jay Faustini Jr.
[REDACTED]
[REDACTED]
[REDACTED]