

# BRIGGS LAW CORPORATION

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11 September 2018

Dayna Bochco, Chair  
Jack Ainsworth, Executive Director  
California Coastal Commission  
45 Fremont Street, Suite 2000  
San Francisco, CA 94105

**Via Fax to 415-904-5400**

Re: Request to Cure Violation of Bagley-Keene Open Meeting Law

Dear Commissioner Bochco and Executive Director Ainsworth:

On behalf of my client, Spotlight on Coastal Corruption, I am writing to request that the California Coastal Commission cease and desist from violating the Bagley-Keene Open Meeting Law (Government Code Section 11120 *et seq.*; "Bagley-Keene"). As you know: "All meetings of a state body **shall be open and public** and all persons shall be permitted to attend any meeting of a state body **except as otherwise provided** in [Bagley-Keene]." GOV'T CODE § 11123(a). "Except as expressly authorized by [Bagley-Keene], no closed session may be held by any state body." *Id.*, § 11131.5.

According to every one of its published agendas since March of this year, the Commission has been meeting monthly in closed session to receive litigation information and advice regarding the lawsuit known as *Spotlight on Coastal Corruption v. Kinsey et al.*; the agendas do not identify the county in which the lawsuit is pending or provide a case number, but the lawsuit is known as San Diego County Superior Court case no. 37-2016-00028494-CU-MC-CTL. According to the agendas, the closed sessions have been based on the exception to the open-meeting requirement for pending litigation. This is illegal.

A state body may discuss pending litigation in closed session when there is a lawsuit "to which the state body is a **party**." GOV'T CODE § 11126(e)(2)(A) (emphasis added). The Commission is not a party to the *Spotlight* lawsuit. The Attorney General's office stated in writing that the Commission is a "non-party," and the Commission is not listed as a party in the court's register of actions. The defendants also informed the court that they were sued as private individuals sued in their personal capacities. Consequently, there is no legal basis for members of the Commission – a state body – to be discussing this lawsuit in closed session. The closed-session meetings are therefore unlawful and must stop.

I also want to remind the Commissioners of the following language in Bagley-Keene: "Each member of a state body who **attends a meeting of that body in violation of any provision** of [Bagley-Keene], and where the member intends to **deprive the public of information to which the member knows or has reason to know the public** is entitled under this article, **is guilty of a misdemeanor**." GOV'T CODE § 11130.7 (emphasis added). My client, its members, and other members of the public are keenly interested in knowing why the Commission is meeting in closed session to discuss a lawsuit to which the Commission is not a party. More importantly, they want



to know what you have been told and by whom, and what Commissioners have been saying and to whom, during those secret meetings. They also want to know what promises, commitments, and/or agreements have been made between the Commission (or any of its agents) and the defendants (and any of their agents).

According to the agenda for tomorrow's meeting, the Commissioners will again go into closed session to discuss the *Spotlight* lawsuit. If that happens, because of the intense public interest in the subject matter and outcome of the lawsuit, the Commissioners will be committing a crime by conducting that secret meeting.

Please notify me ***in writing*** no later than the close of business today whether tomorrow's closed-session meeting on the lawsuit will go forward. In addition, please let me know in writing no later than September 25, 2018, whether the Commission will cease and desist altogether from holding these illegal secret meetings.

Thank you for your prompt attention to this important matter.

Sincerely,

BRIGGS LAW CORPORATION

Cory J. Briggs

cc: Jack Ainsworth (John.Ainsworth@coastal.ca.gov)  
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