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RECEIVED
MAR 23 2012
BY CITY ATTORNEY

MEMORANDUM
March 16, 2012

TO: City Attorneys within the County of Riverside

FROM: Paul Zellerbach, District Attorney *P. E. Z.*

SUBJECT: Applicability of Government Code section 1222 Criminal Sanctions to Violations of Brown Act Closed Sessions

The Ralph M. Brown Act requires the "legislative bodies" of "local agencies" to hold their meetings open to the public unless expressly excepted by the Act or impliedly excepted by another provision of law pertaining to confidential communications. The Act contains numerous provisions authorizing the holding of closed sessions. The public policy reasons for authorizing closed sessions for public body deliberations are almost as numerous as the individual exemptions contained in the Act itself.

Not only does the Act authorize closed sessions, it specifies that the minute book containing "a record of topics discussed and decisions made at" a closed session "is not a public record . . . and shall be kept confidential" and "available only to members of the legislative body or . . . to a court" If the recording of a closed session discussion must be kept in confidence, it follows that oral communications of such information may not be made to the public.

Sanctions that may be imposed upon a person who discloses confidential information include barring the person from future closed sessions, obtaining an injunction against the person's public disclosures, or filing an accusation against the person for "willful or corrupt misconduct in office."

In addition, Government Code section 1222 provides as follows:

"Every willful omission to perform any duty enjoined by law upon any public officer, or person holding any public trust or employment, where no special provision is made for the punishment of such delinquency, is punishable as a misdemeanor."

In the case of *Alder v. City Council* (1960) 184 Cal. App. 2d 763, 774-775, the court specifically held that the misdemeanor sanction set forth in Government Code section 1222 applies to violations of the Brown Act. Therefore, public officials who violate provisions of the Brown Act will be subject to criminal prosecution, which may include up to six months in county jail and a fine of up to \$1,000.00.