



**Honorable Mayor and Members of the Hermosa Beach City Council**

**REPORT TO COUNCIL REGARDING A CEASE AND DESIST LETTER SENT BY FRANK ANGEL; REQUEST TO AUTHORIZE MAYOR TO EXECUTE AND SEND RESPONSE LETTER**

**CEQA:** The City finds that this action is not a project under the California Environmental Quality Act pursuant to Public Resource Code § 21065 and State Guidelines Section §§ 15061(b) & 15378.

(City Attorney Patrick Donegan)

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**Recommended Action:**

Staff recommends City Council:

1. Acknowledge receipt of the Cease and Desist Letter, and, to reflect the City's commitment to transparency, authorize the Mayor to execute and send a response letter (in substantially the same form attached hereto as **Attachment 1**) in order to avoid unnecessary litigation, but without admitting any violation of the Ralph M. Brown Act in connection with the challenged action; or
2. Provide alternative direction to staff.

**Executive Summary:**

The report addresses a "cease and desist" letter received from Mr. Frank Angel on March 31, 2025, alleging the City violated Brown Act section 54957.5(b)(1) by failing to make his email properly available for public inspection. Staff recommends City Council Acknowledge receipt of the Cease and Desist Letter, and, to reflect the City's commitment to transparency, authorize the Mayor to execute and send a response letter (**Attachment 1**).

**Background:**

On March 25, 2025, less than 2 minutes before the stated 2:00 p.m. agenda deadline to submit supplemental emails, Mr. Frank Angel submitted an email to the entirety of the City Council. Pursuant to Frank Angel's March 31, 2025 letter (**Attachment 2**), this correspondence was then forwarded to the City Clerk's office at a future time.

On March 31, 2025, the City received a "cease and desist" letter pursuant to Government Code sections 54960 and 54960.2 from Frank Angel. This letter, among other things, alleges that the City violated Government Code section 54957.5 (b)(1) and requests that the City acknowledge its violation of the Brown Act and unconditionally commit to cease and desist from, and not repeat alleged past violations.

### ***Past Council Actions***

<b>Meeting Date</b>	<b>Description</b>
<a href="#">March 25, 2025</a>	City Council received and filed a report on the City's STVR regulations.

#### **Discussion:**

The Brown Act provides a mechanism, under Government Code section 54960.2, for a member of the public to file an action to determine an agency's past compliance with the Brown Act by first submitting—within nine months of an alleged Brown Act violation—a clear description of the alleged violation. Submission of such a letter is known as a “cease and desist” request, and no legal action may be filed by any person to challenge an action taken by the City Council on Brown Act grounds unless and until this letter has been properly submitted, and the agency has not timely responded with an unconditional commitment to cease and desist from the challenged conduct.

The City takes every Brown Act allegation seriously. The Brown Act dictates that the City Council determine within 30 days of receipt of a demand to cease and desist from any alleged violation whether or not it will agree to an unconditional commitment to cease and desist and not repeat the past action that is alleged to violate the Brown Act.

Here, Frank Angel is not alleging that his email was not read or considered by the City Council; instead, he is arguing that the City did not comply with Government Code section 54957.5 (b)(1) in receiving and processing his email. Government Code section 54957.5 (b)(1) provides that:

“[[i]f a writing is a public record related to an agenda item for an open session of a regular meeting of the legislative body of a local agency and is distributed to all, or a majority of all, of the members of a legislative body of a local agency by a person in connection with a matter subject to discussion or consideration at an open meeting of the body less than 72 hours before that meeting the writing shall be made available for public inspection” at public office or location that the agency shall designate for this purpose or that the writing be immediately posted on the City website in a position that make it clear that the writing related to an upcoming agenda item.

Typically, this section is most applicable to supplemental reports or formal correspondence provided by City staff to the City Council. Here, we have the somewhat unique situation of Frank Angel sending an email to the City Council 3 hours and 2 minutes prior to the start of the meeting (and not availing himself to the public comment function on the City's website) and in this instance, it was not noticed by City staff and put on the agenda.

Government Code section 54960.2 allows the City, without admitting any violation of the Brown Act, to make an unconditional commitment to ceasing and desisting from the above-mentioned action. Rather than risk lengthy and costly litigation (particularly in light of Frank Angel’s existing lawsuit against the City), the City Council can view this as an opportunity to emphasize and restate its ongoing commitment to transparency, and to ensure that the City Clerk’s office is the location where future writings distributed to a majority of the City Council within 72 hours of a City Council meeting can be inspected. The City Council agenda was already updated to reflect this. This restated commitment to transparency does not require the City to acknowledge or admit that there has been any violation of the Brown Act and cannot be construed or admitted as evidence for any alleged violation at a later time.

**Environmental Review:**

This discussion is not a “project” subject to CEQA” because it has no potential to result in either a direct, or reasonably foreseeable indirect, physical change in the environment. (State CEQA Guidelines, § 15378(a).) In the alternative, the discussion falls within the “common sense” exemption set forth in State CEQA Guidelines section 15061(b)(3), which exempts activity from CEQA where “it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment.” Further this report and response letter is not a “project” as defined by Public Resource Code § 21065.

**General Plan Consistency:**

This report and associated recommendation have been evaluated for their consistency with the City’s General Plan. Relevant Policies are listed below:

*Governance Element*

**Goal 1. A high degree of transparency and integrity in the decision-making process.**

Policy:

- **1.4 Consensus oriented.** Strive to utilize a consensus-oriented decision-making process.

**Goal 2 The community is active and engaged in decision-making processes.**

Policy:

- **2.6 Responsive to community needs.** Continue to be responsive to community inquiries, providing public information and recording feedback from community interactions.

**Fiscal Impact:**

There are no fiscal impacts associated with the recommended actions.

**Attachments:**

1. Draft Response Letter
2. Frank Angel's March 31, 2025 Cease and Desist Letter

**Respectfully Submitted by:** Patrick Donegan, City Attorney

**Concur:** Myra Maravilla, City Clerk

**Legal Review:** Patrick Donegan, City Attorney

**Reviewed By:** Angela Crespi, Deputy City Manager

**Approved:** Suja Lowenthal, City Manager