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OFFICE OF THE ATTORNEY GENERAL  
State of California

GEORGE DEUKMEJIAN  
Attorney General

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OPINION	:	No. 81-1105
of	:	<u>JANUARY 22, 1982</u>
GEORGE DEUKMEJIAN	:	
Attorney General	:	
Clayton P. Roche	:	
Deputy Attorney General	:	
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THE HONORABLE LOUIS J. PAPAN, MEMBER OF THE ASSEMBLY,  
has requested an opinion on the following question:

Is it a violation of the Ralph M. Brown Act for members of a city council to hold a series of closed discussions with citizens having matters of business pending before them to gather or convey information regarding those matters where the discussions are held on successive dates and are so planned to insure that a quorum of the council will not be present at any given meeting?

CONCLUSION

It would be a violation of the Ralph M. Brown Act for members of a city council to hold a series of closed discussions with citizens having matters of business pending before them to gather or convey information regarding those matters where the

discussions are held on successive dates and are so planned to insure that a quorum of the council will not be present at any given meeting.

## ANALYSIS

In 63 Ops.Cal.Atty.Gen. 820 (1980) this office reached the following conclusion:

"It is a violation of the Ralph M. Brown Act [Gov. Code, § 54950 *et seq.*] for members of a community redevelopment agency or their staff to hold a series of closed meetings with the city council or the city planning commission to convey information regarding the agency's business on or about the same date despite the fact that a quorum of any governmental body is not present at any given meeting." (*Id.*, at p. 821.)<sup>1</sup>

We denominated such a series of meetings as "seriatim meetings." After analyzing the case law and opinions of this office with respect to what is a "meeting" within the open meeting requirements of the Ralph M. Brown Act, and the reasons for requiring that the deliberations as well as the actions of public bodies be conducted in public, we reasoned as follows:

"The 'seriatim meetings' held between the community redevelopment agency or its staff and the city council or city planning commission clearly fall within the purview of the purposes of the Ralph M. Brown Act, as indicated by the earlier opinions of this office, and as amplified by the court in the *Sacramento Newspaper Guild* case. A number of the members sufficient to constitute a *quorum* of the council and a *quorum* of the planning commission (and also perhaps a *quorum* of the redevelopment agency itself) are in the words of the court engaging in the 'collective discussion' and 'collective acquisition and exchange of facts preliminary to the ultimate decision' albeit they do so in a series of meetings and not in a single meeting. The right of the public is clearly thwarted by having these meetings held in closed session. This is demonstrated by the fact that in some instances the particular matter is abandoned by the redevelopment agency itself, thus demonstrating that even action may be taken with no public knowledge or discussion. This is further demonstrated by the fact that in some instances the matters discussed at the 'seriatim meetings' are approved at the city level with little or no public discussion. The danger pointed out by the court above is brought to fruition, since the informal meetings' will have in some

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<sup>1</sup> All section references are to the Government Code.

instances permitted the crystallization of secret decisions to a point just short of ceremonial acceptance.' Finally, this is also demonstrated by the fact that in certain instances matters discussed will be delayed for long periods of time between the 'seriatim meetings' and their appearance on the city council's agenda, thus perhaps delaying public knowledge on matters in which the public is interested and as to which the public has a right to be informed. Thus, the public's right to be informed *at all stages of the legislative or administrative processes* of its governing bodies is nullified." (*Id.*, at pp. 827-828.)

We then also pointed out that such "seriatim meetings" would not fall within the "less than a quorum" exception to the open meeting requirements of the Ralph M. Brown Act. This is so because the exception contemplates that the "less than a quorum" of the body will report back to the parent body where there will *then* be a full opportunity for public discussion of matters not already considered by the full board or a quorum thereof. Finally, we also pointed out and concluded that such seriatim meetings" would also violate the public notice requirements of the act with respect to "special meetings." (§§ 54956, 54956.5.)

This request for our opinion now posits the question whether it would also be a violation of the open meeting requirements of the Ralph M. Brown Act for members of a city council to hold a series of closed discussions with citizens having matters of business pending before them to gather or convey information regarding those matters where the discussions are held on successive dates and are so planned to insure that a quorum of the council will not be present at any given meeting.

We assume the question as posed presupposes that the city council itself either plans such "seriatim meetings" with its citizens or that its members collectively are aware of and concur in the holding of these "seriatim meetings." In such case, the reasoning of our opinion in 63 Ops.Cal.Atty.Gen. 820, *supra*, is equally applicable to these meetings. Insofar as the city council is concerned, the only distinction between our 1980 opinion and the facts presented herein is that the former opinion considered meetings with other public officers or employees whereas this opinion considers similar meetings with private citizens. With certain limited exceptions not applicable herein,<sup>2</sup> the open meeting requirements of the Ralph M. Brown Act are the same whether the city council or other local legislative body meets with public officers or employees, or with private citizens, or with both, where the public's business is discussed. (See §§ 54950, 54953.) In short, this

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<sup>2</sup> *E.g.*, the city council can meet in private to instruct its representatives in "meet and confer" sessions (§ 54957.6) or can meet with law enforcement officers in closed sessions with respect to matters of public security (§ 54957).

request for our opinion presents only a factual distinction, not a legal distinction, from the situation we considered in 63 Ops.Cal.Atty.Gen. 820, *supra*. Accordingly, the same conclusion obtains in both cases.

In so concluding, however, we do not intend to intimate that individual councilmembers may not discuss matters of public concern with their constituents. Nor do we intend to intimate that private citizens may not approach and discuss their public business with individual councilmembers. The Ralph M. Brown Act does not purport to regulate the individual conduct of individual councilmembers. Nor does it purport to regulate private conduct. In our 1980 opinion, and herein, we merely conclude that the act regulates the meetings of public bodies such as city councils, and that "seriatim meetings," that is, meetings planned by or held with the collective concurrence of a quorum of the body to privately discuss the public's business, constitute a "meeting" within the purview of the act.

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