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From: **Adriana Valencia** <avalenc@gmail.com>

Date: Mon, Feb 10, 2025 at 10:25 PM

Subject: Concerns regarding the AC Transit Board of Directors November 13, 2024 Closed Session Meeting

To: <dshaw@actransit.org>, <mmccalley@actransit.org>, <jyoung@actransit.org>, <cpeeples@actransit.org>, <ssyed@actransit.org>, <jwalsh@actransit.org>, <acsilva@actransit.org>

Cc: <asteele@actransit.org>

February 10, 2025

Dear President Diane Shaw and Members of the Board of Directors:

This letter is to call your attention to what I believe are substantial violations of a central provision of the Ralph M. Brown Act, one which may jeopardize the finality of the action taken by the Board of Directors of the Alameda-Contra Costa Transit District, a California Public Transit Agency (“AC Transit” or “The District”).

In its closed session meeting of November 13, 2024, the AC Transit Board of Directors took action to approve a Settlement Agreement and Mutual Release of All Claims and to create an employee classification of Senior Advisor and to appoint Michael Hursh to this role. In so doing, the Board of Directors took “action” as defined in Govt. Code 54952.6 because: a majority of the members took an actual vote when sitting as a body or entity, upon a motion, proposal, resolution, order or ordinance.

The actions violated the Brown Act because:

It was taken in closed session on a matter the Act does not permit to be discussed in closed session. The November 13, 2024 agenda did not include an item to create the employee classification of Senior Advisor with a compensation package equal to the compensation package Michael Hursh received as General Manager/Chief Executive Officer and to make the appointment of the proposed employee to the position.

It was taken on a matter that was not properly described in the agenda for the meeting at which the action was taken, and none of the exceptions specified in Gov. Code § 54954.2(b) was satisfied. If the action could properly be discussed in closed session, it was not sufficiently described in the closed session agenda. The November 13, 2024 agenda item “Potential Litigation” did not include an explanation as to the nature of the threat or the identity of the claimant making the threat. If the District had received a letter or a claim, and did not reference or include it, that is a violation.

As you are aware, the Brown Act creates specific agenda obligations for notifying the public with a “brief description” of each item to be discussed or acted upon, and also

creates a legal remedy for illegally taken actions — namely, the judicial invalidation of them upon proper findings of fact and conclusions of law.

Pursuant to that provision (Government Code Section 54960.1), I demand that the Board of Directors cure and correct the illegally taken action to redress the illegality and provide the public the awareness and opportunity to comment of which it was deprived as follows:

1. The formal and explicit withdrawal of any commitment made
2. The Settlement Agreement with Michael Hursh be rescinded
3. The disclosure at a subsequent meeting why individual members of the legislative body took the positions — by vote or otherwise — that they did, accompanied by the full opportunity for informed comment by members of the public at the same meeting, notice of which is properly included on the posted agenda. Informed comment includes the provision of any and all documents in the possession of AC Transit related to the action taken, with copies available to the public on request at the offices of the agency and also at the meeting at which reconsideration of the matter is to occur.
4. If the District elects to reconsider the matter, the meeting at which reconsideration of the matter is to occur to include on the posted agenda an explanation as to the nature of the threat of litigation, the identity of the claimant making the threat, and the letter or claim,, or reference to it, if the District had received a letter or claim.
5. If the District elects to reconsider the matter, the meeting at which reconsideration of the matter is to occur to include on the posted agenda an open session item to create the employee classification of Senior Advisor and to make the appointment of the proposed employee to the position in open session.

As provided by Section 54960.1, you have 30 days from the receipt of this demand to either cure or correct the challenged action or inform me of your decision not to do so. If you fail to cure or correct as demanded, such inaction may leave me with no recourse but to seek a judicial invalidation of the challenged action pursuant to Section 54960.1, in which case I would also ask the court to order you to pay my court costs and reasonable attorney fees in this matter, pursuant to Section 54960.5.

Respectfully yours,

Adriana Valencia

cc Aimee Steele, General Counsel/Chief Legal Officer