2d Civil Case No. B254639

COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION 3

CASTAIC LAKE WATER AGENCY
Plaintiff & Appellant,
v.
NEWHALL COUNTY WATER DISTRICT, ET AL.
Defendant & Respondent,

After a Decision by
Los Angeles County Superior Court Case No. BS144162
The Honorable Luis A. Lavin, Judge Presiding

APPLICATION OF THE LEAGUE OF CALIFORNIA CITIES TO FILE *AMICUS CURIAE* BRIEF IN SUPPORT OF RESPONDENT NEWHALL COUNTY WATER DISTRICT; AND PROPOSED BRIEF OF *AMICUS CURIAE*

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TO BE FILED IN THE COURT OF APPEAL **APP-008**

COURT OF APPEAL, Second APPELLATE DISTRICT, DIVISION Three	Court of Appeal Case Number: B254639
ATTORNEY OR PARTY WITHOUT ATTORNEY (*Name, State Bar number, and address*): Michael Jenkins, SBN 81997 — Christi Hogin, SBN 138649 Jenkins & Hogin, LLP 1230 Rosecrans Avenue, Suite 110, Manhattan Beach, CA 90266 TELEPHONE NO.: 310-643-8448 FAX NO. (*Optional*): 310-643-8441 E-MAIL ADDRESS (*Optional*): CHogin@LocalGovLaw.com ATTORNEY FOR (*Name*): Amicus Curiae, League of California Cities	Superior Court Case Number: BS144162
	FOR COURT USE ONLY
APPELLANT/PETITIONER: Castaic Lake Water Agency RESPONDENT/REAL PARTY IN INTEREST: Newhall County Water District, et al.	

CERTIFICATE OF INTERESTED ENTITIES OR PERSONS

(*Check one*): ☑ INITIAL CERTIFICATE ☐ SUPPLEMENTAL CERTIFICATE

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1. This form is being submitted on behalf of the following party (*name*): Amicus Curiae, League of California Cities

2. a. ☑ There are no interested entities or persons that must be listed in this certificate under rule 8.208.

   b. ☐ Interested entities or persons required to be listed under rule 8.208 are as follows:

Full name of interested entity or person	Nature of interest (*Explain*):
(1)	
(2)	
(3)	
(4)	
(5)	

☐ Continued on attachment 2.

The undersigned certifies that the above-listed persons or entities (corporations, partnerships, firms, or any other association, but not including government entities or their agencies) have either (1) an ownership interest of 10 percent or more in the party if it is an entity; or (2) a financial or other interest in the outcome of the proceeding that the justices should consider in determining whether to disqualify themselves, as defined in rule 8.208(e)(2).

Date: January 6, 2015

Christi Hogin
(TYPE OR PRINT NAME)

▶ Christi Hogin
(SIGNATURE OF PARTY OR ATTORNEY)

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APPLICATION FOR PERMISSION TO FILE
AMICUS CURIAE BRIEF

TO PRESIDING JUSTICE JOAN D. KLIEN AND THE HONORABLE ASSOCIATES JUSTICES OF DIVISION 3 OF THE SECOND APPELLATE DISTRICT COURT OF APPEAL:

The League of California Cities, pursuant to subdivision (c) of Rule 8.200 of the Rules of Court, respectfully requests permission to file the accompanying *amicus curiae* brief in support of the Newhall County Water District.

The League is an association of 473 California cities united in promoting open government and home rule to provide for the public health, safety, and welfare of their residents, and to enhance the quality of life in California communities. The League is advised by its Legal Advocacy Committee, which is comprised of 24 city attorneys representing all regions of the State. The committee monitors appellate litigation affecting municipalities and identifies those cases, such as the matter at hand, that are of statewide or nationwide significance.

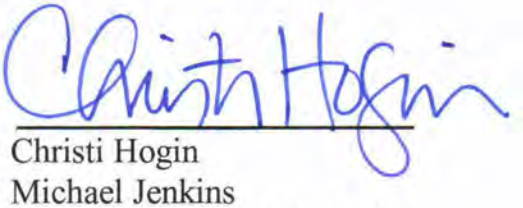
The League and its member cities have a substantial interest in the outcome of this case. All League members are governed by "legislative bodies" subject to the Brown Act. The Brown Act determines procedures by which California realizes its commitment to transparent governance at the local level. The Brown Act is designed to encourage legislative bodies to respond to the concerns of the public about their compliance with the requirements of the Act – whether or not meritorious – and creates administrative cures that eliminate otherwise colorable claims under the Brown Act. In this way, the Act both establishes the practices that constitute open government and provides a mechanism for the public to be assured those practices are followed.

The League's members are intensely interested in the application of these cure provisions of the Brown Act because they serve to avoid costly and resource-consuming litigation. The cure provisions also create a mechanism to avoid delay in making and implementing legislative decisions. At issue in this case is the determination of whether a cure was effective for the purposes of invoking the provision of the Act requiring dismissal of litigation alleging a Brown Act violation (Gov't Code §54960.1(e)). The League urges the Court to adopt a standard that is true to the intended purpose of the cure provision – that is, to enable the local government to act openly, cure alleged violations and thereby avoid litigation.

The League's perspective on this important matter will provide the Court a broader view of the role of the Brown Act cure provisions in transparent government and efficient resolution of disputes over minor transgressions or disagreements over interpretation of the statute. The League urges the Court to consider this context in reaching an appropriate decision in the case at bar. The League's counsel is familiar with the issues involved. Additional briefing is useful on this matter and, therefore, we request this honorable Court grant leave to allow the filing of the accompanying *amicus curiae* brief.

Dated: January 7, 2015

Respectfully submitted,

By: 

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I. INTRODUCTION

The Legislature designed the Brown Act to avoid cases like the one at bar. The Brown Act establishes procedures for the conduct of open meetings and public government decisionmaking at the local level. Wise to the fact that politics or self-interest will sometimes motivate litigants who invoke procedural statutes, before filing a lawsuit under the Brown Act, the statute requires an aggrieved party to demand in writing that the local agency cure an alleged violation.[1] The local agency may take that opportunity for an administrative fix even if no violation occurred[2] and, for all kinds of reasons including allaying public perceptions or staving off costly-though-unmeritorious litigation, local governments often do.

Even after litigation is filed, the Brown Act patently favors compliance over litigation: the Act requires the court to dismiss a case with prejudice where the local agency demonstrates that an alleged violation has been cured.[3] In this way, the Act is fashioned to prescribe the method of local decisionmaking but not impede it. If all goes according to the statutory scheme, courts will adjudicate only certain[4] alleged violations where a local agency either refuses to cure or correct them or where there is dispute over the adequacy of cures. All other allegations of Brown Act violations – whether or not meritorious – can be corrected at the local level thereby either barring the filing of a lawsuit or requiring its dismissal, depending on whether the local agency undertook the cure before or after the lawsuit was filed.

In this case, the Newhall County Water District acted within its authority when it authorized the filing of a lawsuit against Castaic Lake

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[1] Gov't Code §54960.1(b)
[2] Gov't Code §54960.1(f)
[3] Gov't Code §54960.1(e)
[4] The Brown Act only authorizes judicial review of certain enumerated provisions of the Act, which are catalogued, *infra*, at footnote 7.

Water Agency and did so in substantial compliance with the Brown Act, having provided adequate public notice of that action prior to authorizing the lawsuit. *See* CT at 81-83. The Brown Act requires that the legislative body of a local agency tell the public in advance that it intends to discuss initiation of litigation in closed session with its legal counsel.[5] No one doubts that Newhall's posted agenda met those requirements; and no one disputes that the Government Code subsection cited on the agenda was a few months out-of-date at the time the agenda was posted.

Pointing to the incorrect Government Code reference within the agenda description "CLOSED SESSION. Conference with Legal Counsel…to discuss potential litigation," Castaic alleges the closed session was convened in violation of the Brown Act. Castaic contends the failure to cite to the recently re-lettered subsection rendered the otherwise authorized closed session action to be a violation of the Brown Act.

In response to the cure demand letter from Castaic, Newhall took certain actions to effect a cure: Newhall publically noticed and reconsidered the filing of the lawsuit at an open meeting. CT at 85-88. At the meeting held in response to Castaic's demand, the Newhall board could have changed its mind about pursuing the action and directed the lawsuit be dismissed; or the Newhall board could have decided (as it did) to ratify the decision and move forward. The salient point is this: at the meeting at which Newhall undertook its cure it had the same options available to it – no less and no more – than when it took its original action allegedly in violation of the Brown Act. That circumstance is the paradigm of an adequate cure.

The Legislature enacted the Brown Act to advance an important ideal and it simultaneously showed little patience for the Act to be used trivially or used to impair the conduct of local government. Indeed, the

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[5]Gov't Code § 54954.2

Legislature devised a scheme that would allow local governments to address all allegations in the first instance, in most cases keeping the work of local government in city halls and district offices where it belongs. Judge Lavin's decision in this case was in keeping with the requirements and purpose of the Brown Act and, for the reasons set forth herein, the League of California Cites respectfully submits that it should be affirmed in its entirety.

II. THE STATUTORY FRAMEWORK

Woven into the fabric of the American model of democracy is a healthy skepticism of the institutions of government created by the People to serve the People. Government Code section 54950[6] states its purpose plainly:

> "The people of this State do not yield their sovereignty to the agencies which serve them. The people, in delegating authority, do not give their public servants the right to decide what is good for the people to know and what is not good for them to know. The people insist on remaining informed so that they may retain control over the instruments they have created."

The Brown Act mandates procedures by which Californians can monitor those to whom local government power is delegated. It is an entirely procedural statute, neither defining nor constraining the powers of local governments. Its purpose, as bluntly put by the Legislature, is to keep the public informed. Because it regulates the method of government but not its discretion, the Brown Act serves as a border between the separated powers of lawmaking (legislative) and enforcement (judicial).

Generally speaking, deliberations and actions of local legislative bodies must be open and public and the public must be afforded meaningful access to the decisionmaking process. Toward this end, the Act requires

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[6]All further references are to the California Government Code.

the meetings of local legislative bodies be open to the public, usually held on a regular schedule, and conducted according to an agenda made available in advance of the meeting. §§ 54953, 54954, 54954.2. Conversely, the Act prohibits action on items not placed on the agenda and limits the types of actions a local legislative body may take in closed session. §§ 54954.2, 54956.7-54957.

There are circumstances under which the public served by a legislative body would be disserved by public deliberations. For example, a local agency may not be able to negotiate the best price to purchase property if it had to consult with its negotiator publically; the seller would likely be in the front row to learn the negotiator's maximum authority. A local agency would also struggle to recruit top management if every performance evaluation had to be conducted publically; invariably public personnel evaluations would compromise candor or privacy, either way to the detriment of the public served. And, as is relevant here, if a local agency were required to confer publically with its legal counsel regarding litigation strategy, one would expect opposing counsel in a ringside seat. Thus, for the purpose of protecting the interests of the public, in those defined circumstances that demand it, the Brown Act allows for closed sessions. *See* Gov't Code §§ 54956.7 (license applications for rehabilitated criminals), 54956.75 (response to confidential draft report from Bureau of State Audits), 54956.8 (confer with real property negotiator regarding price and terms of payment), 54956.81 (investment of pension funds); 54956.86 (health care plan providers to hear certain health plan complaints), 54956.87 (governing board of health care plan providers regarding contract negotiations for health care services), 54956.9 (confer with counsel regarding pending litigation), 54956.95 (joint powers insurance pool over

tort, workers' comp or other claims), 54957 (personnel matters), 54957.6 (confer with negotiator regarding labor negotiations), 54957.8 (multijurisdictional law enforcement agencies regarding ongoing investigations), 54957.10 (discuss employee request to withdraw deferred compensation due to financial hardship).

Section 54960.1 permits interested persons to file lawsuits to determine if the local legislative body complied with certain provisions[7] of the Brown Act. "To state a cause of action, a complaint based on 54960.1 must allege (1) that a legislative body of a local agency violated one or more enumerated Brown Act provisions; (2) that there was 'action taken' by the local legislative body in connection with the violation; and (3) that before commencing the action, plaintiff made a timely demand of the legislative body to cure or correct the action alleged to have been taken in violation of the enumerated statutes, and the legislative body did not cure or correct the challenged action. (¶) If the legislative body cures or corrects the alleged violation of the Brown Act, the action shall be dismissed and such cure or correction shall not be construed as evidence of a violation of the Brown Act. (§ 54960.1, subds. (e) and (f).)" *Boyle v. City of Redondo Beach* (1999) 70 Cal.App.4th 1109, 1116-17.[8] Section 54960 permits an

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[7]The provisions of the Brown Act subject to enforcement by the court after the local agency has been provided an opportunity to cure or correct the alleged violations are sections 54953 (generally requiring open meetings and allowing teleconferencing under certain circumstances), 54954.2 (requiring posted agendas and limiting action to agenda items), 54954.5 (providing safe harbor descriptions for closed session items where agenda descriptions substantially comply), 54954.6 (requiring public meetings regarding new or increased tax or assessment), and 54956.5 (providing for emergency meetings).

[8]It is generally accepted that a cure is advisable in most circumstances when a Brown Act violation is alleged—even when the allegations are unfounded—in order to remove implications of misconduct and eliminate the risk of suit and the related expense. Indeed, that is what Newhall County Water District did.

action to prevent a threatened or ongoing violation or to determine whether a practice complies with the Act. Section 54960 also authorizes a court to determine whether a past action of a legislative body violated the Act if the challenger made a demand for and the legislative body refused to make an unconditional commitment not to engage in such practice. *See* Gov't Code §54960.2.

An action by mandamus or injunction alleging a Brown Act violation "shall be dismissed with prejudice" if the alleged violation has been cured or corrected by a subsequent action of the legislative body. §54960.1(e).

III. A CURE IS ADEQUATE IF IT IS MADE IN COMPLIANCE WITH THE BROWN ACT'S PROCEDURAL REQUIREMENTS AND THE AVAILABLE OPTIONS ARE NOT LIMITED BY AN ACTION MADE IN VIOLATION OF THE ACT

In this case, Appellant contends that a legally adequate cure requires more than (1) properly placing the question of whether to ratify the authorization to file a lawsuit on an agenda for an open and public meeting, (2) providing the public notice of the meeting, (3) providing members of the public an opportunity to be heard (4) prior to deliberating publically and making the decision – all done in strict compliance with the Act. Although Appellant wants more than that, the Brown Act requires only that. The Brown Act's purpose is fulfilled when the legislative body's deliberation and action on an item is conducted at a publicly noticed meeting with the public having been afforded notice and an opportunity to address the legislative body before the action is taken. §§ 54954.2(a), 54954.3(a). And that is all a court enforces – indeed the Brown Act requires dismissal of a

lawsuit once the court is satisfied an alleged violation has been cured.

The Brown Act does not specify how to cure or correct a violation. However, it is generally accepted that the best method is to rescind the action complained of and start over. *Open & Public IV, A Guide to the Ralph M. Brown Act*, 2d Ed. rev. 2010, League of California Cities, p. 47. (www.cacities.org/openandpublic). Rescission of an action taken in violation of the Brown Act effectively cures the violation. *Boyle v. City of Redondo Beach, supra,* 70 Cal.App.4th at 1117-19. Indisputably, rescission un-does an action; but rescission is not always required to re-do an action.

To cure an action taken in violation of the Brown Act, the local agency must either undo the action or do it right. Appellants appear to contend that every cure requires the agency to both undo the action and do it right. Certainly, there will be circumstances where an effective cure may require that a prior action be undone – to clear the slate – in order that all possible options are open to the local agency at the time that an action is (re)taken at a properly noticed open and public meeting. But that is not always (and not often) the case. Yes-or-no decisions necessarily supplant the opposite outcome; to choose one is to reject (or un-choose) the other.

In *Boyle v. City of Redondo Beach* (1999) 70 Cal.App.4th 1109, the court accepted the Redondo Beach City Council's rescission of a prior action as a cure of an unauthorized discussion of a pending litigation matter at a prior meeting. The subsequent challenge alleged the City Council violated the Brown Act "by adding to the agenda an item of new business not previously noticed." *Id.* at 1114. And while the Court found that no violation actually was pleaded because no there was no "action taken" within the meaning of the Act, the Court also concluded that the City Council's do-over would effectively cure the alleged violation, had there

been one. The alleged violation was discussing an item not properly posted on an agenda; the cure was un-doing any prior action and properly noticing the discussion in compliance with the Act.

By contrast, in *Page v. Mira Costa Community College Dist.* (2009) 180 Cal. App.4th 471, the court found a cure inadequate where the local agency merely reconsidered a settlement agreement that had culminated a negotiation conducted outside public meetings in violation of the Brown Act. There, the violation was depriving the public of its right "to monitor and provide input on the Board's collective acquisition and exchange of facts" *Id.* at 505. Re-considering the resulting settlement agreement did not address the Brown Act violation; the *Page* court rejected the cure that did not address the alleged violation.

In the case at bar, the alleged violation is akin to the *Boyle* case insofar as the allegation relates to the quality of the public notice. By providing adequate notice and affording the public an opportunity to be heard prior to re-consideration of the decision to pursue litigation against Castaic, Newhall cured the alleged violation.

A. Rescission is not a prerequisite to an adequate cure; adequacy is measured by whether the Brown Act's purposes are served

Castaic suggests the decision to pursue litigation against it could only be made in compliance with the Brown Act *after* the District Board rescinds its initial authorization to file the lawsuit and the District Counsel actually dismisses the lawsuit, rendering the slate clean and putting Newhall back where it was before the authorization to file was given, purportedly in violation of the Brown Act. The facts in this case simply do not require such action to satisfy the public notice and participation dictates of the Brown Act. Reconsideration is a true "do over," in that the local

agency can take or un-take the action at the public meeting. The question of whether to file litigation is functionally the same as whether to ratify the filing of a lawsuit. The public is afforded the same opportunity to address the matter regardless of the form in which the question is presented.

B. Requiring rescission as a prerequisite could create unintended consequences

It is worth mentioning that the circumstances presented in the case at bar would be further complicated if a statute of limitations would bar the refiling of the litigation after the public meeting on the cure demand. If the cure required previously filed litigation be dismissed before it is refiled, the result would be to preclude the otherwise permissible governmental action. The Brown Act was not designed to create bars to achieving the legitimate government purpose, just to require public access to the decisionmaking. If dismissing the litigation created a bar to refiling it, requiring dismissal as part of the "cure" would deprive the local agency and the public it serves of the opportunity to decide whether to pursue the litigation.

By including on a public agenda the question of whether to ratify the decision to file the lawsuit, Newhall placed itself and the public in the same position that Newhall was in at the time of the alleged Brown Act violation. If it had dismissed the litigation first, it may have imposed a consequence not intended by the Brown Act. The Brown Act is a tool of transparent government, not a weapon of civil procedure.

Indeed, the Legislature expressly exempts certain actions from being voided by a court specifically because voiding the action may create other liability or where the purposes of the Act were in effect satisfied, by either substantial compliance by the local agency or actual notice by the challenger. Gov't Code §54960.1(d) (1)(substantial compliance), (2)(action

involved sale of bonds or related contracts), (3)(action created certain contractual obligations on which other party has detrimentally relied), (4)(tax collection matters), and (5)(challenger had actual notice). Such exemptions are consistent with the Brown Act's function as a procedural statute to protect public participation and not a means of thwarting actions taken by local agencies within their discretion and authority.

C. If rescission were required, it should only be for those actions which could only have been taken by the legislative body

As corporate general counsel, the District Counsel possessed sufficient authority to file the lawsuit to preserve Newhall's legal position and to seek ratification after the filing. This is not uncommon among agencies subject to the Brown Act or other procedural rules that limit their ability to act quickly. As such, when it insists that the previously authorized lawsuit must be dismissed before Newhall may properly ratify its filing, Castaic relies on a faulty premise that prior-Board action was required to file the lawsuit initially.

D. Cures should be encouraged because, even where no violation occurred, they increase opportunity for public participation consistent with the purpose of the Brown Act

It is generally accepted that a cure is advisable in most circumstances when a Brown Act violation is alleged—even when the allegations are unfounded—in order to remove implications of misconduct and eliminate the risk of suit and that related expense. Indeed, that is what Newhall County Water District did.

The Brown Act provides that, if descriptions of matters to be discussed in closed session are posted on the agenda "in substantial compliance" with the text suggested by the Act, the local agency complies

with the Act's agenda posting requirements. Gov't Code §54954.5; *see also* City Atty Dep't, League of Calif. Cities, *California Municipal Law Handbook,* (CEB 2014 Ed.) §2.34. In this case, Newhall posted the compliant text, although the Government Code subsection reference was out-of-date. Having substantially complied, no cure was necessary. To the extent that a court must measure the adequacy of a cure against the restored benefit to the public resulting from curing or correcting the alleged violation, the fact that the public suffered no deprivation tips the scales toward a finding of adequacy.

The category of business at issue in this case – the decision whether to initiate litigation – requires the absolute least amount of information provided in advance to the public under the Brown Act. The statutory safe harbor notice states only that the legislative body will conduct a closed session conference with legal counsel regarding the potential initiation of litigation and requires notice of the number of cases under consideration. Nothing more. An effective cure satisfies the purpose of the violated provision. Nothing less.

In *Boyle*, the court concluded that the cure to holding a discussion on an item not properly on the agenda was to rescind any action taken and reconsider the item at a properly noticed meeting. 70 Cal.App.4th at 1118. In *Page*, the court concluded that the cure to a majority gathering and evaluating facts outside a public meeting required a public meeting at which the items not authorized for closed session were subject to public input and deliberation. 180 Cal.App.4th at 505. In the case at bar, the alleged violation of a mis-cited code section is cured effectively when the matter is re-noticed and re-considered. The purpose of the notice is to give the public an opportunity to give input before an action is taken. Newhall

proceeded to cure the alleged violation by providing the required notice and opportunity to be heard (and then some because Newhall chose to deliberate in public). CT at 85-88.

If a member of the public read Newhall's agenda and questioned whether the Board had the legal authority to convene a closed session for the purpose stated on the agenda (and no one has questioned that), even with the misdirection caused by the out-of-date subsection, any interested person would have easily found the re-lettered part of Government Code section 54956.9 authorizing a closed session to discuss initiation of litigation. In other words, the error on the agenda did not frustrate the purpose of the notice.

Because Newhall County Water District demonstrated that its Board effectively cured the violation alleged, Castaic Lake Water Agency cannot state a cognizable claim for relief under section 54960.1. *Boyle v. City of Redondo Beach, supra,* 70 Cal.App.4th at 1116-17; *Bell v. Vista Unified School Dist.* (2000) 82 Cal.App.4th 672, 684 (one of the requisite elements a plaintiff must prove under section 54960.1 is that "the legislative body did not cure or correct the challenged action."). But more to the point for the issue at bar, when Newhall renoticed and reconsidered the matter publically, the public was provided its rights (as protected by the Brown Act) to notice and an opportunity to give input prior to the Board taking action. The cure is effective because the purposes of the Brown Act are satisfied. It was unnecessary to revoke the authorization and dismiss the lawsuit in order for the Board to decide whether to pursue litigation against Castaic. As long as Newhall was not hampered by actions taken allegedly in violation of the Act, the cure is effective if it restores to the public rights denied by the alleged violation.

IV. CONCLUSIONS

California case law is not well-developed with respect to the trial court's role in evaluating the adequacy of a cure under the Brown Act. This case presents an opportunity to provide guidance. The League wishes to draw this honorable Court's attention to these factors, which suggest a deferential rule would both comport with the Legislature's intent and advance public policy in favor of public engagement and transparent government:

- The Brown Act encourages cures by requiring challenges to be presented to the local agency as a prerequisite to litigation [Gov't Code §54960.1(c)], by expressly providing that a cure is not an admission of a violation [Gov't Code §54960.1(f)], and by requiring dismissal of litigation if a cure is effected even after a lawsuit is filed [Gov't Code §54960.1(e)].
- The Brown Act avoids irreversible effect on substantive decisions by authorizing a court to determine an action in violation of the Act is void but also expressly exempting certain types of decisions from being voided and requiring just substantial compliance to avoid litigation. Gov't Code §54960.1(d).
- The overarching purpose of the Brown Act is to assure that the actions of local government "be taken openly and that their deliberations be conducted openly." Gov't Code §54950. Avoiding litigation creates an incentive to local governments to implement cures – rather than dispute allegations – which results in additional opportunities for public input.
- The Brown Act limits actionable violations to those where (1) one or more enumerated Brown Act provisions is allegedly violated; (2) there is 'action taken' in connection with the violation; and (3)

plaintiff made a timely cure or correct demand, which was refused or ignored. Gov't Code § 54960.1(e) ; *Boyle v. City of Redondo Beach* (1999) 70 Cal.App.4th 1109. In this way, the Brown Act limits litigation to significant violations that resulted in action and where no cure was undertaken when challenged.

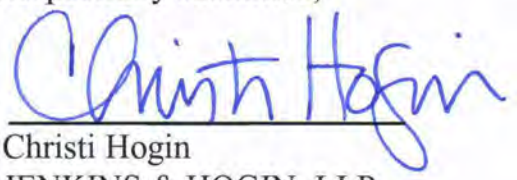
- The Brown Act values its actual purpose over its formal requirements: Persons who have actual notice cannot challenge an action taken in violation of the Brown Act's notice requirements. Gov't Code §54960.1(d)(5).

In light of these factors, the League submits that an appropriate measure of the adequacy of a cure would be whether the cure (1) addressed the detriment to the public caused by the alleged violation and (2) was made in compliance with the Brown Act's procedural requirements and the available options for any action taken were not limited by an action made in violation of the Act.

Based on the foregoing and the other briefs submitted in support of Newhall County Water District's position, *amicus curiae* respectfully requests this honorable Court affirm the trial court's judgment and find Newhall's cure adequate.

Dated: January 7, 2015

Respectfully submitted,

By: 

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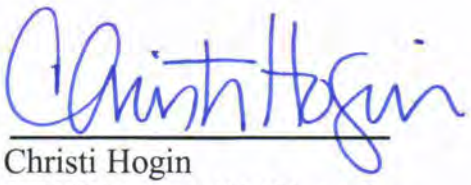
WORD COUNT CERTIFICATION

Pursuant to California Rules of Court, Rule 8.204 (c), I certify this brief contains a total of 3921 words, including footnotes and excluding the table of contents and table of authorities, as indicated by the word count feature of the Word computer program used to prepare it.

Dated: January 7, 2015

Respectfully submitted,

By: 

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PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action; my business address is 1230 Rosecrans Avenue, Suite 110, Manhattan Beach, CA 90266.

On **January 8, 2015**, I served the foregoing documents described as:

APPLICATION OF THE LEAGUE OF CALIFORNIA CITIES TO FILE *AMICUS CURIAE* BRIEF IN SUPPORT OF RESPONDENT NEWHALL COUNTY WATER DISTRICT; AND PROPOSED BRIEF OF *AMICUS CURIAE*;

on the interested party or parties in this action by placing the copy(ies) of the original(s) thereof enclosed in sealed envelopes with fully prepaid postage thereon and addressed as follows:

PLEASE SEE SERVICE LIST ATTACHED

VIA EMAIL. I caused such document as described above in PDF format, to be transmitted via **E-Mail** to the offices of the addressee(s).

VIA FACSIMILE. I caused such document to be transmitted via facsimile to the offices of the addressee(s).

VIA OVERNIGHT MAIL COURIER. I caused such envelope to be transmitted via **Overnite Express Mail Courier** to the offices of the addressee(s).

X **VIA U.S. MAIL**. I enclosed the above described documents in a sealed envelope or package addressed to the person (s) listed above or on the attached service list and caused such envelope with postage thereon fully prepaid to be placed in the United States mail at Los Angeles, California.

*I am readily familiar with the **Jenkins & Hogin, LLP's** practice of collection and processing correspondence for outgoing mailing. Under that practice it would be deposited with U.S. Postal Service on that same day with postage thereon prepaid at Manhattan Beach, California in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.*

X STATE I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Executed this 8th day of January, 2015, at Manhattan Beach, California.

Wendy Hoffman

WENDY HOFFMAN

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Clerk of the Superior Court
Los Angeles Superior Court
Honorable Luis A. Lavin
111 N. Hill Street
Los Angeles, CA 90012

Courtesy copy

Clerk Court of Appeal
Second Appellate District
Ronald Reagan State Building
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Via electronic submission