

# CITY OF OAKLAND



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**REDEVELOPMENT AGENCY AND OAKLAND CITY COUNCIL  
RULES COMMITTEE**  
Oakland, California

Councilmember Richard Spees, Chairperson, and Members of the Committee

Re: **Report from the City Attorney on legal basis for the Public Ethics Commission to meet in Closed Session for deliberations of allegations against elected officials.**

At the September 23, 1999 City Council Rules Committee, Mr. Sanjiv Handa questioned whether it is permissible for the Public Ethics Commission to meet in closed session to determine whether there is probable cause to hold a hearing based on allegations of violations of laws or ordinances over which the Commission has jurisdiction. Mr. Handa cited two Attorney General's Opinions to support his contention that such closed session meetings were not permissible under the Ralph M. Brown Act.

I indicated that my office would prepare a legal opinion on the matter, and recommended that the matter should come before the Public Ethics Commission, prior to being brought back before this Committee. The Committee agreed.

A report addressing Mr. Handa's issue was prepared and presented to the Ethics Commission at their meeting of October 4, 1999. A copy of the report is attached for your information.

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The report concludes that the Brown Act provides express authority for a body such as the Commission to hold a closed session meeting with Commission's counsel for the purpose of determining probable cause to proceed with an adjudicatory hearing before the Commission. The report was accepted by the Commission, with no further action requested.

It should be noted that the Ethics Commission, as a result of having adopting formal General Rules of Procedure, will no longer hold closed session probable cause hearings before a quorum or more of the Commission. The task of making probable cause determinations will in the future be delegated by the Chair to one or more members of the Commission.

Respectfully submitted,

JAYNE W. WILLIAMS  
City Attorney

Attorney Assigned:

J. Patrick Tang