



*Jus Pro Populo:
Law in the Service of the Public*

**YOUR GUIDE TO
OPEN GOVERNMENT**
July 2003

OAKLAND CITIZENS' OPEN GOVERNMENT BILL OF RIGHTS

1. You have a right to know when your City Council and your City Commissioners are meeting and what they will be discussing. (OMC 2.20.080)
2. You have a right to directly address the City Council and City Commissioners at their meetings. (OMC 2.20.170)
3. You have a right to agendas and related materials for City Council and City Commission meetings. (OMC 2.20.090)
4. You have a right to inspect and obtain a copy of public records. (OMC 2.20.190)
5. You have a right to know the reason why a City agency refuses to provide a record to you. (California Government Code Section 6253)
6. You have a right to tape record or videotape any public meeting of the City of Oakland. (California Government Code Section 54953.5)
7. You have a right to publicly criticize the policies, procedures, programs, or services of the City at any City Council or City Commission meeting. (California Government Code Section 54954.3)
8. You have a right to attend City Council and City Commission meetings at meeting sites that are free of discrimination (race, religious creed, color, national origin, ancestry or sex), accessible to the disabled, and free of charge to the public. (California Government Code Section 54961)
9. You have a right to documents showing how the City spends public funds. (OMC 2.20.220)
10. You have a right to privacy for any personal information the City may have about you. (California Constitution)

OMC = Oakland Municipal Code

**Need help navigating and accessing information
from City government?**

**Call Michelle Abney, our Open Government Coordinator, at
(510)238-2965**

or send her an email at mmabney@oaklandcityattorney.org

July 2003



Dear Oakland Resident,

I believe the government's job is to conduct the people's business on behalf of the people, accountable to the people, and in full view of the people.

That's why I created the **Open Government Program** in the Office of the City Attorney—so that the business of city government is conducted in the light of day.

This pocket guide was designed to help you get the most from your city government. It provides you with a brief summary of the three key laws that support the intent of the Open Government Program:

- **Oakland Sunshine Ordinance**
- **California Public Records Act**
- **Ralph M. Brown Act.**

In addition, the Office of the City Attorney has developed an Open Government Bill of Rights (see opposite page), which summarizes your rights as an Oakland citizen in obtaining access to city government.

If you would like to obtain copies of the full text of any open government legislation, please fill out the tear-off postcard on the back of this pamphlet and mail it back to us. We will be happy to send it to you. In addition, you can visit our web site —www.oaklandcityattorney.org— to view the legislation on line.

I hope that this information will give you the tools and resources you need to participate fully in the democratic process.

With best regards,

A handwritten signature in green ink, appearing to read "John A. Russo", is positioned below the text "With best regards,".

John A. Russo
City Attorney

Oakland's Sunshine Ordinance

Ordinance 12483 Oakland Municipal Code Section 2.20.010

When the Oakland City Council adopted the Sunshine Ordinance in 1997, it declared that the government's duty is to serve the public and, in reaching its decisions, accommodate those who wish to obtain information about or participate in the process. The Ordinance is intended to assure that the deliberations of commissions, boards, councils, advisory bodies and other agencies of the City and the City's operations are open to the public.

WHO'S COVERED?

The Sunshine Ordinance governs the City Council, Redevelopment Agency, Board of Port Commissioners, Planning Commission, Public Ethics Commission, other City Commissions and their committees.

SUMMARY OF KEY REQUIREMENTS

Agendas and Meeting Notices

The City Council, Redevelopment Agency, Board of Port Commissioners, Public Ethics Commission and their committees must post an agenda and related materials 10 days before the meeting at the following locations:

- City Clerk's Office
- Main Library
- On line
- Exterior bulletin board accessible 24 hours a day

All other boards and commissions must post agendas at least 72 hours prior to the meeting in the City Clerk's office and on an exterior bulletin board accessible 24 hours a day.

Notices of special meetings must be delivered to the public at least 48 hours before the meeting (excluding weekends and holidays) in the most expeditious manner possible, and posted on line.

Recording Meetings

Regular and special meetings of the following bodies will be video and audio tape recorded: the City Council, Redevelopment Agency, Board of Port Commissioners,

Public Ethics Commission and their committees. All other boards and commissions should audio tape record their meetings.

Meeting Minutes

Meeting minutes for City Council, Board of Port Commissioners, Planning Commission, Public Ethics Commission and boards or commissions created by Charter or Council action will be recorded. Draft minutes are available no later than 10 business days after the meeting. Officially adopted minutes are available no more than 5 business days after the meeting at which they were adopted. Minutes are not required by law for other boards and commissions, but are a good idea.

Public Information and Disclosure

The following are public information:

- Budgets
- All bills, claims, invoices, vouchers or other records of payment obligations
- Records of actual disbursements showing the amount paid, the payee, and the purpose for which payment was made, other than payments for social or other services whose records are confidential by law

Public information stored in electronic form is available in any form requested which is available to the Department.

Three (3) business-day response time—For records previously distributed to the public (for example, a meeting agenda), a written request for information that states "immediate disclosure request" will be satisfied no more than three (3) business days later, unless the Department responds in writing specifying a future date when the information will be available.

Ten-day (10) response time—For all other records, the Department should respond to a request in 10 days.

Fourteen-day (14) extension—If the information requested is voluminous, is located in a remote storage facility, or requires consultation with another Agency, the requestor will be notified within three (3) business days that a 14-day extension is needed.

Contracts, contractors' bids, responses to requests for proposals, and all other

records of communications between the City and persons or firms seeking contracts shall be open to inspection immediately following the bid closing.

Preliminary drafts and department memoranda can be disclosed to the public if they are normally kept on file, unless the draft is an agreement currently being negotiated by representatives of the City, Redevelopment Agency or Port.

Once litigation is complete (resolved or settled), records of all communications between the Department and the adverse party are subject to disclosure, including the text and terms of any settlement, except documents that are exempt from disclosure (e.g., attorney-client privilege).

Duplicating Costs

Free—Reviewing public records, single copy of current meeting agenda, single copy of Draft and Final Environmental Review Reports and Environmental Impact Statements.

All other copying costs are set by City's Master Fee Schedule, but will be no higher than the direct cost of duplicating.

Documents may also be sent to a commercial copier who may bill the requestor at market rate.

Public Review File

The City Clerk and the clerks of the Redevelopment Agency, Board of Port Commissioners and the Public Ethics Commission shall maintain a file, accessible to any person during normal office hours, containing a copy of any letter, memorandum or other communication which the clerk has distributed to a quorum of the body concerning a matter calendared by the body within the previous 30 days or requested to be calendared within the next 30 days.

**To view the Sunshine Ordinance on line, go to:
www.oaklandnet.com/government/government52.html**

California Public Records Act

California Government Code Sections 6250 - 6277

The State Legislature adopted the Public Records Act in 1975. All records of the state and local agencies created on or after January 6, 1975, are covered by the Act. (Note: Records created before 1975 that are permanently retained by agencies are also public record.) The Public Records Act gives the public access to information in possession of public agencies. The Act also requires that public records shall be open for inspection during regular office hours of the agency. The public can inspect any record unless the record is exempted from disclosure under the Act. The agency bears the burden of justifying why the records cannot be disclosed and is responsible for providing information after deleting any portions which are exempt.

WHAT'S COVERED

The public may inspect and copy all records of public agencies during the office hours of the Agency.

"Records" refers to all forms of communication, including:

- Computer or electronic records
- Any writing, picture, sound, or symbol, whether paper, film, magnetic, or other media, even if stored off-site.

SUMMARY OF REQUIREMENTS

In requesting public records, you are entitled to:

Prompt access to inspect public records during normal business hours. If a decision about whether to grant access is required (in the case of information exempt from public disclosure), you are entitled to a prompt decision from the public agency.

Access to public records free of charge.

Justification for why an agency withheld any record; the agency must demonstrate that the record is exempt or that the public interest in confidentiality outweighs the public interest in disclosure.

TIPS FOR REQUESTING PUBLIC RECORDS FROM PUBLIC AGENCIES

Ask agencies informally before invoking the law.

Agencies are not required to create records or lists to respond to your request if they do not already exist.

If your request is extensive or complex, put it in writing and ask for a written response within 10 days.

Put a range of date limits on any search.

If the agency indicates the records do not exist, provide any search clues you can.

Be prepared to pay for the cost of reproduction of documents.

RECORDS EXEMPT FROM DISCLOSURE

Attorney-client discussions. The attorney cannot waive confidentiality, but the public agency may.

Records pertaining to litigation before it is resolved or settled. However, the complaint, claim or records filed in court, or public records that pre-date the suit are public.

Personnel and medical records.

Police rap sheets and arrest records.

Other records that are exempt from disclosure by law (refer to the text of the law for specific details).

**To view the Public Records Act on line, go to:
www.leginfo.ca.gov. Click on California Law, Government Code,
Chapter 3.5, Sections 6250-6277**

California Ralph M. Brown Act

California Government Code Sections 54950-54962

The California State Legislature adopted the Ralph M. Brown Act in 1953. By adopting the Act, the Legislature found and declared that public commissions, boards, councils and other public agencies in the state exist to aid in the conduct of the people's business. The intent was that actions taken would be taken openly, and that deliberations held would be held openly as well.

WHAT'S COVERED

Meetings of public bodies must be open and public. A meeting is defined as any gathering of a majority of a covered board to hear, discuss, or deliberate on matters within the agency's or board's jurisdiction.

SUMMARY OF REQUIREMENTS

Under the Brown Act, public bodies are required to:

Post an agenda for any regular meeting.

Post a notice of continued meetings.

Notice special and emergency meetings. Special meetings are meetings other than the one at the regularly scheduled time and date. Legislative bodies must formally set the time and place for their regular meetings.

Hold meetings in the jurisdiction of the agency in facilities that are accessible to all, free of charge.

Allow audio tape and video recording and broadcast of meetings.

Let the public have a copy of and listen to any recording made by the agency of its open meetings.

Allow the public to address the board at regular or committee meetings on any item in the agency's jurisdiction.

Conduct only public votes--no secret ballots.

Treat documents as public if distributed before or at the meeting, unless they are exempt under the Public Records Act.

Public bodies are not permitted to use direct communication, personal intermediaries or technological devices to develop a collective concurrence about action to be taken on an item by the members of the legislative body.

CLOSED MEETINGS

Closed meetings may be held when it is in the public interest to avoid revealing confidential information that may prejudice the legal or negotiating position of the body, or compromise the privacy interests of employees.

Closed meetings are held to discuss:

Personnel matters—the appointment, employment, performance evaluation, complaints about, or dismissal of a specific employee or potential employee. This does not include elected officials or members of the board, independent contractors not functioning as employees, nor does it include discussion of salaries.

Pending litigation, expectation of being sued or intention of filing a lawsuit.

Labor negotiations.

Property negotiations.

Closed meetings must be publicly noticed and the agenda must include the legal authority for the closed session and a brief description of the meeting item.

The public body is required to publicly disclose, orally or in writing, all final action taken and all votes in closed session within 24 hours.

**To view the Brown Act on line, go to:
www.leginfo.ca.gov. Click on California Law, Government Code,
Chapter 9, Sections: 54950-54962**

LEARN MORE ABOUT OPEN GOVERNMENT

If you would like to obtain a full copy of any Open Government law, please check the appropriate box below. We will be happy to send it to you free of charge.

Please send me:

- Oakland's Sunshine Ordinance**
- California Public Records Act**
- Ralph M. Brown Act**
- More copies of this Open Government Guide** (Specify quantity _____)

Your Name: _____

Address: _____

City, State, ZIP Code: _____

Help us save trees and City funds!

- I prefer to receive electronic copies.** Your e-mail address: _____
(Check appropriate box above.)

PLACE
STAMP
HERE

TO:
Michelle Abney, Open Government Coordinator
City of Oakland, Office of the City Attorney
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Oakland, CA 94612