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San Diego Housing Commission (SDHC) California Open Meetings Law – Brown Act Presentation to the SDHC Board of Commissioners April 6, 2023

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SDHC – Brown Act

Introduction

- California open meetings law in effect since 1953.
- Law includes requirements for agendas and public comments.
- Government Code 54950:

In enacting this chapter, the Legislature finds and declares that the public commissions, boards and councils and the other public agencies in this State exist to aid in the conduct of the people's business. It is the intent of the law that their actions be taken openly and that their deliberations be conducted openly.

- Government Code 54953(a):

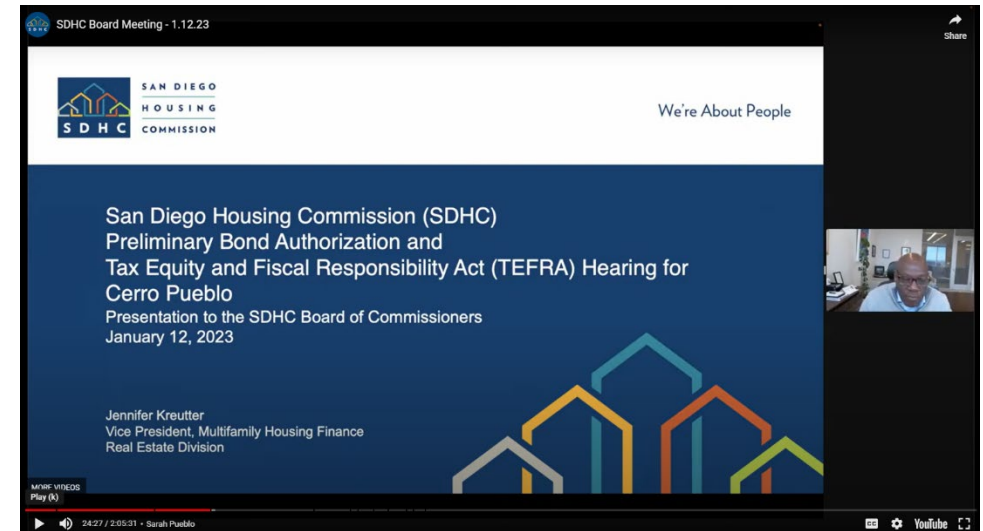
All meetings of the legislative body of a local agency shall be open and public, and all persons shall be permitted to attend any meeting of the legislative body of a local agency, except as otherwise provided in this chapter.



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Teleconferencing During a State of Emergency

- Government Code Section 54953(e)(1): Teleconferencing allowed during a proclaimed state of emergency without typical requirements.
 - State or local officials have imposed or recommended measures to promote social distancing.
 - Legislative body meets to determine, by majority vote, whether as a result of the emergency, meeting in person would present imminent risks to the health or safety of attendees.
 - Legislative body holds a meeting during the emergency and, by a majority vote, has determined that as a result of the emergency, meeting in person would present imminent risks to the health or safety of attendees.



SDHC Board Meeting January 12, 2023



- Requirements:
 - Give notice of how members of the public may access the meeting and offer public comment.
 - Identify and include an opportunity for all persons to attend via a call-in option or an internet-based service option.
 - If the broadcast of the meeting to the public is disrupted, take no further action until the broadcast is restored.
 - Allow the public to offer comments in real time (shall not require submission of comments in advance)
 - Legislative body required to make findings every 30 days to continue teleconferencing:
 - The legislative body has reconsidered the circumstances of the state of emergency.
 - Any of the following circumstances continue to exist:
 - The state of emergency continues to directly impact the ability of the members to meet safely in person.
 - State or local officials continue to impose or recommend measures to promote social distancing.



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Teleconferencing Without a State of Emergency

- California State of Emergency for the COVID-19 pandemic ended February 28, 2023.
- Assembly Bill 2449
 - Enacted September 13, 2022
 - In effect January 1, 2023, through December 31, 2025
 - Allows, but does not require, “hybrid” meetings in specified circumstances
 - “Hybrid” refers to meetings in which some participants are in person and others participate virtually.



SDHC Board Meeting March 17, 2023



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Teleconferencing Without a State of Emergency (Continued)

- Government Code 54953(f)(1)-(3)
 - At least a quorum of the members of Board must participate in person from the same location:
 - Must be clearly identified on the agenda
 - Shall be open to the public
 - Must be within the area of the Board’s jurisdiction
 - Options must be provided for the public to hear and see the meeting remotely:
 - A two-way audiovisual platformOR
 - A two-way telephonic service and a live webcasting of the meeting
 - Agenda must include notice of how the public may access the meeting and offer comments.
 - Identify and include an opportunity for the public to attend and address the Board through a call-in option, an internet-based service option, and at the in-person location of the meeting.



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Teleconferencing Without a State of Emergency (Continued)

- Government Code 54953(f)(2): Requirements for a Board member to participate remotely
 - “Emergency Circumstances”: A physical or family emergency that prevents the Board member from attending in person.
 - Board member must request as soon as possible that the Board allow them to participate remotely.
 - Board member must provide a general description of the circumstances (up to 20 words).
 - Board must vote on the request before a Board member may participate remotely:
 - Item may be placed on the agenda.
 - OR
 - Board may vote on the request at the beginning of the meeting if there is not enough time to place the item on the agenda.



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Teleconferencing Without a State of Emergency (Continued)

- Government Code 54953(f)(2): Requirements for a Board member to participate remotely (Continued)
 - “Just cause”:
 - A childcare or caregiving need of a child, parent, grandparent, grandchild, sibling, spouse, or domestic partner.
 - A contagious illness.
 - A need related to a physical or mental disability.
 - Travel while on official business of the legislative body or another state or local agency.
 - Board member must notify the Board as soon as possible about their need to participate remotely for just cause.
 - This includes at the start of the meeting.
 - Board member must provide a general description of why they need to appear remotely.



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Teleconferencing Without a State of Emergency (Continued)

- Government Code 54953(f)(2): Requirements for a Board member to participate remotely (Continued)
 - Before any action is taking, a Board member participating remotely must publicly disclose at the meeting:
 - Whether anyone age 18 or older is in the room at the remote location with them
 - The general nature of the Board member’s relationship with any such individuals
 - The Board member is required to participate through both audio and visual technology.
 - Remote participation may not exceed:
 - Three consecutive months or 20 percent of the regular meetings of the Board within a calendar year
 - Two meetings per year, if Board regularly meets fewer than 10 times per calendar year



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Teleconferencing Requirements after AB 2449 Sunsets

- Agenda must be posted at all teleconference locations.
- Each teleconference location must be identified in the notice and agenda of the meeting.
- Each teleconference location must be accessible to the public.
- Members of the public must have the opportunity to provide comments directly at each teleconference location.
- At least a quorum of the Board shall participate from locations within the area of the Board's jurisdiction.



Questions & Comments

