

TAXPAYERS ASSOCIATION OF EL DORADO COUNTY

VIA ELECTRONIC MAIL

Date: January 15, 2026

To:

El Dorado County Board of Supervisors
David Livingston, County Counsel
Sue Phillips, CAO

Re: NOTICE TO CURE AND CORRECT AND DEMAND TO CEASE AND DESIST
Violations of the Ralph M. Brown Act – Consolidated Public Comment Policy
Gov. Code §§ 54950, 54954.3, 54960.1, 54960.2
Related Actions: Legistar Items 25-1864 and 25-2034

Honorable Members of the Board and County Counsel Livingston:

I write on behalf of the Taxpayers Association of El Dorado County, and in my capacity as its President, to serve this formal Notice to Cure and Correct pursuant to Government Code section 54960.1, and Demand to Cease and Desist pursuant to Government Code section 54960.2.

This notice concerns only one issue: the Board of Supervisors' recent adoption and implementation of a consolidated public comment format governing non-public-hearing agenda items.

I. THE BOARD'S NEW PUBLIC COMMENT FORMAT

The Board has adopted and implemented a procedure that consolidates public comment on multiple, unrelated substantive agenda items into a single, time-limited comment period and requires public comment to occur before staff presentations and Board deliberation.

This structure is not a benign efficiency measure as you have asserted (Agenda Item 25-1864 discussion). It is a structural restriction on public participation that deprives the public of the ability to meaningfully address agenda items.

II. GOVERNING LAW

Government Code section 54954.3(a) guarantees the public the right to address the legislative body on any agenda item before or during consideration. The violation is not merely discretionary or procedural; the consolidated comment format itself prevents members of the public from commenting before or during the Board's consideration of a specific agenda item, which is what § 54954.3(a) requires.

Government Code section 54950 affirms the public's right to remain informed and retain control over their governing bodies.

III. FUNCTIONAL, NOT FORMAL, COMPLIANCE

In *Galbiso v. Orosi Public Utility District* (2008) 167 Cal.App.4th 1063, the court held that procedures that technically allow comment but deprive the public of meaningful participation violate the Brown Act.

IV. TIMING OF COMMENT COMPOUNDS THE VIOLATION

Forcing public comment before staff analysis or deliberation diminishes the effectiveness of participation.

V. MISPLACED RELIANCE ON OLSEN v. HORN BROOK

Olson v. Hornbrook Community Services District (2019) does not authorize consolidated public comment on substantive agenda items.

VI. ONGOING PATTERN AND PRACTICE

The consolidated comment policy establishes an ongoing pattern and practice risking repeated Brown Act violations.

VII. DEMAND TO CURE AND CORRECT

The Board must cure and correct this policy by restoring item-by-item public comment.

VIII. DEMAND TO CEASE AND DESIST

The Board must cease and desist from continuing this practice.

IX. RESERVATION OF RIGHTS

Nothing herein waives any rights or remedies under the Brown Act.

Respectfully,

Lee Tannenbaum
President
Taxpayers Association of El Dorado County