

THE BIG A LACK OF TRANSPARENCY



GRAND JURY 2021-2022

THE BIG A LACK OF TRANSPARENCY

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PREFACE

The Orange County Grand Jury (OCGJ) is aware of a pending federal criminal investigation that has triggered the resignation of Anaheim Mayor Harry Sidhu and the City of Anaheim's decision to void its agreement to sell Anaheim Stadium and surrounding property (collectively, the "Stadium Property") for \$320 million.¹ These recent developments give the City of Anaheim (City) the opportunity to reassess the disposition of the Stadium Property and avoid the many problems plaguing the transactions that caused widespread public distrust and outrage.

Among other things, the FBI has alleged that at least two individuals sought to hide records from the OCGJ and engaged in witness tampering regarding the OCGJ's investigation into the City's sale of the Stadium Property, which began well before the OCGJ became aware of any federal investigation and before the FBI probe became public.² Nevertheless, the OCGJ investigated aspects of the Stadium Property transactions that are not the focus of the FBI investigation, and this report includes Findings and Recommendations aimed at improving City transparency and compliance with California law in any future real property transactions, including its handling of the Stadium Property's lease or sale.

SUMMARY

How did the stadium sale result in public outcry and a lawsuit filed against the City by the People's Homeless Task Force of Orange County (PHTFOC) alleging violations of the Brown Act? The OCGJ found myriad problems. The City's lack of transparency and rushed decisions regarding the lease and sale agreements contributed to the public's distrust of the City Council majority. When heated Council discussions arose over the Stadium Property transactions, the Council majority amended Council Policy 1.6 to intentionally preclude the Council minority from agendizing further discussion of the topic. The Council majority also repeatedly excluded the Council minority from information about the status of Stadium Property negotiations. Further, the City Council made uninformed decisions as a result of a failure to timely disseminate critical information and transaction documents to its members.

Additionally, after the City Council decided to sell the Stadium Property to SRB Management, LLC (SRB), the California Department of Housing and Community Development (HCD)

¹ Online Meeting of the Anaheim City Council Meeting, Discussion and Briefing Regarding the Angel Stadium Transaction and the Impact of Recent Developments, and Direction to Staff on Future of Angel Stadium Transaction, May 24, 2022. The purchasing party, SRB Management, LLC has stated that it will not contest the City's decision to void the sales contract.

² See, e.g., Spencer Custodio, "FBI Alleges Anaheim Mayor Harry Sidhu Destroyed Angel Stadium Records," Voice of OC, May 24, 2022.

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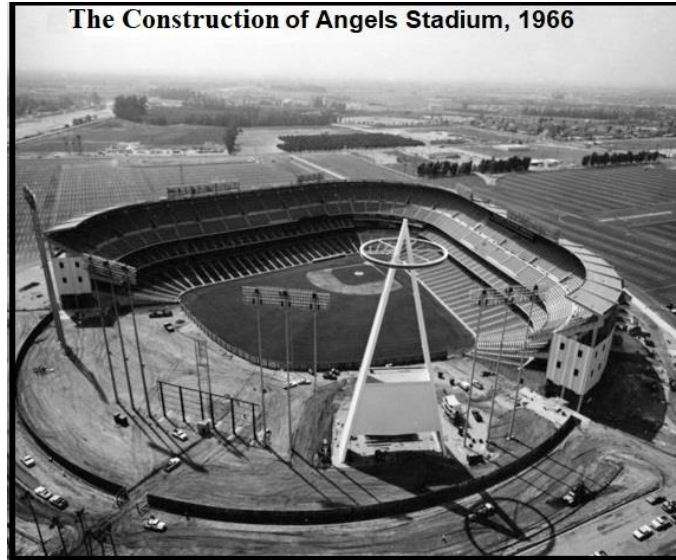
investigated the sale and found that the City had violated the California Surplus Land Act (SLA) by failing to make certain legally required public declarations and notices.

The City Council majority's inappropriate handling of the Stadium Property transactions betrayed its constituents. The OCGJ recommends that any future City Council decisions on the Stadium Property be made based on public input, in the form of public workshops, compliance with the Brown Act and SLA, and in accord with the City Council's oath to uphold the public's interest.

This report was issued by the OCGJ with the exception of a juror who recused him or herself from all parts of the investigation, including interviews, deliberations, and the writing and approval of this report.

BACKGROUND

Angels Baseball has been a part of Anaheim's history, culture, and economy for the past fifty-six years. The land was originally zoned for agriculture where Camille Allec cultivated orange groves, Roland Russell grew alfalfa, and John Knutzen maintained his cornfields.³ The City subsequently purchased the property from these three families for \$4 million to build a new major league baseball stadium.⁴



³ John Weyler, "20th Anniversary...: The Big A: A Place Where Billy Graham, Rockers, and Angels Have Tread," Los Angeles Times, April 19, 1986.

⁴ City of Anaheim Summary Report Pursuant to Section 52201 of the California Government Code in Connection With the Sale of Property By and Between the City of Anaheim and SRB Management Company, LLC, September 10, 2020, p. 5.

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The City has leased out this property since the inception of Angels Baseball in 1966. Angel Stadium was originally known as Anaheim Stadium and home to the Los Angeles Angels, later renamed the California Angels. The legendary singing cowboy, Gene Autry, owned the popular team when it moved into the newly built stadium in 1966. The first Major League Baseball game was played on April 19, 1966, against the Chicago White Sox. In 1996, the Walt Disney Company purchased the Angels Baseball franchise, and renamed the team the Anaheim Angels.⁵ On October 27, 2002, the Angels won their first World Series under the Disney ownership.⁶

In 2003, Arte Moreno purchased Anaheim Angels Baseball for \$182 million from the Walt Disney Company and in 2005 changed its name to Los Angeles Angels of Anaheim.⁷ The City filed a lawsuit challenging the name change, but Angels Baseball prevailed, and the new name remained.⁸ In 2018, the Angels exercised their right to opt-out of their lease with the City, leaving unclear the future of the Angels remaining in Anaheim. The current lease between the California Angels and the City of Anaheim became effective on October 1, 1996 and is due to expire on December 31, 2029.⁹

REASON FOR THE STUDY

The OCGJ observed that the City had drawn heavy public scrutiny for its lack of transparency in its handling of the sale of the Stadium Property, comprising 153 acres of land owned by the citizens of Anaheim, to SRB Management Company, LLC (SRB). Local news media and members of the public accused the City of failing to provide adequate notice of public hearings and withholding information about the sale from the public and certain Councilmembers. The City's actions also resulted in the City being sued by the PHTFOC, a concerned citizens advocacy group, for allegedly conducting closed City Council meetings in violation of the Ralph M. Brown Act. Additionally, the HCD issued a Notice of Violation (NOV) for the City's failure to comply with the California Surplus Land Act (SLA).

⁵ Angel Stadium History|Los Angeles Angels, www.mlb.com/angels/ballpark/history.

⁶ Joe Mathews, "For Halo Faithful, Series Victory Is Just The Icing on Angel Cake," Los Angeles Times, October 28, 2002.

⁷ Murray Chass, "BASEBALL: With Quick Approval, Moreno Buys Angels From Disney," New York Times, May 16, 2003.

⁸ *Ibid.*

⁹ Amended and Restated Lease Agreement Between the California Angels and City of Anaheim, May 15, 1996, p. 11.

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METHOD OF STUDY

The OCGJ interviewed individuals involved in the lease and sale negotiations on behalf of the City. This included interviews with current and former elected officials, current and former City staff, officials from HCD, and concerned community members. The OCGJ reviewed the following pertinent materials:

- City Council agendas, minutes, and staff reports related to the lease and sale agreements between the City of Anaheim and the Angels organization.
- Relevant websites.
- County assessor parcel information for the sixteen properties that were in escrow which includes the stadium, the National Grove of Anaheim, and surrounding parking lots.
- California Surplus Land Act (SLA) and allegations of City SLA violations.
- Correspondence between HCD and the City.

The OCGJ also reviewed recordings of City Council meetings, legal pleadings filed by the PHTFOC, and attended a court hearing on the PHTFOC's lawsuit. Additionally, the OCGJ reviewed numerous articles in local newspapers covering the Stadium Property sale and its avoidance, as well as the FBI investigation of alleged corruption of the Stadium Property deal.

INVESTIGATION AND ANALYSIS

Violation of the State Surplus Land Act (SLA)

The purpose of the SLA is to promote affordable housing development on unused or underutilized public land throughout the State to respond to the existing affordable housing crisis.¹⁰ The SLA was amended in October 2019 under AB 1486 and AB 1255 to clarify and strengthen its reporting and enforcement provisions.¹¹ The SLA requires local agencies to provide notices of availability of surplus land to local public entities and housing sponsors, negotiate with the entities in good faith, and provide HCD with documentation in support of the notices and negotiations. Also, local agencies must report information about all locally owned surplus land sites to HCD on an annual basis.¹²

Anaheim owns approximately 153 acres of property located at 2000 Gene Autry Way and 2200 East Katella Avenue. This property contains improvements including Angel Stadium of Anaheim and City National Grove of Anaheim and their surrounding parking areas.¹³ The collective

¹⁰ California Surplus Land Act Guidelines, April 2021 p. 4.

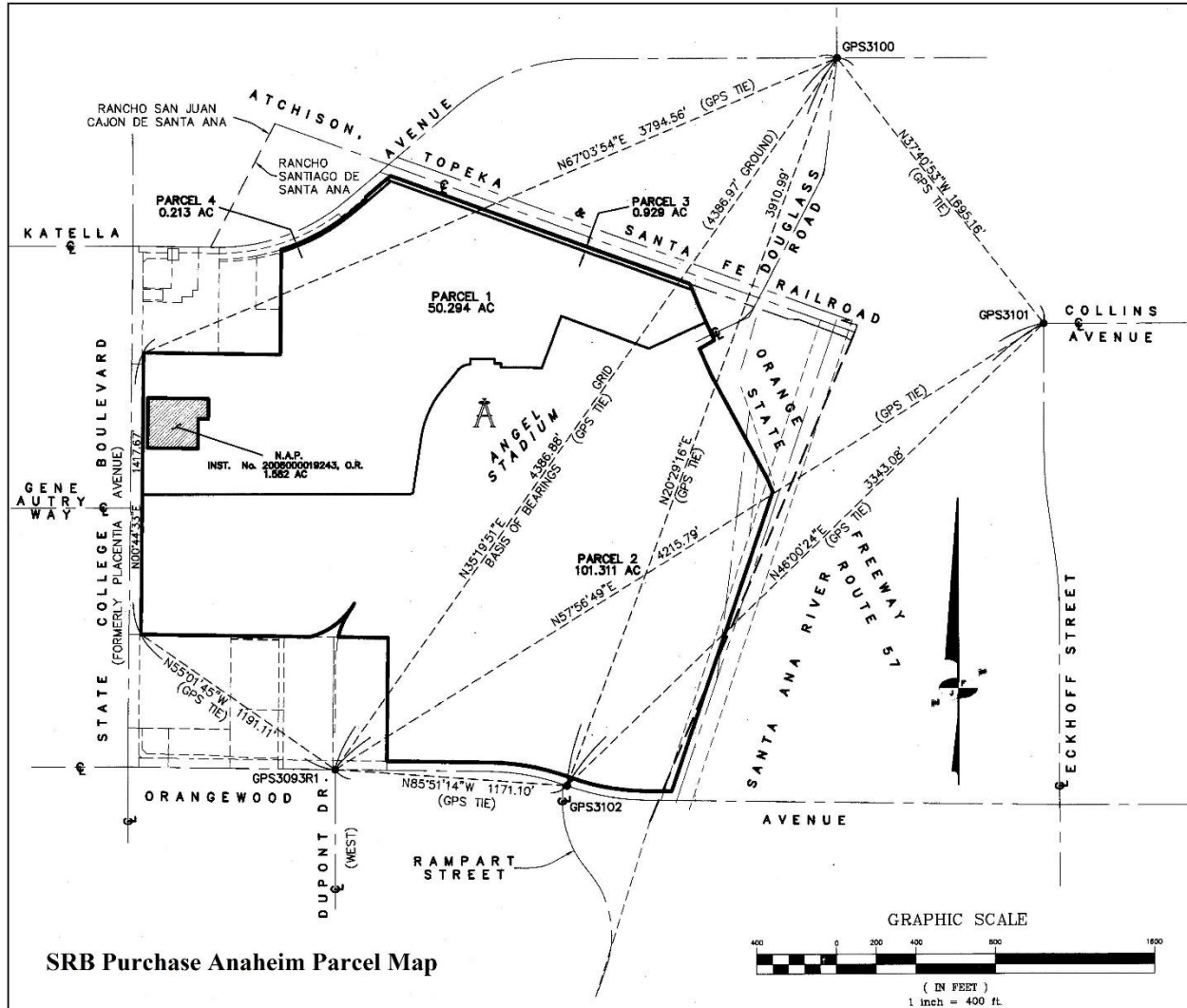
¹¹ *Ibid.*

¹² *Id.* p. 5.

¹³ Anaheim City Council Staff Report, Public Hearing and Action of Resolution No. 2019-158, December 20, 2019.

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parcels are bounded by Orangewood Avenue, State Route 57, Katella Avenue, and State College Boulevard (Stadium Property).



In 2019, for the first time in the City’s history, Anaheim began negotiating with SRB to sell rather than lease the Stadium Property. On December 20, 2019, the City Council passed Resolution 2019-158 approving the purchase and sale agreement for the Stadium Property.¹⁴

On April 28, 2021, the City received a letter from HCD advising that the City may have violated the SLA based on the following actions:

¹⁴ Minutes of the Anaheim City Council Meeting, Public Hearing and Action of Resolution No. 2019-158, December 20, 2019, p. 20.

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- Failure to declare the subject property as “Surplus Land” in violation of Government Code section 54221(b)(1);
- Failure to send a Notice of Availability to organizations certified by the state to construct affordable housing projects in violation of Government Code section 54222;
- Failure to provide HCD with information and documents before agreeing to terms to dispose of the property in violation Government Code section 54230.5(b)(1).

HCD further advised that the City could face a \$96 million fine if it could not satisfy requirements of the SLA.¹⁵ On June 14, 2021, the City sent a written response to HCD advising it was exempt from the SLA since it had been negotiating with SRB before the SLA “grandfathering” exemption deadline of September 30, 2019.¹⁶ On December 8, 2021, HCD issued the City a formal Notice of Violation (NOV) that allowed the City sixty (60) days to rectify the SLA violations. The City had been negotiating with HCD since receiving the NOV. With respect to the City’s “grandfathering” exemption argument, HCD’s notice advised:

HCD finds that no substantial evidence of any exclusive negotiating agreement (ENA) with SRB Management, LLC existed prior to September 30, 2019. Most notably, (a) on January 15, 2019, Anaheim City Councilmember Jose F. Moreno moved to require a binding ENA and the motion failed; (b) SRB Management, LLC was not formed until November 20, 2019; and (c) in prior correspondence from the City dated November 27, 2020, the City represented to HCD that there was no exclusive negotiating agreement prior to September 30, 2019.¹⁷

The City was given the following options to come into compliance with the SLA:

- Set aside at least 80 percent of the development for housing, forty percent of which must be affordable to lower-income households while half of these affordable units must be designated as very low income;
- Declare the land “exempt surplus” and put the site out for a competitive housing bid. A covenant must be applied requiring at least 25 percent affordability for lower-income households;
- Declare the land “surplus” and follow the HCD guidelines to incorporate affordable housing.¹⁸

¹⁵ State of California Housing and Community Development (HCD) Letter to City of Anaheim, April 28, 2021.

¹⁶ City of Anaheim Response Letter to State HCD, June 14, 2021.

¹⁷ State HCD Notice of Violation to City of Anaheim, December 8, 2021, p. 2.

¹⁸ *Id.*, p. 4.

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Over the weekend of April 23, 2022, the City entered into a settlement agreement with HCD and conducted a special City Council meeting on April 26, 2022, to approve the settlement.¹⁹ Despite the violations cited by HCD, in the meeting, Mayor Sidhu stated there was no wrongdoing by the Anaheim City Council with how the City pursued the land sale. Under the SLA, the City was required to inform HCD of the terms of the sale contracts with SRB before signing them. During the Council meeting, Mayor Sidhu made a motion to approve the settlement agreement without hearing a presentation on the issue from City staff. City staff interrupted the Mayor's motion by reminding him that staff was prepared to present the facts via a staff presentation before voting on his motion to approve the settlement agreement.²⁰

Councilmembers Moreno and Valencia moved to continue the item for further discussion. That motion was defeated. The Council majority then voted to approve staff's recommendation to accept the settlement agreement under the following basic terms:

- 1) The City would create a local housing trust that would be funded by 30 percent of the Anaheim Stadium purchase price (\$96 million) and would be used to fund low, very low, and extremely low affordable housing units in Anaheim; and
- 2) The City would ensure at least \$27 million worth of low and very-low affordable housing would be built on the Stadium project site, and would make efforts in conjunction with HCD to seek funding for up to 466 units on-site, subject to the City's discretionary authority and SRB's consent; and
- 3) The City would not limit liability under the SLA; and
- 4) HCD and the California Attorney General would abstain from further enforcement of the SLA as to the Stadium sale.²¹

Due to the purchase and sale agreement with SRB being voided, the settlement agreement between the City and the State will be dismissed, and no further enforcement action is anticipated. However, any future sale of the stadium property must comply with the requirements of the SLA.

During the April 26, 2022, City Council meeting, a member of the public commented that the City was playing a "shell game" with the money transactions involved in the now voided sale

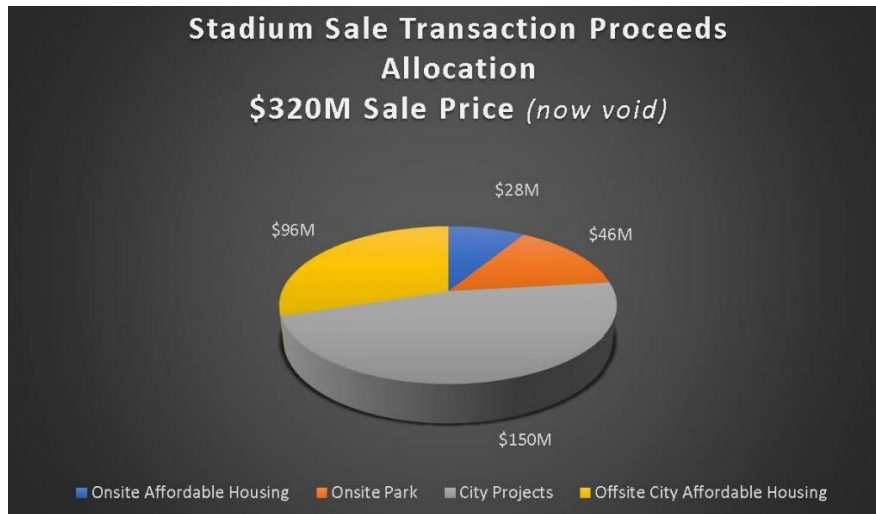
¹⁹ Anaheim City Staff Report, "Settlement of Housing and Community Development and California Attorney General Challenge to Angel Stadium Transaction Staff Report," April 26, 2022, p. 1.

²⁰ Online Meeting of the Anaheim City Council Meeting, Settlement of Housing and Community Development and California Attorney General Challenge to Angel Stadium Transaction, April 26, 2022.

²¹ Anaheim City Staff Report, "Settlement of Housing and Community Development and California Attorney General Challenge to Angel Stadium Transaction Staff Report," April 26, 2022, p. 1.

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agreement.²² That perception likely stemmed from a series of confusing transactions. First, on September 29, 2020, the City Council approved an amended Sale Agreement with SRB. In it, the City's DDA with SRB, the City agreed to credit SRB approximately \$170 million to construct affordable housing and a 7-acre park at the Stadium Property.²³ The City agreed to sell the property to SRB for \$320 million minus \$170 million in community benefit credits that results in a net sales price of \$150 million for the public land sale.²⁴



The OCGJ does not see the benefit of paying SRB \$46 million for an onsite/flagship park and \$28 million for onsite affordable housing. The City Council should not consider offering such financial community benefits if and/or when the City renegotiates a deal to sell the Stadium Property.

The Spirit of the Brown Act Versus the Letter of the Brown Act

At times the City Council failed to uphold the spirit of the Brown Act. The Ralph M. Brown Act (Brown Act) was established by the California Legislature in 1953 to promote transparency and public participation in local government. The Brown Act is an evolving set of statutes found in the California Government Code beginning with Section 54950.²⁵ The Brown Act requires government actions to take place in the public view. Closed meetings are only allowed to discuss pending or threatened litigation, real estate negotiations, personnel matters, or labor negotiations.

²² Online Meeting of the Anaheim City Council Meeting, Settlement of Housing and Community Development and California Attorney General Challenge to Angel Stadium Transaction, April 26, 2022.

²³ Anaheim City Staff Report, "Sale and Development of the Stadium Sub-Area A Project (Angel Stadium Property) and Related Actions, September 29, 2020, p. 9.

²⁴ *Id.*, p. 14.

²⁵ Institute for Local Government PowerPoint Presentation, November 1, 2017.

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When discussing real estate negotiations in closed session, the public agency may only discuss price and terms of payment for real property.²⁶

The OCGJ found that the Anaheim City Council failed to uphold the spirit of the Brown Act during significant decisions relating to the lease and/or sale of the Stadium Property. The following details a sequence of events illustrating the City's persistent avoidance of transparency on this important matter.

City Council Meeting to Discuss Memorandums of Understanding (MOUs), 2013

Allowing just one business day for consideration, on Friday, August 30, 2013, the City posted the agenda for a City Council meeting that was scheduled the day after Labor Day, September 3, 2013. The agenda called for a vote on the Stadium Lease MOU, the Ground Lease MOU, and a Binding Lease Amendment that would allow the Angels to extend the termination period of their lease by 2.5 years and Angels owner Arte Moreno to complete needed negotiations with the City.²⁷ This timing resulted in the public having little to no knowledge about this agenda item. The Anaheim Mayor at that time, Tom Tait, attempted to postpone the discussion to the next scheduled City Council meeting, so that the public had ample time to prepare for and participate in the meeting, but his motion failed.²⁸ The Council approved the Stadium Lease and Ground Lease MOU's via Resolution No. 2013-36 and the Binding Lease Amendment was approved via Resolution No. 2013-37. Mayor Tait voted against the motion to approve the resolutions due to the lack of adequate notice prior to the vote.²⁹

Council Appoints Mayor Sidhu Sole Negotiating Team Representative, July 16, 2019

Despite objections of Councilmembers Moreno and Barnes, Mayor Sidhu made a motion to approve his own appointment as the exclusive Council representative to work in conjunction with City staff for negotiations with Angels baseball. Councilmembers Moreno and Barnes expressed concerns about potential perceived concerns regarding conflict of interest due to Mayor Sidhu having received political contributions from Angels baseball. Nevertheless, the motion passed with a 5-2 vote. Consequently, some Councilmembers found it very challenging to obtain expected detailed and factual negotiating updates from Mayor Sidhu or City Staff.³⁰ Going forward, the City should appoint more than one Council representative to any negotiating committee, short of a quorum. Furthermore, the representatives should disclose any potential

²⁶ *Ibid.*; see also Cal. Gov. Code § 54956.8.

²⁷ Minutes of the Anaheim City Council Meeting, Discussion and Action of Resolution No. 2013-136 and Resolution No. 2013-137, September 3, 2013, p. 15.

²⁸ *Id.*, p. 20.

²⁹ *Id.*, p. 23.

³⁰ Minutes of the Anaheim City Council Meeting, Discussion and Action of Selecting a Councilmember to Negotiate on the Stadium Property Sale, July 16, 2019, p. 14.

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conflicts of interest, and share any pertinent information with the full Council and public in a timely manner.

Anaheim City Council Special Meeting of December 20, 2019

The community first learned about the proposed sale of the Stadium Property on December 6, 2019, when it was included as an agenda item for the upcoming City Council meeting on December 20, 2019. On that day, the City Council conducted a special meeting at 2:00 p.m., rather than the usual 5:00 p.m. meeting time, to discuss selling the approximately 153 acres of City-owned land. After more than eight hours of contentious discussion, the vote was 4-2 in favor of selling the land to SRB, with one member absent.³¹ Councilmembers Moreno and Barnes voted against the motion to proceed with the sale because they felt the deal was being expedited for no valid reason.³² While the City may have complied with the letter of the Brown Act by posting the meeting notice well in advance of the meeting date, it failed to proactively promote public participation by not conducting community workshops or other educational opportunities that would have engaged the community on such a significant issue.

People's Homeless Task Force Orange County Versus City of Anaheim and SRB Management Company, LLC

On February 28, 2020, the People's Homeless Task Force Orange County (PHTFOC) filed a lawsuit alleging the City violated the Brown Act in the following ways:

- The City discussed and/or took action on business related to the sale of Angel Stadium outside of a noticed, public meeting;
- The City discussed and took action to approve a sale, rather than a lease, of the Stadium to Angels Baseball and/or SRB during the August 23, 2019 and September 24, 2019 closed sessions;
- The City failed to adequately describe the closed sessions to notify the public that the sale of the Stadium Site was being discussed, identify the Negotiating Team as the Agency Negotiator, or identify SRB the ultimate purchaser of the property;
- The City held multiple meetings of the Negotiating Team without complying with the Brown Act;
- The City improperly limited public participation in meetings of the City Council including its September 29, 2020, and October 6, 2020 meetings.³³

³¹ Minutes of the Anaheim City Council Meeting, Public Hearing and Action of Resolution No. 2019-158, December 20, 2019, p. 20.

³² *Id.*, p. 15.

³³ People's Homeless Task Force Orange County v. City of Anaheim and SRB Management Company, LLC (Orange County Superior Court, February 28, 2020).

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Kelly Aviles, the attorney representing the PHTFOC was quoted in local media as saying:

The City had this long-term lease for decades and they were going to go to renegotiate it, but all of a sudden in December, they're selling the property – that is what we questioned from the beginning is, the public didn't get a chance to talk about selling the property at all.³⁴

On March 21, 2022, the Superior Court of the State of California ruled in favor of the City and SRB, relying in part on the testimony of then-Mayor Harry Sidhu.³⁵

Given the recent media attention to the FBI's investigation into Mayor Sidhu's alleged witness tampering and negotiating irregularities, and the City Council's subsequent decision to void the sales agreement with SRB, the PHTFOC filed an appeal to this ruling in May 2022 which remains pending at the time of this report.³⁶



Big A Website Master Site Plan Renderings

³⁴ Brandon Pho, City of Anaheim Fights Back Against Lawsuit Alleging Officials Secretly Conspired to Sell Angel Stadium, Voice of OC, January 28, 2022.

³⁵ *Ibid.*

³⁶ Alicia Robinson, “Angel Stadium: Anaheim residents’ group files court appeal in Brown Act suit,” Orange County Register, June 1, 2022.

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Disposition and Development Agreement, 2020

A public hearing on the Development and Disposition Agreement (DDA) with SRB and the City was conducted at the City Council meeting on September 29, 2020. The DDA included a Master Site Plan that provided for the development of 5,175 residential dwelling units, 1.75 million square feet of commercial uses (including up to 943 new hotel rooms), 2.7 million square feet of office space, and public parks up to 12.2 acres. The project also provided for the retention and maintenance of the existing 45,000 seating capacity of Angel Stadium, with an option for SRB to replace the existing stadium with a new stadium of the same or lesser size and seating capacity.³⁷ According to the minutes of that meeting, due to the many complaints and comments she had received, Councilmember Barnes proposed postponing the discussion for the purpose of conducting workshops to gather input from the public.³⁸

Mayor Sidhu responded by saying, “the City Council decides what happens in the City and not the voters.”³⁹ Mayor Sidhu’s comment is not only offensive to his constituents, but it also contradicts the very intent of the Brown Act, as described by its preamble:

In enacting this chapter, the Legislature finds and declares that the public commissions, boards, and councils and 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.

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.⁴⁰

Councilmembers Not Informed of HCD Notice of Surplus Land Act Violations, June 2021

On May 3, 2021, the City received a written notice from HCD dated April 28, 2021, regarding potential violations to the SLA. An article appeared in the Voice of OC in which Councilmember Jose Moreno claimed he knew nothing about the SLA letter until he read an article in the Los

³⁷ Minutes of the Anaheim City Council Meeting, Public Hearing and Action of Resolution No. 2020-116, Resolution No. 2020-117, Ordinance No. 6497, and Ordinance No. 6498 Regarding the Disposition and Development Agreement Between the City of Anaheim and SRB Management Company, LLC, September 29, 2020, p. 10.

³⁸ Anaheim City Council Minutes, September 29, 2020, p. 17.

³⁹ *Ibid.*

⁴⁰ Cal. Gov. Code § 54950.

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Angeles Times on June 24, 2021, followed by an email from the City Manager.⁴¹ The article quotes Councilmember Moreno stating:

I knew nothing about the inquiry from the state until this morning until we got an email from the city manager. I knew nothing about it and our city was preparing a response about such a high-profile issue. I'm hopeful city staff have a rationale for this.⁴²

The OCGJ finds it concerning that certain Councilmembers were uninformed about the SLA letter and the negotiations taking place between HCD and the City until seven weeks after the fact. The letter further advised that if the City proceeded with disposing of the property under the current unlawful terms, it could be subject to a fine. That potential fine turned out to be \$96 million.⁴³ This demonstrates another example of lack of transparency, even within the City's own administration.

Weaponizing City Council Policy 1.6

City Council Policy 1.6 establishes how the Mayor or a Councilmember can place an item on the council agenda for discussion. When there were heated City Council discussions on the Stadium Property Purchase and Sale Agreement (PSA) or the Disposition and Development Agreement (DDA), the Council majority amended City Council Policy 1.6 to intentionally preclude the Council from agendizing further discussion on the stadium transactions at future City Council meetings. An abuse of this policy occurred when the Council called an emergency meeting on September 30, 2013 at 8:00 a.m., an inconvenient time for the public, to remove Mayor Tait's authority to place an item on a future agenda outside of an open City Council meeting through the City Manager's Office. This meeting was requested after Mayor Tait re-agendized the Stadium Lease and Ground Lease MOUs for discussion on September 24, 2013. He explained that he put the item on the agenda because there was limited public notice from the previous Council meeting on September 3, 2013.⁴⁴ The MOUs were approved via Resolution No. 2013-136 on September 3, 2013.⁴⁵

Twenty-six public comments were made in opposition to stripping the Mayor of his agendizing ability. Many expressed a deep disappointment toward the Council for proposing and/or supporting this change. Mayor Tait expressed concern that if this policy were changed, he would not have the ability to put items essential to city operations on the agenda between meetings.⁴⁶

⁴¹ Spencer Custodio, "Did Anaheim Violate Surplus Land Law When It Sold Angel Stadium? One State Agency Thinks it Might Have," *Voice of OC*, June 24, 2021.

⁴² *Ibid.*

⁴³ State HCD Notice of Violation to City of Anaheim, December 8, 2021.

⁴⁴ Minutes of the Anaheim City Council Meeting, September 24, 2013, p. 17.

⁴⁵ Minutes of the Anaheim City Council Meeting, Discussion and Action of Resolution No. 2013-136 and Resolution No. 2013-137, September 3, 2013, p. 20.

⁴⁶ Minutes of the Anaheim City Council Meeting, Discussion and Action of Resolution No. 2013-151, p. 7.

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The Council approved Resolution 2013-151 that allowed any member of the City Council to request that an item be placed on a future City Council regular meeting agenda.⁴⁷ However, it eliminated the Mayor's authority to place an item on a future agenda either during or outside of an open City Council meeting through the City Manager's Office.⁴⁸

Since then, Policy 1.6 has been changed several times. The current version provides:

Any member of the City Council may, during the City Council Communications portion of a City Council meeting, request that an item be placed on a future City Council regular meeting agenda. The requested item will be placed on a future City Council regular meeting agenda as long as at least two other Councilmembers express their support of the request. The request shall not be open for debate or discussion and the expression of the other Councilmembers' support shall be made informally by a show of hands or otherwise. If the requested item does not receive the support of at least two other Councilmembers, a Councilmember may not request that same item or a substantially similar item be agendized for a minimum of six months. The Mayor shall have the authority to place an item on a future agenda either during or outside of an open City Council meeting through the City Manager's Office.

Notwithstanding any contrary provision in the Procedures and Rules of Order for the Conduct of the City Council Meetings, with respect to Council-initiated agenda items that the Council has considered or acted on at a meeting (including, but not limited to, by voting on, postponing, or tabling), a Councilmember may not re-agendize the same or a substantially similar item for a minimum of six months. This provision is not intended to apply to proceedings that result in tie votes, which remain governed by section 3.04 of the Procedures Rules of Order.⁴⁹

This policy has been changed frequently, including an amendment from allowing any member of the City Council to agendize an item to requiring support from a total of at least three Councilmembers.⁵⁰ It appears this policy is used to suppress certain Councilmembers from agendizing and discussing topics, discouraging citizens from engaging with their Councilmembers on issues that are impacting their neighborhoods and/or City Council Districts.

⁴⁷ Minutes of the Anaheim City Council Meeting, Discussion and Action of Resolution No. 2013-151, September 30, 2013, p. 7.

⁴⁸ *Ibid.*

⁴⁹ Staff Report (including Policy 1.6 attachment) of the Anaheim City Council Meeting, Agenda Item No. 20, November 5, 2019.

⁵⁰ City of Anaheim Resolution No. 2012-031 Adopted April 17, 2012; Resolution No. 2013-151 Adopted September 30, 2013; Resolution No. 2016-241 Adopted December 20, 2016; Resolution No. 2017-041 Adopted February 28, 2017; and Resolution No. 2018-149 Adopted December 18, 2018.

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The City of Anaheim consists of six City Council Districts. Listed below are the current Council District Representatives:

- District 1 – Councilmember Jose Diaz
- District 2 – Councilmember Gloria Ma’ae
- District 3 – Councilmember Jose Moreno
- District 4 – Councilmember Avelino Valencia
- District 5 – Councilmember Stephen Faessel
- District 6 – Councilmember Trevor O’Neil

It is the opinion of the OCGJ that requiring three Councilmembers to approve an agenda item hinders the goal of the Council to attend to the people’s business. For instance, if a resident or business owner meets with the Councilmember representing their District to request a pertinent item be placed on the agenda for discussion, that Councilmember cannot guarantee it will get on the agenda due to Council Policy 1.6 requiring support of three Councilmembers. Thus, worthy agenda items can be easily blocked, especially if there is friction amongst Councilmembers.

A Properly Conducted Sale of the Stadium Property Could Benefit the City

The OCGJ understands the City’s interest in selling the Stadium Property, particularly given that the stadium is fifty-six years old, may not comply with the Americans With Disabilities Act, and is no longer a viable financial asset to the City. However, the manner in which the City negotiated and approved the Stadium Property sale justifiably drew the scrutiny of the City Council minority, concerned citizens, the media, the Kennedy Commission (an affordable housing advocacy organization), and HCD.

The OCGJ believes that the 153-acre Stadium Property provides an extraordinary opportunity for the City to incorporate affordable housing for the low, very low, and extremely low-income families. Although the sale is now void, SRB had planned to develop 2.7 million square feet of office space, 1.7 million square feet of retail and restaurants, and 943 hotel rooms.⁵¹ If a new transaction is to be negotiated, the City should work towards establishing low, very low, and extremely low-income housing on or near the property to support individuals making minimum wage while working at the on-site hotels, retail establishments, restaurants, and baseball stadium.

Moving forward, if the current or any future City Council desires to sell the Stadium Property and/or extend the lease agreement of the Stadium Property, it must comply with the SLA, promote public participation in the decision-making process, work more transparently and cohesively as the City’s governing body, and honor the spirit of the Brown Act.

⁵¹ Big A 2050 Master Site Plan Fact Sheet, Winter 2021-22.

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FINDINGS

- F1 The City of Anaheim demonstrated persistent lack of transparency and rushed decision-making in its handling of the Stadium Property transactions, exacerbating distrust by the public, State and local government officials, and even some members of its own City Council.
- F2 The City's failure to timely disseminate and/or develop critical documents and information related to the Stadium Property transactions resulted in uninformed decision-making by the City Council.
- F3 In conjunction with its alleged violations of the Surplus Land Act, the City limited creative affordable housing strategies with the Stadium Property transactions.
- F4 On multiple occasions, the City Council majority blocked the Council minority from adding items to its agenda relating to the disposition of the Stadium Property, stifling public discussion about the pros and cons of such a significant land transaction.

RECOMMENDATIONS

- R1 Any future agreement regarding the City's disposition of the Stadium Property should allocate low and very low-income affordable housing units for the local workforce including individuals who work in the entertainment, leisure, hospitality, and health services industries. (F3)
- R2 By December 31, 2022, the City Council should develop and implement guidelines to ensure a minimum 30-day period of public analysis and Council discussion of any public property sale and/or lease transactions. (F1, F2, F4)
- R3 By October 4, 2022, the Anaheim City Council should revise Policy 1.6 so that any member of the City Council may place an item on its regular meeting agenda. (F4)

RESPONSES

California Penal Code Section 933 requires the governing body of any public agency which the Grand Jury has reviewed, and about which it has issued a final report, to comment to the Presiding Judge of the Superior Court on the findings and recommendations pertaining to matters under the control of the governing body. Such comment shall be made *no later than 90 days* after the Grand Jury publishes its report (filed with the Clerk of the Court). Additionally, in the case of a report containing findings and recommendations pertaining to a department or agency headed by an elected County official (e.g. District Attorney, Sheriff, etc.), such elected County official

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shall comment on the findings and recommendations pertaining to the matters under that elected official's control within 60 days to the Presiding Judge with an information copy sent to the Board of Supervisors.

Furthermore, California Penal Code Section 933.05 specifies the manner in which such comment(s) are to be made as follows:

(a) As to each Grand Jury finding, the responding person or entity shall indicate one of the following:

- (1) The respondent agrees with the finding.
- (2) The respondent disagrees wholly or partially with the finding, in which case the response shall specify the portion of the finding that is disputed and shall include an explanation of the reasons therefor.

(b) As to each Grand Jury recommendation, the responding person or entity shall report one of the following actions:

- (1) The recommendation has been implemented, with a summary regarding the implemented action.
- (2) The recommendation has not yet been implemented, but will be implemented in the future, with a time frame for implementation.
- (3) The recommendation requires further analysis, with an explanation and the scope and parameters of an analysis or study, and a time frame for the matter to be prepared for discussion by the officer or head of the agency or department being investigated or reviewed, including the governing body of the public agency when applicable. This time frame shall not exceed six months from the date of publication of the Grand Jury report.
- (4) The recommendation will not be implemented because it is not warranted or is not reasonable, with an explanation therefor.

(c) If a finding or recommendation of the Grand Jury addresses budgetary or personnel matters of a county agency or department headed by an elected officer, both the agency or department head and the Board of Supervisors shall respond if requested by the Grand Jury, but the response of the Board of Supervisors shall address only those budgetary /or personnel matters over which it has some decision-making authority. The response of the elected agency or department head shall address all aspects of the findings or recommendations affecting his or her agency or department.

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Responses Required

Comments to the Presiding Judge of the Superior Court in compliance with Penal Code Section 933.05 are required from:

90 Day Response Required	F1	F2	F3	F4
Anaheim City Council	X	X	X	X

90 Day Response Required	R1	R2	R3
Anaheim City Council	X	X	X

REFERENCES

Anaheim City Council Minutes, September 29, 2020.

Anaheim City Council Policy 1.6.

Anaheim City Council Staff Report, Public Hearing and Action of Resolution No. 2019-158, December 20, 2019.

Anaheim City Staff Report, “Sale and Development of the Stadium Sub-Area A Project (Angel Stadium Property) and Related Actions, September 29, 2020.

Anaheim City Staff Report, “Settlement of Housing and Community Development and California Attorney General Challenge to Angel Stadium Transaction Staff Report,” April 26, 2022.

Angel Stadium History of Los Angeles Angels, www.mlb.com/angels/ballpark/history.

April 2019 Housing Element Progress Report.

Big A 2050 Master Site Plan Fact Sheet, Winter 2021-22.

Brandon Pho, City of Anaheim Fights Back Against Lawsuit Alleging Officials Secretly Conspired to Sell Angel Stadium, Voice of OC, January 28, 2022.

Brown Act – Wikipedia – Criticisms, February 2012, en.m.wikipedia.org.

California Surplus Land Act Guidelines, April 2021.

City Council Policy No. 1.6 Amended April 2012, September 2013, December 2016, February 2017, December 2018, November 2019.

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City of Anaheim City Attorney response letter to Housing and Community Development, June 14, 2021.

City of Anaheim City Council Resolution No. 2012-031 Adopted April 17, 2012; Resolution No. 2013-151 Adopted September 30, 2013; Resolution No. 2016-241 Adopted December 20, 2016; Resolution No. 2017-041 Adopted February 28, 2017; and Resolution No. 2018-149 Adopted December 18, 2018.

City of Anaheim Purchase and Sale Agreement/Summary Report Prepared Pursuant to Section 52201 of the California Government Code, December 2019.

City of Anaheim Summary Report Pursuant to Section 52201 of the California Government Code in Connection With the Sale of Property By and Between the City of Anaheim and SRB Management Company, LLC, September 10, 2020.

City of Anaheim v. Angels Baseball Orange County Superior Court, December 19, 2008.

County of Orange Parcel Map No. 2006-262.

Disposition and Development Agreement between the City of Anaheim and SRB Management Company, LLC., October 2020.

Housing and Community Development State Stipulation Judgment filed in Orange County Superior Court, April 2022.

Institute for Local Government PowerPoint Presentation, November 1, 2017.

Joe Mathews, "For Halo Faithful, Series Victory Is Just The Icing on Angel Cake," Los Angeles Times, October 28, 2002.

John Weyler, "20th Anniversary...: The Big A: A Place Where Billy Graham, Rockers, and Angels Have Tread," Los Angeles Times, April 19, 1986.

Kennedy Commission letter to City of Anaheim Mayor and City Council, September 9, 2020.

Kennedy Commission letter to City of Anaheim Planning Commission Chairperson & Members, September 9, 2020.

Kennedy Commission Letter to City of Anaheim, December 8, 2021.

Letter of Understanding Regarding Implementation of Purchase and Sale Agreement Dated December 20, 2019 Between SRB Management Company, LLC and City of Anaheim, May 5, 2020.

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Minutes of the Anaheim City Council Meeting, Discussion and Action of Resolution No. 2013-136 and Resolution No. 2013-137, September 3, 2013.

Minutes of the Anaheim City Council Meeting, Discussion and Action of Resolution No. 2013-151, September 30, 2013.

Minutes of the Anaheim City Council Meeting, Public Hearing and Action of Resolution No. 2019-158, December 20, 2019.

Minutes of the Anaheim City Council Meeting, Public Hearing and Action of Resolution No. 2020-116, Resolution No. 2020-117, Ordinance No. 6497, and Ordinance No. 6498 Regarding the Disposition and Development Agreement Between the City of Anaheim and SRB Management Company, LLC, September 29, 2020.

Minutes of the Anaheim City Council Meeting, September 24, 2013.

Murray Chass, "BASEBALL; With Quick Approval, Moreno Buys Angels From Disney" New York Times, May 16, 2003.

Online Meeting of the Anaheim City Council Meeting, Settlement of Housing and Community Development and California Attorney General Challenge to Angel Stadium Transaction, April 26, 2022.

People's Homeless Task Force letter of Violation of Brown Act to the City of Anaheim, January 19, 2020.

People's Homeless Task Force Orange County v. City of Anaheim and SRB Management Company, LLC Orange County Superior Court, February 28, 2020.

Purchase & Sale Agreement Basic Terms Amended and Restated, Seller is City of Anaheim, Buyer SRB Management Company, LLC, September 30, 2020.

Spencer Custodio, "Did Anaheim Violate Surplus Land Law When It Sold Angel Stadium? One State Agency Thinks it Might Have," Voice of OC, June 24, 2021.

SRB Management Company, LLC Master Site Plan, July 29, 2020.

Staff Report (including Policy 1.6 attachment) of the Anaheim City Council Meeting, Agenda Item No. 20, November 5, 2019.

State of California Housing and Community Development (HCD) Notice of Violation to City of Anaheim, December 8, 2021.

State of California Housing and Community Development (HCD) Letter to City of Anaheim, April 28, 2021.

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GLOSSARY

APN	Assessor's Parcel Number
DDA	Disposition and Development Agreement
ENA	Exclusive Negotiating Agreement
CITY	City of Anaheim
FBI	Federal Bureau of Investigation
HCD	California State Housing and Community Development
MLB	Major League Baseball
MOU	Memorandum of Understanding
NOV	Notice of Violation
OCGJ	Orange County Grand Jury
PCI	Pacific Coast Investors
PSA	Purchase and Sale Agreement
PHTFOC	People's Homeless Task Force of Orange County
SLA	Surplus Land Act
SRB	SRB Management Company, LLC