

From: >

Sent: Wednesday, December 23, 2020 7:02 AM

To: Patrice Olds <polds@cityofsanmateo.org>; Shawn Mason <smason@cityofsanmateo.org>

Cc: sgallagher@smcgov.org

Subject: Concern of Presumed-Perceived Violation of Brown Act

TO: San Mateo City Clerk, Ms. Patrice Olds

San Mateo City Attorney, Mr. Shawn Mason

CC: San Mateo County District Attorney's Office, Shawn Gallagher

I respectfully submit the attached letter of concern of a presumed and perceived violation of a central provision of the Ralph M. Brown Act by the San Mateo City Council on December 9, 2020.

The details of my concern are presented in the attached letter as follows:

- Overview of Concern
- Reference to the Brown Act
- Chronology of Known Events (Supported by Attachments1-11)
- Concern About a Presumed-Perceived Brown Act Violation and Remedy Options
- Attachments 1-11

Respectfully,
Taso Zografos

ZOGRAFOS

December 22, 2020

TO: City of San Mateo
330 West 20th Street, San Mateo CA 94403
ATTN: City Clerk, Ms. Patrice Olds, polds@cityofsanmateo.org, 650-522-7042
City Attorney, Mr. Shawn Mason, smason@cityofsanmateo.org, 650-522-7020

FR: Taso Zografos, [REDACTED]
[REDACTED]

CC: San Mateo County District Attorney's Office; Shawn Gallagher, sgallagher@smcgov.org

RE: Concern of Presumed-Perceived Violation of Brown Act

REF: Attachments 1-11

This letter is to call your attention to my concern of a perceived and presumed violation of a central provision of the Ralph M. Brown Act by the San Mateo City Council on December 9, 2020.

The details of my concern are presented herein as follows:

- Overview of Concern
- Reference to the Brown Act
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Overview of Concern

My concern of a presumed and perceived Brown Act violation is summarized as follows:

- In a (virtual) meeting held by the Housing Leadership Council (HLC) on December 9, 2020, it was publicly advertised that a majority of the San Mateo City Council (City Mayor Joe Geothals and City Councilmembers Rick Bonilla and Amourence Lee) would attend and be featured for their views on matters concerning housing policy in the jurisdiction City of San Mateo.
- It has been reported that the majority of members of the City Council in attendance openly expressed their comments, opinions, views, plans, and/or provided guidance concerning the City's housing policy and efforts and strategies for updating and finalizing the City's General Plan.
- As discussions took place concerning business and policy affecting the jurisdiction City of San Mateo, and that given a majority of the City Council listened to and participated in those discussions at this above referenced meeting, I contend that failure to produce and disclose a full complement of any-all notes/recordings/data from that meeting for public awareness and transparency constitutes a violation of the Brown Act.
- To remedy, I request that the City make available to the public a full complement of any-all meeting notes/recordings/data from that Dec. 9th HLC meeting that featured and included the participation of a majority of the City Council. Failure to produce and make available any-all information for public consumption of this perceived and presumed violation of the Brown Act may have a damaging impact on the public's trust of the City Council.

Reference to the Brown Act

The central provision of the Brown Act requires that all “meetings” of a legislative body be open and public. The Brown Act definition of the term “meeting” (Section 54952.2) is a very broad definition that encompasses almost every gathering of a majority of Council members and includes:

“Any congregation of a majority of members of a legislative body at the same time and place to hear, discuss, or deliberate upon any item that is within the subject matter jurisdiction of the legislative body or the local agency to which it pertains.”

This means that a meeting is any gathering of a majority of members to hear or discuss any item of city business or potential city business.

Under the Brown Act, the terms “Meeting” and “Deliberation” are defined as follows:

A “Meeting” means “any congregation of a majority of the member of a legislative body at the same time and location, including teleconference locations, to hear, discuss, deliberate, or take action on any item that is within the subject matter jurisdiction of the legislative body.” Cal. Gov’t Code § 54952.2 (West 2016). “Deliberation” refers to not only collective decision-making, but also the collective acquisition and exchange of facts preliminary to the ultimate decision. Page v. Mira Costa Cmty. Coll. Dist., 180 Cal. App. 4th 471, 502 (2009). The California Supreme Court has stated that deliberative action includes a “collective decision-making process” and “deliberative gathering.” Roberts v. City of Palmdale, 5 Cal. 4th 363, 376 (1993), quoting Sacramento Newspaper Guild, 263 Cal. App. 2d, 47, 48 (1968). It also includes “informal sessions at which a legislative body commits itself collectively to a particular future decision concerning the public business.” Roberts, 5 Cal. 4th at 376, quoting Stockton Newspapers, Inc. v. Redevelopment Agency, 171 Cal. App. 3d 95,102 (1985).

There are six specific types of gatherings that are not subject to the Brown Act, as follows:

- 1) the individual contact exception,
- 2) the seminar and conference exception,
- 3) the community meeting exception,
- 4) the other legislative body exception,
- 5) the social or ceremonial occasion exception, and
- 6) the standing committee exception.

Unless a gathering of a majority of members falls within at least one of the exceptions listed above, if a majority of members are in the same room and minimally only listening to a discussion of matters concerning city business, then they will be participating in a Brown Act meeting that requires notice, an agenda, and a period for public comment.

One might contend that the HLC Decompression Event held on December 9, 2020 could be categorized as a private gathering event where either the “Community Meeting Exception” or the “Social or Ceremonial Occasion Exception” might apply. The Brown Act requirements do not apply to attendance by a majority of members at a community meeting event, **provided that the meeting is fully open to the public and attendance is not restricted**, or at a purely social or ceremonial occasion, **provided that a majority of members do not deliberate or discuss matters of public business** (Section 54942.2(c)(5)).

These are key points of my concern. I believe that the majority of the City Council members in attendance did discuss matters of public business, specifically about the City’s housing policy and the General Plan – and that the public, myself for example, was restricted from attending and participating.

Chronology of Known Events (Supported by Attachments 1-11)

The following is a chronology of known events supported by Attachments 1-11. What is not included herein below are any other written statements, notes, observations by individuals who attended and participated in the HLC December 9, 2020 Zoom Webinar or other pertinent/relevant data/information.

EVENT DATE & ATTACHED REF.	EVENT DESCRIPTION
Nov. 27, 2020 (Attachment 1)	I received an email invitation about an on-line virtual webinar event sponsored by the Housing Leadership Council (HLC) planned for Dec. 9, 2020 that was to feature then still City Mayor Joe Geothals and City Councilmembers Rick Bonilla and Amourence Lee (a majority of the City Council). I proceeded to register online.
Nov. 29, 2020 (Attachment 2)	I completed the online registration form and properly submitted my registration for this Dec. 9 HLC virtual webinar event.
Nov. 29, 2020 (Attachment 3)	I received a verification reply that my registration was accepted and confirmed to participate in the planned event, providing me my Zoom link to grant me access.
Dec. 2, 2020 (Attachment 4)	I completed and submitted my application to join as an Advocate member of the HLC which included a \$75 contribution fee that was processed, and subsequently received a new member welcoming acceptance letter from HLC Ms. Vivian Le.
Dec. 4, 2020 (Attachment 5)	A social media public posting invitation for the HLC Dec 9 Virtual Zoom Webinar Event --- seemingly open to the public invitation to register to attend-participate.
Dec. 4, 2020 (Attachment 6)	I received an email from HLC Director Ms. Leora Tanjuatco Ross as a courtesy reminder of the upcoming Zoom webinar event featuring Mayor Joe Geothals, and Councilmembers Rick Bonilla and Amourence Lee.
Dec. 5, 2020 (Attachment 7)	The HLC Facebook page had a public posting announcement that advertised the upcoming Dec. 9 meeting with a public link for attendance registration. I was already registered and confirmed with provided access link to attend-participate.
Dec. 5, 2020 (Attachment 8)	Another social media public posting invitation for the HLC Dec 9 Virtual Zoom Webinar Event --- seemingly open to the public invitation to register to attend-participate. This one specifically notes that City Mayor Joe Geothals and City Councilmembers Rick Bonilla and Amourence Lee (a majority of the City Council) will attend and speak at the event.
Dec 8, 2020 (Attachment 9)	On the afternoon of Dec. 8, the day prior to the Zoom webinar event, I received an email stating that my registration had been cancelled. I tried to contact the HLC office and received no reply.
Dec. 9, 2020 (Attachment 10)	At the start time of the Dec. 9 Zoom webinar, I was able to use the link originally provided to me to access the session for a moment, and then it appears I was placed into a “waiting room” pending host approval to access. While I was waiting to be let into the session, I saw a posting by a Mr. John Tastor saying that over 70 people were in attendance that included elected officials and showed a screen shot that included Mayor Joe Geothals and Councilmember Rick Bonilla. I tried to message the host of the Zoom webinar to gain access and got no response.
Dec. 14, 2020 (Attachment 11)	After hearing that there was indeed a majority of the City Council in attendance at the HLC Dec 9 Zoom webinar meeting and that there was discussion and deliberations about the City’s housing policy and also about the City’s General Plan and processes going forward, I sent an email reply to HLC Ms. Vivian Le’s original Dec. 2 new member welcome email and acceptance letter (ref. Attachment 4) to get an answer as to why I was “cancelled” from participating in the HLC Dec 9 Zoom webinar. She replied apologizing and I followed with a request for more information and have not yet received any explanation or further response from the HLC.

Concern About a Presumed-Perceived Brown Act Violation and Remedy Options

The information I provide herein are artifacts and notes for which I have available to present at this time.

I am currently in the process of collecting additional data and information through independent third-party discussions, private interviews, and note gathering exercises that include a possible collection of screenshots of materials presented at the HLC Dec. 9 Zoom webinar event.

I do believe that what I have presented herein thus far is sufficient to justify my concern of a presumed or perceived (and possible actual) violation of the Brown Act by the San Mateo City Council.

I believe a majority of the City Council members who participated in the HLC Dec. 9 Zoom webinar event did freely express their comments, opinions, views, plans, and/or provided guidance concerning the City's housing policy and/or efforts and strategies for updating and finalizing the City's General Plan.

While this HLC Dec. 9 Zoom webinar was advertised publicly, I contend that attendance was restricted. My registration to participate in this publicly noticed event was "Cancelled" by the HLC on Dec. 8, 2020.

I also contend that a failure to produce and disclose a full complement of any-all notes, recordings, data from that meeting for public awareness and transparency constitutes a violation of the Brown Act.

Moreover, a failure to produce and make available any-all info for public consumption of this presumed-perceived Brown Act violation may have a damaging impact on the public's trust of the City Council and further may be perceived as evidence of complicity.

If there were indeed actual violations, the public deserves transparency regardless of the consequences.

I respectfully request that the recording of the meeting in question be released for public review for the benefit of all San Mateo residents.

Respectfully,

A handwritten signature in black ink, appearing to read 'Taso Zografos', with a stylized, cursive script.

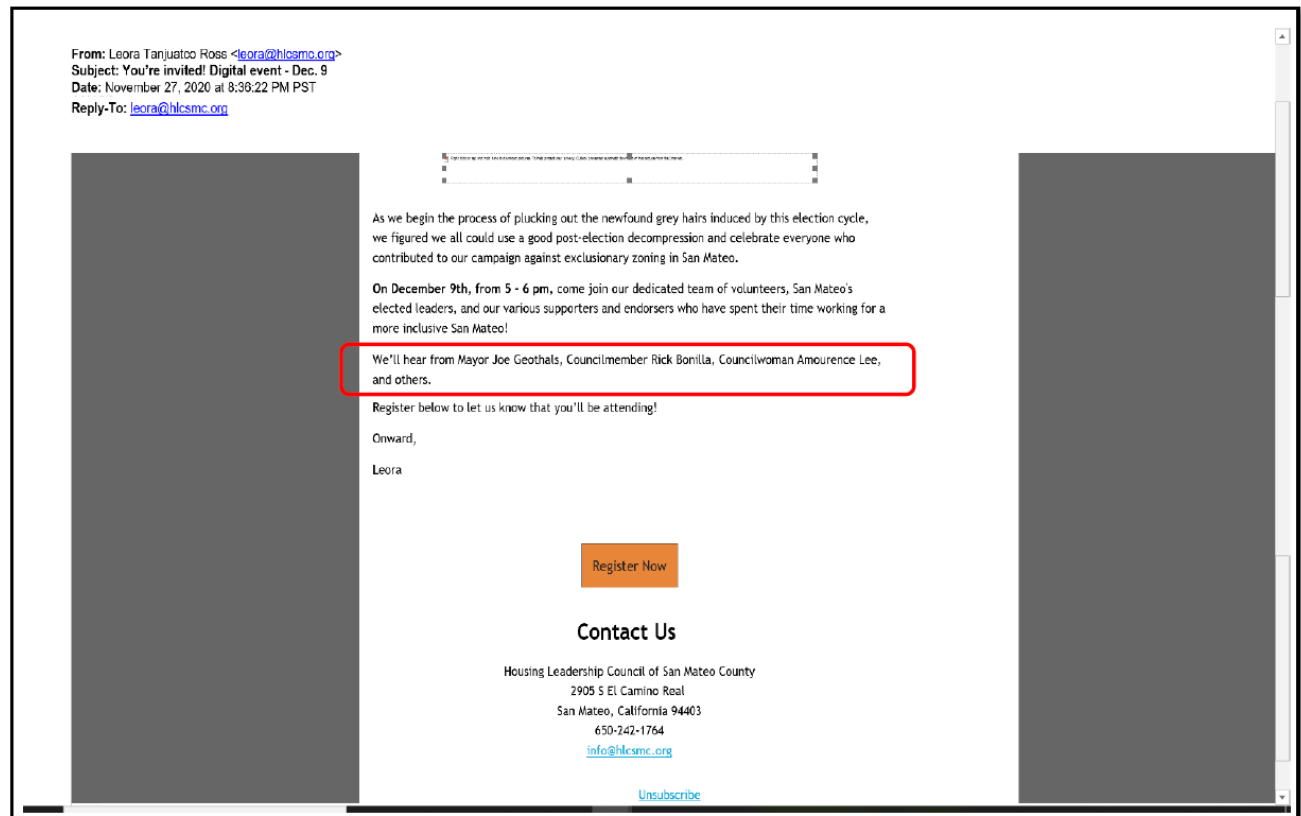
Taso Zografos

Following Reference Material: **Attachments 1-11**

ATTACHMENT #1

Nov. 27, 2020

- Dec. 9, 2020 Event invitation email sent out by HLC
- Specifically states/identifies three (3) San Mateo City Councilmembers will be in attendance (3 out of 5 constitutes a majority)
- Invitation provides a “Register Now” link to a webform



ATTACHMENT #2

Nov. 29, 2020

- Via the “Register Now” link, it opens the below webform, and I entered the requested data confirming my interest to attend this event, and I use the “Register” button to submit

The screenshot shows a web browser window with the title "Meeting Registration - Zoom". The address bar shows a Zoom URL. The page content includes a "Meeting Registration" heading, social media icons for Facebook, Twitter, LinkedIn, and Email, and a table with the following information:

Topic	HLC: Post-Election Decompression
Description	<p>It's been a long election season, within a public health crisis. We figured we could all use a good post-election decompression and celebrate everyone who contributed to our campaign against exclusionary zoning in San Mateo.</p> <p>Join our dedicated team of volunteers, San Mateo's elected leaders, and our various supporters and endorsers who have spent their time working for a more inclusive San Mateo.</p> <p>We'll hear from Mayor Joe Geothals, Councilmember Rick Borilla, and many more!</p>
Time	Dec 9, 2020 05:00 PM in Pacific Time (US and Canada)

Below the table is a registration form with the following fields:

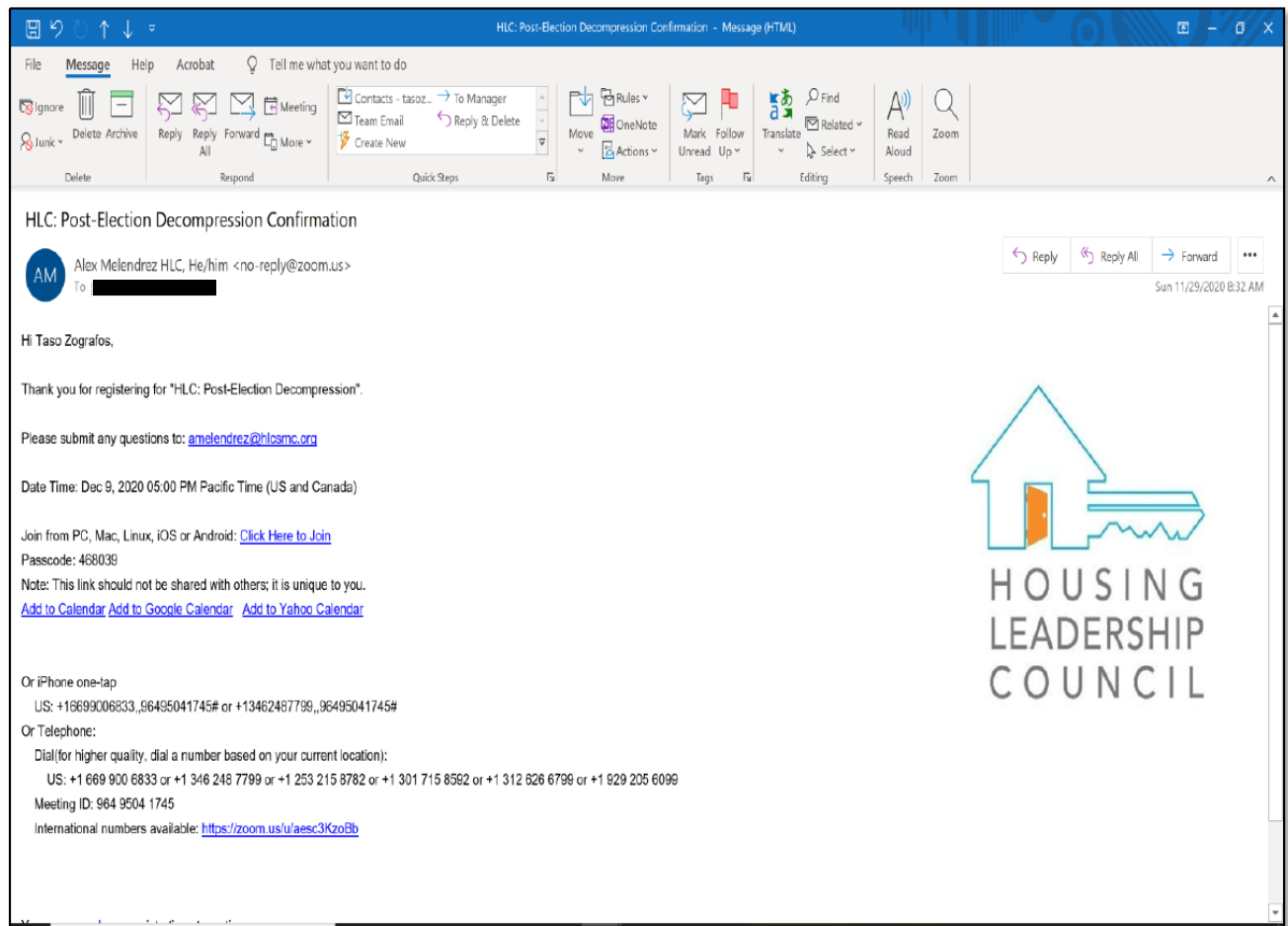
- First Name* (Text input: Taso)
- Last Name* (Text input: Zografos)
- Email Address* (Text input: [Redacted])
- Confirm Email Address* (Text input: [Redacted])

A blue "Register" button is located at the bottom of the form. A small blue chat bubble icon is in the bottom right corner of the page.

ATTACHMENT #3

Nov. 29, 2020

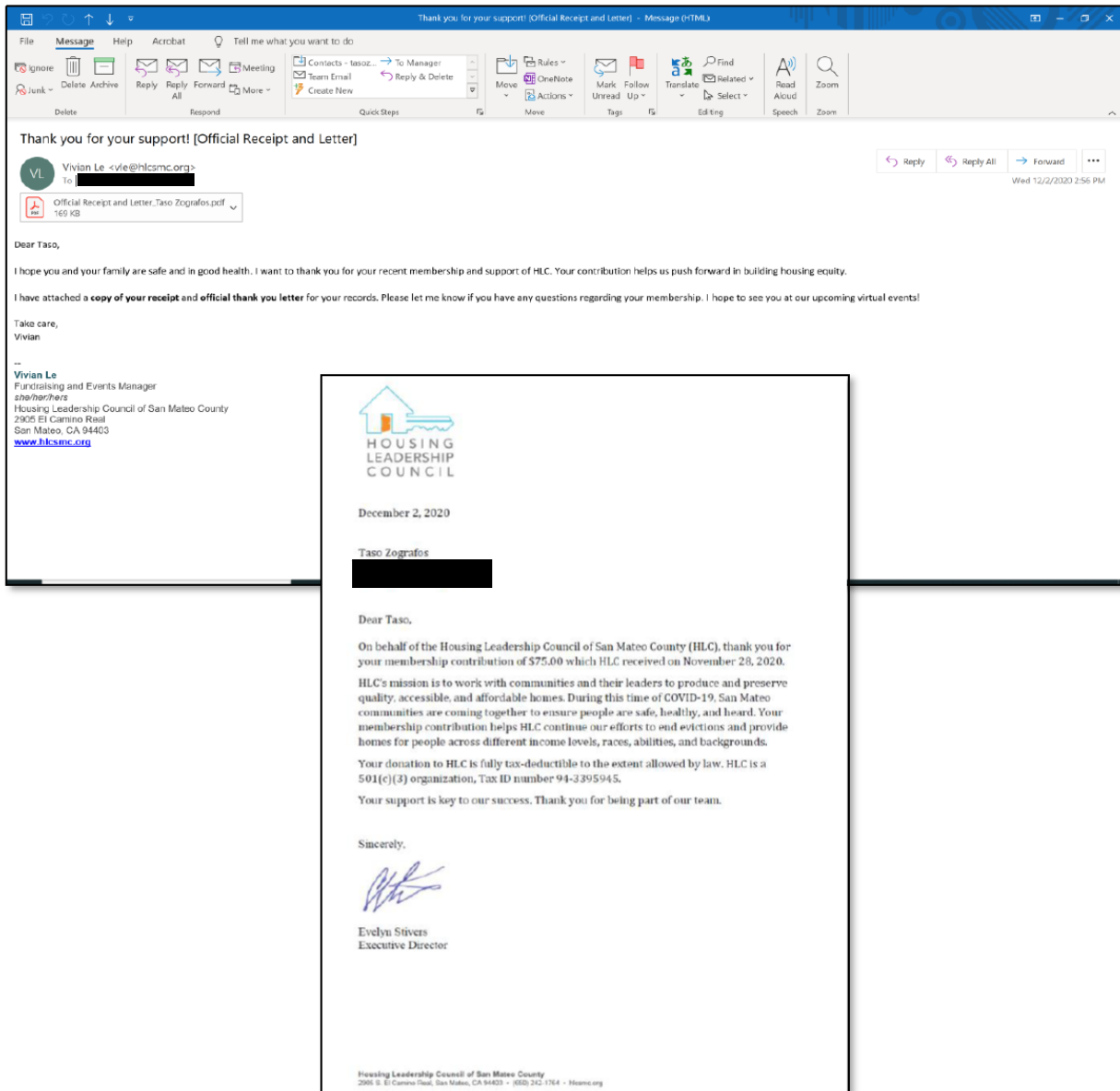
- My registration data input is accepted, and I receive an email confirmation providing me with access details for the virtual event.
- This confirms HLC's approval of my registration to participate.



ATTACHMENT #4

Dec. 2, 2020

- Via the HLC website (<https://hlcsmc.salsalabs.org/hlcmembershipdonation/index.html>), I register to become a member, pay \$75 as an Advocate, and receive an email and letter confirming my membership.



ATTACHMENT #5

Dec. 4, 2020

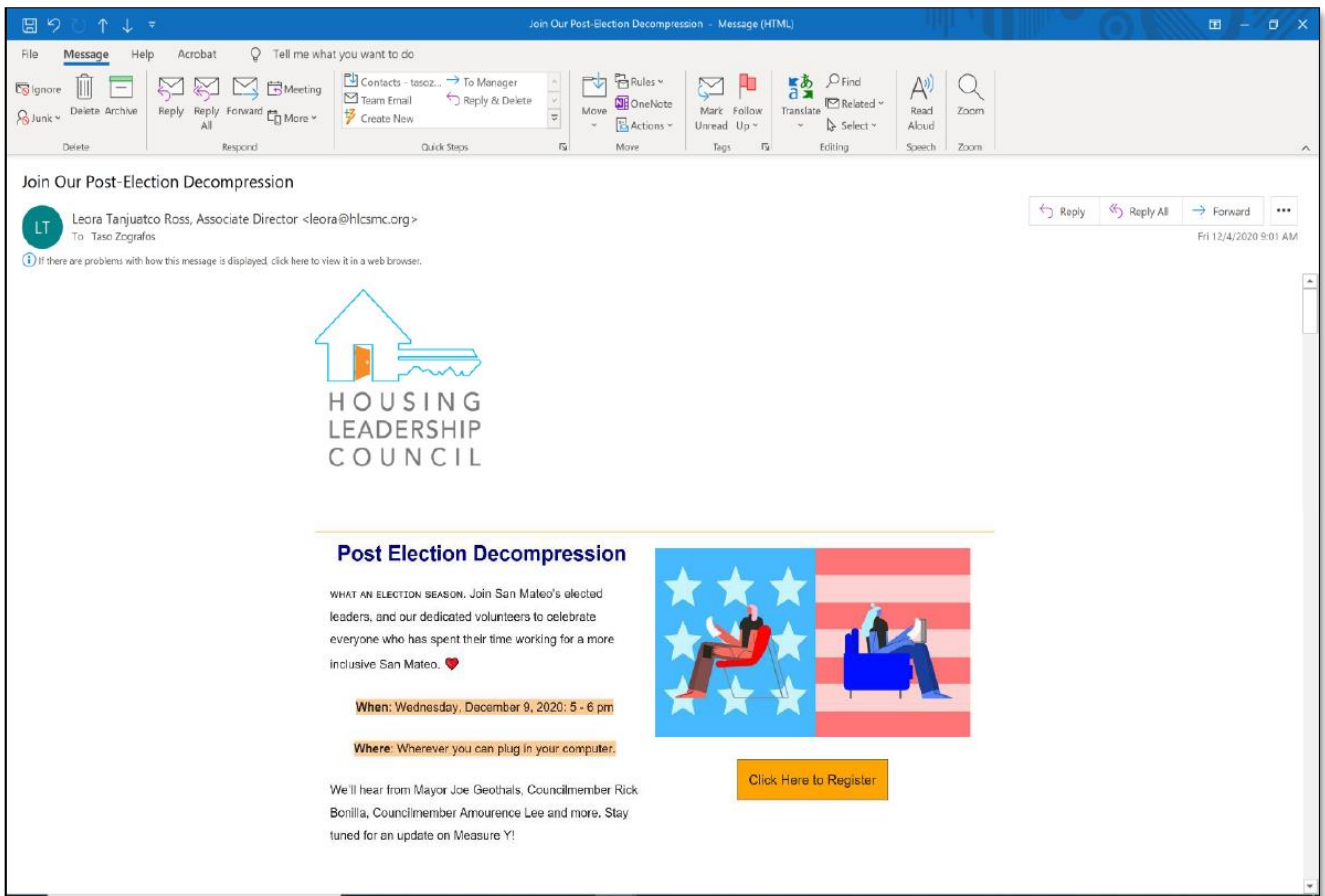
- A social media **public posting** by and about the HLC Dec 9th Virtual Zoom Webinar Event --- invitation to register to attend/participate



ATTACHMENT #6

Dec. 4, 2020

- I receive an email from HLC Associate Director Leora Tanjuatco Ross as a reminder of the upcoming virtual Zoom webinar event on Dec 9th for which I have registered to attend.



ATTACHMENT #7

Dec. 5, 2020

- On the HLC Facebook page (<https://www.facebook.com/hlcsmc>) there is a public posting about the Virtual Event highlighting the fact that San Mateo elected leaders will be participating.

The screenshot displays the Facebook profile of the Housing Leadership Council of San Mateo County. The page header includes the organization's name, a 'Learn More' button, and interaction options like 'Like' and 'Message'. A left-hand sidebar contains informational text about Facebook's purpose, icons indicating the page manager's location (United States), and a 'Related Pages' section listing 'Non-Profit Housing Asso...', 'HIP Housing (Human Inv...', and 'Eden Housing'. The main content area features a post from December 5 at 3:17 PM. The post text announces the removal of grey hairs and a post-election decompression event on Wednesday, December 9th, from 5-6 pm. It encourages participation from volunteers, elected leaders, and supporters, providing a Zoom link: <https://zoom.us/j/11p1fuy0qjotHtFuPRvLoBO9ywwbtmjP4g7R>. Below the text is a photograph of a group of people standing on a grassy lawn, holding signs that read 'BYE BYE GREY HAIR'.

ATTACHMENT #8

Dec. 5, 2020

- Another social media public posting about the HLC Dec 9th Virtual Zoom Webinar Event highlighting the fact that a majority of the San Mateo City Council – and other elected leaders will be participating.

The screenshot shows a Facebook event page for 'Post-Election Decompression' on Wednesday, December 9, 2020, from 5 PM PST to 6 PM PST. The event is hosted by the Housing Leadership Council of San Mateo County. The 'Details' section includes a Zoom link and a description of the event. A red box highlights the text: 'We'll hear from San Mateo Mayor Joe Geothals, Councilmember Rick Bonilla, Councilmember Amourance Lee, and many more!'. The 'Host' section identifies the Housing Leadership Council of San Mateo County as the organizing nonprofit.

9

WEDNESDAY, DECEMBER 9, 2020 AT 5 PM PST – 6 PM PST

Post-Election Decompression

Online Event

About Discussion

Details

11 people responded

Wednesday, December 9, 2020 at 5 PM PST – 6 PM PST

Public · Hosted by Housing Leadership Council of San Mateo County

Online Event

Post-Election Decompression
December 9, 5 pm - 6 pm

Register here:
<https://zoom.us/j/11p4fuyqjotHtFuPRvLoBO9ywwbtmjP4g7R>

It's been a long election season, within a public health crisis. We figured we could all use a good post-election decompression and celebrate everyone who contributed to our campaign against exclusionary zoning in San Mateo.

Join our dedicated team of volunteers, San Mateo's elected leaders, and our various supporters and endorsers who have spent the last several months campaigning for a more inclusive San Mateo.

We'll hear from San Mateo Mayor Joe Geothals, Councilmember Rick Bonilla, Councilmember Amourance Lee, and many more!

See Less

Causes Kid Friendly Online Housing policy Volunteering

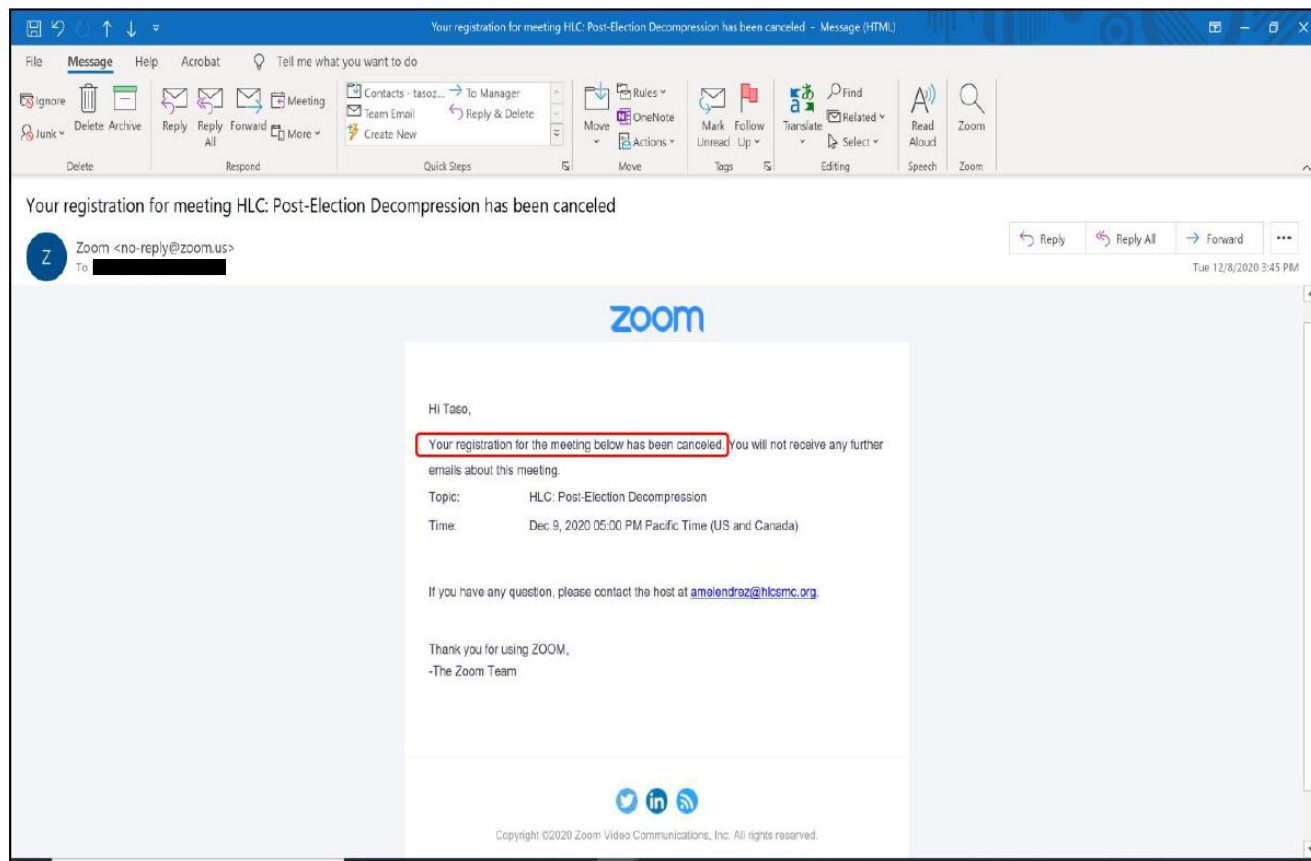
Host

Housing Leadership Council of San Mateo County
Nonprofit Organization · Community Organization

ATTACHMENT #9

Dec. 8, 2020

- I receive an email from HLC informing me that my registration to the virtual event has been CANCELLED, with no explanation as to why.



ATTACHMENT #10



Dec. 9, 2020

- Around the time that the Virtual Event is in process, an assumed participant John Tastor places a post on his Facebook page (<https://www.facebook.com/john.tastor>) that shows at least two (2) City Councilmembers participating in the Dec 9th HLC Virtual Zoom webinar event.

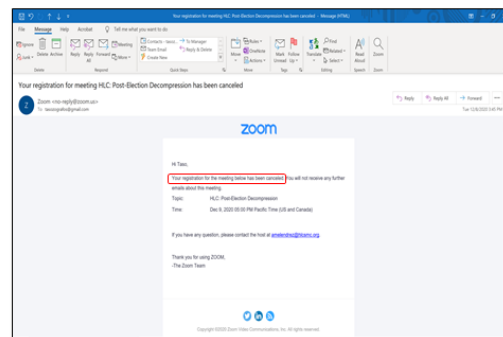


ATTACHMENT #11

A

From: [REDACTED]
Sent: Monday, December 14, 2020 12:05 PM
To: 'Vivian Le' <vle@hlcsmc.org>
Subject: RE: Thank you for your support! [Official Receipt and Letter]

Vivian – thank you kindly for the confirmation email and letter of membership on Dec 2. As a member, I had signed up and received confirmation to participate in the Dec 6 Post Election Decompression where HLC was featuring members of the San Mateo City Council. Was disappointed to receive a “Cancellation” notice (email image pasted below). On the date/time start of the event, it appeared that I was initially allowed momentary access, but then my access was immediately denied. I was unable to reach anyone to assist. Can you explain why as an Advocate Member of the HLC that my registration was cancelled and why I was denied access to participate in this event that featured our local government officials? Can you also provide me with a full list of all who were allowed to participate and any materials and/or notes from the virtual event? Thanks in advance and I look forward to hearing from you.
Most kindly, Taso



B

From: Vivian Le <vle@hlcsmc.org>
Sent: Monday, December 14, 2020 12:18 PM
To: [REDACTED]
Cc: Leora Tanjuatco <leora@hlcsmc.org>; Alex Melendrez <amelendrez@hlcsmc.org>; Ken Chan <kchan@hlcsmc.org>
Subject: Re: Thank you for your support! [Official Receipt and Letter]

Good morning Taso,
Thank you for reaching out and following up on this. There may have been some technical issues with Zoom / Outlook. I'd like to apologize for your inability to participate in the event, which was rescheduled to December 9th, and any inconveniences.
I have cc'ed HLC's organizers who led this event and can provide you with follow-up materials from the virtual event and answer your other questions.
Regards,
Vivian

C

From: [REDACTED]
Sent: Monday, December 14, 2020 12:31 PM
To: 'Vivian Le' <vle@hlcsmc.org>
Cc: 'Leora Tanjuatco' <leora@hlcsmc.org>; 'Alex Melendrez' <amelendrez@hlcsmc.org>; 'Ken Chan' <kchan@hlcsmc.org>
Subject: RE: Thank you for your support! [Official Receipt and Letter]

Thank you Vivian for the quick response.
I understand the possibility of technical issues, but I made several attempts to sign-on. What is more troubling to me is that as a HLC Advocate member whose registration was accepted and confirmed, that my invite-access was “cancelled”.
Can someone explain to me why was excluded? What remedy options can you provide me to also hear and understand the perspectives of the elected officials who participated in the Dec 9 virtual event?
I care deeply about affordable housing that is inclusive for all.
Thanks kindly,
Taso

ZOGRAFOS

January 13, 2021

TO: City of San Mateo
330 West 20th Street, San Mateo CA 94403
ATTN: City Clerk, Ms. Patrice Olds, polds@cityofsanmateo.org, 650-522-7042
Deputy City Clerk. Ms. Joan Diskin; jdiskin@cityofsanmateo.org

FR: Taso Zografos, [REDACTED]
[REDACTED]

CC: City Attorney, Mr. Shawn Mason, smason@cityofsanmateo.org, 650-522-7020

RE: Request to be Afforded 15-Min. to Speak & Present at a Planned 19JAN2021 City Council Meeting Under Agenda Item Pertaining to My 22DEC2020 Letter of Concern of Presumed-Perceived Violation of Brown Act

This letter is to formally request for 15-min speaker-presenter time at a planned 19JAN2021 City Council Meeting if it includes an agenda item pertaining to my 22DEC2020 submitted letter of concern of presumed-perceived violation of the Brown Act.

Please advise if this request is approved so that I may have ample time to prepare my presentation.

Feel free to call me direct at any time if you have further questions. My direct cell number is [REDACTED]
[REDACTED] and email address is [REDACTED]

Respectfully,



Taso Zografos