

CLIENT NEWS BRIEF

Brown Act's "Committee Exception" Does Not Apply To Special Meetings

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A California appellate court has focused on the distinction between a regular meeting and a special meeting of the local legislative body when considering an exception to public comment under the Ralph M. Brown Act (Brown Act). In *Preven v. City of Los Angeles (Preven)*, the Second District Court of Appeal found that the City of Los Angeles had improperly relied on the Brown Act's "committee exception" to stop public comment during a special meeting regarding a topic that had properly been addressed by a committee composed of City Council members.

Background Information

The Brown Act requires that public agencies provide the public with an opportunity for participation in the legislative process. At a regular meeting, the public has the opportunity to comment on not only agenda items, but also any item within the subject matter jurisdiction of the public agency. During a special meeting, on the other hand, the governing body may limit public comment to only the items described on the agenda.

The Brown Act's public comment requirement is found at Government Code section 54954.3. Subdivision (a) of that statute sets forth the "committee exception" and specifically references regular meetings:

However, the agenda need not provide an opportunity for members of the public to address the legislative body on any item that has already been considered by a committee, composed exclusively of members of the legislative body, at a public meeting wherein all interested members of the public were afforded the opportunity to address the committee on the item, before or during the committee's consideration of the item, unless the item has been substantially changed since the committee heard the item, as determined by the legislative body.

Preven specifically focused on whether the exception applies to special meetings as well as regular meetings. The appellant in *Preven* filed a lawsuit against the City of Los Angeles after the City, citing the "committee exception," had denied appellant the opportunity to comment at a special city council meeting because he had already spoken at a regular meeting of the City Council's Planning and Land Use Committee the night before. The trial court ruled that the committee exception applied to both special meetings and regular meetings. The trial court reasoned that appellant had been afforded the opportunity to discuss the agenda item at the committee meeting the night before, and therefore could be barred from comment at the special meeting addressing the same agenda item.

On appeal, the appellate court found the trial court's holding in error. It held that, pursuant to the plain language of Government Code section 54954.3(a), the "committee exception" does not apply to special meetings at all. The public is entitled to comment at special meetings even where the agenda item was covered at a prior committee meeting.



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Takeaways

In light of this decision, a public agency subject to the Brown Act must take care in denying public comment pursuant to the “committee exception.” This exception *only* applies to regular meetings, and *only* applies to items which were previously discussed by a committee made up of board or council members, where the public was allowed to address the committee on those same items. The purpose of the Brown Act is to facilitate public participation with local government decisions, and improperly denying public comment could produce an adverse result.

If you would like more information about the decision in *Preven* or have any questions relating to exceptions to the Brown Act generally, please contact the authors of this Client News Brief or an attorney at one of our [eight offices](#) located statewide. You can also subscribe to our [podcast](#), follow us on [Facebook](#), [Twitter](#) and [LinkedIn](#) or download our [mobile app](#).

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