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D.A. says county board violated rules

Cooley finds supervisors' discussions on the King-Drew trauma center broke the state open-meeting law known as the Brown Act.

By David Zahniser

Copley News Service

District Attorney Steve Cooley concluded Friday that county supervisors violated the Brown Act, the state's open meeting law, by reaching a decision behind closed doors to close the trauma center at Martin Luther King Jr.-Drew Medical Center.

In a five-page letter, Cooley informed the supervisors that their discussion of the trauma center went beyond the legally permitted scope of meetings that were convened to discuss potential lawsuits at the beleaguered hospital.

But while he argued that ignoring the Brown Act "impugns the integrity" of local government, Cooley said he will take no legal action against the supervisors, on the grounds that they did not intentionally try to exclude the public.

"We are confident that compliance in all aspects of the Brown Act can be achieved voluntarily, through the cooperative efforts of our respective agencies," Cooley wrote.

The decision infuriated some of the health department's longtime critics, who argued that Cooley should release the tape recordings of the two closed-door meetings and exact some form of punishment.

"He's not holding them accountable," said Genevieve Clavreul, an opponent of the plan to close the trauma center. "I think it's absurd. But you know, his budget comes from the county (supervisors)."

Other King-Drew advocates voiced satisfaction, however, saying the public's suspicions were confirmed.

"I don't know that we need to hear the tapes," said Councilwoman Janice Hahn, who had accused the supervisors of violating state law. "He's the people's attorney. He says they violated the Brown Act. That's good enough for me."

County supervisors announced their unanimous support for closing the trauma unit two months ago, only hours after they had met in closed session to discuss the beleaguered hospital. The questions surrounding the Sept. 7 and 13 closed-door meetings, first reported by Copley News Service, prompted Cooley to open an investigation and obtain audiotapes of the two meetings.

The supervisors agreed to release the meeting audiotapes on the condition that their contents remain confidential. Because Cooley agreed to those terms, he said he could not provide the factual basis for his written opinion.

Under the Brown Act, the board can discuss only a limited number of topics behind closed doors, such as pending lawsuits, confidential personnel matters and property negotiations.

Backers of King-Drew had argued that the elimination of a trauma service is a policy decision and does not meet the state's legal requirements.

After reviewing the tapes, Cooley determined the supervisors had violated the law both by discussing plans to close the trauma center and by reaching an "apparent consensus," or a decision, on the plan.

"In so doing, the board considered matters which were not privileged and which should have been aired in an open and public meeting," Cooley wrote.

Supervisor Yvonne B. Burke, whose district includes King-Drew, said she accepts Cooley's findings and agreed that there was "some straying of the discussion."

"I think it was a very close case," she said. "But I appreciate that he says we weren't trying to violate the Brown Act."

Supervisor Zev Yaroslavsky said he has no plans to contest Cooley's findings. But he argued that the closed-door meetings were the result of a board frustrated by a series of patient deaths at King-Drew, which is at risk of losing its federal funding and its accreditation.

"When you get into a closed room and you talk about life-and-death issues, you can get all over the map," he said.

"But that doesn't mean there's an intent to violate the Brown Act."

County officials still maintain that closing the trauma center will keep the hospital open by reducing some of the pressure that it is currently under.

The supervisors plan to proceed with a hearing on closing the trauma center Nov. 15.

"I take the Brown Act very seriously, and to the extent that any of our deliberations exceeded the Brown Act's limitations, it is regrettable," Yaroslavsky said. "But it was neither deliberate nor malicious, as the district attorney concluded."

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