From: Concerned Citizens of South Lake Tahoe <celltowers.slt@tutanota.com>
Sent: 4/28/2026 3:56:49 PM
To: Public Comment <PublicComment@trpa.gov>
Cc: Katherine Huston <khuston@trpa.gov>;
Subject: Hearings Officer Meeting April 30, 2026—Item #3 Public Comment
Attachments: 1.jpg , 2.jpg , 3.jpg , 4.jpg , 5.jpg , 6.jpg , 7.jpg , 8.jpg , 9.jpg , Public Comment-Censored.pdf , ADMIN2023-0034_Response Letter.pdf

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TRPA Hearings Officer Meeting Public Comment [April 30, 2026]

TRPA Governing Board & all other interested parties,

You have admitted to implementing, overseeing, or refusing to stop an unconstitutional TRPA "policy," "custom," or "practice." **We have major questions**. First, may we have a copy of any and all documents which allegedly promulgate the TRPA "standard practice" prescribing for the indiscriminate blocking of emailed written public comment and the removal the public participants from online open meetings without any prior adjudication whatsoever? Second, may we have **the names of the TRPA officials** or officers responsible for approving, overseeing, or renewing of this "practice"? Third, may we obtain the alleged "obscene names" that violated this "practice," pursuant to TRPA Ordinances and the Freedom of Information Act (FOIA)? Fourth, may we obtain **the names of the officials** who administer the agency meeting webinars by removing or dropping public users? That's right, we would still like the **names**!

Do know that TRPA may only regulate "names" that are in fact "obscene" as promulgated by *Miller v. California*, 413 U.S. 15 (1973). For speech to be obscene, it must: (1) appeal to an average person's prurient interest; (2) depict or describe sexual conduct in a "patently offensive" way; and (3) taken as a whole, lack serious literary, artistic, political or scientific value (*id.*).

Profane words such as "Fuck" are NOT, in-and-of-themselves, obscene (*e.g.*, *F.C.C. v. Pacifica Foundation*, 438 U.S. 726 (1978) (prurient appeal is an element of the obscene, but the normal definition of "indecent" merely refers to nonconformance with accepted standards of morality)). Indecent speech for adults is entitled to First Amendment protection (*Sable Communications of California v. Federal Communications Commission*, 492 U.S. 115 (1989); *see also*, *Reno v. American Civil Liberties Union*, 521 U.S. 844, 874 (1997) (expression which is indecent but not obscene is protected by the First Amendment)). In any case, when used in an isolated political context, profane words are protected speech (*e.g., Cohen v. California*, 403 U.S. 15 (1971)). Moreover, prohibiting the making of "**personal, impertinent, profane, insolent or slanderous remarks**" at public meetings is expressly an unconstitutional prohibition of protected speech (*Acosta v. City of Costa Mesa*, 718 F.3d 800, 810-11, 813 (9th Cir., 2013)). An agency's regulation cannot trump the Constitution (*see, e.g., Credit One Bank, N.A. v. Hestrin*, 60 F.4th 1220 (9th Cir., 2023)). It should suffice without saying, nor can an agency's "standard practice."

An obscene "name" subject to regulation must pass all three parts of the aforementioned obscenity test in "*Miller*" including that it actually "depicts or describes," in a patently offensive way, sexual conduct or excretory functions. Given that the webinar limits names to approximately 20 characters, we find it incredulous that a user could intensely "depict or describe" anything, much less something so graphic that it fails the test delineated in "*Miller*." Individual words, themselves, are generally subject to so many non-sexual uses, descriptions, or interpretations as to be never meet the obscenity test; a word list prohibition would be unconstitutionally overinclusive. For example, even under a worst case scenario, the word "Fuck" has many uses which are clearly non-sexual—and hence without "prurient appeal." Profane words are expressed in public fora often to have political value (*see, e.g., supra*, *Cohen* at 26; *Hustler Magazine, Inc. v. Falwell*, 485 U.S. 46, 55 (1988) (refusing to restrict speech based on its level of "outrageousness" (*e.g.*, 1, 2, 3, & 4)); *see also*, *Marcus v. Search Warrants of Property at 104 East Tenth St., KC, MO.*, 367 U.S. 717, 731 (1961) (a state is not free to adopt whatever procedure it pleases for dealing with obscenity without regard to possible consequences for constitutionally protected speech); *Simon & Schuster, Inc. v. Members of NY State Crime Victims Board*, 502 U.S. 105, 116, 117 (1991) (regulations which permit Government to discriminate on basis of content of message cannot be tolerated under First Amendment; even regulations aimed at proper governmental concerns can restrict unduly exercise of rights protected by First Amendment); *U.S. v. Stevens*, 559 U.S. 460, 470 (2010) (the First Amendment itself reflects a judgment by the American people that the benefits of its restrictions on the Government outweigh the costs, and the Constitution forecloses any attempt to revise that judgment simply on the basis that some speech is not worth it; the Constitution is not a document prescribing limits, and declaring that those limits may be passed at pleasure)). It is the most basic knowledge to high school—let alone college—literature, history, and political science students that such controversial rhetoric is not obscene (*e.g.*, *A Book Named "John Cleland's Memoirs of a Woman of Pleasure" v. Attorney General of MA.*, 383 U.S. 413, 419 (1966) (holding a text "cannot be proscribed unless it is found to be utterly without redeeming social value. This is so even though the book is found to possess the requisite prurient appeal and to be patently offensive."); *U.S. v. One Book Called "Ulysses,"* 5 F.Supp. 182, 185 (1933) (Book "Ulysses" held not "obscene")).

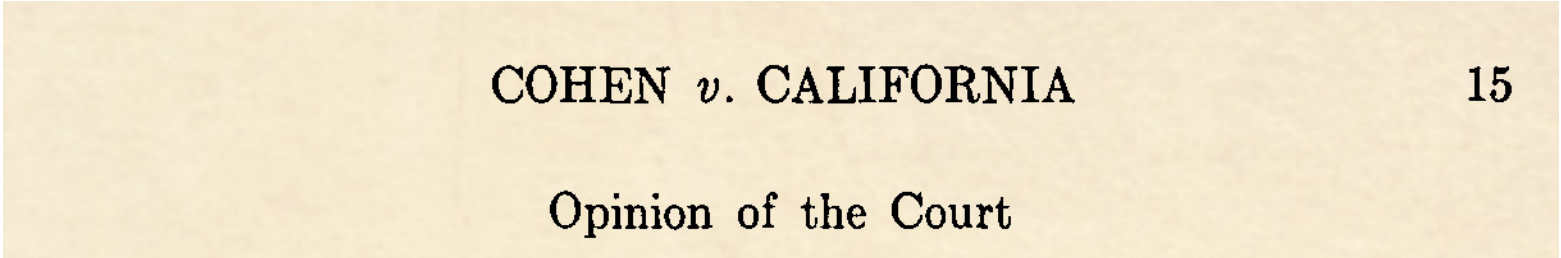
As the right against the government prohibiting the making of "personal, impertinent, profane, insolent or slanderous remarks" at public meetings was clearly established by 2013, there is no qualified immunity for TRPA officials implementing such a constitutional violation as of the current year 2023. An official may be subject to liability for implementing, overseeing, or refusing to stop an unconstitutional "policy," "custom," or "practice." TRPA officers may be personally liable for their acquiescence in constitutional deprivations, or for inaction in the training, supervision, or control of their subordinates, or for conduct that showed a reckless or callous indifference to the rights of others (*Hyde v. City of Willcox*, 23 F.4th 863, 874 (9th Cir., 2022); *Cunningham v. Gates*, 229 F.3d 1271, 1292 (9th Cir., 2000); *Kentucky v. Graham*, 473 U.S.

159, 165 (1985) (an award of damages against an official in his personal capacity can be executed only against the official's personal assets); *see also*, *Monroe v. Pape*, 365 U.S. 167 (1961) (those persons who carry badge of authority of a state and represent it in some capacity are liable when they violate constitutional rights)). All TRPA Governing board members are liable because they inherently act in the capacity as officials of local government notwithstanding any concurrent role as state officers (*Jacobson v. Tahoe Regional Planning Agency*, 566 F.2d 1353 (9th Cir., 1977) (TRPA operates under aegis of federal law; where infringement of constitutional rights arose from actions of TRPA, involvement of constituent governments under interstate compact was purely ministerial); compare *Monell v. Department of Social Services of City of New York*, 436 U.S. 658 (1978) with *Will v. Michigan Dept. of State Police*, 491 U.S. 58 (1989) (together holding that individuals when acting in their official capacities as officers of a local government are liable under federal civil rights statute while those when acting strictly as officers of a state government are not)).

TRPA officials are clearly liable for civil rights violations and an award of damages may be executed against their personal assets. Ms. Gustafson's assets at "2755 & 2765 Sierra View Avenue, Tahoe City, CA 96145-2175 (APN's 093-036-007-000 & 093-036-016-000)" are fair game, as are Ms. Williamson's assets at "178 Meadow Lane, Kingsbury, NV 89449 & 2288 Tahoe Vista Drive, South Lake Tahoe, CA, 96150 (APN's 1318-23-810-049 & 023-664-010)," Mr. Hoenigman's assets at "555 Trout Street, Homewood, CA 96142 (APN's 097-111-027, 097-111-028, 097-111-029, & 097-111-030)," Ms. Regan's assets at "3365 Beaver Brae Drive, Meyers, CA 96150 (APN 036-554-006)," Mr. Marshall's assets at "570 Marsh Avenue, Reno, NV 89509 & 3255 Thornhill Drive, Reno, NV 89509 (APN's 011-204-04 & 009-443-02)," Mr. St. Michel's assets at "3000 Fresno Avenue, South Lake Tahoe, CA, 96150 (APN 015-213-014 & *inheritance* @ Michael & Lucinda's APN 023-561-012)" & "1135 Banner Peak Drive, Carson City, NV 89701 (APN 01076107)," Jeff Cowen's assets at "1362 Gilmore Lakes Road, South Lake Tahoe, CA, 96150 (APN 025-224-010)," Sarah Underhill's assets at "1156 Lodi Avenue, South Lake Tahoe, CA, 96150 (APN 031-262-023)," Mr. Rice's assets at "287 Elks Point Road, Zephyr Cove, NV 89448 (APN 1318-15-611-042)," Ms. Laine's assets at "3425 Warr Road, South Lake Tahoe, CA, 96150 (APN's 025-193-029)," Cody Bass' assets at "949 Bal Bijou Road & 3443 Lake Tahoe Boulevard, South Lake Tahoe, CA 96150 (APN's 027-090-016 & 027-090-017)," Devin Middlebrook's assets at "867 Merced Avenue, South Lake Tahoe, CA 96150 (APN 026-036-006)," Kimberly Caringer's assets at "241 Sierra Shadows Lane, Gardnerville, Nevada 89460 (APN 1219-03-002-032)," Karen Fink's assets at "1190 Lodi Avenue, South Lake Tahoe, CA 96150 (APN 031-261-034)," Bridget *"Bitchface"* Cornell's assets at "612 Village Boulevard, Incline Village, NV 89451 (APN 131-013-14)," Marja Ambler's (Ambler Construction & Wolfden Construction) assets at "979 Kekin Street & 661 Nahane Drive, Meyers, CA 96150 (APN's 035-271-022 & 035-293-021)," TRPA sock puppeteer Heidi Hill-Drum's (and incestuous cousin of G.B. director Hill) assets at "942 Kekin Street, Meyers, CA 96150 (APN 035-272-008)," Ms. Hill's assets at "695 Brown Street, Reno, NV 89509 (APN 014-012-14)," TRPA sock puppeteer Mr. Teshara's assets at "10063 Winter Creek Loop, Truckee, CA 96161 (APN 019-830-064 [Document # 20240018106])," TRPA sock puppeteer Carol Chaplin's assets at "281 Chimney Rock Road (APN 1318-23-610-027)," TRPA sock puppeteer Lew Feldman's assets at "230 Canyon Circle (APN 1418-34-112-021)," TRPA sock puppeteer Jon "Patrick" Rhamey's assets at "4 Kjer Lane, Kingsbury, NV 89449 (APN 1318-23-811-004)," TRPA sock puppeteer Andrew Strain's assets at "1407 Walkup Road," South Lake Tahoe, CA 96150 (APN 025-201-019)," TRPA sock puppeteer Jerry Bindel's assets at "1245 Lone Pine Trail, South Lake Tahoe, CA 96150 (APN 080-181-004)," TRPA sock puppeteer Rich Bodine's assets at "3310 Becka Drive, South Lake Tahoe, CA 96150 (APN 025-402-010)," TRPA sock puppeteer Carl Ribudo's assets at "2621 Kubel Avenue, South Lake Tahoe, CA 96150 (APN 031-192-016)," TRPA sock puppeteer Brandi Brown's assets at "1123 Winnemucca Avenue, South Lake Tahoe, CA 96150" (APN 031-300-003)," TRPA sock puppeteer Allyson Woods' assets at "2662 South Upper Truckee Road, South Lake Tahoe, CA 96150 (APN's 035-273-016)," TRPA sock puppeteer Darcie Goodman Collins' assets at "1307 Mount Diablo Circle, South Make Tahoe, CA 96150 (APN 033-441-009)," and TRPA asswipe *per se* Amy Fish's assets at "3620 Shirley Avenue, South Lake Tahoe, CA 96150 (APN 027-114-021-100)" (attached public records) (*see*, *Publius v. Boyer–Vine*, 237 F.Supp.3d 997, 1017 (2017) (holding when an individual's personal information—including addresses and telephone numbers—is relevant to issues of public significance, its truthful dissemination, particularly when already in the public domain and lawfully obtained, triggers exacting First Amendment scrutiny)). The specter of an award of damages against a deliberately indifferent callous official's personal assets is likely all they actually care about. **The personal legal exposure to TRPA officials is significant.**

In your arrogant effrontery, Mr. Marshall, **you have expressly admitted TRPA liability** in your appended email by writing that this constitutional violation was in fact taken or directed through "[f]ollowing standard practice" (*supra, see, Monell v. Department of Social Services of City of New York* (local governments may be sued for constitutional deprivations visited pursuant to governmental custom even though such a custom has not received formal approval through the body's official decision-making channels; a municipality cannot be held liable on a *respondeat superior* theory for unsanctioned and insubordinate actions by rouge employee); *Pembaur v. City of Cincinnati*, 475 U.S. 469 (1986) (when a particular course of action is directed by those who establish governmental policy, municipality is equally responsible whether that action is to be undertaken only once or to be taken repeatedly); *Board of County Com'rs of Bryan County, Okl. v. Brown*, 520 U.S. 397 (1997) (action taken or directed by municipality or its authorized decision maker itself violates federal law will also determine that municipal action was moving force behind injury as required to allow recovery); *Connick v. Thompson*, 563 U.S. 51 (2011) (official municipal policy, such as may provide basis for holding municipality liable for civil rights violations committed pursuant thereto, includes decisions of government's lawmakers, acts of its policymaking officials, and practices which are so persistent and widespread as to practically have force of law; these are actions for which municipality is actually responsible)). A local government has no immunity from liability flowing from its constitutional violations and may not assert the good faith of its officers as a defense to such liability (*Owen v. City of Independence, Mo.*, 445 U.S. 622, 638 (1980)). Nor is there immunity for an agency which operates under federal law (*Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics*, 403 U.S. 388, 395-396 (1971) (damages may be obtained for injuries consequent upon a violation of the Constitution by federal officials)). **The legal exposure to the TRPA itself is significant.**

The lesson from "*Cohen*," was not that the Reporter of Decisions of the Supreme Court of the United States had a "potty mouth" or a sick desire to force the U.S. Government Publishing Office to print millions of copies of the word "Fuck":



COHEN *v.* CALIFORNIA 15

Opinion of the Court

COHEN *v.* CALIFORNIA

APPEAL FROM THE COURT OF APPEAL OF CALIFORNIA, SECOND APPELLATE DISTRICT

No. 299. Argued February 22, 1971—Decided June 7, 1971

Appellant was convicted of violating that part of Cal. Penal Code § 415 which prohibits "maliciously and willfully disturb[ing] the peace or quiet of any neighborhood or person . . . by . . . offensive conduct," for wearing a jacket bearing the words "Fuck the Draft" in a corridor of the Los Angeles Courthouse. The Court of Appeal held that "offensive conduct" means "behavior which has a tendency to provoke *others* to acts of violence or to in turn disturb the peace," and affirmed the conviction. *Held:* Absent a more particularized and compelling reason for its actions, the State may not, consistently with the First and Fourteenth Amendments, make the simple public display of this single four-letter expletive a criminal offense. Pp. 22–26.

1 Cal. App. 3d 94, 81 Cal. Rptr. 503, reversed.

HARLAN, J., delivered the opinion of the Court, in which DOUGLAS, BRENNAN, STEWART, and MARSHALL, JJ., joined. BLACKMUN, J., filed a dissenting opinion, in which BURGER, C. J., and BLACK, J., joined, and in which WHITE, J., joined in part, *post,* p. 27.

Melville B. Nimmer argued the cause for appellant. With him on the brief was *Laurence R. Sperber.*

Michael T. Sauer argued the cause for appellee. With him on the brief was *Roger Arnebergh.*

Anthony G. Amsterdam filed a brief for the American

Civil Liberties Union of Northern California as *amicus curiae* urging reversal.

MR. JUSTICE HARLAN delivered the opinion of the Court.

This case may seem at first blush too inconsequential to find its way into our books, but the issue it presents is of no small constitutional significance.

The applicable lesson as was that the TRPA may not prohibit the public from attending TRPA hearings because of their emotive speech expression by way of profane words:

If the public is allowed to attend a TRPA meeting's public comment session wearing this jacket:

Or this shirt:

Then they may also do so wearing the following "name tag" sticker:

Which means they may also do so with any such virtual "name tag" registration for a TRPA meeting's webinar. Content-based sign codes also violate free speech guarantees (*see*, *e.g.*, *supra, Cohen* (law prohibiting clothing which displays profane words in courthouse an unconstitutional restriction on speech); *Reed v. Town of Gilbert, Ariz.*, 576 U.S. 155 (2015) (content-based sign code's are regulations of speech that do not survive strict scrutiny); *Carey, Warden v. Musladin*, 549 U.S. 70 (2006) (due process right to unbiased tribunal was not a compelling enough interest to restrict free speech right of family members to wear buttons with the image of the murder victim inside a trial courtroom); *see also*, *Tinker v. Des Moines Independent Community School Dist.*, 393 U.S. 503 (1969) (undifferentiated fear or apprehension of disturbance is not enough to overcome right to freedom of expression; wearing of armband for purpose of expressing certain views is type of symbolic act that is within free speech clause of First Amendment)).

The public may even wear t-shirts or carry protest signs into TRPA open meetings with the following poster image:

We swear to god this is a real photo of TRPA director Julie Regan actually wearing this absurd narcissistic vanity jacket. She really just spends so much time fraternizing and outright kissing the asses of Tahoe Lakefront Homeowners Association and Edgewood Clubhouse members, that she naturally just thinks people normally dress by ostentatiously displaying their bloodline legacy heraldry. The aforementioned political poster is even subject to federal copyright and trademark (*see, Iancu v. Brunetti*, 588 U.S. 388 (2019) (Lanham Act's bar on the registration of "immoral" or "scandalous" trademarks discriminates on the basis of viewpoint and, thus, violates the First Amendment)). This image when posted to TRPA social media is protected under the First Amendment and **may not be deleted by government officials** (*infra*, *Garnier v. O'Connor-Ratcliff* at 1180 (members of government board violated public's First Amendment free speech rights by blocking their comments on their public social media pages); *supra*, *Sable Communications of California, Inc. v. F.C.C.*, at 126 (expression which is indecent but not obscene is protected by the First Amendment); *supra*, *Reno v. American Civil Liberties Union*, at 874). This image even comports with "contemporary community standards" for online commentary (*supra*, *F.C.C. v. Pacifica Foundation*; *see, e.g.,* Facebook community standards policy (**permitting** posting imagery of "visible anus and/or fully nude close-ups of buttocks" if "photoshopped on a public figure")).

You apparently find the public's grievances distasteful. The Supreme Court has reasoned that "one man's vulgarity is another's lyric" (*Cohen* at 25). The public's rhetoric is entirely commensurate with the perceived vulgarity of TRPA's actions of which we even find beyond distasteful. You should have the perspective that the undermentioned illustration is, *inter alia*, what the public finds outright obscene—at least in the colloquial sense:

Obscenity

One Gargantuan Corrupt Bloviating Incestuous Circlejerk Clusterfuck

The TRPA's contempt for public input and its manufacturing of consent is also "obscene" (that's actually Andrew Strain and Mark Burton having undue influence over senile nonagenarian Senator Dianne Feinstein—Strain is currently the "Vice-President of Development" at Tahoe Beach Club and the TRPA hearings' officer where he sets TRPA precedent for more development; Patrick Rhamey is the "CEO" and Mark Burton is the "President"). In any case, Dianne Feinstein's environmental legacy itself was darkly "marked by **a testy relationship with environmentalists**, strong rapport with the state's agricultural power brokers...She hosted [corrupt] summits in [Tahoe], where she owned a palatial vacation home." **Obscenity!**

A TRPA "standard practice" may not violate the First Amendment. The TRPA is neither a private consulting firm, nor a social media platform, nor a newspaper. It is a government entity absolutely required to abide by the constraints of the First Amendment (*see, Manhattan Community Access Corporation v. Halleck*, 587 U.S. 802, 804, 139 S.Ct. 1921, 1926 (2019) (the Free Speech Clause of the First Amendment constrains governmental actors and protects private actors; the Free Speech Clause prohibits only governmental abridgment of speech); *Diouf v. Napolitano*, 634 F.3d 1081, 1090 (9th Cir., 2011) (explaining court will not defer to agency interpretation if it raises "grave constitutional doubts")). It makes no difference whether public participation is by email or teleconference (*see*, *Brown v. Entertainment Merchants Ass'n*, 564 U.S. 786, 791 (2011) (whatever the challenges of applying the Constitution to ever-advancing technology, basic principles of freedom of speech and press, like the First Amendment's command, do not vary when new and different medium for communication appears); *Garnier v. O'Connor-Ratcliff*, 41 F.4th 1158, 1177, 1179 (9th Cir., 2022) ("designated public forum" exists, for Free Speech Clause purposes, where government intentionally opens up nontraditional forum for public discourse; public social media pages of members of board were designated public fora, for Free Speech Clause purposes, despite trustees' contention that they intended their social media pages to be one-way channel of communication)). For purposes of determining constitutionality of speech restriction, any suggestion that Government's interest in suppressing speech becomes more weighty as popular opposition to that speech grows is foreign to First Amendment (*U.S. v. Eichman*, 496 U.S. 310, 318 (1990)).

Content-based speech laws, regulations, or practices are presumptively unconstitutional (*supra*, *Reed v. Town of Gilbert, Ariz.* at 163; *R.A.V. v. City of St. Paul*, 505 U.S. 377, 382 (1992)). General principle that government may not implement content-based restrictions on speech, also applies specifically to restrictions which impose financial burdens on speakers because of the content of their speech! Financial burdens obviously "chill speech" through limiting its dissemination. A law is presumptively inconsistent with First Amendment if it imposes financial burden on speakers because of content of their speech (*supra*, *Simon & Schuster, Inc. v. Members of NY State Crime Victims Board*, at 115). Any TRPA law, regulation, or rule restricting certain targeted individuals—on account of the content of their speech—to only participate in agency public comment through hard-mailed submission and thus purposefully chill the dissemination of their speech through the needless financial burden of costly printing and postage expenses, is unconstitutional! "Premised on mistrust of governmental power, the First Amendment stands against attempts to disfavor certain subjects or viewpoints...**Prohibited**, too, **are restrictions distinguishing among different speakers**, allowing speech by some but not others...As instruments to censor, these categories are interrelated: Speech restrictions based on the identity of the speaker are all too often simply a means to control content. Quite apart from the purpose or effect of regulating content, moreover, the Government may commit a constitutional wrong when by law it identifies certain preferred speakers. **By taking the right to speak from some and giving it to others, the Government deprives the disadvantaged person or class of the right to use speech to strive to establish worth, standing, and respect for the speaker's voice.** The Government may not by these means deprive the public of the right and privilege to determine for itself what speech and speakers are worthy of consideration. The First Amendment protects speech and speaker, and the ideas that flow from each" (*Citizens United v. Federal Election Com'n*, 558 U.S. 310, 340-341 (2010)).

Nor may TRPA violate California open meeting law (PUBLIC LAW 96-551 Art. III(d) ("All meetings shall be open to the public to the extent required by the law of the State of California"); CA. Const. Art. I, Sec 3 ("The people have the right to instruct their representatives, petition government for redress of grievances; In order to ensure public access to the meetings of public bodies and the writings of public officials and agencies...each local agency is hereby required to comply with the California Public Records Act...and the Ralph M. Brown Act"); CA. Gov. Code §§ 54950, 54953, & 54957.5 ("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"; "all persons shall be permitted to attend any meeting of the legislative body of a local agency"; "The legislative body shall allow members of the public to access the meeting and the agenda shall provide an opportunity for members of the public to address the legislative body"; a "writing shall be made available for public inspection pursuant...at the time the writing is distributed to all, or a majority of all, of the members of the body")). The TRPA may not violate the TRPA Compact (*Decker v. Northwest Environmental Defense Center*, 568 U.S. 597, 609 (2013) (regulations, in order to be valid, must be consistent with the statute under which they are promulgated); *U.S. v. Larionoff*, 431 U.S. 864, 873 (1977) (in order to be valid, regulations must be consistent with the statute under which they are promulgated)). Nor may TRPA may violate its Rules of Procedure pertaining to meetings, because it its well-established that no agency may violate its own regulations (*U.S. v. Nixon*, 418 U.S. 683, 695 (1974); *Vitarelli v. Seaton*, 359 U.S. 535 (1959); *Service v. Dulles*, 354 U.S. 363, 388 (1957); *United States ex rel. Accardi v. Shaughnessy*, 347 U.S. 260 (1954); *see also*, *National Wildlife Federation v. National Marine Fisheries Service*, 524 F.3d 917, 931 (9th Cir., 2008)). When the regulation's text is clear, there is no deference to an agency's interpretation (*Kisor v. Wilkie*, 88 U. S. 558, 574-575, 139 S. Ct. 2400, 2415 (2019) ("[t]he regulation then just means what it means"); *Attias v. Crandall*, 968 F.3d 931, 937 (9th Cir., 2020); *Larson v. Saul*, 967 F.3d 914, 922 (9th Cir., 2020)). TRPA Rules of Procedure require allowing the public to remotely attend teleconference meetings, as well as the online posting of written public comment (R.O.P. §§ 2.6 , 2.16.5, & 2.16.6 ("All meetings of the Board shall be open to the public"; "The Agency shall provide the public with an opportunity for members of the public to address the Board or other body contemporaneously by telephone, a two-way audio-visual platform, and in-person"; "materials that are to be considered at the meeting shall be made available online **contemporaneously** with presentation to the Governing Board members")).

We honestly do not even believe anything which could be construed as obscenity is actually occurring at TRPA public meetings. As we previously stated, even our webinar connection timed out (dropped) and we did not register with a profane name despite such a right (CA. Gov. Code § 54953.3). The TRPA has refused to publicly release its "standard practice" document, making the "secret rules" both unconstitutionally vague and implemented without due process (*supra*, *Garnier v. O'Connor-Ratcliff* at 1178) (under Free Speech Clause, standards for inclusion and exclusion for limited public forum must be unambiguous and definite; without objective standards, government officials may use their discretion as pretext for censorship); *supra*, *Reno v. American Civil Liberties Union*, at 871 (vagueness of content-based regulation of speech raises special First Amendment concern because of its obvious chilling effect on free speech); *Gentile v. State Bar of Nevada*, 501 U.S. 1030, 1051 (1991) (prohibition against vague regulations of speech is based in part on need to eliminate impermissible risk of discriminatory enforcement); *Smith v. Goguen*, 415 U.S. 566, 576 (1974) (due process is denied where inherently vague regulatory language permits selective law enforcement)). An average citizen cannot generally determine what persons are regulated, what conduct is prohibited, or what punishment may be imposed. Moreover, the public is being deprived of their First Amendment rights without due process' guarantees to know the charges against them, all opposing evidence, and a meaningful opportunity to confront the accusations (*Mullane v. Central Hanover Tr. Co.*, 339 U.S. 306, 313, 314 (1950) (requisite of due process of law is the opportunity to be heard); *Greene v. McElroy*, 360 U.S. 474, 946-947 (1959) (the right to be confronted with evidence is protected in all types of cases where administrative and regulatory actions were under scrutiny); *Goldberg v. Kelly*, 397 U.S. 254, 269-70 (1970) ("In almost every setting where important decisions turn on questions of fact, due process requires an opportunity to confront and cross-examine adverse witnesses")).

This constitutional violation has resulted in the unconscionable injury to innumerable completely innocent persons by a government "practice" which indiscriminately punishes large swaths of the public whom TRPA officials fallaciously believe—upon baseless speculation or unfounded conjecture—are part of a group. Nor may TRPA punish either an entire conjectured "group" or an actual group because of the alleged constitutionally unprotected acts of one of its members (*N.A.A.C.P. v. Claiborne Hardware Co.*, 458 U.S. 886, 908 (1982) ("[t]he right to associate does not lose all constitutional protection merely because some members of the group may have participated in conduct or advocated doctrine that itself is not protected")). Constitutionally permissible activity may not be chilled because of a "standard practice's" vagueness. **The coercive chilling of speech is precisely the purpose behind TRPA's current refusal to publicly release its secret "standard practice."** Secret rules and secret police are the coercive tools of dictators, tyrants, and authoritarian regimes; they have no place whatsoever in a democracy (*see, West Virginia State Board of Education v. Barnette*, 319 U.S. 624 (1943) (the United States Government was set up "by consent of the governed, and the Bill of Rights

denies those in power any legal opportunity to coerce that consent. Authority here is to be controlled by public opinion, not public opinion by authority")).

This email further demands that you preserve and not alter any evidence relating to TRPA violations of the First Amendment and due process of law, which includes, but is not limited to:

- emails and letters received from the public
- digital forensic evidence (*e.g.,* files on email servers, public record servers, personnel hard drives)
- agency personnel records
- internal agency emails and phone records

Next, **we demand that you ensure all public comments sent the TRPA for its September 14th and 27th 2023 public meetings be uploaded to the agency hearing's webpage. This includes publication of multiple unique emails from the same users as well as duplicate emails.**

TRPA and its officials are incontrovertibly violating constitutional rights "under the color of law" (*Ex parte Commonwealth of Virginia*, 100 U.S. 339, 340 (1879) (whoever by virtue of public position under a state government deprives another of property, life or liberty without due process of law or denies or takes away the equal protection of the laws violates the 14th amendment to the Constitution, his act being that of the state); *U.S. v. Classic*, 313 U.S. 299, 326 (1941) ("[m]isuse of power, possessed by virtue of state law and made possible only because the wrongdoer is clothed with the authority of state law, is action taken 'under color of' state law"); *Screws v. U.S.*, 325 U.S. 91, 111 (1945) ("[i]t is clear that under 'color' of law means under 'pretense' of law"); *Lugar v. Edmondson Oil Co., Inc.*, 457 U.S. 922, 929 (1982) ("the statutory requirement of action 'under color of state law' and the 'state action' requirement of the Fourteenth Amendment are identical"); *West v. Atkins*, 487 U.S. 42, 49-50 (1988) (definition of acting under color of law requires that defendant have exercised power possessed by virtue of law and made possible only because wrongdoer is clothed with authority of state law; defendant acts under color of law when he abuses position given to him by state; generally, public employee acts under color of state law while acting in his official capacity or while exercising his responsibilities pursuant to state law); *Brentwood Academy v. Tennessee Secondary School Athletic Ass'n*, 531 U.S. 288, 295 (2001) (if defendant's conduct satisfies state-action requirement of Fourteenth Amendment, conduct also constitutes action "under color of state law")).

Rationalizations under pretense or pretext are generally illegal, especially when advanced by a government agency's legal counsel. "It is clear that under 'color' of law means under 'pretense' of law" (*supra, Screws v. U.S.*, at 111). Pretextual rationalizations are arbitrary and capricious (*see*, *Department of Commerce v. New York*, 588 U.S. 752, 780-785, 798, 819-820, 139 S. Ct. 2551, slip op. pp. 28-34, 47, 71 (2019) (action was arbitrary and capricious, based on a pretextual rationale; in order to permit meaningful judicial review, an agency must "disclose the basis" of its action; [t]he reasoned explanation requirement of administrative law, after all, is meant to ensure that agencies offer genuine justifications for important decisions, reasons that can be scrutinized by courts and the interested public)). Rationalizations under pretense or pretext also generally violate the American Bar Association canons for ethics and may result in sanctions or disbarment of attorneys in California or Nevada (CA. Business and Professions Code § 6068(d) ("[i]t is the duty of an attorney to...[t]o employ, for the purpose of maintaining the causes confided to him or her those means only as are consistent with truth, and never to seek to mislead...by an artifice or false statement of fact or law"); California Rules of Professional Conduct, Rule 3.4 ("[a] lawyer shall not..unlawfully obstruct another party's access to evidence...or unlawfully alter, destroy or conceal a document or other material having potential evidentiary value...[or] falsify evidence, counsel or assist a witness to testify falsely"); Rule 4.1 ("a lawyer shall not knowingly...make a false statement of material fact or law to a third person"); NV. R. Prof. Cond. Rule 8.2(a) (prohibiting attorneys from "make[ing] a false statement of material fact or law to a third person")).

Much of the local public—including us—are generally entirely convinced that TRPA is habitually using the legal "color" of thinly-veiled pretexts such as "obscenity," "threats," "non-conformance," or "clerical error" with regards to TRPA Rules of Procedure in order to purposefully suppress protected First Amendment speech and to subvert required due process of law. We all generally feel so very strongly about this, that it is not cognizable to any of us that there is any validity or truth whatsoever to any of the aforementioned dubious agency justifications. We so strongly feel—that it is not cognizable to any of us—that you could actually or plausibly view past public commentary as "obscene," "threatening," or "untimely." We wish to make utterly clear, that **we believe as a self-evident truth, that TRPA purely is attempting to "prohibit public criticism of the policies, procedures, programs, or services of the agency, or of the acts or omissions of the legislative body," its officers, officials, or its general staff**.

TRPA has egregiously "cried wolf" to deprive constitutional rights under so many different bogus and outright frivolous pretexts over the past decade, that it is becoming all but impossible for the broad venting public to subjectively cognize that TRPA officials could actually regard their statements as "threatening"—other than in the purely legal or political senses. Pretexts clearly are your default *modus operandi* for abuse of power.

TRPA has bent over backwards to protect clearly fraudulent development applications under the false auspices as free speech petitioning of the government—*e.g.*, *Garmong v. Tahoe Regional Planning Agency*, 2022 WL 16707187, *2 (2022)—**whilst simultaneously restraining expressly protected forms of petitioning of the government for a redress of grievance by the general public**. It should go without saying that developer's submittal of fraudulent or perjurious applications to government adjudicatory processes is not a form of protected speech (*Giboney v. Empire Storage & Ice Co.*, 336 U.S. 490, 498 (1949) (the First Amendment doesn't protect "speech or writing used as an integral part of conduct in violation of a valid criminal statute" or ordinance); *U.S. v. Alvarez*, 567 U.S. 709, 723 (2012) (where false claims are made to effect a fraud or secure moneys or other valuable considerations, such as offers of employment, Government may restrict speech without affronting the First Amendment); *Virginia State Bd. of Pharmacy v. Virginia Citizens Consumer Council Inc.*, 425 U.S. 748, 771-772 (1976) (state may regulate commercial speech which is false, deceptive, misleading, or which proposes illegal transactions); *Donaldson v. Read Magazine*, 333 U.S. 178, 192 (1948) (fraud statutes barring delivery of mail and payment of money orders which Postmaster General had found constituted a fraudulent scheme, does not violate First Amendment); *McDonald v. Smith*, 472 US 479, 484 (1985) (finding no protection for false statements of fact in the First Amendment; the right to petition did not rise to the level of an "unqualified right to express damaging falsehoods"); *Garrison v. Louisiana*, 379 US 64, 75 (1964) ("intentional and reckless falsehoods do not enjoy constitutional protection"); *Professional Real Estate Investors, Inc. v. Columbia Pictures Inc.*, 508 U.S. 49, 61 n.6 (1993) ("In surveying the 'forms of illegal and reprehensible

practice which may corrupt the administrative or judicial processes and which may result in antitrust violations,' we have noted that 'unethical conduct in the setting of the adjudicatory process often results in sanctions' and that '[m]isrepresentations, condoned in the political arena, are not immunized when used in the adjudicatory process'"); *California Motor Transport Co v. Trucking Unlimited*, 404 US 508, 515 (1972) ("First Amendment rights may not be used as the means of the pretext for achieving 'substantial evils'"), quoting *NAACP v. Button*, 371 US 415, 444 (1963); *Whelan v. Abell*, 48 F.3d 1247, 1254 (D.C. Cir., 1995) (*Noerr-Pennington* doctrine did not bar claim of tortious interference with prospective business advantage based on allegations that defendants had made deliberately false statements to state securities officials); *Kottle v. Northwest Kidney Centers*, 146 F.3d 1056 (9th Cir., 1998) (anticompetitive behavior consisting of intentional misrepresentations can be deemed sham, within meaning of exception to *Noerr–Pennington* doctrine); *Liberty Lake Investments, Inc. v. Magnuson*, 12 F.3d 155, 159 (9th Cir., 1993) (two-part *Noerr-Pennington* sham test inapplicable where there was proof of party's fraud or misrepresentations). *See also*, Civil Code §§ 1708 & 1709; *Finch Aerospace Corp. v. City of San Diego*, 8 Cal.App.5th 1248 (2017) (California law generally recognizes four forms of deceit: intentional misrepresentation, negligent misrepresentation, concealment, and failure to perform a promise); *McColgan v. Mutual of Omaha Ins. Co.*, 4 F.Supp.3d 1228, 1233 (E.D. C.A. 2014) (a claim for fraud in the inducement, under California law, requires the following elements: (1) a misrepresentation (false representation, concealment, or nondisclosure); (2) scienter or knowledge of its falsity; (3) intent to induce reliance; (4) justifiable reliance; and (5) resulting damage); *Lazar v. Superior Court*, 12 Cal.4th 631, 638 (1996)).

The undermentioned documents evince that Verizon brazenly submits applications without signatures in frivolous attempts to defraud government adjudicatory processes by mischaracterizing it as "free speech petitioning of the government" (*supra*, *Garmong v. Tahoe Regional Planning Agency*). It even makes this bogus claim after it does sign its paperwork, and TRPA personnel are purposefully enabling this fraud upon the people.

025-580-007 ERSP2019-0389 IEC p.26

DECLARATION:

I hereby certify that the statements furnished above and in the attached exhibits present the data and information required for this initial evaluation to the best of my ability, and that the facts, statements, and information presented are true and correct to the best of my knowledge and belief.

Signature: **(Original signature required.)**

_____ At _____ Date: _____

Person Preparing Application — County

Ski Run Blvd-TRPA Project Plan Revision Application-8.2.2022 p.2

DECLARATION:

I hereby declare under penalty of perjury that this application and all information submitted as part of this application is true and accurate to the best of my knowledge. I am the owner of the subject property, or have been authorized in writing by the owner(s) of the subject property to represent this application, and I have obtained authorization to submit this application from any other necessary parties holding an interest in the subject property. I understand it is my obligation to obtain such authorization, and I further understand that TRPA accepts no responsibility for informing these parties or obtaining their authorization. I understand that should any information or representation submitted in connection with this application be inaccurate, erroneous, or incomplete, TRPA may rescind any approval or take other appropriate action. I hereby authorize TRPA to access the property for the purpose of site visits. I understand that additional information may be required by TRPA to review this project. (Edited 7/10)

I understand that I am responsible for all fees set forth in the TRPA Filing Fee Schedule (including cost recovery, filing fees and deposit accounts) associated with this application.

Signature: **(Original signature required.)**

Michelle Fernandes Digitally signed by Michelle Fernandes Date: 2022.08.03 14:05:02 -07'00' At _____ Date 8.3.22

Person Preparing Application — County

Last, former TRPA legal counsel John Marshall—who's the ex-spouse of former NV lieutenant governor Kate Marshall—was clearly aware his staff and agency are violating the law. He habitually lies and gaslights the public, often telling completely incongruent stories to differing parties about the very same issue. He frequently lies that TRPA never received prior notice of misconduct which resulted in personal or environmental injury, even when subsequent records discovery produce emails showing he substantively coached his employees how to do nothing—*i.e.* how to break the law. He obstructs public commentary and the developing of the administrative record; he then lies to courts about the administrative record with conflicting statements he knows are untrue. He misrepresents clearly established law to non-lawyers. He violates ethics laws with impunity. He has no care whatsoever about the law or the facts. He sees his entire job through nothing more than the lens of an absolute raw exercise of power. He doesn't care about purposeful violations of law as long as taxpayers are ultimately responsible for misconduct of TRPA officers. He's fine with it as long as TRPA controls the local news narrative with calculated public relations release stunts even when huge monetary judgements are concurrently levied against the agency in court. **He was fired** for misconduct by the TRPA Board in 2004 after four years on the job, only to be rehired by his replacement attorney Joanne Marchetta—who then almost immediately began jockeying for the newly opened Director position. The TRPA board did not tell the public he was fired, and Marshall pushed out a bogus "cover

story," but he was in-fact fired. You may file attorney misconduct complaints about John Marshall's misconduct with the Californian State Bar or the Nevada State Bar (https://www.calbar.ca.gov/Public/Complaints-Claims; https://nvbar.org/file-a-complaint-2). Attorneys are now **required** to report misconduct of other attorneys (*e.g.*, CA. Rule of Professional Conduct 8.3).

While tips sent or BCC'd to us will continue to remain anonymous, we will unequivocally aver that Mr. Marshall has made multiple purposefully false statements in emails to us over the span of three years. Most recently, on Mon, 25 Sep 2023 around approximately 1:30pm, he replied to an email complaint that our public comment was never posted online by saying "According to our staff, your comments [sic] was timely posted with the first set of public comments that I posted on September 8. It was posted with several other comments that were made into a single pdf. You may have missed it given the volume of posted comments. If you have any questions, please let me know." As of the current date, **our public comment is still not available on the September 14th 2023 meeting's website as required by law**, and he has outright ignored tens of emailed follow-ups with screenshot proof that his statement is still currently false.

Apparently, he only sent us that email to manufacture a false document trail in the event of a legal proceeding, during which he will almost certainly suddenly upload the omitted public comment to the TRPA meeting's webpage and show the court the fraudulent Sept 25th 2023 email and the updated webpage as proof that it had always been posted. This is analogous to producing a receipt or invoice for a manifest that was never actually delivered. More broadly, his schemes rely on sophistry that TRPA has near unlimited discretion to interpret its own regulations in ways that patently violate their clear meaning, and therefore neither he nor the agency can ever violate the law. However, TRPA many not interpret its own regulations where the plain language or words of the regulation are not susceptible to the construction placed upon them by the agency, both on their face and in light of their prior interpretation and application, or in any manner which is inconsistent with or not in furtherance of the purposes and policies embodied in the TRPA Compact authorizing the regulation (*supra, National Wildlife Federation v. National Marine Fisheries Service*, at 931)). We are way beyond the point that sophisticated counsel should have known better. We are at the point of intentional and blatant disregard for controlling authority and case law—as well as incontrovertible evidence. This behavior pattern amounts to **criminal fraud and perjury**. The Governing Board thankfully fired John Marshall and now should make an official agency complaint for his disbarment to the CA and NV State Bar.

We look forward to your candid reply, and TRPA's prompt response to our aforementioned FOIA request regarding any applicable "standard of practice."

Sincerely,

Concerned Citizens of South Lake Tahoe

**********EMPHASIZED AUTHORITIES**********

NV. A.G. OMLO 99-11 (August 26, 1999) (Any practice or policy that discourages or prevents public comment, even if technically in compliance with the law, may violate the spirit of the Open Meeting Law).

NV. A.G. File No. 11-024 (November 21, 2011) (chairman of public body may not forbid public comment based on his disagreement with the speaker about the truthfulness of his comment).

Nevada Constitution, Article 1, Sections 2, 9, & 10 (whereas both California and Nevada constitutional provisions regarding freedom of speech are identical (*Dailey v. Superior Court*, 112 Cal. 94, 97 (1896) ("the wording of this section is terse and vigorous, and its meaning so plain that construction is not needed. It is patent that these rights to speak, write, and publish, cannot be abused until it is exercised, and before it is exercised there can be no responsibility"))). *See also*, California Constitution Article I, Section 3.

Galbiso v. Orosi Public Utility Dist., 167 Cal. App. 4th 1063, 1079 (2008) (California's open meeting law statute, Government Code § 54954.3(a), "has been construed to mean that for each agenda of a regular meeting, there must be a period of time provided for general public comment on any matter within the subject matter jurisdiction of the legislative body, as well as **an opportunity for public comment on each specific agenda item as it is taken up by the body**.")

Acosta v. City of Costa Mesa, 718 F.3d 800 (9th Cir., 2013) (holding that prohibiting the making of "personal, impertinent, profane, insolent or slanderous remarks" at public body's meetings is an unconstitutional prohibition on speech); *White v. City of Norwalk*, 900 F.2d 1421, 1425 (9th Cir., 1990) (held local agency's open meeting public comment agenda item a "public forum") (*citing*, *City of Madison, Joint School Dist. No. 8 v. Wisconsin Wisconsin Employment Relations Commission*, 429 U.S. 167 (1976); *Perry Educ. Ass'n v. Perry Local Educators' Ass'n*, 460 U.S. 37 (1983); *Cornelius v. NAACP Legal Defense and Educational Fund, Inc.*, 473 U.S. 788 (1985)).

Publius v. Boyer–Vine, 237 F.Supp.3d 997, 1014-1021 (E.D. Cal., 2017).

New York Times Co. v. Sullivan, 376 U.S. 254, 269 (1964) ("[a] rule compelling the critic of official conduct to guarantee the truth of all his factual assertions and to do so on pain of libel judgment...leads to...self-censorship and would deter protected speech").

Stockton Newspapers, Inc. v. Members of Redevelopment Agency, 171 Cal.App.3d 95, 100, 102 (1985) ("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 instruments they have created."; "deliberation" connotes collective acquisition and exchange of facts preliminary to ultimate decision). *See also*, California Government Code § 54950.

NRS 241.020 & NRS 241.021 (public body MUST accept public comments from all interested persons before close of meeting). NRS 241.035 (public body shall keep written minutes of each of its meetings, including: **a copy of the prepared written remarks if the member of the general public submits a copy for inclusion**). A transcript being made tends to restrain abuses by hearing officers and is almost essential if there is to be judicial review (Henry J. Friendly, Some Kind of Hearing, 123 U. Pa. L. Rev. 1267, 1282-87, 1291-94 (1975)).

NRS 241.040 (making the wrongful exclusion of any person from a meeting a **misdemeanor**). *See also*, California Government Code § 54959 (member who intends to deprive the public of information to which the member knows or has reason to know the public is entitled [at open meeting] is guilty of a **misdemeanor**).

Copyright related pre-textual censorship:

The purpose of copyright law is "to Promote the Progress of Science and useful Arts" (U.S. Const. art. I, § 8, cl. 8). In 1976, Congress revised into the Copyright Act the long-held federal common law "fair use" doctrine permitting entire "reproduction of a work in legislative or judicial proceedings or reports." Both the House and Senate Judiciary Committees explicitly restated their intent in codifying the existent federal common law doctrine into the revised act including the unqualified **"reproduction of a work in legislative or judicial proceedings or reports" as an example of a fair use** (H.R. Rep. No. 94-1476, 65 (1976) & S. Rep.No. 94–473, 61-62 (1975)). Thus it is incontrovertible that reproduction of copyrighted works for use in legislative or quasi-judicial proceedings of a governmental agency is "fair use" under the Copyright Act, which is after all, a statutory act preempted by the constitutional guarantees of: (1) free speech and grievance petitioning to the government; and (2) due process of law rights for an opportunity to present and confront reasons and evidence, to have decisions based-off the reasons and evidence, and have a record of the evidence presented—*e.g.*, synopsis in the official meeting minutes AND full inclusion in the official administrative record file.

94TH CONGRESS } HOUSE OF REPRESENTATIVES { REPORT
2d Session } { No. 94–1476

COPYRIGHT LAW REVISION

SEPTEMBER 3, 1976.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. KASTENMEIER, from the Committee on the Judiciary, submitted the following

REPORT

together with

ADDITIONAL VIEWS

[To accompany S. 22]

The Committee on the Judiciary, to whom was referred the bill (S. 22) for the general revision of the copyright law, title 17 of the United States Code, and for other purposes, having considered the same, report favorably thereon with an amendment in the nature of a substitute and recommend that the bill as amended do pass.

The amendments are as follows:

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SECTION 107. FAIR USE

General background of the problem

The judicial doctrine of fair use, one of the most important and well-established limitations on the exclusive right of copyright owners, would be given express statutory recognition for the first time in section 107. The claim that a defendant's acts constituted a fair use rather than an infringement has been raised as a defense in innumerable copyright actions over the years, and there is ample case law recognizing the existence of the doctrine and applying it. The examples enumerated at page 24 of the Register's 1961 Report, while by no means exhaustive, give some idea of the sort of activities the courts might regard as fair use under the circumstances: "quotation of excerpts in a review or criticism for purposes of illustration or comment; quotation of short passages in a scholarly or technical work, for illustration or clarification of the author's observations; use in a parody of some of the content of the work parodied; summary of an address or article, with brief quotations, in a news report; reproduction by a library of a portion of a work to replace part of a damaged copy; reproduction by a teacher or student of a small part of a work to illustrate a lesson; reproduction of a work in legislative or judicial proceedings or reports; incidental and fortuitous reproduction, in a newsreel or broadcast, of a work located in the scene of an event being reported."

Calendar No. 460

94TH CONGRESS *1st Session*	SENATE	REPORT No. 94-473

COPYRIGHT LAW REVISION

NOVEMBER 20 (legislative day, NOVEMBER 18), 1975.—Ordered to be printed

Mr. MCCLELLAN, from the Committee on the Judiciary, submitted the following

REPORT

together with

ADDITIONAL VIEWS

[To accompany S. 22]

The Committee on the Judiciary, to which was referred the bill (S. 22) for the general revision of the copyright law, title 17 of the United States Code, and for other purposes, having considered the same, reports favorably thereon, with an amendment in the nature of a substitute, and recommends that the bill as amended do pass.

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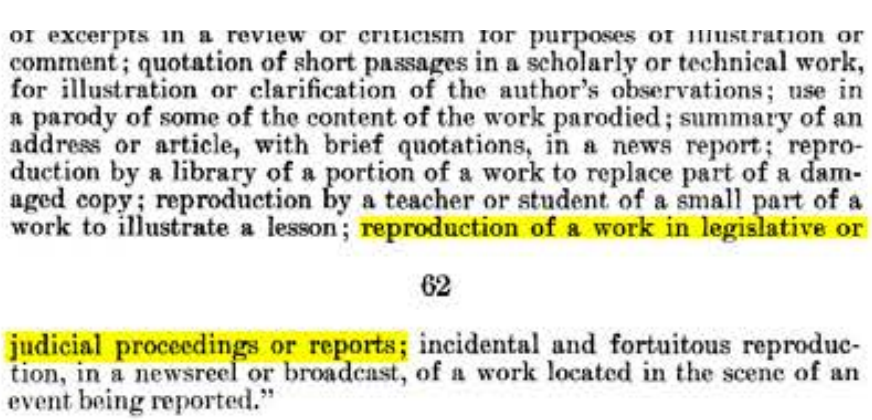

of excerpts in a review or criticism for purposes of illustration or comment; quotation of short passages in a scholarly or technical work, for illustration or clarification of the author's observations; use in a parody of some of the content of the work parodied; summary of an address or article, with brief quotations, in a news report; reproduction by a library of a portion of a work to replace part of a damaged copy; reproduction by a teacher or student of a small part of a work to illustrate a lesson; reproduction of a work in legislative or

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judicial proceedings or reports; incidental and fortuitous reproduction, in a newsreel or broadcast, of a work located in the scene of an event being reported."

Introducing entire copyrighted works in official governmental proceedings is generally fair use (*Sony Corp. of Am. v. Universal City Studios, Inc.*, 464 U.S. 417, 449-50 (1984) ("the fact that the **entire work** is reproduced…does not have its ordinary effect of militating against a finding of fair use"); *Jartech, Inc. v. Clancy*, 666 F.2d 403 (9th Cir., 1982) (holding that the city councils use of copyrighted material in the legal proceedings was not "the same intrinsic use to which the copyright holders expected protection from unauthorized use"); *Stern v. Does*, 978 F. Supp. 2d 1031, 1044-49 (C.D. Cal., 2011) (reproduction of copyrighted material for use in litigation or potential litigation is generally fair use, even if the material is **copied in whole**); *Ty, Inc. v. Publications Intern. Ltd.*, 292 F.3d 512 (7th Cir., 2002) (reproducing copyrighted works for litigation is an example of the fair use doctrine); *Healthcare Advocates, Inc. v. Harding, Earley, Follmer & Frailey*, 497 F.Supp. 2d 627, 638 (E.D. Pa., 2007) (holding that law firm's copying of an **entire set of copyrighted web pages** was justified where the web pages were relevant evidence in litigation); *Hollander v. Steinberg*, 419 Fed.Appx. 44 (2d Cir., 2011) (affirming dismissal of a copyright case by an attorney, where opposing counsel in an earlier civil action had appended that attorney's blog entries to a motion); *Religious Tech. v. Wollersheim*, 971 F.2d 364 (9th Cir., 1992) (holding that providing copies of the plaintiff's copyrighted documents to the defendant's expert witness was fair use); *Porter v. United States*, 473 F. 2d 1329 (5th Cir., 1973) (rejecting a claim by the widow of Lee Harvey Oswald that she was entitled to compensation because the publication of Oswald's writings in the Warren Commission Report diminished the value of the copyright in those works); *Kulik Photography v. Cochran*, 975 F. Supp. 812 (E.D. Va., 1997) (dismissing on jurisdictional grounds of a copyright infringement suit brought by the author of a photograph that was used without permission in the O.J. Simpson murder trial); *Levingston v. Earle*, No. 3:2012cv08165, 2014 WL 1246369 (D. Ariz., 2014) (holding that appending a **full copy** of an author's book to a pleading, in a harassment proceeding against that author, was fair use); *Grundberg v. the Upjohn Co.*, 140 F.R.D. 459 (D. Utah, 1991) (rejecting the defendant's attempt to register a copyright in its document production in order to restrict the plaintiff's use and public dissemination of those documents); *Shell v. City of Radford*, 351 F.Supp.2d 510 (W.D. Va., 2005) (dismissing a copyright infringement suit by a photographer whose photographs were copied and used by detectives investigating the murder of the photographer's assistant); *Denison v. Larkin*, 64 F. Supp. 3d 1127 (N.D. Ill., 2014) (dismissing with prejudice Plaintiff attorney's suit against defendants for using portions of her copyrighted Blog as evidence against her in an attorney disciplinary proceeding); *Carpenter v. Superior Court (Yamaha Motor Corp., USA)*, 141 Cal.App.4th 249 (2006) (holding the plaintiff in a personal injury action could gain access to certain standardized neurological tests over an objection that the tests were protected by, *inter alia*, copyright law)); *see also*, *Key Maps, Inc. v. Pruitt*, 470 F.Supp 33 (S.D. Texas, 1973) (county's noncommercial reproduction and distribution of copyrighted maps held to constitute "far use" in view of discernible public interest in dissemination of maps); *Lindberg v. County of Kitsap*, 133 Wash.2d 729 (WA Supreme Court, 1997) (copyright law does not permit an agency to refuse to provide copies of copyrighted works in preparation for comments and criticisms at governmental hearing).

Lenz v. Universal Music Corp., 815 F.3d 1145, 1152-1153 (9th Cir., 2016) (Given that the Copyright Act expressly authorizes fair use, labeling it as an affirmative defense that excuses conduct is a misnomer—As a statutory doctrine, however, fair use is not an infringement. Thus, since the passage of the 1976 Act, **fair use should no longer be considered an infringement to be excused; instead, it is logical to view fair use as a right**.; **Anyone who makes fair use of work is not infringer of copyright with respect to such use** (*quoting, Sony Corp. of Am. v. Universal City Studios, Inc.*, 464 U.S. 417, 433 (1984)), superseding, *Lenz v. Universal Music Corp.*, 801 F.3d 1126, 1132-1133 (9th Cir., 2015) (which also found "fair use" as a "right" quoting 17 U.S.C. § 108(f)(4) which used the phrase "**the right of fair use**").

It is not a legitimate subject of controversy that it's "fair use" for persons to submit copyrighted materials to TRPA meetings pertaining to matters of public concern. The question then turns to accessing these materials as open meeting public records. As a general legal principle, there are very strict First, Fifth, and Fourteenth Amendment limits prohibiting the government from abridging or otherwise restricting the public's right to obtain copies of materials that have been submitted into open meetings (e.g., *Mendez v. City of Gardena*, 222 F.Supp.3d 782, 788 (C.D. Cal., 2015) (The right of access to public records and proceedings is protected by the First Amendment); *Baca v. Moreno Valley Unified School Dist.*, 936 F.Supp. 719, 727, 730, 734, 737 (C.D. Cal., 1996) (Under either the United States or the California Constitution, the government may not restrain speech before there has been judicial determination, in connection with which the speaker received all proper procedural safeguards, that the speech is actually harmful; Applicable standard of review for testing constitutionality of regulations of speech in a designated, limited public forum is the same standard which applies to regulation of speech in a traditional public forum, and thus before state can enforce any content-based exclusion, it must show that regulation is necessary to serve a compelling state interest and that it is narrowly drawn to achieve that end, and though reasonable time, place and manner regulations are permissible, they must be content-neutral, narrowly tailored to serve significant government interest and leave open ample channels of communication; First Amendment protects speech which is uninhibited, robust, wide-open, vehement, caustic, and sharp, as well as speech which lacks truth, social utility or popularity, or which exaggerates or vilifies; Loss of First Amendment freedoms, for even minimal periods of time, constitutes "irreparable injury" for purposes of preliminary injunction)); *Courthouse News Service v. Planet*, 750 F.3d 776, 786-787 (9th Cir., 2014); *Globe Newspaper Co. v. Superior Court for Norfolk County*, 457 U.S. 596, 604 (1982); *Ribakoff v. City of Long Beach*, 27 Cal.App.5th 150, 166 (2018) (The same First Amendment overbreadth principles apply to a municipal board's speech code and ordinances as apply to statutes, citing *Sturgeon v. Bratton*, 174 Cal.App.4th 1407 (2009))).

One way the Copyright Act itself avoids these constitutional issues is whereas these meeting materials are legally accessible through a government agency's "archives" (17 U.S.C. § 108). Expressly legal reproduction or distribution under this section is in harmony with statutory requirements under state open meeting and public records laws. However, that does not stop malfeasant administrators from electively choosing to withhold records—such as those it simply finds embarrassing or politically destabilizing—"under the color of" the Copyright Act.

U.S. D.O.J. O.I.P. Guidance: Copyrighted Materials and the FOIA ("reproduction of a copyrighted document by a government entity for a purpose that is not 'commercially exploitive of the copyright holder's market,' such as copying a work to use as evidence in a judicial proceeding, has been held to constitute a 'fair use.'... it['s] 'inconceivable that any court would hold such reproduction to constitute infringement.'...In the FOIA context, because reproduction is mandated by law and serves to inform the public of the operation of government, it should similarly be unlikely that a court would find the disclosure of nonexempt information to constitute an infringement.")

Frank D. LoMonte, *Copyright Versus the Right to Copy: The Civic Danger of Allowing Intellectual Property Law to Override State Freedom of Information Law*, 53 Loy. U. Chi. L. J. 159 (2022).

Pierre N. Leval, *Toward a Fair Use Standard*, 103 Harv. L. Rev. 1105 (1990).

The Copyright Act's "fair use" section (17 U.S.C. § 107), F.O.I.A.'s exemption section (5 U.S.C. § 552(b)(1)-(9)), and the California Public Records Act's catch-all statute (Government Code § 7922.000) all are balancing tests for the release of records. These acts were neither intended nor constitutionally allowed to abridge First Amendment speech or Fifth and Fourteenth Amendment due process of law. *Compare* 5 U.S.C. § 552(a)(2)(D)("Each agency, in accordance with published rules, shall make available for public inspection in an electronic format...copies of all records, regardless of form or format...the records promptly available to any person.") with California Government Code §§ 54957.5(e), 7922.500, 7922.530(b), & 7922.570(b)(2) (right to obtain a copy of any disclosable record); *see also*, CA. Const. Art I, Sec 3(b)(1-7); CA. Government Code § 66801 Art. X(a)—*i.e.*, TRPA Compact Art X(a)).

U.S. v. Stevens, 559 U.S. 460, 470 (2010) (The First Amendment's guarantee of free speech does not extend only to categories of speech that survive an *ad hoc* balancing of relative social costs and benefits; the First Amendment itself reflects a judgment by the American people that the benefits of its restrictions on the Government outweigh the costs, and the Constitution forecloses any attempt to revise that judgment simply on the basis that some speech is not worth it.).

"Whatever the challenges of applying the Constitution to ever-advancing technology, 'the basic principles of freedom of speech and the press, like the First Amendment's command, do not vary' when a new and different medium for communication appears" (*Brown v. Entertainment Merchants Association*, 564 U.S. 786, 790 (2011); *Joseph Burstyn, Inc. v. Wilson*, 343 U. S. 495, 503 (1952); "[T]he most important place[]...for the exchange of views[]...is cyberspace" (*Packingham v. North Carolina*, 582 U.S. 98, 104 (2017)).

Jennings v. Rodriguez, 583 U.S. 281, 286, 296 (2018) (under the constitutional-avoidance canon, when statutory language is susceptible of multiple interpretations, a court may shun an interpretation that raises serious constitutional doubts and instead may adopt an alternative that avoids those problems); *Rodriguez Diaz v. Garland*, 53 F.4th 1189, 1200, 1203 (9th Cir., 2022).

Sony Corp. of Am. v. Universal City Studios, Inc., 464 U.S. 417, 449-50 (1984) ("**the fact that the entire work is reproduced…does not have its ordinary effect of militating against a finding of fair use**").

Williams & Wilkins Co. v. U. S., 203 Ct.Cl. 74 (1973) (**fair use for libraries to photocopy entire articles for use by patrons engaged in scientific research**) *affirmed*, *Williams & Wilkins Co. v. U.S.*, 420 U.S. 376 (1975).

Religious Tech. v. Wollersheim, 971 F.2d 364 (9th Cir., 1992) (holding that providing copies of the plaintiff's copyrighted documents to the defendant's expert witness was "fair use").

Jartech, Inc. v. Clancy, 666 F.2d 403 (9th Cir., 1982) (holding that the **city council's use of copyrighted material in the legal proceedings was not "the same intrinsic use to which the copyright holders expected protection from unauthorized use**"). *Certiorari denied*, *Clancy v. Jartech, Inc.*, 459 U.S. 826 (1982). *See also*, *Clancy v. Jartech, Inc.*, 459 U.S. 879 (1982). *C.f.*, *Twentieth Century Music Corp. v. Aiken*, 422 U.S. 151, 154-155 (1975) (**The Copyright Act does not give a copyright holder control over all uses of his copyrighted work**; if a person, without authorization from the copyright holder, puts a copyrighted work to a use within the scope of one of those exclusive rights, he infringes the copyright, but **if he puts the work to a use not enumerated in Copyright Act, he does not infringe**.); *Seltzer v. Green Day, Inc.*, 725 F.3d 1170, 1179 (9th Cir., 2013) (use did not perform same "market function" as work); *De Fontbrune v. Wofsy*, 39 F.4th 1214 (9th Cir., 2022) (End-user's utilization of product is largely irrelevant in performing fair use analysis in copyright infringement action).

National Rifle Ass'n of America v. Handgun Control Federation of Ohio, 15 F.3d 559, 562 (6th Cir., 1994) ("The scope of the fair use doctrine is wider when the use relates to **issues of public concern**."); *Consumers Union of United States, Inc. v. Gen. Signal Corp.*, 724 F.2d 1044, 1050 (2d Cir., 1983) ("The scope of the doctrine is undoubtedly wider when the information conveyed relates to **matters of high public concern**."). *C.f.*, *Time Inc. v. Bernard Geis Associates*, 293 F.Supp. 130 (S.D. NY., 1968); *Porter v. U.S.*, 473 F.2d 1329 (5th Cir., 1973) (both *Time Inc.* & *Porter* holding "fair use" of unpublished copyrighted film or writing works used in high public concern President's Commission on the Assassination of President Kennedy, known unofficially as the Warren Commission Report), *but see*, *FoiaConsciousnesscom LLC v. National Archives & Records Administration* —Docket # 25-4280— (9th Cir., *pending opinion* 2026). *See also*, *Nunez v. Davis*, 169 F.3d 1222, 1226 (9th Cir.,

1999) (holding "the determination whether speech involves a matter of public concern is a question of law"); *Voigt v. Savell*, 70 F.3d 1552, 1559 (9th Cir., 1995) (speech or expressive conduct deals with a matter of public concern when it "can be fairly considered as relating to a matter of political, social, or other concern to the community"); *Cox Broadcasting Corp. v. Cohn*, 420 U.S. 469, 495 (1975) ("[p]ublic records by their very nature are of interest to those concerned with the administration of government, and a public benefit is performed by the reporting of the true contents of the records by the media").

Dhillon v. Does 1-10, No. C 13–01465 SI, 2014 WL 722592, at *5 (N.D. Cal., 2014) ("Rather than using the headshot photo as a positive marketing tool, as the plaintiff did, the defendant used the headshot photo as part of its **criticism of, and commentary on, the plaintiff's politics**. Such a use is precisely what the Copyright Act envisions as a paradigmatic fair use.").

Leibovitz v. Paramount Pictures Corp., 137 F.3d 109 (2nd. Cir., 1998) (held photo parody was transformative because it imitated the photographer's style for comic effect or ridicule).

Cariou v. Prince, 714 F.3d 694 (2nd. Cir., 2013), *certiorari denied*, *Cariou v. Prince*, 571 U.S. 1018 (2013) (held collage using 35 images from a photographer's book which in some instances reproduced the full photograph qualified as "fair use").

City of Inglewood v. Teixeira, 2015 WL 5025839, 2015 U.S. Dist. LEXIS 114539 (C.D. Cal., 2015); *Georgia v. Public.Resource.Org, Inc.*, 590 U.S. 255, 259 (2020) (Under what has been dubbed the "government edicts doctrine," officials empowered to speak with the force of law cannot be the authors of—and therefore cannot copyright—the works they create in the course of their official duties) *abrogating, Code Revision Commission v. Public.Resource.Org, Inc.,* 244 F.Supp.3d 1350 (N.D. G.A., 2017); *Code Revision Commission on behalf of and for General Assembly of Georgia v. PublicResourceOrg,Inc.*, 2021 WL 12328202 (N.D. G.A., 2021). *See also*, *White v. West Pub. Corp.*, 29 F.Supp.3d 396 (S.D. NY., 2014). *See also*, *County of Santa Clara v. Superior Court*, 170 Cal. App. 4th 1301 (2009).

Field v. Google Inc., 412 F.Supp.2d 1106 (D. Nev., 2006) (company's cached search results that provided end users with full copies of copyrighted works held as "fair use"); *see also*, *Perfect 10, Inc. v. Amazon.com, Inc.*, 508 F.3d 1146 (9th Cir., 2007) (search results that provided thumbnail copies of entire images "fair use"). *C.f.*, *Kelly v. Arriba Soft Corp.*, 336 F.3d 811 (9th Cir., 2003) (reproduction of images for use as thumbnails in search engine is a fair use under the Copyright Act.).

Authors Guild v. Google, Inc., 804 F.3d 202 (2nd. Cir., 2015) (digital copies of millions of books submitted to defendant by libraries, scanned them and made them available to search through its internet service, so that users could—for free—identify relevant words, terms, or snippets from the scanned text and also allowed participating libraries to retain the copies they submitted found as "fair use").

Cox Communications, Inc. v. Sony Music Entertainment, 607 U.S. ----, 146 S.Ct. 959 (2026); *Twitter, Inc. v. Taamneh*, 598 U.S. 471 (2023); and *Gonzalez v. Google LLC*, 598 U.S. 617 (2023). *See also*, *Perfect 10, Inc. v. Giganews, Inc.*, 847 F.3d 657, 673 (2017).

NLRB v. Robbins Tire & Rubber Co., 437 U.S. 214, 242 (1978) (The basic purpose of FOIA is to ensure an informed citizenry, vital to the functioning of a democratic society, needed to check against corruption and to hold the governors accountable to the governed).

COHEN *v.* CALIFORNIA

APPEAL FROM THE COURT OF APPEAL OF CALIFORNIA, SECOND APPELLATE DISTRICT

No. 299. Argued February 22, 1971—Decided June 7, 1971

Appellant was convicted of violating that part of Cal. Penal Code § 415 which prohibits "maliciously and willfully disturb[ing] the peace or quiet of any neighborhood or person . . . by . . . offensive conduct," for wearing a jacket bearing the words "Fuck the Draft" in a corridor of the Los Angeles Courthouse. The Court of Appeal held that "offensive conduct" means "behavior which has a tendency to provoke *others* to acts of violence or to in turn disturb the peace," and affirmed the conviction. *Held:* Absent a more particularized and compelling reason for its actions, the State may not, consistently with the First and Fourteenth Amendments, make the simple public display of this single four-letter expletive a criminal offense. Pp. 22–26.

1 Cal. App. 3d 94, 81 Cal. Rptr. 503, reversed.

HARLAN, J., delivered the opinion of the Court, in which DOUGLAS, BRENNAN, STEWART, and MARSHALL, JJ., joined. BLACKMUN, J., filed a dissenting opinion, in which BURGER, C. J., and BLACK, J., joined, and in which WHITE, J., joined in part, *post*, p. 27.

Melville B. Nimmer argued the cause for appellant. With him on the brief was *Laurence R. Sperber.*

Michael T. Sauer argued the cause for appellee. With him on the brief was *Roger Arnebergh.*

Anthony G. Amsterdam filed a brief for the American Civil Liberties Union of Northern California as *amicus curiae* urging reversal.

MR. JUSTICE HARLAN delivered the opinion of the Court.

This case may seem at first blush too inconsequential

Courtroom B
FUCK
THE DRAFT

F*CK
THE
DRAFT

FUCK
THE DRAFT

HELLO
my name is
Fuck John Marshall

I Feign I'm Royalty

But Everything Coming Out of My Mouth is Actually Shit!

Obscenity

Andrew Strain
Greedy
Meadow
Developer
TAHOE
BEACH
CLUB
Nonprofit
Prostitute
Darcie Collins
Patrick and Katy Rhamey
SELLOUT
League to Save Lake Tahoe Sponsor Cocktail Party
August 5th, 2016
TAHOE
BEACH
CLUB
Mark Burton
19th ANNUAL
LAKE TAHOE
SUMMIT

DECLARATION:

I hereby certify that the statements furnished above and in the attached exhibits present the data and information required for this initial evaluation to the best of my ability, and that the facts, statements, and information presented are true and correct to the best of my knowledge and belief.

Signature: **(Original signature required.)**

_____ At _____ Date: _____

Person Preparing Application County

DECLARATION:

I hereby declare under penalty of perjury that this application and all information submitted as part of this application is true and accurate to the best of my knowledge. I am the owner of the subject property, or have been authorized in writing by the owner(s) of the subject property to represent this application, and I have obtained authorization to submit this application from any other necessary parties holding an interest in the subject property. I understand it is my obligation to obtain such authorization, and I further understand that TRPA accepts no responsibility for informing these parties or obtaining their authorization. I understand that should any information or representation submitted in connection with this application be inaccurate, erroneous, or incomplete, TRPA may rescind any approval or take other appropriate action. I hereby authorize TRPA to access the property for the purpose of site visits. I understand that additional information may be required by TRPA to review this project. (Edited 7/10)

I understand that I am responsible for all fees set forth in the TRPA Filing Fee Schedule (including cost recovery, filing fees and deposit accounts) associated with this application.

Signature: **(Original signature required.)**

Michelle Fernandes Digitally signed by Michelle Fernandes Date: 2022.08.03 14:05:02 -07'00' At _____ Date 8.3.22

Person Preparing Application County

94TH CONGRESS } HOUSE OF REPRESENTATIVES { REPORT
2d Session } { No. 94-1476

COPYRIGHT LAW REVISION

SEPTEMBER 3, 1976.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. KASTENMEIER, from the Committee on the Judiciary, submitted the following

REPORT

together with

ADDITIONAL VIEWS

[To accompany S. 22]

The Committee on the Judiciary, to whom was referred the bill (S. 22) for the general revision of the copright law, title 17 of the United States Code, and for other purposes, having considered the same, report favorably thereon with an amendment in the nature of a substitute and recommend that the bill as amended do pass.

The amendments are as follows:

65

SECTION 107. FAIR USE

General background of the problem

The judicial doctrine of fair use, one of the most important and well-established limitations on the exclusive right of copyright owners, would be given express statutory recognition for the first time in section 107. The claim that a defendant's acts constituted a fair use rather than an infringement has been raised as a defense in innumerable copyright actions over the years, and there is ample case law recognizing the existence of the doctrine and applying it. The examples enumerated at page 24 of the Register's 1961 Report, while by no means exhaustive, give some idea of the sort of activities the courts might regard as fair use under the circumstances: "quotation of excerpts in a review or criticism for purposes of illustration or comment; quotation of short passages in a scholarly or technical work, for illustration or clarification of the author's observations; use in a parody of some of the content of the work parodied; summary of an address or article, with brief quotations, in a news report; reproduction by a library of a portion of a work to replace part of a damaged copy; reproduction by a teacher or student of a small part of a work to illustrate a lesson; reproduction of a work in legislative or judicial proceedings or reports; incidental and fortuitous reproduction, in a newsreel or broadcast, of a work located in the scene of an event being reported."

Calendar No. 460

94TH CONGRESS } SENATE { REPORT
1st Session } { No. 94-473

COPYRIGHT LAW REVISION

NOVEMBER 20 (legislative day, NOVEMBER 18), 1975.—Ordered to be printed

Mr. MCCLELLAN, from the Committee on the Judiciary, submitted the following

REPORT

together with

ADDITIONAL VIEWS

[To accompany S. 22]

The Committee on the Judiciary, to which was referred the bill (S. 22) for the general revision of the copyright law, title 17 of the United States Code, and for other purposes, having considered the same, reports favorably thereon, with an amendment in the nature of a substitute, and recommends that the bill as amended do pass.

61

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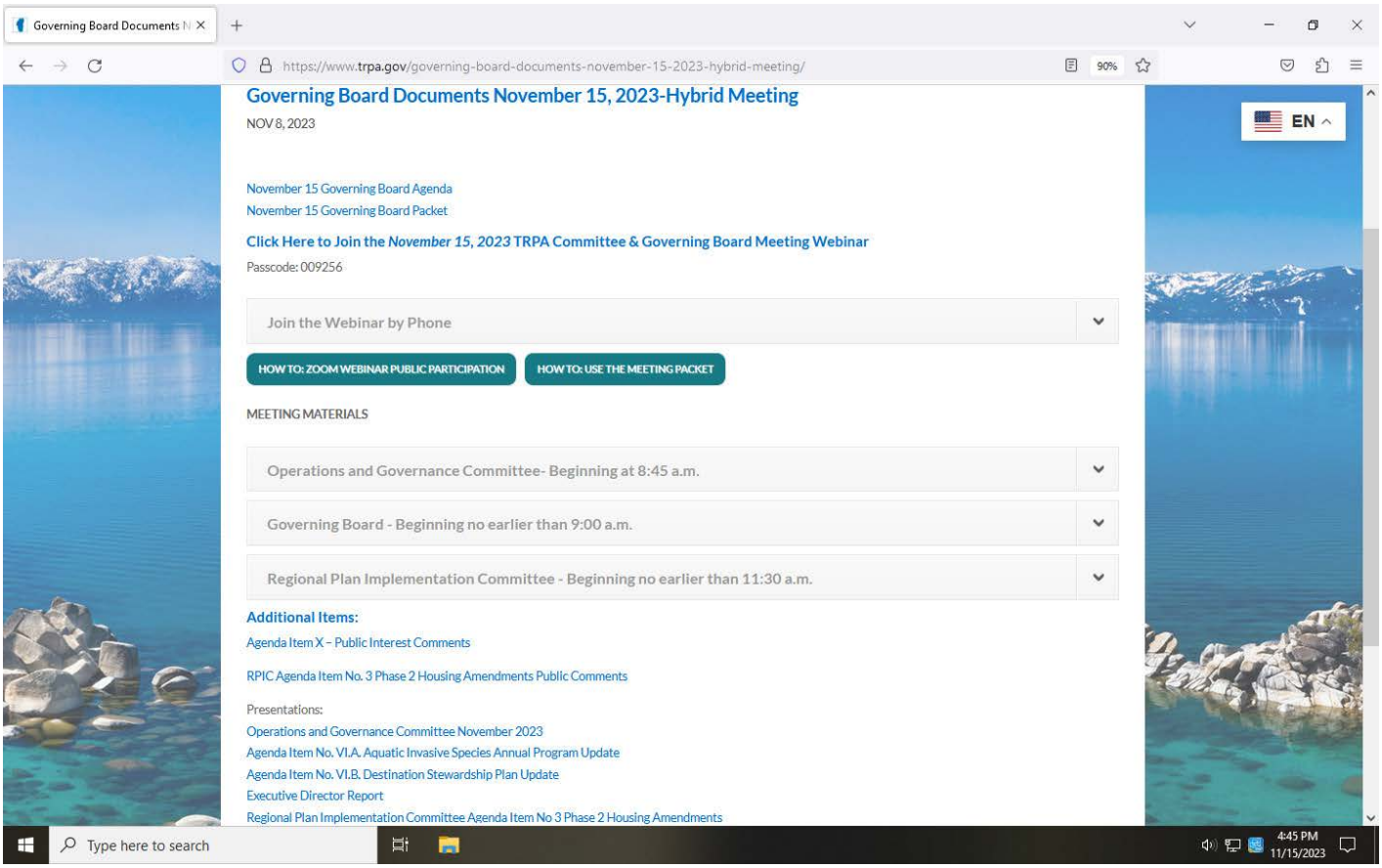
From: celltowers.slt@tutanota.com
Date: 11/17/2023, 12:02 PM
To: Publiccomment <publiccomment@trpa.gov>
CC: John Marshall <jmarshall@trpa.gov>,Jregan <jregan@trpa.gov>
BCC: Madlands <madlands@aol.com>,Robertmaaron <robertmaaron@gmail.com>,Coopka <coopka@aol.com>,Tahoellie <tahoellie@yahoo.com>,Info <info@sierrawatch.org>,Paula <paula@southtahoenow.com>,John Brett Tibbitts <somis5@cs.com>,Gavin <gavin@keeptahoeblue.org>,Darcie <darcie@keeptahoeblue.org>,Sophia <sophia@mapf.org>,Hneff9 <hneff9@earthlink.net>,Ahoehills <ahoehills@att.net>,Marsound <marsound@gmail.com>,Dgentili2000 <dgentili2000@yahoo.com>,Hpchlk <hpchlk@yahoo.com>,Meadow <meadow@benharmon.com>,Filandkaren <filandkaren@gmail.com>,Niobe Burden <niobe.burden@gmail.com>,Kmcbotanicals <kmcbotanicals@gmail.com>,Ramona Bigelow <ramona.bigelow@outlook.com>,Atsigdinos <atsigdinos@yahoo.com>,Sebastien Cayolle <sebastien.cayolle@gmail.com>,Katg76 <katg76@gmail.com>,Nmcarlson01 <nmcarlson01@yahoo.com>,Ptsigdinos <ptsigdinos@yahoo.com>,Tahoehills <tahoehills@att.net>,Ddurst880 <ddurst880@gmail.com>,Anderson Er2 <anderson_er2@hotmail.com>,Robinr <robinr@hotsysocal.com>,Fdelfer <fdelfer@att.net>,Dbheirshberg <dbheirshberg@gmail.com>,Jmtornese <jmtornese@aol.com>,Ronsallygrassi <ronsallygrassi@mac.com>,Tylertahoe1 <tylertahoe1@gmail.com>,Carolyntahoe <carolyntahoe@sbcglobal.net>,Rinnn <rinnn@aol.com>,Donkanare <donkanare@hotmail.com>,Coatsmd <coatsmd@gmail.com>,Cgoldhaber <cgoldhaber@gmail.com>,Rmmonts <rmmonts@gmail.com>,Rbeaty7891 <rbeaty7891@aol.com>,Lomantopatty <lomantopatty@gmail.com>,Katie <katie@averyhomedesign.com>,Kathyechols4543 <kathyechols4543@gmail.com>,Dghw1923 <dghw1923@yahoo.com>,Sbowman Meyer <sbowman.meyer@gmail.com>,Nicole Gullixson <nicole.gullixson@gmail.com>,Kevin <kevin@alibi.beer>,Davehen <davehen@sonic.net>,Amykacher1 <amykacher1@gmail.com>,Leah Lkplanning <leah.lkplanning@sbcglobal.net>,Gavin Feiger <gavin.feiger@gmail.com>,Vic Rarebear <vic.rarebear@gmail.com>,Msee <msee@comcast.net>,Djkastanis <djkastanis@gmail.com>,Joykoch123 <joykoch123@gmail.com>,Sherry <sherry@listgarten.com>,Jonpauldavidson <jonpauldavidson@gmail.com>

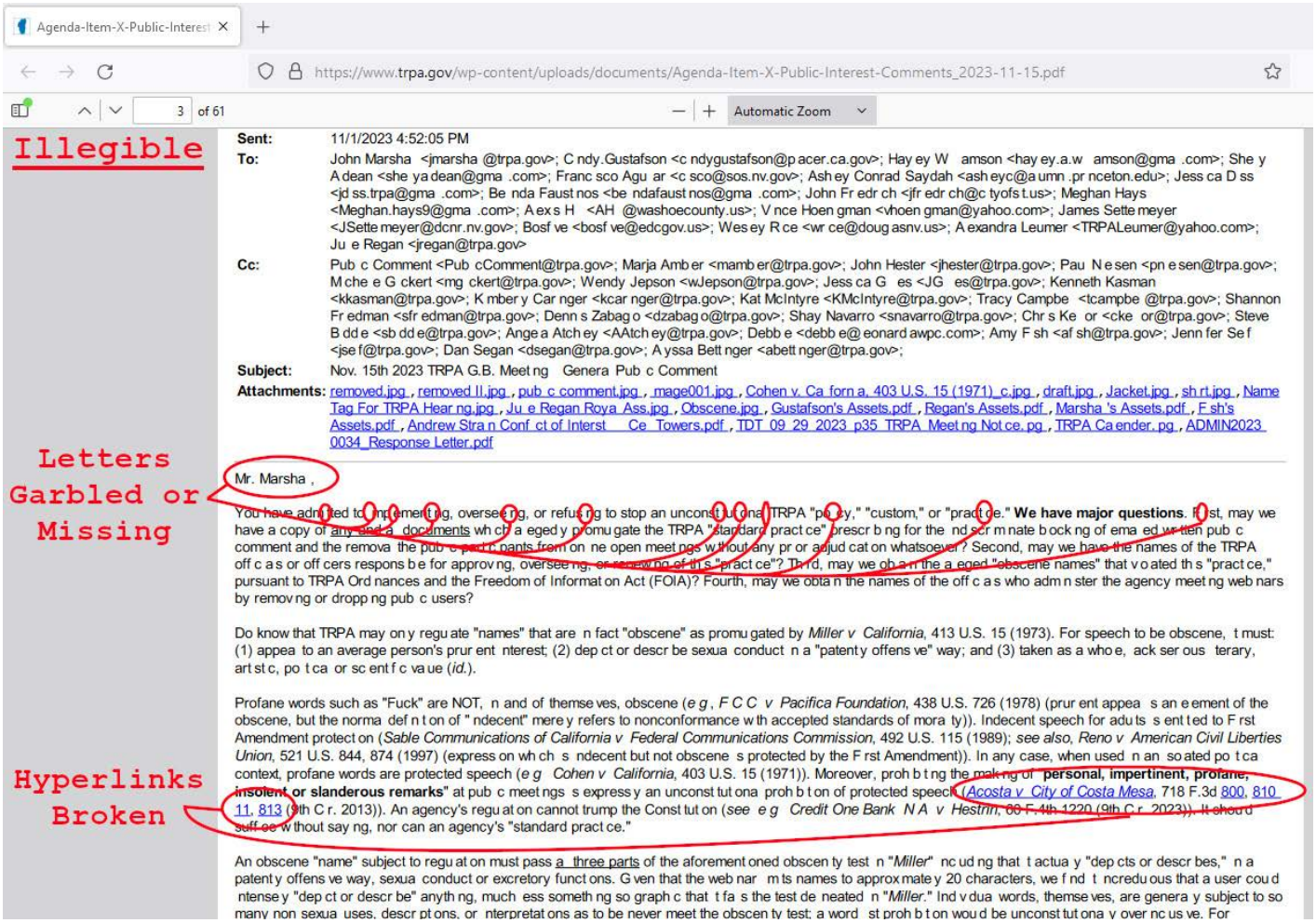
Dear TRPA Official,

You are violating the TRPA compact's open meeting requirement as well as the First, Fifth, and Fourteenth Amendment guarantees to free speech, unabridged government petitioning, and due process of law, as well as state open meeting law, TRPA rules of procedure, and the express terms of notice published in the newspaper, on the TRPA meeting's agenda, and on the TRPA's own website.

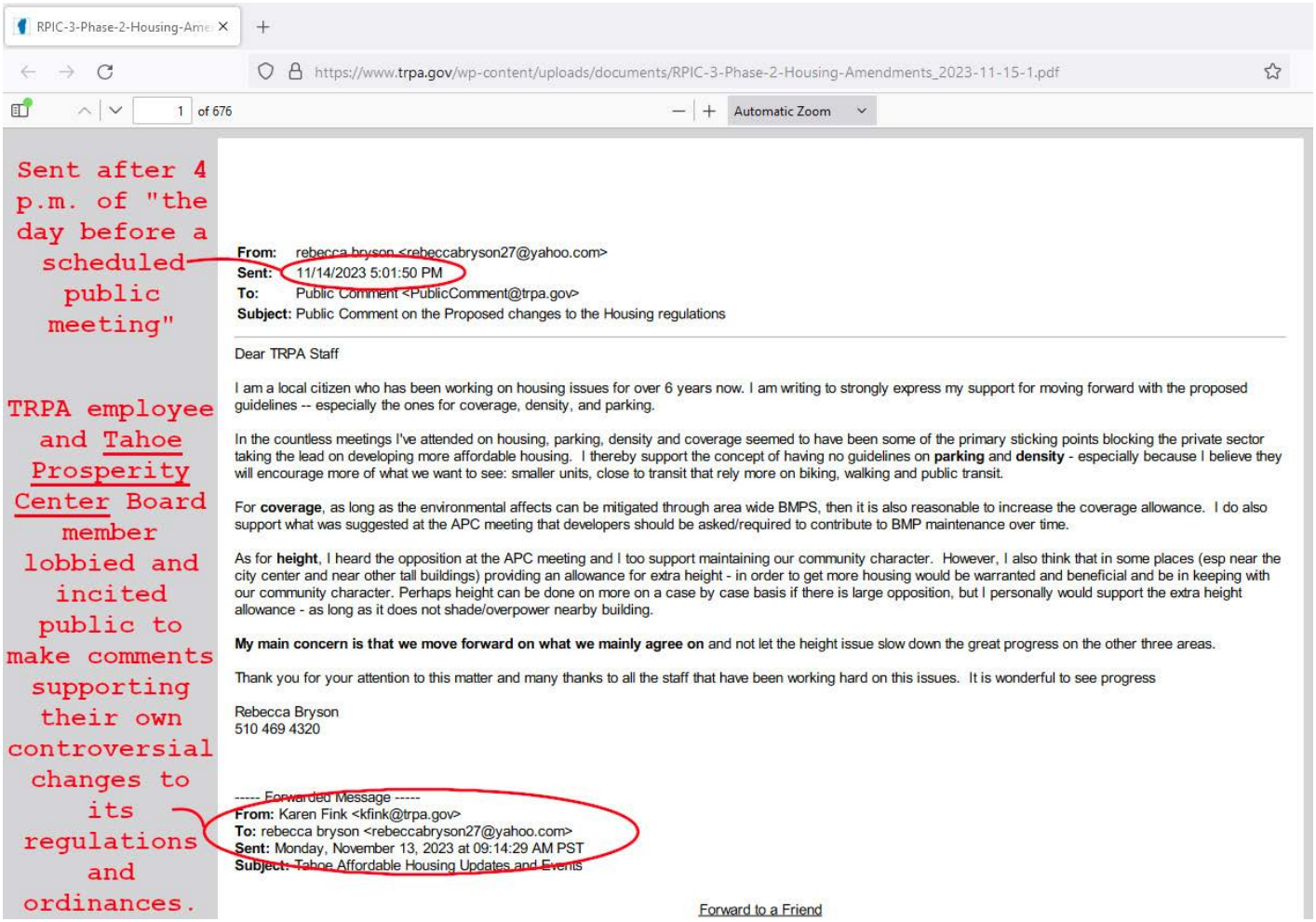
As of 4:45pm last evening, the TRPA November 15th Governing Board meeting's webpage looked as follows:



There were only two links to public comments; as of this afternoon, an additional PDF of cherry-picked select late comments was added—"LATE RPIC 3 Phase 2 Housing Amendments Public Comments." However, we were BCC'd to several dozen omitted comments consisting of a mixture of item-specific and general comments which were not posted. Many if not most of these comments were sent within 72 hours of the meeting, before the 4pm deadline, and disseminated to a quorum of the TRPA governing body. Our own comment—which was posted—was deliberately singled out for degradation and was apparently accomplished by purposefully using a proprietary font substitution and then printing the email to PDF without embedding this font, and also by flatting of all hyperlinks. This selective degradation looks like this:



While we revived tens of BCC'd emails sent Sunday and Monday, the only select one from this time window published was this—a lobbying email forwarded on behalf of Tahoe Prosperity Center Boardmember Karen Fink (p.1) and Frank Gerdeman (p.43):



However the TRPA has clearly stated that all public comments sent before 4pm the day before the meeting will be published by the start of the meeting. It has published this in the newspaper, in the agenda, and on its website:

TAHOE REGIONAL PLANNING AGENCY
GOVERNING BOARD/COMMITTEES
NOTICE OF PUBLIC HEARINGS

The Governing Board/Committees will be held at the **Tahoe Regional Planning Agency, 128 Market Street, Stateline, NV .** Pursuant to TRPA Rules of Procedure, 2.16 Teleconference/Video Conference Meetings and Participation, Board members may appear in person or on Zoom. Members of the public may observe the meeting and submit comments in person at the above location or on Zoom. Details will be posted on the day of the meeting with a link to Zoom.

Written Public Comment: Members of the public may email written public comments to 'publiccomment@trpa.gov'. We encourage you to submit written comments (email, mail, or fax) in advance of the meeting date to give our staff adequate time to organize, post, and distribute your input to the appropriate staff and representatives. Written comments received by 4 p.m. the day before a scheduled public meeting will be distributed and posted to the TRPA website before the meeting begins. TRPA does not guarantee written comments received after 4 p.m. the day before a meeting will be distributed and posted in time for the meeting. Late comments may be distributed and posted after the meeting. Please include the meeting information and agenda item in the subject line. For general comments to representatives, include "General Comment" in the subject line.

Verbal Public Comment: Public comments at the meeting should be as brief and concise as possible so that all who wish to participate may do so; testimony should not be repeated. The Chair of the Board shall have the discretion to set appropriate time allotments for individual speakers (usually 3 minutes for individuals and group representatives as well as for the total time allotted to oral public comment for a specific agenda item). No extra time for participants will be permitted by the ceding of time to others. In the interest of efficient meeting management, the Chairperson reserves the right to limit the duration of each public comment period to a total of 1 hour. Public comment will be taken for each appropriate action item at the time the agenda item is heard and a general public comment period will be provided at the end of the meeting for all other comments including agendized informational items.

NOTICE IS HEREBY GIVEN that at its regular meeting to be held on **Wednesday, November 15, 2023,** the **Regional Plan Implementation Committee** commencing at **8:30 a.m.,** at the **Tahoe Regional**

Planning Agency, the Committee will conduct a public hearing on the following: **1)** Discussion and possible recommendation for Phase 2 Housing Amendments, including proposed changes to Code of Ordinances Chapter 13, Area Plans; Chapter 36, Design Standards; Chapter 37, Height; Chapter 31, Density; Chapter 30, Land Coverage; Chapter 34, Parking Policies; Chapter 52, Bonus Unit Incentive Program and Chapter 90, Definitions; and changes to the Goals and Policies, Land Use and Housing Sections; that would only apply to projects applying for deed-restricted bonus units (action).

Julie W. Regan
Executive Director

Published: October 20, 2023

TAHOE REGIONAL PLANNING AGENCY	
GOVERNING BOARD	
TRPA	November 15, 2023
128 Market Street, Stateline, NV	No earlier than 9:00 a.m.

All items on this agenda are action items unless otherwise noted. Items on the agenda, unless designated for a specific time, may not necessarily be considered in the order in which they appear and may, for good cause, be continued until a later date.

Written Public Comment: Members of the public may email written public comments to 'publiccomment@trpa.gov'. We encourage you to submit written comments (email, mail, or fax) in advance of the meeting date to give our staff adequate time to organize, post, and distribute your input to the appropriate staff and representatives. Written comments received by 4 p.m. the day before a scheduled public meeting will be distributed and posted to the TRPA website before the meeting begins. TRPA does not guarantee written comments received after 4 p.m. the day before a meeting will be distributed and posted in time for the meeting. Late comments may be distributed and posted after the meeting. Please include the meeting information and agenda item in the subject line. For general comments to representatives, include "General Comment" in the subject line.

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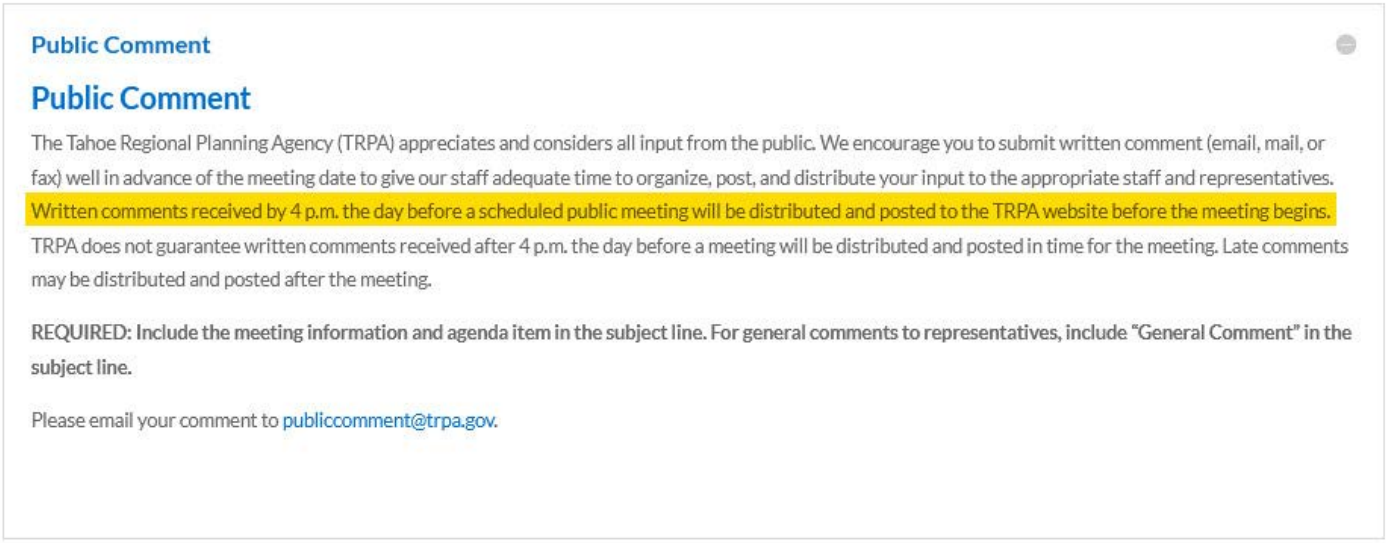

TRPA is unlawfully culling and censoring public comment in violation of *inter alia*:

- U.S. Constitution Amendments I, V, & XIV (prohibiting the abridgment of free speech, petitioning the government for a redress of grievances, and due process of law rights to know opposing evidence and an opportunity to be heard);
- TRPA Compact Art. III(d) ("All meetings shall be open to the public to the extent required by the law of the State of California or the State of Nevada, whichever imposes the greater requirement");
- TRPA Rules of Procedure §§ 2.6, 2.16.5 & 2.16.6 ("All meetings of the Board shall be open to the public to the extent required by the law of the State of Nevada or the State of California, whichever imposes the greater requirement applicable to local governments"..."The Agency shall provide the public with an opportunity for members of the public to address the Board or other body contemporaneously by telephone, a two-way audio-visual platform, and in-person"..."Agency materials that are to be considered at the meeting shall be made available online contemporaneously with presentation to the Governing Board members.");
- California Government Code §§ 54953(e)(2) ("A legislative body that holds a meeting pursuant to teleconferencing shall include an opportunity for...**all persons to attend via** a call-in option or **an internet-based service option**"), 54954.3(a)&(c) ("Every agenda for regular meetings shall provide an opportunity for members of the public to directly address the legislative body on any item of interest to the public"..."**The legislative body of a local agency shall not prohibit public criticism of the policies, procedures, programs, or services of the agency, or of the acts or omissions of the legislative body**."), 54957.5(b)(1) ("If a writing is a public record related to an agenda item for an open session of a regular meeting of the legislative body of a local agency and is distributed to all, or a majority of all, of the members of a legislative body of a local agency by a person in connection with a matter subject to discussion or consideration at an open meeting of the body less than 72 hours before that meeting, **the writing shall be made available for public inspection...at the time the writing is distributed to all, or a majority of all, of the members of the body**."), & 54959 (violation of Open Meeting Laws are crime);
- NRS § 241.020(3.)(a)(3)&(3.)(d)(3)&(3.)(d)(7) ("Comments by the general public must be taken...At the beginning of the meeting before any items on which action may be taken are heard by the public body and again before the adjournment of the meeting"..."the public body must allow the general public to comment on any matter that is not specifically included on the

agenda as an action item at some time before adjournment of the meeting"..."**Any restrictions on comments by the general public...may not restrict comments based upon viewpoint**.")

It is clear that action is being taken in violation of the aforementioned provisions of California Open Meeting Law, and where the governing board members intend to deprive the public of information to which those members know or has reason to know the public is entitled under California Open Meeting Law. **This is a crime**. Please upload public comments to the November G.B. meeting's webpage as well as those missing past public comments for September and October open meetings.

Sincerely,

Concerned Citizens of South Lake Tahoe

Date: Nov 13, 2023, 16:40
From: celltowers.slt@tutanota.com
To: jmarshall@trpa.org, khuston@trpa.gov
Cc: jregan@trpa.gov, cindygustafson@placer.ca.gov, hayley.a.williamson@gmail.com, mambler@trpa.gov, debbie@leonardlawpc.com, rob.bonta@doj.ca.gov, USACAE.Environment@usdoj.gov
Subject: WE'll SUE: WE DEMAND YOU COMPLETE OUR TRPA FOIA REQUEST and UPLOAD CENSORED PUBLIC COMMENTS

TRPA Officials,

Our undermentioned FOIA is still unfulfilled and long overdue. Moreover, **our public comments from September and October are still missing from their respective TRPA meeting's webpages**. We demand that you correct both of these unlawful deficiencies or **we will sue you in your personal capacities and go after your personal assets**. Last, **you may not censor constitutionally protected public comments, nor public records that are not only lawfully obtained, but serve as public notice to the public at large** (*see*, *Publius v. Boyer–Vine*, 237 F.Supp.3d 997, 1017 (2017) (holding when an individual's personal information—including addresses and telephone numbers—is relevant to issues of public significance, its truthful dissemination, particularly when already in the public domain and lawfully obtained, triggers exacting First Amendment scrutiny); *The Florida Star v. B.J.F.*, 491 U.S. 524 (1989) (Any restriction against speech content involving analysis of homeowner names, assessor's parcel numbers, and addresses is both underinclusive and overinclusive); *Hurvitz v. Hoefflin*, 84 Cal.App.4th 1232, 1243 (2000) (Publication of information about a person, without regard to truth, falsity, or defamatory character of that information, is protected by First Amendment and State Constitution and is not subject to prior restraint, and while a party may be held responsible for abusing his right to speak freely in a subsequent tort action, he has the initial right to speak freely without censorship)). Moreover, the prohibiting the making of "personal, impertinent, profane,

insolent or slanderous remarks" at public meetings is expressly an unconstitutional prohibition of protected speech (*Acosta v. City of Costa Mesa*, 718 F.3d 800, 810-11, 813 (9th Cir. 2013)).

The contents of this public comment being a public concern whereof is a matter of law, not a question of fact (*Nunez v. Davis*, 169 F.3d 1222, 1226 (9th Cir. 1999) (holding "the determination whether speech involves a matter of public concern is a question of law"); *Voigt v. Savell*, 70 F.3d 1552, 1559 (9th Cir. 1995) (speech or expressive conduct deals with a matter of public concern when it "can be fairly considered as relating to a matter of political, social, or other concern to the community"); *Cox Broadcasting Corp. v. Cohn*, 420 U.S. 469, 495 (1975) ("[p]ublic records by their very nature are of interest to those concerned with the administration of government, and a public benefit is performed by the reporting of the true contents of the records by the media"); *San Francisco CDC LLC v. Webcor Construction L.P.*, 62 Cal.App.5th 266, 281 n.5 (2021) (holding recorded real property records are official acts under this state). Moreover, there is no reasonable expectation of privacy to things put into public spaces or plain view (*see*, *e.g.*, *California v. Ciraolo*, 476 U.S. 207 (1986); *Florida v. Riley*, 488 U.S. 445 (1989); *Dow Chemical Co. v. United States*, 476 U.S. 227 (1986); *Oliver v. United States*, 466 U.S. 170 (1984); *California v. Greenwood*, 486 U.S. 35 (1988)).

Notwithstanding, there is not even a reasonable expectation of privacy against: (1) content that one knowingly publishes to the internet or to a government Recorder's file and index of recorded documents; or (2) observation from busy public streets of visible private property (*e.g.*, *Katz v. United States*, 389 U.S. 347, 351, 361 (1967) (the Reasonable Expectation of Privacy Test requires inter alia that the individual has exhibited an actual (subjective) expectation of privacy; what a person knowingly exposes to the public, even in his own home or office, is not a subject of this protection); *Rakas v. Illinois*, 439 U.S. 128, 144 n.12 (1978) ("[l]egitimation of expectations of privacy by law must have a source outside of the Fourth Amendment, either by reference to concepts of real or personal property law or to understandings that are recognized and permitted by society"); *Cox Broadcasting Corp. v. Cohn*, 420 U.S. 469, 494 (1975) (observing that ascertaining and publishing the contents of public records are simply not within the reach of ... privacy actions); *Moreno v. Hanford Sentinel, Inc.*, 172 Cal.App.4th 1125 (2009) (a matter that is already public or that has previously become part of the public domain is not a private fact, and thus its disclosure does not constitute a public disclosure of private fact); *supra*, *Hurvitz v. Hoefflin*, at 1245 ("there can be no privacy with respect to a matter which is already public or which has previously become part of the 'public domain'" quoting *Sipple v. Chronicle Publishing Co.*, 154 Cal.App.3d 1040, 1047 (1984)); *Kapellas v. Kofman*, 1 Cal.3d 20, 36-37, n.24 (California Supreme Court, 1969) (notwithstanding intrusion into ostensibly private affairs, publication of information previously part of the "public domain" will be privileged); *Gill v. Hearst Publishing Co.*, 40 Cal.2d 224, 230 (California Supreme Court, 1954) (right to privacy ceased over matter when it in effect became a part of the public domain as to which privacy waiver could not be rescinded in an attempt to assert a right of privacy)). "[O]nce the information is released, unlike a physical object, it cannot be recaptured and sealed" (supra, *Hurvitz v. Hoefflin*, at 1245). Whereas a City, County, or the State has released a public record, there is no triable issue of material fact as to whether it

is a public record (see, *Lorig v. Medical Board*, 78 Cal.App.4th 462 (2000)).

Moreover, recorded documents serve as constructive notice to all persons, therefore government censorship is *per se* unlawful (*e.g.,* California Civil Code §§ 1213, 1214, & 2934). California, is under a "race/notice statute" which cannot function with out the essential constructive notice part. There is no triable issue of material fact whether these records are public.

Sincerely,

Concerned Citizens of South Lake Tahoe

Date: Nov 7, 2023, 12:11
From: celltowers.slt@tutanota.com
To: khuston@trpa.gov
Cc: jmarshall@trpa.gov, jfriedrich@cityofslt.us, bosfive@edcgov.us, cindygustafson@placer.ca.gov
Subject: RE: Oct. 23rd and/or 25th 2023 TRPA G.B. Meeting—General Public Comment

> Ms. Huston,
>
> **You still have outstanding responsive items to our FOIA/CPRA request**. Your response only pertains to one meeting on 4/26/2023, however, this practice has been ongoing since at least 2020. We would like the full list. Also, please include any email addresses blacklisted from participating in written commentary, as this is functionally the same kind of unlawful censorship. Please resend us an updated receipt of this FOIA/CRPA which reflects all elements of our request.
>
> Next—as we expressly asked—please provide the names of officials who administer the TRPA meeting webinars by removing or dropping public users. That's right, we are still demanding the names of all TRPA officials or officers responsible for approving, overseeing, or renewing of this "practice."
>
> Third, our timely public comment for the Governing Board meeting was again illegally restrained from publication to the October 23 or 25th TRPA hearing meetings webpage. This violates the Constitutional guarantees of free speech & petitioning the government for redress of grievances, due process of law, state open meeting law, and TRPA rules of procedure. We demand you add the undermentioned comment to the record now. Please also add any outstanding public comments sent by any member of the public during the months of August, September, and October 2023 to their respective meeting's webpage. This includes Hearing Officer, Governing Board, and any other agency public

meetings.

Sincerely,

Concerned Citizens of South Lake Tahoe

Date: Oct 6, 2023, 20:19
From: celltowers.slt@tutanota.com
To: khuston@trpa.gov
Subject: RE: Oct. 23rd and/or 25th 2023 TRPA G.B. Meeting—General Public Comment

Thank you,

Please provide electronic copies of all documents. Just so you know, under California and Nevada law, there is generally no cost to obtain public records maintained in an electronic format. CA Public Records Act (CPRA) (CA. Gov. Code §§ 7920.000-7931.000) requires agencies to "make the information available in any electronic format in which it holds the information" (CA Gov. Code § 7922.570(b)(1)). Moreover, "[t]he cost of duplication of an electronic record … shall be limited to the direct cost of producing a copy of a record in an electronic format" (CA Gov. Code § 7922.575(a)). The "direct cost" generally does not include search and retrieval time (*North County Parents Organization v. Department of Education*, 23 Cal. App. 4th 144, 146 (1994)). Nevada likewise restricts fees to the direct cost of duplication (NRS §§ 239.005 & 239.052). Neither state allows local agencies to charge for time and labor. The federal Freedom of Information Act (FOIA) (5 U.S.C. § 552) is literally part of the federal Administrative Procedures Act (5 U.S.C. §§ 551–559) from which the TRPA asserts it is exempt. Moreover, Compact ARTICLE III(d) states that TRPA is subject to CA and NV open meeting laws, whichever provisions impose more stringent protections. Pursuant to CA Cont. Art. I Sec. 3 & Cal Gov. Code § 66801, the compact "shall be broadly construed if it furthers the people's right of access, and narrowly construed if it limits the right of access."

Whereas neither California nor Nevada surrendered its public right to government transparency or access to government records under unmistakable terms, TRPA must comport with California's Public Records Act as well as Nevada's Freedom of Information Act. Under unmistakability doctrine, sovereign power governs all contracts subject to sovereign's jurisdiction, and will remain intact unless surrendered in unmistakable terms (*U.S. v. Winstar Corp.*, 518 U.S. 839 (1996); *Department of Revenue of Oregon v. ACF Industries, Inc.*, 510 U.S. 332 (1994) (Supreme Court will interpret statute to preempt traditional state powers only if that result is clear and manifest purpose of Congress); *New York v. New Jersey*, 598 U.S. 218 (2023) (Interstate compacts are construed as contracts under the principles of contract law; An interstate compact is not just a contract, but is also a federal statute enacted by Congress that preempts contrary state law; Background notion that a State does not easily cede its sovereignty may inform the Supreme Court's

interpretation of interstate compacts)). After all, the right to inspect TRPA records is also California law (Cal Gov. Code § 66801 Art. III(i)) which must be liberally construed pursuant to enumerated constitutional right (CA Cont. Art. I Sec. 3). Thank you for your compliance.

Sincerely,

Concerned Citizens of South Lake Tahoe

Oct 6, 2023, 10:52 by khuston@trpa.gov:

> Hello,
>
> Please see the attached Notice of Receipt of Request for Public Records. Included with this Notice is TRPA's Fee Schedule/Cost Sheet which is used to calculate the standard fees associated with the actual cost of production that the Agency incurs during the processing of each public records request.
>
> **Katherine Huston, CP** *(she/her)*
>
> Paralegal
>
> (775) 589-5206 · khuston@trpa.gov

Attachments:

ADMIN2023-0034_Response Letter.pdf	0 bytes
FISC Verizon surveillance order.pdf	0 bytes

TAHOE REGIONAL PLANNING AGENCY

Mail
PO Box 5310
Stateline, NV 89449-5310

Location
128 Market Street
Stateline, NV 89449

Contact
Phone: 775-588-4547
Fax: 775-588-4527
www.trpa.gov

October 25, 2023

Concerned Citizens of South Lake Tahoe
celltowers.slt@tutanota.com

SENT VIA E-MAIL

Re: Response to Request for Public Records Dated September 28, 2023

To Whom it May Concern,

Tahoe Regional Planning Agency (TRPA) received your e-mail dated September 28, 2023, requesting the following categories of documents:

1. Any and all documents which allegedly promulgate the TRPA "standard practice" *[of removal of any individuals who register online with obscene names]*,
2. The alleged "obscene names" that violated this "practice".

Regarding your first request, there are no responsive documents. In response to your second request, please see the attachment of the Attendance Reports from TRPA's Public Meetings this year.

If you have any further questions or concerns, please feel free to contact me at khuston@trpa.gov or (775) 589-5206.

Sincerely,

K Huston

Katherine Huston
Paralegal
Tahoe Regional Planning Agency

Enclosure

Attendee Details

Attended	User Name (Original Name)	Email	Join Time	Leave Time	Time in Session (minutes)	Is Guest	Country/Region Name
Yes	Regan Sucks Developer Dick		4/26/2023 14:40	4/26/2023 14:40	1	Yes	United States
Yes	TRPA is Rape		4/26/2023 14:15	4/26/2023 14:16	2	Yes	United States
Yes	Regan Sucks Developer Dick		4/26/2023 14:39	4/26/2023 14:39	1	Yes	United States
Yes	Julie Regan Sucks Developer Dick		4/26/2023 14:47	4/26/2023 14:47	1	Yes	United States
Yes	Marshall Rapes Kiddies		4/26/2023 14:45	4/26/2023 14:45	1	Yes	United States
Yes	John Marshall rapes babies		4/26/2023 14:17	4/26/2023 14:17	1	Yes	United States
Yes	Regan is a Fraud		4/26/2023 14:31	4/26/2023 14:31	1	Yes	United States
Yes	Julie Regan is a prostitute		4/26/2023 14:12	4/26/2023 14:12	1	Yes	United States
Yes	Regan Sucks Developer Dick		4/26/2023 14:28	4/26/2023 14:28	1	Yes	United States
Yes	Anal TRPA Rape		4/26/2023 14:22	4/26/2023 14:22	1	Yes	United States
Yes	Fuck Julie Regan		4/26/2023 14:18	4/26/2023 14:19	2	Yes	United States
Yes	Regan Sucks Developer Dick		4/26/2023 14:29	4/26/2023 14:29	1	Yes	United States
Yes	Julie Regan Sucks Developer Dick		4/26/2023 14:47	4/26/2023 14:48	1	Yes	United States
Yes	Bob (Julie Regan Sucks Developer Dick)		4/26/2023 14:50	4/26/2023 15:27	37	Yes	United States
Yes	Julie Regan Sucks Developer Dick		4/26/2023 14:46	4/26/2023 14:46	1	Yes	United States
Yes	Marshall Pedophile		4/26/2023 14:44	4/26/2023 14:45	1	Yes	United States
Yes	Regan Sucks Developer Dick		4/26/2023 14:36	4/26/2023 14:36	1	Yes	United States
Yes	Fuck Ambler		4/26/2023 14:20	4/26/2023 14:22	2	Yes	United States
Yes	Fuck Ambler		4/26/2023 14:20	4/26/2023 14:21	1	Yes	United States
Yes	Julie Regan Sucks Developer Dick		4/26/2023 14:43	4/26/2023 14:44	2	Yes	United States
Yes	Regan Sucks Developer Dick		4/26/2023 14:32	4/26/2023 14:32	1	Yes	United States
Yes	Reagn licks Rhamey's dick		4/26/2023 14:27	4/26/2023 14:27	1	Yes	United States
Yes	Ambler blows kids		4/26/2023 14:25	4/26/2023 14:25	1	Yes	United States
Yes	Julie Regan Sucks Developer Dick		4/26/2023 14:47	4/26/2023 14:48	1	Yes	United States
Yes	Julie Regan Sucks Developer Dick		4/26/2023 14:41	4/26/2023 14:42	1	Yes	United States
Yes	Regan Sucks Developer Dick		4/26/2023 14:38	4/26/2023 14:39	1	Yes	United States
Yes	John Marshall is a Pedophile		4/26/2023 14:03	4/26/2023 14:04	2	Yes	United States
Yes	Regan Sucks Developer Dick		4/26/2023 14:34	4/26/2023 14:36	2	Yes	United States
Yes	Heidi Hill Drum is a Rapist		4/26/2023 14:06	4/26/2023 14:07	2	Yes	United States
Yes	Fuck Marshall molester		4/26/2023 14:19	4/26/2023 14:19	1	Yes	United States
Yes	Julie Regan Sucks Developer Dick		4/26/2023 14:48	4/26/2023 14:50	2	Yes	United States
Yes	Regan Sucks Developer Dick		4/26/2023 14:31	4/26/2023 14:31	1	Yes	United States
Yes	Fuck you Rapists		4/26/2023 14:21	4/26/2023 14:22	1	Yes	United States
Yes	Bob (TRPA Rapists)		4/26/2023 14:51	4/26/2023 15:27	37	Yes	United States
Yes	Regan's a whore		4/26/2023 14:24	4/26/2023 14:25	1	Yes	United States
Yes	Fuck_Regan		4/26/2023 13:56	4/26/2023 14:04	9	Yes	United States
Yes	Fuck_Regan		4/26/2023 14:04	4/26/2023 14:06	2	Yes	United States
Yes	J Regan loves Feldman's cock		4/26/2023 14:14	4/26/2023 14:14	1	Yes	United States
Yes	Regan Sucks Developer Dick		4/26/2023 14:37	4/26/2023 14:37	1	Yes	United States
Yes	Regan Sucks Developer Dick		4/26/2023 14:31	4/26/2023 14:31	1	Yes	United States
Yes	Julie Regan Sucks Developer Dick		4/26/2023 14:42	4/26/2023 14:42	1	Yes	United States
Yes	Regan Sucks Developer Dick		4/26/2023 14:30	4/26/2023 14:30	1	Yes	United States
Yes	Regan Sucks Developer Dick		4/26/2023 14:30	4/26/2023 14:30	1	Yes	United States
Yes	TRPA Cunts		4/26/2023 14:16	4/26/2023 14:16	1	Yes	United States
Yes	Fuck Marshall the pedophile		4/26/2023 14:08	4/26/2023 14:08	1	Yes	United States
Yes	Julie Regan Sucks Developer Dick		4/26/2023 14:49	4/26/2023 14:49	1	Yes	United States
Yes	Julie Regan Sucks Developer Dick		4/26/2023 14:45	4/26/2023 14:46	1	Yes	United States
Yes	Regan Sucks Developer Dick		4/26/2023 14:33	4/26/2023 14:34	1	Yes	United States
Yes	Regan Dick Sucker		4/26/2023 14:10	4/26/2023 14:11	1	Yes	United States
Yes	Fuck Marchetta		4/26/2023 14:19	4/26/2023 14:19	1	Yes	United States
Yes	Julie Regan Sucks Developer Dick		4/26/2023 14:42	4/26/2023 14:43	1	Yes	United States
Yes	Julie Regan Sucks Developer Dick		4/26/2023 14:47	4/26/2023 14:47	1	Yes	United States
Yes	Julie Regan Sucks Developer Dick		4/26/2023 14:42	4/26/2023 14:42	1	Yes	United States
Yes	Julie Regan Sucks Developer Dick		4/26/2023 14:42	4/26/2023 14:43	1	Yes	United States
Yes	Regan Sucks Developer Dick		4/26/2023 14:29	4/26/2023 14:29	1	Yes	United States
Yes	Regan Sucked Rhamey's Dick		4/26/2023 14:12	4/26/2023 14:12	1	Yes	United States
Yes	TRPA Ass Rape		4/26/2023 14:09	4/26/2023 14:09	1	Yes	United States
Yes	TRPA Ass Rape		4/26/2023 14:09	4/26/2023 14:10	1	Yes	United States
Yes	Bob (Marchetta licks babies cunts)		4/26/2023 14:50	4/26/2023 16:01	72	Yes	United States
Yes	Julie Regan Sucks Developer Dick		4/26/2023 14:43	4/26/2023 14:43	1	Yes	United States
Yes	Marshall Molester		4/26/2023 14:49	4/26/2023 14:49	1	Yes	United States
Yes	Marshall blows kids		4/26/2023 14:22	4/26/2023 14:23	1	Yes	United States
Yes	Marhall blows children		4/26/2023 14:20	4/26/2023 14:20	1	Yes	United States
Yes	TRPA Fucked		4/26/2023 14:24	4/26/2023 14:24	1	Yes	United States

Yes	TRPA Fucked	4/26/2023 14:24	4/26/2023 14:24	1	Yes	United States
Yes	Regan Sucks Developer Dick	4/26/2023 14:32	4/26/2023 14:32	1	Yes	United States
Yes	Regan Sucks Developer Dick	4/26/2023 14:33	4/26/2023 14:33	1	Yes	United States
Yes	Regan Sucks Developer Dick	4/26/2023 14:33	4/26/2023 14:34	1	Yes	United States
Yes	Regan Sucks Developer Dick	4/26/2023 14:33	4/26/2023 14:33	1	Yes	United States
Yes	Regan Sucks Developer Dick	4/26/2023 14:33	4/26/2023 14:34	1	Yes	United States
Yes	Marja Ambler is a cunt	4/26/2023 14:07	4/26/2023 14:07	1	Yes	United States
Yes	Marja Ambler is a cunt	4/26/2023 14:07	4/26/2023 14:08	1	Yes	United States
Yes	Ambler sucks Marshall's dick	4/26/2023 14:15	4/26/2023 14:15	1	Yes	United States
Yes	Regan Sucks Developer Dick	4/26/2023 14:38	4/26/2023 14:38	1	Yes	United States
Yes	Regan Sucks Developer Dick	4/26/2023 14:40	4/26/2023 14:40	1	Yes	United States
Yes	Julie Regan Sucks Developer Dick	4/26/2023 14:45	4/26/2023 14:45	1	Yes	United States
Yes	Marja is a whore	4/26/2023 14:13	4/26/2023 14:15	2	Yes	United States
Yes	Marshall blows babies	4/26/2023 14:37	4/26/2023 14:38	1	Yes	United States
Yes	Regan Sucks Developer Dick	4/26/2023 14:32	4/26/2023 14:33	1	Yes	United States
Yes	Fuck Reagan	4/26/2023 13:51	4/26/2023 13:53	3	Yes	United States
Yes	Marshall Rapes Babies	4/26/2023 14:35	4/26/2023 14:36	1	Yes	United States
Yes	Regan Sucks Developer Dick	4/26/2023 14:37	4/26/2023 14:37	1	Yes	United States
Yes	Regan Suck Developer Dick	4/26/2023 14:27	4/26/2023 14:27	1	Yes	United States
Yes	Marchetta is a Bitch	4/27/2023 12:53	4/27/2023 12:54	2	Yes	United States
Yes	John Smith (Julie Regan is a Prostitute)	4/27/2023 12:51	4/27/2023 13:26	36	Yes	United States
Yes	John Smith (TRPA Rapes Tahoe)	4/27/2023 14:20	4/27/2023 14:39	20	Yes	United States
Yes	Nope (John Marshall is a Pedophile)	4/27/2023 12:47	4/27/2023 13:26	40	Yes	United States
Yes	John Smith (Marchetta is a Bitch)	4/27/2023 12:57	4/27/2023 13:22	26	Yes	United States
Yes	Fuck Marchetta	5/24/2023 14:36	5/24/2023 14:40	4	Yes	United States
Yes	Bob (Fuck Marchetta)	5/24/2023 14:40	5/24/2023 14:54	15	Yes	United States
Yes	Bob (John Marshall is a rapist)	5/24/2023 12:01	5/24/2023 12:06	5	Yes	United States
Yes	J. Reagan Ass-rapes Environment	5/24/2023 11:51	5/24/2023 11:53	3	Yes	United States
Yes	J. Reagan Ass-rapes Environment	5/24/2023 11:53	5/24/2023 11:54	1	Yes	United States
Yes	Bod (Fuck J. Regan)	5/24/2023 11:57	5/24/2023 11:58	1	Yes	United States
Yes	Ignore (Fuck Andrew Strain)	9/14/2023 14:04	9/14/2023 14:06	3	Yes	United States
Yes	Fuck Marshall	9/14/2023 14:21	9/14/2023 14:22	1	Yes	United States
Yes	Motherfucker Strain	9/14/2023 14:11	9/14/2023 14:17	6	Yes	United States
Yes	Fuck Regan	9/14/2023 14:27	9/14/2023 14:28	1	Yes	United States
Yes	Bitch: Regan	9/27/2023 15:56	9/27/2023 18:45	169	Yes	United States

From: Sue Jorth <s_jorth@hotmail.com>
Sent: 4/29/2026 12:15:29 PM
To: Public Comment <PublicComment@trpa.gov>; Julie Roll <jroll@trpa.gov>
Subject: TRPA Hearing 30Apr2026 APN124-061-19ERSP2024-1187 Comments
Attachments: TRPA 30Apr2026 124-061-19ERSP2024-1187 Susan Jorth Comments.pdf

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Thank you for the opportunity to comment on the upcoming hearing item related to APN124-061-19/ERSP2024-1187. My comments are attached. I hope I've provided helpful comments that can make this a workable situation for all.

Ms. Roll: Please contact me at (775) 881.8042 if you want more information prior to the meeting,

Regards,
Susan Jorth
501 Lucille Dr
Incline Village, NV 89451

April 29, 2026

From: Susan Jorth

501 Lucille Dr

(APN 124-061-10)

Incline Village, NV 89451

To: Julie Roth, TRPA Principle Planner

Re: APN/File Number 124-061-19/ERSP2024-1187, TRPA Public Hearing April 30, 2026

Dear Ms. Roth:

Please find enclosed my comments and input to the TRPA Public Hearing April 30, 2026 agenda item regarding APN/File Number 124-061-19/ERSP2024-1187 (Village Church Applicant).

Thank you for the opportunity to comment. I'm a property owner located directly below the Village Church. I have owned my property (APN 124-061-10) since 2015 and am a full-time resident. During my ownership I have frequently had people trespass across my parcel on the way to/from the Village Church. In approximately 2019 I marked my property with Private Property/No Trespassing signs and have since verbally notified the Village Church office and other individuals who enter my property that they are not allowed access. As a result, while attempting to enjoy my backyard, I have been a target of name calling, verbal harassment, and most recently (Jan 30, 2026), an upsetting hate act. (I will provide details upon request). This treatment is obviously not aligned with the Church's statement in Attachment A, Required Findings, #2 (Chapter 21 – Special Use), item b. that declares:

> "The project to which the use pertains will not be injurious or disturbing to the health, safety, enjoyment of property, or general welfare of persons or property in the neighborhood, or general welfare of the region, and the applicant has taken reasonable steps to protect against any such injury and to protect the land, water, and air resources of both the applicant's property and that of surrounding property owners. (TRPA Code Section 21.2.2.B)."

Despite such treatment, I am a reasonable person and believe that with several adjustments, I can enjoy my property in peaceful co-existence with the Village Church school:

1) **All recess play activities should be restricted to within the designated fenced playground on the Highway 431 side of the Church. The parking lot should be restricted to allow <u>only</u> pick up, drop off, and parking activities**. The temporary Special Use permit WSUP24-0006 which was granted in July, 2024 allowed for the Church parking lot to be used as an alternative play area, which they have done regularly prior to the Jan 30, 2026 hate act. This permit should be amended to prohibit all play activities on the private residence side (i.e. the parking lot side) of the Village Church. This should eliminate unpleasant encounters with property owners below the Church, and safely separate playing children and motor vehicles from using the same area**.** The Church states in this application, "The parking lot will be re striped to improve traffic circulation for school drop-off and pick-up", so I believe they are in agreement with restricting play to the designated fenced play area.

2) **A safe walking corridor or at a minimum an enforced slow school zone and/or speed dips are needed along McCourry Blvd between Highway 431 and Lucille Dr.** This section of McCourry Blvd is especially narrow with little, to no, shoulder. There is significant traffic on McCourry Blvd and most drivers exceed the speed limit on a regular basis. I believe the county and TRPA need to address the current unsafe condition for children approaching the Village Church on foot along McCourry Blvd. I also believe this unsafe stretch is partly why people attempt to divert and cross my property, disregarding the posted No Trespassing signs. With an increase in foot/bike/car traffic associated with the school, the odds of a vehicle/pedestrian accident increase. All the public schools in Incline Village have addressed traffic issues to protect their school children so why would our community settle for anything less for any other school children?

3) Lastly, the Applicant's Project Description states:

> "Existing space within the church will accommodate the students, and therefore, the project does not include any modifications or expansion to the structure."

I believe this classroom space is available in part because the Village Church purchased adjacent single family residence (770 McCourry Blvd - APN 124-016-12 zoned SFR) and relocated its business offices into this single family residence in late 2023 and early 2024, essentially violating the zoning of one parcel to create the space required for

classrooms within the Church. **No Special Use Permit for a zoning exception for 770 McCourry Blvd has been applied for or granted to date.** This violation was presented to the planning commission during the Washoe County Board of Adjustment Special Use Permit (WSUP24-0006) public meeting on **July 8, 2024** but to my knowledge no zoning violation notice or subsequent permit application has been initiated for almost 2 years. Due to the space dependency between the 2 parcels, I request that TRPA consider delaying the approval requested at today's hearing until a Special Use Permit is granted for 770 McCourry Blvd.

Thank you for your time and consideration of these comments,

Susan Jorth

April 29, 2026

From: Karen Hovorka <klhovorka@yahoo.com>
Sent: 4/22/2026 10:24:53 AM
To: Public Comment <PublicComment@trpa.gov>
Subject: Public comment re Village Church hearing, parcel #124-061-19

Hello,

I received the notification of the application and public hearing for the Village Church school project. As a property owner nearby this property, I'm writing in support of the project and have no concerns.

Thank you,
Karen Hovorka