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8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
9 **COUNTY OF SACRAMENTO**

10
11 LEON CORCOS; and FAIR OAKS
VILLAGE ENHANCEMENT COMMITTEE,

12 Plaintiffs and Petitioners,

13 v.

14 FAIR OAKS WATER DISTRICT,

15 Defendant and Respondent.
16
17
18
19

Case No. 26WM000022

**MEMORANDUM OF POINTS AND
AUTHORITIES IN SUPPORT OF
DEMURRER**

Date: July 31, 2026
Time: 1:30 p.m.
Dept.: 3B

Assigned for All Purposes to:
Judge: Hon. Stephen P. Acquisto
Action Filed: January 27, 2026
Trial Date: Not Yet Set

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1 Defendant/Respondent the FAIR OAKS WATER DISTRICT (“FOWD”) respectfully
2 submits this Memorandum of Points and Authorities in Support of its Demurrer to
3 Plaintiffs/Petitioners LEON CORCOS (“Mr. Corcos”) and the FAIR OAKS VILLAGE
4 ENHANCEMENT COMMITTEE’s (the “Enhancement Corporation”) (jointly, “Petitioners”)
5 Verified Petition for Writ of Mandate and Complaint for Injunctive or Other Relief.

6 **I. INTRODUCTION**

7 This case concerns Sacramento County’s March, 2022 approval of a Development Plan
8 Review and Special Development Permit application in which FOWD requested to rebuild its
9 corporation yard located at 10317 Fair Oaks Boulevard in the unincorporated Sacramento County
10 community of Fair Oaks (the “Project” and the “Property”). The corporation yard has been
11 located at the Property since at least 1979. Mr. Corcos has been fighting the Project for many
12 years, believing FOWD should relocate its corporation yard to some other parcel far outside of
13 Fair Oaks. In pursuit of his opposition to the redevelopment of the corporation yard at its current
14 location, where it has existed for over forty-five (45) years, Mr. Corcos has repeatedly attempted
15 to avail himself of the political process by supporting slates of candidates in an effort to unseat
16 FOWD’s board of directors with candidates more favorable to his position. Each effort failed.

17 After those political endeavors failed repeatedly, Mr. Corcos first attempted an end-around
18 the political process by filing a petition for writ of mandamus in this Court over a year ago on
19 April 1, 2025 (Case No. 25WM000050). effectively asking the Court to seize control of FOWD as
20 a receiver and order its elected board to relocate its corporation yard in conformance with Mr.
21 Corcos’s wishes. After FOWD filed a demurrer to Mr. Corcos’ petition, Mr. Corcos did not file
22 an opposition, but instead abruptly dismissed his petition on October 10, 2025. Having abandoned
23 his first misplaced effort to persuade the court to interfere with FOWD’s exercise of its
24 discretionary legislative authority by way of traditional mandate – as Mr. Corcos failed to allege
25 the existence of a ministerial duty with which FOWD had not complied – Mr. Corcos is back yet
26 again with the instant Petition for Writ of Mandate and Complaint for Injunctive Relief
27 (“Petition”).

28 Other than adding the Enhancement Corporation as an additional petitioner, Mr. Corcos

1 has simply transmogrified his prior cause of action for traditional mandamus into allegations of
2 “waste” under Code of Civil Procedure section 526a. He separately alleges, on pure speculation,
3 purported violations of the Ralph M. Brown Act (“Brown Act”), Government Code section 54960.

4 Petitioners’ position is not supported by the law. *First*, the Petition fails to allege FOWD
5 is funded by any tax paid by Petitioners that would give them standing under Code of Civil
6 Procedure section 526a. *Second*, even if Petitioners had standing under Section 526a, the Court
7 lacks jurisdiction to interfere with FOWD’s exercise of its discretionary legislative authority by
8 way of traditional mandamus. *Third*, Petitioners’ baseless allegation that FOWD’s discretionary
9 acts constitute “waste” under Code of Civil Procedure section 526a fails as those discretionary acts
10 would actually confer a benefit to district ratepayers, and Petitioners do not allege FOWD’s
11 discretionary expenditures on the Project are “illegal” under Section 526a. *Fourth*, Petitioners’
12 allegations FOWD violated the Brown Act also fails as Petitioners do not plead the cause of action
13 with the requisite “particularity,” instead relying on pure speculation, and they fail to allege a
14 majority of the board members were gathered at these alleged “closed-door meetings.”

15 For each of these reasons, Petitioners fail to state facts constituting a cause of action and
16 this Demurrer should be sustained as to the entirety of Mr. Corcos and the Enhancement
17 Corporation’s Petition. And because no reasonable possibility exists that the defects in the
18 Petition can be cured by amendment, the Demurrer should be sustained without leave to amend.

19 **II. FACTS**

20 The Fair Oaks Water District is an irrigation district formed pursuant to Water Code
21 section 20500, et seq. (Request for Judicial Notice (“RJN”) at **Ex. A.**) Across the street from
22 FOWD’s headquarters located at 10326 Fair Oaks Boulevard lies FOWD’s “corporation yard,”
23 located at 10317 Fair Oaks Boulevard. (Petn. ¶ 18.) This dispute focuses on FOWD’s plans to
24 “redevelop” its corporation yard. (Petn. ¶¶ 19–26.) The Property is located within the Fair Oaks
25 Village Special Planning Area (the “SPA”), a special zoning district adopted by Sacramento
26 County Board of Supervisors “to recognize the special qualities of the Fair Oaks Village and to
27 allow development on vacant property, or remodeling of existing structures.” (RJN at **Ex. B** (See
28 § 502-10).) The SPA expressly permits a “Public Utility Facility, Public or Private Owned” to be

1 located within the Fair Oaks Village. (RJN **Ex. B** (§ 502-12.7.98).) Notably, in approving the
2 Project, the Sacramento County Planning Commission adopted findings of fact (which Petitioners
3 *never challenged*), including a finding that the Project is consistent with the County’s zoning laws,
4 including the SPA. (RJN **Ex. C** (see, e.g., p. 17 [“the proposed development will carry out the
5 intent of the General Plan and Community Plan.”] and **Ex. D**.)

6 As a “governing body of a local agency or any other local body created by state or federal
7 statute,” FOWD is a “legislative body” that is governed by an elected Board of Directors (the
8 “Board”) (Gov. Code, § 54952(a); Petn. at ¶ 6.) Acting within its legislative authority, the Board
9 applied to Sacramento County for discretionary zoning entitlements consisting of Development
10 Plan Review and a Special Development Permit, which request was considered by the Sacramento
11 County Planning Commission on February 14, 2022 and March 14, 2022. (RJN **Ex’s. C, D, & E**.)
12 FOWD seeks to renovate its *existing* corporation yard. (RJN **Ex. C**; Petn. at ¶¶ 18-19.) The
13 County Planning Commission unanimously approved the Project on March 14, 2022 (the
14 “Approval”). (RJN **Ex. E**.) Petitioners never appealed the Approval, which became final over
15 four years ago. (See Petn., generally.) That is, Mr. Corcos never exhausted his administrative
16 remedies and never sought administrative mandamus in conformance with the law.

17 As for the alleged Brown Act violations, Mr. Corcos already complained to the District
18 Attorney’s office about this very issue in 2024. After an investigation by Criminal Investigator
19 Bob McCloskey, the District Attorney rejected Mr. Corcos’s assertions, finding “there is
20 insufficient evidence to conclude that a violation occurred.” (RJN **Ex. F**.)

21 **III. LEGAL STANDARD**

22 A demurrer tests the legal sufficiency of the pleading. (*Hernandez v. City of Pomona*
23 (1996) 49 Cal.App.4th 1492, 1497.) For purposes of ruling on a demurrer, material facts alleged
24 in a pleading are treated as true, and “doubt in the complaint may be resolved against the plaintiff
25 and facts not alleged are presumed not to exist.” (*C&H Foods Co. v. Hartford Ins. Co.* (1984) 163
26 Cal.App.3d 1055, 1062.) A demurrer may also be based upon “any matter of which the court is
27 required to or may take judicial notice.” (Code Civ. Proc., § 430.30, subd. (a).) A demurrer
28 should be sustained where a pleading “does not state facts sufficient to constitute a cause of

1 action.” (Code Civ. Proc., § 430.10, subd. (e).)

2 Contentions, deductions, or conclusions of fact or law will not suffice. (*Blank v Kirwan*
3 (1985) 39 Cal.3d 311, 318.) Facts stated must be “specific, not vague or conclusory.” (*Rakestraw*
4 *v. Cal. Physicians’ Serv.* (2000) 81 Cal.App.4th 39, 44.) A demurrer must be sustained without
5 leave to amend unless a plaintiff shows a reasonable possibility exists that the defect can be cured
6 by amendment. (*Blank, supra*, 39 Cal.3d at p. 318; *Torres v. City of Yorba Linda* (1993) 13
7 Cal.App.4th 1035, 1041.) The pleading party has the burden to show that it can amend the
8 complaint to cure the defect. (*Chen v. PayPal, Inc.* (2021) 61 Cal.App.5th 559, 584; *Blank*, 39
9 Cal.3d at p. 318). Relevant here, a petition for writ of mandate may be responded to by way of
10 demurrer. (Code Civ. Proc., § 1089; see also *Gong v. City of Freemont* (1967) 250 Cal.App.2d
11 568, 571.)

12 **IV. ARGUMENT**

13 **A. Because Petitioners Pay No Tax To FOWD, They Lack Section 526a Standing**

14 In order to bring an action under Code of Civil Procedure section 526a to restrain or
15 prevent any alleged “illegal expenditure of, waste of, or injury to the estate, funds, or other
16 property of a local agency,” the party bringing the action must be either a resident within the local
17 agency or a corporation that “is assessed for and is liable to pay, or, within one year before the
18 commencement of the action, has paid, a tax that funds the defendant local agency[.]” (Code Civ.
19 Proc., 526a(a).) Such taxes include, but are not limited to, the following: (1) an income tax; (2) a
20 sales and use tax or transaction and use tax initially paid by a consumer to a retailer; (3) a property
21 tax; or (4) a business license tax. (*Id.*) Unquestionably, however, fees for utility services *are not*
22 *taxes* as a matter of law. (Cal. Const., art. XIII C, §§ (e)(1), (e)(2), & (e)(3); *Northwest Energetic*
23 *Services, LLC v. California Franchise Tax Bd.* (2008) 159 Cal.App.4th 841, 854 [explaining taxes,
24 which are compulsory, are distinct from fees, which are voluntary and compensate for service or
25 benefits].)

26 Here, Petitioners allege only that Mr. Corcos “is a resident of Sacramento County,
27 California” who “has lived in Fair Oaks for nearly three decades, and owns property and multiple
28 businesses in Fair Oaks Village.” (Petn. at ¶ 7.) Nowhere in the Petition is it alleged Mr. Corcos

1 pays any tax that funds FOWD. With respect to the Enhancement Corporation, the Petition states
2 it “is a nonprofit public benefit corporation organized under California law” whose members
3 “include District ratepayers and Fair Oaks taxpayers, and they are personally affected by the
4 proposed development of the District’s Corporation Yard.” (Petn. at ¶ 8.) Again, however,
5 nowhere do Petitioners allege the Enhancement Corporation itself pays any tax that funds FOWD,
6 nor can they, as it does not. (See, *Grosset v. Wenaas* (2008) 42 Cal.4th 1100, 1108 [“It is
7 fundamental that a corporation is a legal entity that is distinct from its shareholders.¹”].)

8 Revenues from water rates cover FOWD costs of operations, maintenance, infrastructure
9 replacement, customer service, water purchases, and other necessary programs – these are not
10 taxes that give the taxpayer standing to enforce Section 526a. This is almost certainly why neither
11 Mr. Corcos nor the Enhancement Corporation allege they have been assessed for or are liable to
12 pay a *tax* that funds FOWD. As such, neither has *taxpayer* standing to pursue a Section 526a
13 claim and on this basis the Demurrer should be sustained because Petitioners fail to state facts
14 sufficient to constitute a cause of action, an infirmity that cannot be cured through amendment.

15 And even if Section 526a did reach to enjoin expenditure of ratepayer funds, and not just
16 taxes, neither Mr. Corcos nor the Enhancement Corporation allege they pay water rates to FOWD
17 at all. Mr. Corcos merely alleges he “has lived in Fair Oaks Village for nearly three decades, and
18 owns property and multiple businesses in Fair Oaks Village.” (Petn. ¶ 7.) And while the
19 Development Corporation alleges its “members include district ratepayers and Fair Oaks
20 taxpayers,” it *does not allege* FOWD ratepayer itself. (Petn. ¶ 8.)

21 Because neither Mr. Cocos nor the Development Corporation pay any taxes (nor do they
22 allege the pay services fees) to FOWD, they lack standing to maintain their First Cause of Action.

23 **B. Petitioners’ First Cause of Action Seeks Relief This Court Cannot Provide.**

24 **1. The Court cannot interfere in the District’s discretionary decisions.**

25 “[T]raditional mandate lies ‘to compel the performance of an act which the law specifically
26 enjoins, as a duty resulting from an office, trust, or station.’” (*Herron v. San Diego Unified Port*
27

28 _____
¹ It is unclear why the Petition refers to the Development Corporations “members.”

1 *District* (2025) 109 Cal.App.5th 1, 10 (Quoting Code Civ. Proc., § 1085.) “Generally, a court is
2 without power to interfere with purely legislative action, whether the act contemplated or done be
3 at the state level or the local level.” (*Monarch Cablevision, Inc. v. City of Pacific Grove* (1966)
4 239 Cal.App.2d 206, 211; see also *Alpers v. City and County of San Francisco* (N. D. Cal., 1887)
5 32 F. 503, 507 [“Municipal corporations are instrumentalities of the state for the more convenient
6 administration of local affairs... they are as much beyond judicial interference as the legislature of
7 the state.”].) “The reason for this is a fundamental one – it would violate the basic concept of the
8 separation of powers among the three coequal branches of government.” (*Id.*)

9 The California Constitution’s separation of powers doctrine in fact **forbids** the judiciary
10 from issuing writs that direct the Legislature to take specific action, including to **appropriate**
11 **funds** and pass legislation.” (*California School Bds. Assn. v. State of California* (2011) 192
12 Cal.App.4th 770, 799.) For example, the decision of a local agency to execute or not execute a
13 contract with a third party is “a political one shaped by discretion and public policy.” (*Joint*
14 *Council of Interns & Residents v. Bd. Of Supervisors* (1989) 210 Cal.App.3d 1202, 1211 [rejecting
15 petition for writ of mandate to compel county to rescind contract approval].)

16 Legislative (that is, discretionary) authority “is the power conferred on public functionaries
17 to act officially according to the dictates of their own judgment.” (*Id.*, quotations omitted.)
18 Courts must discern whether the local agency is acting in a ministerial or legislative capacity, as
19 the Court is “**without power** to interfere in purely legislative action.” (*Tailfeather v. Board of*
20 *Supervisors* (1996) 48 Cal.App.4th 1223, 1244 (emphasis added).) This is because “[t]he powers
21 of state government are legislative, executive, and judicial. Persons charged with the exercise of
22 one power may not exercise either of the others except as permitted by this Constitution.” (Cal.
23 Const., art. III, § 3.) The sole exception arises where a petitioner alleges the legislative agency has
24 failed to perform a ministerial duty, that is, a duty the local agency “is required to perform in a
25 prescribed manner... without regard to his own judgment or opinion concerning the propriety of
26 such act. (*Herron, supra*, 109 Cal.App.5th at 10.) Where a petition fails to allege the violation of
27 a ministerial duty, it fails to state facts sufficient to constitute a cause of action. (*Id.* at 12.)

28 As to FOWD, it may acquire property by any means “for the construction, improvement,

1 and operation of works) and for works constructed (Cal. Water Code, §§ 22425, subd's. (a) &
2 (b).) Nothing in the California Water Code precludes FOWD from operating a corporation yard at
3 the Property. (*See*, Water Code § 20500, *et seq.*, generally.) Here, Petitioners allege FOWD has
4 moved forward with the redevelopment of the Property “while ignoring calls for it to complete the
5 due diligence necessary to ensure that its proposal is appropriate and refusing to consider
6 alternatives that would better serve the District’s ratepayers and the greater Fair Oaks
7 community.” (Petn. at ¶ 3.) Petitioners further allege FOWD’s redevelopment of the Property is
8 estimated to cost in excess of \$14 million, and that “[t]his eye-popping price cannot be justified as
9 a prudent use of funds collected from the District’s ratepayers and Fair Oaks taxpayers.” (Petn. at
10 ¶ 4.) Petitioners further allege “the redevelopment include posh amenities that are unnecessary to
11 the District’s operations, and the project’s massive scope cannot be justified by its work supply
12 water to the roughly 40,000 residents in the greater Fair Oaks community.” (*Id.*) But these
13 determination are the purview of District’s Board and the voters who elect them, not the purview
14 of this Court, and Petitioners fail to allege the violation of a ministerial duty.

15 To be clear, Petitioners merely complain FOWD is exercising the authority conferred by
16 Water Code sections 20500, *et seq.* That is, Petitioners solely raise a dispute concerning FOWD’s
17 exercise of its own discretionary legislative authority to appropriate public funds to improve the
18 Property, *which it already owns* and on which it already operates a corporation yard. But the
19 Court cannot intervene in this exercise of discretionary authority. Nor should the Court want to do
20 so: as one court succinctly put it, granting traditional mandamus to take control of a legislative
21 body would mean that the court’s duty “would be ongoing—I would be a receiver. I would be
22 sitting on top of them—I’d be—I’d be reviewing everything they did, to make sure they’re
23 following the law.” (*Monterey Coastkeeper v. Central Coast Reg’l Water Quality Control Bd.*
24 (2022) 76 Cal.App.5th 1, 22 [quoting the trial court].) The court in *Monterey Coastkeeper* went
25 on to say “[t]raditional mandamus in this case would make the trial court the effective overseer of
26 State Board and the regional water boards, making the court one of the most, if not the most,
27 powerful entities in setting water policy.” (*Id.*)

28 This Court cannot and should not assume the role of receiver over FOWD’s management
or development of the Property, which Sacramento County, in its quasi-judicial authority, has
already expressly found complies with all applicable codes and laws, nor FOWD’s discretionary

1 appropriation of ratepayer funds. No ministerial duty has been violated, and on this basis the
2 petition fails to state facts sufficient to constitute a cause of action. (Code Civ. Proc., § 430.10,
3 subd. (e).) This case presents a purely political question over which the Court has no jurisdiction.
4 (Code Civ. Proc., § 430.10, subd. (a).)

5 **2. The District’s expenditures on the Project is not “waste.”**

6 “A district may construct the necessary works for the collection of water for the district.”
7 (Water Code, § 22226.) “A district may do any act necessary to furnish sufficient water in the
8 district for any beneficial use.” (Water Code, § 22075.) “Each district has the power generally to
9 perform all acts necessary to carry out fully the provisions of this division.” (Water Code, §
10 22225.) Taken together, these statutes confirm the Legislature conferred “broad discretion” on
11 FOWD to carry out its purposes and duties. (*Abatti v. Imperial Irrigation Dist.* (2020) 52
12 Cal.App.5th 236, 257.) Indeed, FOWD is empowered “to do any and all lawful acts necessary to
13 be done that sufficient water may be furnished to the inhabitants of the district ... and to perform
14 *all acts that shall be necessary to fully carry out the purposes of the act under which said district*
15 *was formed.*” (*Crawford v. Imperial Irr. Dist.* (1927) 200 Cal. 318, 328.) Per the Supreme Court,
16 “[T]he prime object and purpose of [FOWD] is to provide water for the use of its inhabitants...”
17 and the Legislature conferred “broad and comprehensive powers” on FOWD’s Board of Directors
18 “in order to enable them to accomplish this purpose.” (*Id.*)

19 Against this backdrop, Petitioners allege “[FOWD’s] intention to spend upwards of \$20
20 million to redevelop its Corporation Yard is injurious and wasteful.” (Petn. ¶ 26.) However,
21 “‘waste’ as used in section 526a means more than the difference of opinion as to whether the
22 expenditure is a good idea or not.” (*Sundance v. Mun. Ct.* (1986) 42 Cal.3d 1101, 1137 [quoting
23 the trial court].) Rather, “waste only occurs where no public benefit can, within the limits of
24 reasonable legislative judgment, be found for the expenditure.” (*Id.*, quotations omitted.) If any
25 public benefit at all may be derived from the expenditure, waste does not occur as a matter of law
26 even if a petitioner argues a “cheaper” alternative is available. (*Id.* at p. 1138.) Importantly,
27 “Section 526a does not allow the judiciary to exercise a veto over the legislative branch merely
28 because the judge may believe the expenditures are unwise, that the results are not worth the

1 expenditure, or that the underlying theory of the Legislature involves bad judgment.” (*Id.*)

2 Here, Petitioners *actually* allege public benefits will result from the Project. The current
3 structure in the corporation yard will be replaced “with a 16,000+ square foot building.” (Petn. ¶
4 19.) The industrial operations will be reorganized and expanded. (*Id.*) District ratepayers will
5 also benefit from “building an additional annex structure, building covered vehicle bays, storage
6 sheds for hazardous materials, and bins for industrial trash.” (*Id.*) The Sacramento County
7 Planning Commission unanimously approved the Project. (RJN at **Ex. E.**)

8 Granted, Petitioners allege, “These industrial uses will be at a reduced setback from
9 surrounding residential development, putting hazardous waste, fuel storage, noise and dust from
10 gravel and sand, and vehicle washing within feet of neighboring homes.” (Petn. ¶ 19, see also
11 Petn. ¶ 25.) Petitioners also raise concerns about possible problems with ingress and egress from
12 the Project site. (Petn. ¶ 20.) But the County has already found to the contrary, and Petitioners
13 never challenged those findings when they were made:

14 “The establishment, maintenance, or operation of the use, building, or structure
15 applied for *will not under the circumstances of the project* be detrimental to the
16 health, safety, peace, morals, comfort, or general welfare of persons residing or
17 working in the neighborhood of such proposed use or be detrimental or injurious to
the property and improvements in the neighborhood or to the general welfare of the
County....”

18 (RJN at **Ex. D.**) The Project is exempt from environmental review, and the County expressly
19 found it “will not be materially detrimental to the environment or to the health, safety, or
20 general welfare of the residents of the development and the County.” (RJN at **Ex.’s C & E.**)

21 Petitioners further allege FOWD’s reduced staff size and purchase of water from the San
22 Juan Water District suggest the project is inconsistent with FOWD’s current needs. (Petn. ¶ 22.)
23 They allege the project is, in their opinions, too expensive (Petn. ¶ 23), and that the District should
24 have conducted a “needs assessment,” a “cost/benefit analysis,” and/or “consider alternatives that
25 would have a lesser impact on the surrounding community.” (Petn. ¶ 24.) It is also alleged the
26 District failed to establish an “advisory committee” to provide input on the Project. (*Id.*) First,
27 Petitioners fail to allege, and cannot allege, FOWD is required by law to undertake any of these
28 analyses or activities. “Waste as used in section 526a means something more than an alleged

1 mistake by public officials in matters involved the exercise of judgment or wide discretion.”
2 (*Sundance, supra*, 42 Cal.3d at p. 1138.) As in *Sundance*, Petitioners allegations “do not indicate
3 that [the Project] provides no public benefit.” (*Id.* at p. 1139.) As such, the Court “should not
4 interfere with [FOWD’s] legislative judgment on the ground that [FOWD’s] funds could be spent
5 more efficiently.” (*Id.*)

6 The Court should decline Petitioner’s request to become a receiver overseeing every fiscal
7 decision FOWD makes within its “broad and comprehensive” discretionary powers.
8 (*Coastkeeper, supra*, 76 Cal.App.5th at p. 22; *Crawford, supra*, 200 Cal. at p. 328.) Accordingly,
9 the Demurrer should be sustained as to the First Cause of Action.

10 **3. The District’s expenditures on the Project are not “illegal.”**

11 As discussed above, Section 526a “should not be used to invade, supersede, or even
12 intrude upon the discretion invested in the legislative and executive branches of government.”
13 (*Humane Society of the United States v. State Bd. Of Equalization* (2007) 152 Cal.App.4th 349,
14 358.) Moreover, “[g]eneral allegations, innuendo, and legal conclusions are not sufficient; rather,
15 the plaintiff must cite specific facts and reasons for a belief that some *illegal* expenditure or injury
16 to the public fisc is occurring or will occur.” *Waste Management of Alameda County, Inc. v.*
17 *County of Alameda* (2000) 79 Cal.App.4th 1223, 1240, emphasis added; see also *Connerly v. State*
18 *Personnel Bd.*, (2001) 92 Cal.App.4th 16, 29 (suits under section 526a “provide a general citizen
19 remedy for controlling *illegal* governmental activity,” emphasis added.)

20 No such illegality can be plausibly alleged in Petitioners’ Petition for Writ of Mandamus
21 and Complaint for Injunctive Relief, nor can it be. To the contrary, the County’s approval of the
22 Project confirms everything FOWD has proposed is entirely legal, and Petitioners cannot
23 overcome their failure to challenge the County’s project approval over four years ago. (See, Code
24 Civ. Proc., § 1094.6(b) [petitions for administrative mandate must be filed within 90 days of the
25 challenged action].) Therefore, the Court should sustain the Demurrer as to Petitioners First
26 Cause of Action under Section 526a without leave to amend as no amendment can cure
27 Petitioners’ defective pleading.

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1 **C. Petitioners’ Second Cause Of Action Fails To State A Claim**

2 Statutory causes of action must be pleaded with particularity. (*Lopez v. Southern Cal.*
3 *Rapid Trans. Dist.* (1985) 40 Cal.3d 780, 795 (superseded by statute on other grounds in
4 *Armstrong v. Smalls* (S.D.C.A., 2011) 2011 WL 5570081).) “This means that, to state a cause of
5 action against a public entity, every fact material to the existence of its statutory liability must be
6 pleaded with particularity.” (*Peter W. v. San Francisco Unified Sch. Dist.* (1976) 60 Cal.App.3d
7 814, 819.) Again, a cause of action brought pursuant to the Brown Act must be specific rather
8 than conclusory. (See *Kleitman v. Superior Court* (1999) 74 Cal.App.4th 324, 333 [requiring
9 affidavit containing specific facts that a Brown Act violation occurred in a closed session for
10 purposes of disclosure of court ordered tape recording of the closed session.]

11 **1. Petitioners’ allegations on “information and belief” are insufficient.**

12 Here, the General Allegations section in the Petition and Complaint, as well as the Second
13 Cause of Action, constitute a “suspicion” pleading, as it does not allege specific facts with a
14 concrete basis for a Brown Act violation. In fact, the pleading merely alleges “on information and
15 belief” that the District “engaged in deliberation on public issues.” (Petn. ¶ 28.) While case law
16 provides that a “[p]laintiff may allege on information and belief any matters that are not within his
17 personal knowledge, *if he has information leading him to believe that the allegations are true,*”
18 Petitioners fail to allege particular information to support their cause of action for violation of the
19 Brown Act. (*Pridonoff v. Balokovich* (1951) 36 Cal.2d 788, 792.)

20 Here, there are no prefatory allegations from which this purportedly informed belief can be
21 inferred. Petitioners do not identify a single “public issue” that was discussed. Petitioners do not
22 allege the existence of a single policy decision made by the Board outside of public session.
23 Moreover, Petitioners do not identify the specific date of any one of the purported “multiple
24 occasions” on which the members of the board met with Mr. Gray “before convening the Board’s
25 formally noticed public meetings.” (Petn. ¶ 27.) In short, Petitioners do not identify a single fact
26 from which this “information and belief” is legitimately derived. (See Code Civ. Proc. § 128.7
27 [allegations must be made “after a reasonable inquiry”].) Where a cause of action must be pleaded
28 with particularity, “it is not sufficient to allege [the cause of action] or its elements on information

1 and belief, unless the facts upon which the belief is founded are stated in the pleading.” (*Dowling*
2 *v. Spring Val. Water Co.* (1917) 174 Cal. 218, 221; *see Rakestraw, supra*, 81 Cal.App.4th at 44
3 [allegations must be “specific, not vague or conclusory.”].) For example, Petitioners do not allege
4 he attended a FOWD Board meeting in which it appeared a given decision had been pre-
5 determined in the “pre-meetings” he alleges (without foundation) occurred in Mr. Gray’s office.
6 As another example, Petitioners do not allege that a current or former FOWD Board member
7 informed them a violation occurred (none did so).

8 Notably, the judicially noticeable facts confirm Petitioners *do not have* a factual basis for
9 their conclusory allegations: a criminal investigator with the Sacramento County District
10 Attorney’s office conducted a formal investigation of Petitioners’ meritless accusations and found
11 “there is insufficient evidence to conclude that a violation occurred.” (RJN at **Ex. F.**) In other
12 words, because the District Attorney could not support the allegation on “information and belief,”
13 neither can Petitioners. (See Code Civ. Proc., § 436 [the Court may strike irrelevant or improper
14 matters “at any time in its discretion.”].)

15 Petitioners’ allegations in Paragraph 28 of the Petition must be disregarded because
16 Petitioners do not identify a single fact from which the conclusion may be drawn. The conclusory
17 allegations are “insufficient” because they “merely assert the facts so alleged without alleging
18 such information that leads [Petitioners] to believe that the allegations are true.” (*Gomes v.*
19 *Countrywide Home Loans, Inc.* (2011) 192 Cal.App.4th 1149, 1158-59.) While Petitioners may
20 argue in opposition that the doctrine of “less particularity” allows their case to move forward, they
21 must have a “factual basis” to believe a Brown Act violation occurred. Thus, such “less
22 particularity” argument would be unavailing, as Petitioners’ allegations are not “based on facts
23 leading [them] to believe they are true.” (*Gomes, supra*, 192 Cal.App.4th at p. 1159.) Petitioners
24 cannot maintain this cause of action “to find out” if a Brown Act violation occurred, as “[n]o case
25 law or statute authorizes such a speculative suit.” (*Id.* at p. 1156.)

26 The Demurrer should be sustained as to the Second Cause of Action and leave to amend
27 should be denied unless petitioners can offer the Court a “specific factual basis” for their
28 conclusory allegations made on information and belief. (*Gomes, supra*, 192 Cal.App.4th at p.

1 1156.)

2 **2. Petitioners do not allege a Brown Act Violation occurred.**

3 “A majority of the members of a legislative body shall not, outside a meeting authorized
4 by this chapter, use a series of communications of any kind, directly or through intermediaries, to
5 discuss, deliberate, or take action on any item of business that is within the subject matter
6 jurisdiction of the legislative body.” (Gov. Code, § 54259.2, subd. (b)(1).) That is, Petitioners
7 *must* allege (1) that a *majority* of the Board was present in “lengthy closed-door meetings with”
8 Mr. Gray and/or that a serial meeting occurred; and (2) the specific item or items that were
9 “discuss[ed], delibertate[d], or “take[n] action on” during said meetings. The Second Cause of
10 Action fails as to *both* elements.

11 First, Petitioners do not allege a majority of the Board was ever present at the alleged “pre-
12 meetings,” nor do they allege any facts alleging serial meetings involving a majority of the Board.²
13 Indeed, when Mr. Corcos filed a “complaint” with the Sacramento District Attorney’s Office in
14 September, 2024, it took just less than two weeks for the District Attorney to ascertain there was
15 “insufficient evidence to conclude that a violation occurred.” (RJN at **Ex. F.**) “Accordingly, the
16 Sacramento County District Attorney’s Office will take no further action on this matter.” (*Id.*)

17 Further, the allegations fail to allege anything suggesting that, even if a majority of the
18 Board was present on a given occasion, the meeting was anything other than a purely social
19 occasion. Such interactions are exempt from Brown Act limitations: “The attendance of a
20 majority of the members of a legislative body at a purely social or ceremonial occasion, provided
21 that a majority of the members do not discuss among themselves business of a specific nature that
22 is within the subject matter jurisdiction of the legislative body of the local agency.” (Gov. Code, §
23 54952.2, subd. (c)(5).) Without any apparent basis, however, Petitioners “allege, on information
24 and belief, that during these closed-door pre-meeting gatherings the District’s board members
25 engaged in deliberation on public issues.” (Petn. ¶ 28.) As explained above, this allegation is
26 legally infirm and subject to being stricken in the Court’s discretion.

27 _____

28 ² Although Petitioners do recite legal authorities concerning serial meetings, nowhere do
Petitioners allege any facts even suggesting a serial meeting might, or even could have, occurred.

1 Therefore, this Court should sustain FOWD’s Demurrer as to Petitioners’ Second Cause of
2 Action for alleged violations of the Brown Act as Petitioners fail to allege a violation of the Act
3 with the requisite particularity such that it constitutes an inappropriate “suspicion” pleading.

4 **D. Leave To Amend Should Be Denied**

5 As discussed above, a demurrer must be sustained without leave to amend unless a plaintiff
6 shows a reasonable possibility exists that the defect can be cured by amendment. (*Blank, supra*,
7 39 Cal.3d at p. 318; *Torres, supra*, 13 Cal.App.4th at p. 1041.) The pleading party has the burden
8 to show that it can amend the complaint to cure the defect. (*Chen, supra*, 61 Cal.App.5th at p.
9 584; *Blank*, 39 Cal.3d at p. 318). Here, no reasonable possibility exist that the defects in the
10 Petition can be cured by amendment. Petitioners cannot establish a failure to comply with a
11 ministerial duty. Petitioners cannot establish they paid, or are liable to pay, a tax to FOWD.
12 Petitioners cannot establish the Project constitutes “waste.” Petitioners cannot establish
13 expenditures on the project are “illegal.” And Petitioners have nothing more than unsupported
14 speculation upon which to base their Second Cause of action. These failings cannot be corrected
15 through amendment, therefore any request for leave to amend should be denied.

16 **E. FOWD Satisfied Its Obligation To Meet And Confer**

17 A demurring party “shall meet and confer in person, by telephone, or by video conference
18 with the party who filed the pleading that is subject to demurrer for the purpose of determining
19 whether an agreement can be reached that would resolve the objections to be raised in the
20 demurrer.” (Code Civ. Proc., § 430.41(a).) However, “a determination by the court that the meet
21 and confer process was insufficient shall not be grounds to overrule or sustain the demurrer.”

22 FOWD’s counsel met and conferred with Petitioners’ counsel via Teams video conference
23 on March 25, 2026 without reaching agreement as to this Demurrer. (Wolter Decl. at ¶ 4.)
24 Subsequently, FOWD’s counsel sent a substantive meet and confer email to Petitioners’ counsel
25 on April 8, 2026. (Wolter Decl. at **Ex. 1**.) After one last phone call on April 14, 2026, the parties
26 agreed to disagree, and FOWD moved forward with this Demurrer.

27 FOWD satisfied its obligation to meet and confer.

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V. CONCLUSION

For the foregoing reasons, the Demurrer should be sustained. Petitioners lack standing as they fail to allege that either, or both of them, pay any tax that funds FOWD – and they cannot as FOWD is entirely funded by ratepayers for the service it provides. Even if Petitioners had standing, the Court cannot grant Petitioners requested relief, as it would make the Court an effective receiver over FOWD’s discretionary decisions concerning the Property. Petitioners’ allegation that FOWD’s discretionary acts constitute “waste” under Code of Civil Procedure section 526a is baseless, and further fails as Petitioners do not, and cannot, allege FOWD’s discretionary expenditures are “illegal” under Section 526a. Lastly, Petitioners fail to plead violations of the Brown Act with the requisite particularity. None of these infirmities being curable by amendment, the Demurrer should be sustained without leave to amend as Petitioners fail to state facts sufficient to constitute a cause of action.

Respectfully submitted,

KLINEDINST PC

DATED: April 17, 2026

By:



Theodore S. Wolter
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PROOF OF SERVICE

**Leon Corcos v. Fair Oaks Water District
Case No. 25WM000050**

STATE OF CALIFORNIA, COUNTY OF SACRAMENTO

At the time of service, I was over 18 years of age and not a party to this action. I am employed in the County of Sacramento, State of California. My business address is 801 K Street, Suite 2100, Sacramento, CA 95814.

On April 17, 2026, I served true copies of the following document(s) described as **MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF DEMURRER** on the interested parties in this action as follows:

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Attorneys for Petitioner, Leon Corcos and Fair Oaks Village Enhancement Committee

BY E-MAIL OR ELECTRONIC TRANSMISSION: I caused a copy of the document(s) to be sent from e-mail address aamparo@klinedinstlaw.com to the persons at the e-mail addresses listed in the Service List. I did not receive, within a reasonable time after the transmission, any electronic message or other indication that the transmission was unsuccessful.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on April 17, 2026, at Sacramento, California.



Ari Amparo