



November 6, 2017

Viridiana Gallardo-King
City of Bakersfield
1600 Truxtun Ave.
Bakersfield CA 93301
vking@bakersfieldcity.us

Via U.S. Mail and Email

Re: City response to October 17, 2017 CPRA Request

Dear Ms. Gallardo-King:

I write in response to your October 23, 2017 letter and document production (the "Response"), which responded to the California Public Records Act ("CPRA") request for records submitted by the First Amendment Coalition ("FAC") on October 17, 2017 (the "Request.")¹

In its Request, FAC sought:

- (1) All communications or other documents that were created, sent or received by the City Council and/or its individual members and that relate to or reference the materials enclosed with this letter;
- (2) All communications or other documents that were created, sent or received by the City Council and/or its individual members before or after the City Council meetings of July 9, September 6 and September 20, 2017 and that concern actions to be taken as a result of any items discussed during closed session on those dates.

In its Response, the City produced 41 pages of documents, most of which are dated in October 2017, long after the meetings in question took place. None are dated prior to August 2017, although the Request sought documents well pre-dating that time.

¹ FAC submitted its correspondence via email, fax and U.S. Mail on October 17, 2017. The date on FAC's letter, October 18, 2017, was an inadvertent error. In any event, it is not the case, as stated in the Response, that the City received FAC's emailed or faxed correspondence on October 19.

In addition to obviously failing to produce documents responsive to the first category of documents sought in the Request, the City's Response failed to include any documents responsive to the Request's second category of documents.

Although FAC is aware of -- and indeed attached to its Brown Act demand -- several documents that pre-date October 2017 and that are responsive to FAC's requests, the City has failed to produce those or indicate that it has withheld any responsive documents. Within 10 days of the Request, the City was required to determine whether the Request, in whole or in part, seeks copies of disclosable public records in the possession of the agency and promptly notify the requester of both the determination and the reasons therefore. (Gov. Code § 6253(c).) The agency must explain in writing the reasons for its withholding of any records. (Gov. Code § 6255.) Thus, even if the City believes that responsive records are exempt from disclosure, the CPRA still requires that the City identify those records and articulate the specific exemptions to disclosure under the CPRA that the agency believes justify withholding.

Additionally, the notification of denial of any request for records must set forth the names and titles or positions of each person responsible for the denial. (Gov. Code § 6253.) The Response fails to meet this requirement as well.

Finally, the Request asked the City to send all correspondence, including any responsive documents, to my email address (dsnyder@firstamendmentcoalition.org). The City failed to do so, instead sending hard copies to FAC's mailing address. The CPRA requires agencies to provide records in the format requested by the requester. (Gov. Code section 6253.9(a).) FAC has requested, and hereby reiterates its request, that the City provide all documents and correspondence to my email address, i.e., in digital format. Please do so in all future correspondence.

Should the City fail to properly respond, as set forth above, no later than 5 p.m. on November 8, 2017, and disclose all responsive records, FAC will be forced to consider filing a petition for writ of mandate ordering the City to produce the records sought. (Gov. Code section 6259 (a).)

Sincerely,



David Snyder
Executive Director
First Amendment Coalition
dsnyder@firstamendmentcoalition.org

cc: City_Council@bakersfieldcity.us; AdmAtt@bakersfieldcity.us