



CITY OF EUREKA City Attorney

531 K Street Eureka, California 95501-1165
(707) 441-4147 • FAX (707) 441-4148

May 9, 2016

VIA EMAIL

Thadeus Greenson
North Coast Journal
thad@northcoastjournal.com

Re: Public Records Act Request Dated April 7, 2016 and Request for Reconsideration
Dated May 6, 2016

Dear Mr. Greenson:

The City is in receipt of your email correspondence dated May 6, 2016 at 1/24 p.m. addressed to the City Manager and City Attorney. Your correspondence requests reconsideration of what you term “a denial” of two Public Record Act (PRA) requests from Linda Stansberry, a North Coast Journal staff writer, sent to the City dated April 7, 2016. Those two requests sought the following records:

Any and all written correspondences to and from members of the Eureka City Council and the mayor regarding homelessness within city limits from Jan. 1, 2016 through April 7, 2016.

and

Any and all written correspondences between city department heads — including Police Chief Andrew Mills, Community Development Director Rob Holmlund, Personnel Director Gary Bird, Finance Director Wendy Howard and Parks and Recreation Director Miles Slattery — the city manager and the city attorney regarding the Devil’s Playground, the PalCo Marsh and homeless encampments between Feb. 1, 2015 and April 7, 2016.

On April 8, 2016, you confirm that you received notice from the City that it was extending the time limit to respond to our requests by 14 days and stating that the request would “require an extensive search and review of City records.”

You also confirm that at 4:56 p.m. on May 2, 2016, you received a letter from the City “denying” both requests, claiming that documents responsive to our two requests were exempt from disclosure because they pertain to pending litigation and because the documents are attorney-client communications and attorney work product in the pending litigation.

You then state:

For these reasons we ask that you reconsider your blanket rejection of our two records requests. If I do not hear back from you by 5 p.m. on May 9 we will seek a judicial remedy.

The City disagrees with your interpretation of the exemptions to the Public Records Act and to your interpretation of the City's response.

First, as you are keenly aware, the City was served on April 26, 2016, with a lawsuit entitled *Stacey Cobine, et. al. v. City of Eureka, Eureka Police Department and Chief Andrew Mills*. The matter was filed in Federal District Court, Case No. 16-cv-02239-JSW.

That same day, the City was also served with a Motion for a Temporary Restraining Order which was heard on Friday, April 29 in Oakland. That motion included a declaration of Paul Boden whom was referenced in correspondence received from the ACLU on April 12, 2016 in regard to a PRA that they served on the City on February 18, 2016.

Mr. Boden's declaration, dated April 25, 2016, and filed in support of the Plaintiffs' Motion for a Temporary Restraining Order states in paragraph 5, stated in part, that:

5. I have been to the Palco Marsh homeless encampment and have met personally with its residents, and I receive updates about developments in their community.

Thus, it would appear that the ACLU is attempting to circumvent the discovery requirements of federal law on behalf of the Plaintiffs in that lawsuit. Given some of the similarities between the ACLU PRA and Ms. Stansberry's PRA requests, the City is suspicious of the motives that prompted Ms. Stansberry's requests.

Accordingly, pursuant to Government Code Section 6254(b), some or all of the information you requested in your PRA may pertain to pending litigation in which the City is now named or anticipated litigation; therefore making that information exempt from disclosure until the litigation has been adjudicated or otherwise settled.

Your request also seeks documents which are attorney-client communications and attorney work product in the pending litigation listed above. Pursuant to Government Code Section 6254(k), attorney-client communications, work product records, and documents specifically prepared for use in the pending litigation are protected by Evidence Code privileges and are exempt from disclosure.

In addition, records are not disclosable and protected under the deliberative process privilege. That privilege protects "mental processes by which a given decision was reached" and "the substance of conversations, discussions, debates, deliberations and like materials reflecting

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advice, opinions, and recommendations by which government policy is processed and formulated.” *Regents of University of California v. Superior Court* (1999) 20 Cal.4th 509, 540.

The City is well within its rights to not disclose the requested documents given the filing of the lawsuit and the measures it undertook in anticipation of litigation.

That being said, the City has reconsidered your request and has begun reviewing all of the correspondence that you requested. So far, the City has determined that it will disclose 72 pages. Redactions have been made pursuant to Government Code Section 6254(f). You will be notified of additional documents that the City will disclose as documents are reviewed. The copying cost for such documents is \$7.20 at .10 cents per page. Please let my office know if you wish to review the documents instead of paying for copies.

You should also be made aware that requests such as this are extremely burdensome and City personnel must spend a significant amount of time and resources responding to such broad requests. In the future, it would be appreciated if you could focus your requests to a more specific topic and shortened time period.

Please contact my legal assistant, Danielle Vickman, to arrange for payment or schedule a time to review the documents.

Sincerely,



Cyndy Day-Wilson
City Attorney

CDW/dlv

cc: City Clerk
City Manager