

City of Alameda



OPEN GOVERNMENT COMMISSION
2263 Santa Clara Avenue, Suite 380
Alameda, CA 94501
(510) 747-4800

SUNSHINE ORDINANCE COMPLAINT

Complaint against which Department or Commission: Uncertain – City Attorney?

Name of individual contacted at Department or Commission: Uncertain – City Attorney?

- ☒ X **Alleged violation of public records access.**
☐ Alleged violation of public meeting. Date of meeting: _____

Sunshine Ordinance Section: I'm not certain as to the precise section of the Sunshine Ordinance
(If known, please cite specific provision(s) being violated)

Please describe alleged violation. Use additional paper if needed. Please attach all relevant documentation supporting your complaint. Documentation is required.

I believe that the process of providing requested documents under the PRA was inappropriately protracted
and inappropriately excluded certain unspecified documents. Please see the attached document entitled

Complaint re violation of the PRA.

A complaint must be filed no more than fifteen (15) days after an alleged violation of the Sunshine Ordinance.

Name: Jay Garfinkle

Address: _____

Telephone No: _____ E-mail Address: _____

Date: October 4, 2021

Signature

October 4, 2021

Explanation of perceived violation of the Public Records Act

On June 16^h of this year I filed a Public Records Act request for documents related to communications between representatives of the Alameda City Government and the City's paid State and Federal Lobbyists. (Exhibit 1.)

On June 17th I received acknowledgement of receipt of my request which included a message regarding the time allowed for response. (Exhibit 2.)

I understood that it might take a reasonable amount of time to process and satisfy my request. I received batches #1 and #2 two months later, on August 18th. I received what I believe to be the final batch designated as #5 on September 20, 2021. The entire process, therefore, took three months to complete. This was at the upper end of the previously expressed approximation of eight to twelve weeks.

It should also be noted that while I was informed that there could be exemptions to the disclosure requirement which I interpreted to also include possible redactions of portions of individual documents, I was not able to easily identify where those redactions and/or exemptions came into play in the batches of documents that I eventually received. At the very least, I would have expected such exempted documents and/or redacted sections to be specifically identified along with an explanation of the subject of the communication and the names of the senders and recipients.

I understand that some situations that some of the requested documents may include sensitive and/or otherwise private information that would quite appropriately warrant exemption and/or redaction. However, given that it would have been a simple matter to download the relevant files and given that I can see no logical reason for invoking attorney-client privileges or other elements of privacy in the matters under consideration, I believe that three months has been an excessively long time for the processing of my request.

In view of the above, I am submitting this information as the reason that I am filing this complaint alleging violation of the Public Records Act and requesting consideration of this issue by the Open Government Commission.

Jay Garfinkle

Exhibit 1.

From: Jay [<mailto:garsurg@comcast.net>]

Sent: Wednesday, June 16, 2021 3:44 PM

To: Lara Weisiger <lweisiger@alamedaca.gov>

Subject: [EXTERNAL] PRA re communications with Alameda's Sacramento lobbyists

June 16, 2021

Good afternoon, Ms. Weisiger.

I would appreciate it if you could pass this request for production of copies of communications to the custodian(s) of the following documents: emails and other written communications sent from or received by Alameda City officials, including Staff, the Mayor, and other members of the City Council related to existing law, pending legislation, and/or contemplated future legislation. This request is for such documents which have been sent to and/or received from persons who, in an official capacity, represent the City's position(s) on legislative issues to members of the Legislature, other elected officials of the State of California, and employees/officers of any/all California Agencies and/or departments. This request also covers such relevant documents that may have been sent to or received from elected and/or employed officials of Alameda County and/or the government of the United States.

I am requesting copies of such documents sent and/or received between January 1, 2021 and the date on which the records will be made available to the undersigned.

Thank you for your attention to this Public Records Act request. Please contact me by email should any of the custodians require clarification of the details of this request.

Jay Garfinkle

Exhibit 2. (emphasis added)

Mr. Garfinkle,

On behalf of the City Clerk and pursuant to Alameda Municipal Code Section 2-92.2(d), this email acknowledges receipt of your June 16, 2021 California Public Records Act request, below, which you emailed to the City Clerk.

The Public Records Act and related Sunshine Ordinance provisions ("PRA") provide timeframes to determine whether a request seeks disclosable records. (Gov. Code, § 6253(c).)

The PRA contains no specific time limits for producing disclosable records. Instead, it requires agencies to provide an estimate of the date the records will be made available. (*Id.*) This is because the PRA recognizes that governmental operations should not come to halt in order for the public agency to respond to PRA requests, particularly requests for voluminous document sets. (See, e.g., *Rogers v. Superior Court*, 19 Cal.App.4th 469, 483 (1993) [finding that request for production of records of 1990 convention in April and May of 1992 was timely].)

This request will be handled in the order in which it is received by an attorney, and consistent with our limited resources and the current volume of requests (which at this moment is very high).

Regards, Lisa

Lisa K. Cooper

Paralegal

City of Alameda

2263 Santa Clara Avenue, Room #280

Alameda, CA 94501

(510) 747-4764

lcooper@alamedacityattorney.org