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Open Government
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8 SUPERIOR COURT OF THE STATE OF CALIFORNIA
9 COUNTY OF SAN DIEGO – CENTRAL DIVISION

10 37-2019-00011410-CU-MC-CTL

11 SAN DIEGANS FOR OPEN GOVERNMENT,) CASE NO. _____
12 Plaintiff and Petitioner,)
13 vs.) **VERIFIED COMPLAINT FOR**
14 CITY OF SAN DIEGO; and DOES 1 through 100,) **DECLARATORY AND INJUNCTIVE**
15 Defendants and Respondents.) **RELIEF AND PETITION FOR WRIT OF**
MANDATE UNDER THE CALIFORNIA
PUBLIC RECORDS ACT AND OTHER
LAWS

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18 Plaintiff and Petitioner SAN DIEGANS FOR OPEN GOVERNMENT ("SDOG") alleges as
19 follows:

20 **Introductory Statement**

21 1. SDOG brings this lawsuit under the California Public Records Act ("CPRA"), as well
22 as the California Constitution, the common law, and other applicable legal authorities. SDOG made
23 a lawful CPRA request to Defendants/Respondents, but they have illegally failed to disclose the
24 responsive public records.

25 **Parties**

26 2. SDOG is a non-profit organization formed and operating under the laws of the State of
27 California. One of its primary roles as a government "watchdog" is ensuring that public agencies
28 comply with all applicable laws aimed at promoting transparency and accountability in government.

1 11. On or about February 21, 2019, SDOG reminded CITY in writing that it had missed its
2 own promised deadline for a response. SDOG asked: "How much longer for responsive records?" As
3 of the filing of this pleading, SDOG is unaware of any response and has not received the responsive
4 public records.

5 12. PLAINTIFF is informed and believes and on that basis alleges as follows:

6 A. CITY did not do a thorough search for all public records responsive to
7 PLAINTIFF's request, including but not limited to failing to search for responsive public records
8 maintained on the personal accounts and/or devices of public officials. By way of example and not
9 limitation, CITY has never provided SDOG with any affidavit or other evidence like that described in
10 *Smith v. City of San Jose*, 2 Cal.5th 608 (2017), to satisfactorily establish that each CITY-affiliated
11 agent using a personal account and/or device has thoroughly searched for and produced all responsive
12 public records in and/or on the agent's personal account and/or device.

13 B. CITY has not produced any public records responsive to SDOG's request.

14 C. To the extent any of the responsive public records is exempt from disclosure,
15 CITY did nothing to assist SDOG in submitting a focused and effective request that would enable her
16 to obtain those responsive records that are not exempt from disclosure.

17 13. SDOG and other members of the public have been harmed as a result of
18 Defendants'/Respondents' failure to produce the public record responsive to SDOG's request. By way
19 of example and not limitation, the legal rights of SDOG and its members to access information
20 concerning the conduct of the people's business is being violated and continues to be violated.

21 **SECOND CAUSE OF ACTION:**
22 **Declaratory Relief under Code of Civil Procedure Section 1060 *et seq.***
(Against All Defendants/Respondents)

23 14. The preceding allegations in this pleading are fully incorporated into this paragraph.

24 15. SDOG is informed and believes and on that basis alleges that an actual controversy
25 exists between SDOG, on the one hand, and Defendants/Respondents, on the other hand, concerning
26 their respective rights and duties under the CPRA, the California Constitution, the common law, and
27 other applicable legal authorities. As alleged in this pleading, SDOG contends that at least public
28 record responsive to SDOG's request exists and that Defendants/Respondents are required by law to

1 produce each and every responsive record; whereas Defendants/Respondents dispute SDOG's
2 contention.

3 16. SDOG desires a judicial determination and declaration as to whether disclosable public
4 records were unlawfully withheld by Defendants/Respondents and whether they were required by law
5 to produce such records in a timely manner.

6 **Prayer**

7 FOR ALL THESE REASONS, SDOG respectfully prays for the following relief against all
8 Defendants/Respondents (and any and all other parties who may oppose SDOG in this lawsuit) jointly
9 and severally:

10 A. *On the First Cause of Action:*

11 1. A judgment determining or declaring that Defendants/Respondents have not
12 promptly and fully complied with the CPRA, the California Constitution, the common law, and/or other
13 applicable laws with regard to SDOG's request;

14 2. A writ of mandate ordering Defendants/Respondents to promptly and fully
15 comply with the CPRA, the California Constitution, the common law, and all other applicable laws with
16 regard to SDOG's request; and

17 3. Preliminary and permanent injunctive relief directing Defendants/Respondents
18 to fully respond to SDOG's request and to permit SDOG to inspect and obtain copies of all responsive
19 public records.

20 B. *On the Second Cause of Action:*

21 1. An order determining and declaring that the failure of Defendants/Respondents
22 to disclose all public records responsive to SDOG's request and to permit SDOG to inspect and obtain
23 copies of the responsive public records does not comply with the CPRA, the California Constitution,
24 the common law, and/or other applicable laws; and

25 2. Preliminary and permanent injunctive relief directing Defendants/Respondents
26 to respond to and disclose all public records responsive to SDOG's request and to permit SDOG to
27 inspect and obtain copies of the responsive public records.

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C. *On All Causes of Action:*

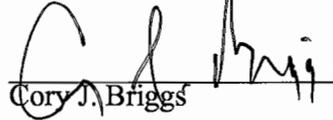
1. An order providing for the Court's continuing jurisdiction over this lawsuit in order to ensure that Defendants/Respondents fully comply with the CPRA, the California Constitution, the common law, and/or other applicable laws;
2. All attorney fees and other legal expenses incurred by SDOG in connection with this lawsuit; and
3. Any further relief that this Court may deem appropriate.

Date: February 28, 2019.

Respectfully submitted,

BRIGGS LAW CORPORATION

By:


Cory J. Briggs

Attorneys for Plaintiff and Petitioner San Diegans for Open Government

**COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF AND PETITION
FOR WRIT OF MANDATE UNDER THE CALIFORNIA PUBLIC RECORDS ACT AND
OTHER LAWS**

Exhibit "A"

Request #19-263

 OPEN

16 of 20 filtered by: Open



As of February 27, 2019, 7:25am

Request Visibility: Embargoed -- Will be auto-published 72 hours after closure

Details

For each unit of housing built, subsidized, or otherwise in any way or to any degree financed by "in lieu" fees received pursuant to Division 13 of Article 2 of Chapter 14 of the San Diego Municipal Code since June 3, 2003, each and every public record that specifies one or more of the following:

- (1) The address of the unit.
- (2) The number of bedrooms of the unit.
- (3) The square footage of the unit.
- (4) The date on which a final certificate of occupancy was issued for the unit.
- (5) The level of affordability (e.g., low income, very low income, or extremely low income) at which the unit is offered.
- (6) The nature of any affordability-related conditions, covenants, or restrictions recorded against the unit.

Received

January 17, 2019 via web

Departments

Development Services

Requester

Cory Briggs

  cory@briggslawcorp.com

 619-497-0021

 Briggs Law Corporation

Documents

Public (pending) 

(none)

Requester

(none)

Staff

Point of Contact

Ginger Rodriguez

Timeline

External Message

Requester + Staff

How much longer for responsive records? You promised a response by February 8, but you did not respond. Thanks.

February 21, 2019, 12:10pm by the requester

External Message

Requester + Staff

Mr. Briggs,

We have received your Public Records Act request.

The Development Services Department has to conduct a search for records, examine records, consult with another agency, or compile data in order to determine whether it has disclosable records. Pursuant to Cal. Government Code section 6253(c), City staff need to search for, collect, and appropriately examine a voluminous amount of separate and distinct records that are demanded in a single request. Therefore, the City is taking a 14-day extension in which to conduct this search and examination. We will notify you on or before 02/08/2019 whether the City has disclosable records.

Kind regards.

January 25, 2019, 3:19pm by Ginger Rodriguez, Public Records Administration Coordinator (Staff)

Department Assignment

Public

Added: Development Services.

January 17, 2019, 4:56pm by Angela Laurita, Public Records Administration Manager

External Message

Requester + Staff

Please be advised that City staff have received your CPRA request. Within the next 10 days, we will determine whether your request seeks copies of disclosable records in the City's possession or whether the City will require an extension.

January 17, 2019, 3:40pm

Request Opened

Public

Request received via web

January 17, 2019, 3:40pm

VERIFICATION

STATE OF CALIFORNIA, COUNTY OF San Diego

I have read the foregoing COMPLAINT FOR DECLARATORY, INJUNCTIVE, AND OTHER EQUITABLE RELIEF AND PETITION FOR WRIT OF MANDATE etc. and know its contents.

CHECK APPLICABLE PARAGRAPH

I am a party to this action. The matters stated in the foregoing document are true of my own knowledge except as to those matters which are stated on information and belief, and as to those matters I believe them to be true.

I am an Officer a partner a _____ of San Diegans for Open Government

a party to this action, and am authorized to make this verification for and on its behalf, and I make this verification for that reason. I am informed and believe and on that ground allege that the matters stated in the foregoing document are true. The matters stated in the foregoing document are true of my own knowledge except as to those matters which are stated on information and belief, and as to those matters I believe them to be true.

I am one of the attorneys for _____ a party to this action. Such party is absent from the county of aforesaid where such attorneys have their offices, and I make this verification for and on behalf of that party for that reason. I am informed and believe and on that ground allege that the matters stated in the foregoing document are true.

Executed on February 28, 20 19, at San Diego, California. I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Pedro Quiroz, Jr.
Type or Print Name


Signature

PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF _____

I am employed in the county of _____, State of California. I am over the age of 18 and not a party to the within action; my business address is, _____

On _____, 20 ____, I served the foregoing document described as _____

_____ on _____ in this action by placing the true copies thereof enclosed in sealed envelopes addressed as stated on the attached mailing list:
 by placing the original a true copy thereof enclosed in sealed envelopes addressed as follows:

BY MAIL
 * I deposited such envelope in the mail at _____, California. The envelope was mailed with postage thereon fully prepaid.
 As follows I am "readily familiar" with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with U.S. postal service on that same day with postage thereon fully prepaid at _____ California in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

Executed on _____, 20 ____, at _____, California.
 *(BY PERSONAL SERVICE) I delivered such envelope by hand to the offices of the addressee.
Executed on _____, 20 ____, at _____, California.
 (State) I declare under penalty of perjury under the laws of the State of California that the above is true and correct. I
 (Federal) declare that I am employed in the office of a member of the bar of this court at whose direction the service was made.

Type or Print Name

Signature

* (By MAIL SIGNATURE MUST BE OF PERSON DEPOSITING ENVELOPE IN MAIL SLOT, BOX, OR BAG)
**(FOR PERSONAL SERVICE SIGNATURE MUST BE THAT OF MESSENGER)