



THE CITY OF SAN DIEGO
COUNCIL PRESIDENT TODD GLORIA

THIRD DISTRICT

May 14, 2013

Cory Briggs
Briggs Law Corporation
99 East C Street, Ste. 111
Upland, CA 91786

Dear Mr. Briggs,

I have received the California Public Records Act letters you sent to San Diego City Clerk Elizabeth Maland on May 2, 2013 and May 3, 2013, seeking the following, in relevant part:

“Each and every COMMUNICATION between City Councilmember Todd Gloria and any other person (regardless of the number of authors or recipients involved in the communication) concerning any ITEM that has appeared on any agenda of the San Diego City Council” for its meeting, then referencing every meeting between January 1, 2013 and April 24, 2013.

Your requests have asked for virtually “each and every” communication to and from this office concerning more than a few items heard by the City Council in every regularly scheduled Council meeting it held during the first four months of 2013. Per the City Attorney’s advice, my staff previously asked that you narrow your request. Your new letters do not do so. Rather, it appears that you have only split the same requests into more categories, using one question for each meeting date instead of grouping them. Unfortunately, the new requests do not help us to identify the records you seek.

Your requests for communications between “City Councilmember Todd Gloria and any other person (regardless of the number of authors or recipients involved in the communication),” and for communications between “one or more members of the staff of City Councilmember Todd Gloria and any other person (regardless of the number of authors or recipients involved in the communication),” do not meet the legal requirement of being a request for “identifiable” records which is “focused and specific.” Cal. Gov’t Code § 6253(b); *Rogers v. Superior Court*, 19 Cal. App. 4th 469, 480-481 (1993). A request for public records is overly broad if the records cannot be located by the agency using “reasonable effort.” *State Board of Equalization v. Superior Court*, 10 Cal. App. 4th 1177, 1186 (1992).

Even assuming my staff could narrow the definition of “any other person,” this is a potentially voluminous number. Moreover, any communication concerning “any ITEM that has appeared on any agenda of the San Diego City Council for its meeting of” all dates between January 7, 2013 and April 30, 2013” does not identify specific records that can reasonably be located. The City Council usually meets twice a week, three or four times each month. In two letters, you have now asked for communications involving all substantive items for approximately 25 meeting dates, with numerous items considered and discussed. Your requests also do not provide a



date range for the communications sought, thus potentially asking for documents that could be years old and yet are "concerning" a given item.

Your requests are thus not sufficiently specific to allow the City to locate responsive records with reasonable effort. First, the requests do not identify the time period for the communications in which you are interested. Second, the terms "each and every communication" and "each and every e-mail," and involving "any other person," are overly broad. Third, the requests do not identify the specific subject matter of the records and are overly broad and vague, by seeking communications regarding every item on numerous agendas (other than those on consent and proclamations). Fourth, the request for communications "regardless of whether the account" is "public or private" may potentially seek documents that are not subject to the Public Records Act. Fifth, your definitions are in conflict and thus the requests are vague and uncertain: the categories that seek "each and every e-mail communication," later define "communication" in the same paragraphs to include "communication by e-mail, text message, or voice mail," and thus do not make sense.

Moreover, some of the records you seek may be exempt from disclosure under the Public Records Act. Accordingly, I reserve the right to withhold or redact a responsive record on any legal ground including, but not limited to, attorney-client privilege, attorney work product privilege, deliberative process privilege, and that the public interest served by not disclosing the record clearly outweighs the public interest served by disclosure of the record, as provided by the Act.

Without waiving any of the objections above, I again invite you to narrow your requests so that they are legally appropriate. Given the breadth and scope of your requests, potentially responsive records also may be located in a number of different computer drives, which will take time to search. Clarification will be required before my office can conduct such a search. My office cannot respond further until the request is narrowed or clarified, as set forth above.

Sincerely,

A handwritten signature in blue ink, appearing to read "Todd Gloria".

TODD GLORIA
Council President, Third District

TG:kek