



FIRST AMENDMENT FOUNDATION

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26 October 2012

The Honorable Elizabeth Dudek
Agency for Health Care Administration
2727 Mahan Drive
Tallahassee, FL 32308

Dear Secretary Dudek:

It has come to our attention that Mr. Brian Lee, Executive Director of Families for Better Care, made a public records request of your agency on August 7, seeking records relating to travel reimbursed to members of the ALF Negotiated Rulemaking Committee and the ALF Task Force. Mr. Lee has yet to receive the records requested. After speaking with Melissa Christian, Mr. Lee clarified his request on August 29. In checking on the status of his request on September 24, Mr. Lee was informed by Susan Kaempfer that his request had been "reassigned" and that he needed to contact AHCA's records office. Despite repeated attempts on his part to get even an estimate of when his request will be completed, Mr. Lee hasn't received any word from your agency for the past two weeks. It has been two months since Mr. Lee made his original public records request, Secretary Dudek, and AHCA staff has been less than forthcoming. His last communication from your staff was on October 11.

As I'm sure you're aware, Florida's public records law requires an agency to acknowledge public records requests promptly and "respond to such requests in good faith." Section 119.071(1)(c), F.S. The Florida Supreme Court has stated that the only permissible delay in producing records pursuant to a request "is the limited *reasonable* time allowed the custodian to retrieve the record and delete those portions of the record the custodian asserts are exempt." *Tribune Company v. Cannella*, 458 So. 2d 1075, 1078 (Fla. 1984), *appeal dismissed sub nom., DePerte v. Tribune Company* 105 S.Ct. 2315 (1985) (emphasis added). Additionally, an unreasonable or excessive delay in producing public records can constitute an unlawful refusal to provide access to public records. *See Rechler v. Town of Manalapan*, No. CL 94-2724 AD (Fla. 15th Cir. Ct. November 21, 1994), *affirmed*, 674 So. 2d 789, 790 (Fla. 4th DCA 1966), *review denied*, 684 So. 2d 1353 (Fla. 1996).

A two month delay in producing the travel records requested by Mr. Lee is, I believe, unreasonable and could very well constitute a violation of Florida's Public Records Law. These are records routinely requested of government agencies, Secretary Dudek, and should not require extensive redaction. I would ask that you personally ensure that Mr. Lee receives the records he requested on August 7 without further delay.

Sincerely,

Barbara A. Petersen

Barbara A. Petersen, President