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05 March 2014

The Honorable Jeri Muoio, Mayor
City of West Palm Beach
401 Clematis Street
West Palm Beach, FL 33401

Dear Mayor Muoio:

Ms. Sandy Matkivich has contacted the First Amendment Foundation expressing concerns regarding the city of West Palm Beach's failure to comply with her public records request made on November 27, 2013. The request was for cell phone records of Mr. Eliot Cohen, Director of Communications, including text messages and phone calls, both made and received, on November 25, 2013 from 1:00 PM to 11:59 PM. It is our understanding that the public records request, while acknowledged, was never actually complied with – even after Ms. Matkivich made a second follow-up request on December 3, 2013. We respectfully suggest that the city of West Palm Beach expeditiously facilitate access to the public records requested by Ms. Matkivich.

Section 119.07(1)(c), F.S., requires the custodian of public records to acknowledge requests to inspect or copy records promptly and to respond to such requests in good faith. While the Public Records Act does not contain a specific time limit for compliance with public records requests, the Florida Supreme Court has stated that the only acceptable delay in producing records under Ch. 119, F.S., "is the *limited reasonable time* allowed the custodian to retrieve the record and delete those portions of the record the custodian asserts are exempt." (emphasis added) It has now been almost four months since Ms. Matkivich first made her original request. Additionally, the request was limited to a small and specific type of record covering a relatively short time frame. The continued delay in producing these records is unacceptable and unreasonable and is depriving Ms. Matkivich of her constitutional right of access to what are clearly public records.

For these reasons, we ask that your office immediately provide Ms. Matkivich access to the requested phone records.

Sincerely,

Barbara A. Petersen, President

Cc: Hazeline F. Carson, City Clerk, City of West Palm Beach
Claudia McKenna, City Attorney, City of West Palm Beach
Jon Kaney, General Counsel, First Amendment Foundation