



16 December 2014

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City of West Palm Beach

401 Clematis Street

West Palm Beach, FL 33401

Dear Mr. Green and Mr. Cohen,

We are writing on behalf of Ms. Debbie Finnie, who has contacted our office regarding her recent public records request to Mr. Green, the City Administrator of West Palm Beach and Mr. Cohen, the Director of TV18. Ms. Finnie submitted a request to Mr. Green for a DVD copy of the October 14th, 2014 meeting of the Community Redevelopment Agency (CRA). At that time, she was apprised of a change in city policy that all copies of meetings would no longer be provided on DVDs, but instead made available on thumb drives for a cost of \$6.50. Because the substantial increase in cost would significantly impair Ms. Finnie's ability to access records, she purchased her own DVDs for the purpose of copying the requested records. Ms. Finnie then emailed Mr. Cohen to request a time to make her own DVD copies, but never received a response. Ms. Finnie submitted a second request via email on November 5th, 2014, for a copy of the CRA's workshop meeting, which has also gone unacknowledged. In light of your refusal to acknowledge or respond to Ms. Finnie's request, we take this opportunity to remind you of your obligations under the Public Records Law and to urge you to comply with its provisions.

The charge for copying public records is limited to "the actual cost of duplication." Section 119.07(4)(a)(3), F.S. The phrase "actual cost of duplication" is defined to mean "the costs of material and supplies used to duplicate the public record." *Id.* at 119.011(1). If a requestor makes his own copies or provides the materials and supplies necessary to duplicate the record, the custodian cannot charge copy fees but *may* charge a supervisory service charge *if* supervision requires an extensive use of agency resources. AGO 82-23. However, it is difficult to justify the imposition of a fee for supervisory time if the personnel providing such supervision are

simultaneously performing regular duties. AGO 00-11. Furthermore, the Attorney General has stated that providing access to records is a “statutory duty” and “should not be considered a profit-making or revenue-generating operation.” AGO 85-03. It is our understanding that Ms. Finnie is prepared to provide new, unopened DVDs with which to make her requested copies. Given that Ms. Finnie is legally permitted to supply her own copying materials, the City may not charge her the \$6.50 cost of duplication.

As of the writing of this letter, Ms. Finnie has submitted two public records requests and you have yet to acknowledge or comply with either of those requests. We remind you that section 119.07(1), 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.” Though the Public Records Act does not contain a specific time limit for *compliance* with public records requests, an agency’s unjustified delay in producing public records can constitute an unlawful refusal to provide access to records. *Hewlings v. Orange County*, 87 So. 3d 839 (Fla. 5th DCA 2012) (emphasis added). Agencies must fulfill records requests within a “reasonable” amount of time, which the courts have interpreted narrowly to mean the time it takes to locate the records and to redact any exempt information. *Tribune Company v. Cannella*, 458 So. 2d 1075, 1078 (Fla. 1984). It is your statutory duty to acknowledge all public records requests as they are received and to fulfill said requests within the reasonable time allowed as prescribed by the courts. It is our position that your failure to acknowledge both Ms. Finnie’s email to Mr. Cohen and her second, November 5th request, violates Florida’s Public Records Law.

It is incumbent upon you to comply with the law. We urge you to do so by promptly acknowledging Ms. Finnie’s communications and providing the records she has requested using the DVD materials she is prepared to provide. Like all citizens, Ms. Finnie has a statutory and constitutional right of access to public records, and it is your duty to supply and facilitate that access.

Sincerely,



Barbara A. Petersen, President

Cc: Mayor Jeri Muoio, West Palm Beach
Debbie Finnie