

# **The Public Records Act and Neighborhood Councils**

## **Congress of Neighborhoods**

### **Office of the City Attorney - Neighborhood Council Advice Division**

#### ***What is the purpose of the Public Records Act?***

The Public Records Act (the "Act") is a California State Law and is codified in Government Code Section 6250 et seq. The Act was initially adopted over 50 years ago and its purpose was to make the government's operations open to greater public scrutiny by increasing the public's access to its records. Under the Act, a member of the public is allowed to make a request and obtain information that is a public record from a government agency.

Although there is information that is protected from disclosure, most information in the government's possession is a public record that is subject to inspection. "[A]ccess to information concerning the people's business is a fundamental and necessary right of every person in this state." (Gov't Code § 6253.)

#### ***Are Neighborhood Councils subject to the Public Records Act?***

Yes. The Act applies to "local agencies." The Act defines a local agency to include any subdivision or agency of a chartered city. (Gov't Code § 6252(b).) Neighborhood Councils fall within that definition because they are a City-entity, created as an advisory body of the City, and established under the Los Angeles City Charter.<sup>1</sup>

#### ***What must the Neighborhood Council do if it receives a request under the Act?***

After receiving a request, it is critical that the Neighborhood Council **immediately contact** its Department of Neighborhood Empowerment Project Coordinator. There are fast-approaching deadlines that require immediate action by the Neighborhood Council. The Project Coordinator will work in conjunction with the Office of the City Attorney, Neighborhood Council Advice Division, to insure that the Neighborhood Council meets its obligations under the Act.

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<sup>1</sup> The Los Angeles City Charter was adopted and approved by the voters during the June 1999 election.

Under the Act, the Neighborhood Council must respond to a request within 10 days. The Neighborhood Council's response must state whether the requested records will or will not be provided.<sup>2</sup> If the Neighborhood Council states that it is not providing all or any part of the records in its possession, then the Neighborhood Council must state the legal basis for non-disclosure of the record. Your Project Coordinator will help you with composing this letter so that the proper legal objections are raised.

In addition to providing a response to the request, the Neighborhood Council also must provide access to the non-objectionable information that was requested.<sup>3</sup> Providing the information to the person making the request may occur under any number of circumstances. The Neighborhood Council may decide how to best provide access to the records e.g., by mailing copies to the person making the request or by allowing that person to inspect the records at the site where the records are maintained. The Neighborhood Council's obligation under the Act is to make the non-objectionable information available to the person making the request as reasonably prompt as possible.

### ***What are public records?***

Most information in the possession of the Neighborhood Council will be a public record.<sup>4</sup> Public records include "... any writing containing information relating to the conduct of the public's business prepared, owned, used or retained by the Neighborhood Councils regardless of its physical form or characteristics." (Gov't Code § 6252(e).)

"'Writing' means handwriting, typewriting, printing, photostating, photography, and every other means of recording upon any form of communication or representation, including letters, words, pictures, sounds, or symbols or any combination thereof, and all papers, maps, magnetic or paper tapes, photographic films and prints, magnetic or punched cards, discs, drums and other documents." (Gov't Code § 6252(f).) These definitions in the Act create a broad net that encompasses most information that will be retained by the Neighborhood Councils.

### ***What are examples of information that is protected from disclosure under the Act?***

The Act does prevent some information from disclosure. In order to protect information from disclosure, the Neighborhood Council must state the specific statutory basis under the Act for asserting its objection to releasing the information. There may be

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<sup>2</sup> In unusual circumstances and with proper notification, this 10-day deadline may be extended an additional 14-days.

<sup>3</sup> The costs of duplication are passed on to the person making the request for records.

<sup>4</sup> The Act allows access to existing records. It does not create any obligation to create records in order to respond to a request

any number of records that may be protected from disclosure. In working with your Project Coordinator through the City Attorney's Office, an analysis will be made evaluating the request for the public record, the records in the Neighborhood Council's possession, and the appropriate response that should be provided by the Neighborhood Council.

Although the following list is by no means exhaustive, it provides some examples of the types of public records that are protected from disclosure:

- Preliminary drafts, notes, or inter-agency or intra-agency memoranda which are not retained in the ordinary course of business, provided that the public interest in withholding such records clearly outweighs the public interest in disclosure;
- Records pertaining to pending litigation
- Records of which the disclosure is exempt or prohibited pursuant to provisions of federal or state law, including, but not limited to, provisions of the Evidence Code relating to privilege.

In addition, the Neighborhood Councils may assert an objection under Government Code Section 6255 on the grounds that the public interest served by not making the record public clearly outweighs the public interest served by disclosure. Although it is difficult to anticipate the requests that might be made or the records that might be in the possession of the Neighborhood Council, it will be through your Project Coordinator that the Neighborhood Council will assure that its rights are protected.