



City of Phoenix

OFFICE OF THE CITY ATTORNEY

GARY VERBURG
City Attorney

January 4, 2010

John Althen
Judicial Watch, Inc.
501 School Street, S.W. Suite 725
Washington, D.C. 20024

Dear Mr. Althen:

This letter is in response to your public records request dated December 11, 2009. Attached please find an invoice in the amount of \$342.11. Please return a copy of the attached invoice along with your remittance to the attention of Marsha Spencer in the Phoenix City Attorney's Office, 200 W. Washington, Suite 1300, Phoenix, Arizona 85003-1611. Upon receipt of your payment, the Mayor's Public Calendar from December 2007 through June 2009 will be forwarded to your Washington D.C. office. If you want the Mayor's Public Calendar from August 2009 to present, we will need to request these records, which will take time to obtain, and there will be additional copying and postage fees for these records.

As you know, the public records law does not require the disclosure of records where the countervailing interests of confidentiality, privacy or the best interests of the government outweigh the duty to disclose. *Carlson v. Pima County*, 141 Ariz. 487 (1984). When the release of information will have a harmful effect on the duties of the officials in question, disclosure is not required. *Arizona Bd. of Regents v. Phoenix Newspapers, Inc.*, 167 Ariz. 254 (1991).

Due to these recognized interests, the City is not disclosing daily logs which list the drop-off and pick-up locations of the Mayor throughout the day. The Mayor's security detail is charged with the duty of protecting the Mayor. In the past, threats have been made against the Mayor's safety and the logs you are requesting demonstrate a pattern of activity which could easily be used by anyone to determine the time and location of the Mayor. It also discloses the location and time that he may be alone, without the protection of his security detail. This information, in the hands of inappropriate people, could be used to undermine the Mayor's safety, as well as undermine the efforts and duties of the security detail.

In addition, the information in the logs reflect private, confidential information relating to the Mayor and his family members. It also contains information related to private meetings held by the Mayor. The disclosure of this information not only violates the Mayor's right to privacy, but also undermines the

John Althen
January 4, 2010
Page 2

deliberative process of the Mayor's office. Such disclosure would inhibit access to the broad spectrum of persons and viewpoints which the Mayor seeks to govern effectively. Under these circumstances, the courts have reasoned that disclosure of this type of information reflects the elected official's deliberative process. Courts, uniformly, have held that disclosure of the deliberative process under these circumstances has been deemed contrary to the public interest, and therefore the documents are not subject to disclosure. See, *Times Mirror Co., v. Superior Court, State of California*, 53 Cal. 3d 1325, 813 P.2d 240, 283 Cal Rptr. 893, (Sup. Ct. 1991) and the cases cited therein.

Sincerely,



Gary Verburg
City Attorney

GV/ms: 840044v1

cc: Deborah Sedillo Dugan, Public Information Office

Enclosure (1)