

SUMMONS
(CITACION JUDICIAL)

**NOTICE TO DEFENDANT:
(AVISO AL DEMANDADO)**

Larry Cope; Tuolumne County Economic Development Authority; and DOES 1 through 5, inclusive

**YOU ARE BEING SUED BY PLAINTIFF: Kenneth A. Perkins
(LO ESTÁ DEMANDANDO EL DEMANDANTE):**

FOR COURT USE ONLY
(SOLO PARA USO DE LA CORTE)

By
The

NOTICE! You have been sued. The court may decide against you without your being heard unless you respond within 30 days. Read the information below.

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site (www.lawhelpcalifornia.org), the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), or by contacting your local court or county bar association. **NOTE:** The court has a statutory lien for waived fees and costs on any settlement or arbitration award of \$10,000 or more in a civil case. The court's lien must be paid before the court will dismiss the case.

¡AVISO! Lo han demandado. Si no responde dentro de 30 días, la corte puede decidir en su contra sin escuchar su versión. Lea la información a continuación.

Tiene 30 DÍAS DE CALENDARIO después de que le entreguen esta citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al demandante. Una carta o una llamada telefónica no lo protegen. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California (www.sucorte.ca.gov), en la biblioteca de leyes de su condado o en la corte que le quede más cerca. Si no puede pagar la cuota de presentación, pida al secretario de la corte que le dé un formulario de exención de pago de cuotas. Si no presenta su respuesta a tiempo, puede perder el caso por incumplimiento y la corte le podrá quitar su sueldo, dinero y bienes sin más advertencia.

Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services, (www.lawhelpcalifornia.org), en el Centro de Ayuda de las Cortes de California, (www.sucorte.ca.gov) o poniéndose en contacto con la corte o el colegio de abogados locales. AVISO: Por ley, la corte tiene derecho a reclamar las cuotas y los costos exentos por imponer un gravamen sobre cualquier recuperación de \$10,000 ó más de valor recibida mediante un acuerdo o una concesión de arbitraje en un caso de derecho civil. Tiene que pagar el gravamen de la corte antes de que la corte pueda desechar el caso.

The name and address of the court is:
(El nombre y dirección de la corte es):

**Tuolumne
Historic Courthouse
41 West Yaney Avenue Sonora CA 95370**

CASE NUMBER:
(Número del Caso):

CV 61630

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is:

(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):

Chad D. Morgan 291282

951-667-1927

1101 California Ave. Corona CA 92881 chad@chadmorgan.com **Jeanine D. Thompson-Sullivan**

DATE:

(Fecha)

6/11/18

Clerk, by

(Secretario)

, Deputy

(Adjunto)

(For proof of service of this summons, use Proof of Service of Summons (form POS-010).)

(Para prueba de entrega de esta citación use el formulario Proof of Service of Summons, (POS-010)).

[SEAL]

NOTICE TO THE PERSON SERVED: You are served

1. ☐ as an individual defendant.
2. ☐ as the person sued under the fictitious name of (specify):
3. ☒ on behalf of (specify): Tuolumne County Economic Development Authority
- under: ☐ CCP 416.10 (corporation) ☐ CCP 416.60 (minor)
- ☐ CCP 416.20 (defunct corporation) ☐ CCP 416.70 (conservatee)
- ☐ CCP 416.40 (association or partnership) ☐ CCP 416.90 (authorized person)
- ☒ other (specify): CCP 416.50 (public entity)
4. ☐ by personal delivery on (date):

1 LAW OFFICE OF CHAD D. MORGAN
2 Chad D. Morgan, Esq. SBN 291282
3 1101 California Ave., Ste. 100
4 Corona, CA 92881
5 Tel: (951) 667-1927
6 Fax: (866) 495-9985
7 chad@chadmorgan.com

8 Attorneys for Petitioner
9 Kenneth A. Perkins

10 SUPERIOR COURT OF THE STATE OF CALIFORNIA
11 FOR THE COUNTY OF TUOLUMNE

12 Kenneth A. Perkins,
13 Petitioner

14 vs.

15 Larry Cope;
16 Tuolumne County Economic Development
17 Authority; and
18 DOES 1 through 5, inclusive,
19 Respondents.

20 Petitioner alleges:

21 1. A large portion of the Tuolumne County Economic Development Authority (TCEDA)
22 approximately \$460,000 budget is salaries and benefits for its two-person staff, one of whom
23 (Respondent Larry Cope) receives a compensation package worth at least \$250,000, making him
24 one of the County's highest paid employees in local government. In support of a request for
25 additional funding from the City of Sonora, TCEDA claims to have generated tens of millions of
26 dollars in economic benefits and assisted in over \$392 million in investment projects for the
27 County and the City of Sonora. Petitioner Ken Perkins requested public records for the purpose
28 of verifying these (and other similar) claims. TCEDA claims that responsive records are exempt
from disclosure and refuses to disclose them. Petitioner brings this action under Government

FILED

JUN 11 2018

Superior Court of California
County of Tuolumne
Mers Sullivan Clerk

Case No.:

CV61630

Verified Petition for Writ of Mandate;
Complaint for Declaratory Relief
[Gov. Code §§ 6250 *et seq.*]

Action Filed:

10/12/18

8:30 A

Dept 4

FILED
IN DEPARTMENT 4 FOR ALL PURPOSES, INCLUDING TRIAL

1 LAW OFFICE OF CHAD D. MORGAN
2 **Chad D. Morgan, Esq. SBN 291282**
3 1101 California Ave., Ste. 100
4 Corona, CA 92881
5 Tel: (951) 667-1927
6 Fax: (866) 495-9985
7 chad@chadmorgan.com

8 Attorneys for Petitioner
9 Kenneth A. Perkins

10 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
11 **FOR THE COUNTY OF TUOLUMNE**

12 **Kenneth A. Perkins,**
13
14 Petitioner

15 vs.

16 **Larry Cope;**
17 Tuolumne County Economic Development
18 Authority; and
19 DOES 1 through 5, inclusive,
20 Respondents.

Case No.:

Verified Petition for Writ of Mandate;
Complaint for Declaratory Relief
[Gov. Code §§ 6250 *et seq.*]

Action Filed:

21 Petitioner alleges:

22 1. A large portion of the Tuolumne County Economic Development Authority (TCEDA)
23 approximately \$460,000 budget is salaries and benefits for its two-person staff, one of whom
24 (Respondent Larry Cope) receives a compensation package worth at least \$250,000, making him
25 one of the County's highest paid employees in local government. In support of a request for
26 additional funding from the City of Sonora, TCEDA claims to have generated tens of millions of
27 dollars in economic benefits and assisted in over \$392 million in investment projects for the
28 County and the City of Sonora. Petitioner Ken Perkins requested public records for the purpose
of verifying these (and other similar) claims. TCEDA claims that responsive records are exempt
from disclosure and refuses to disclose them. Petitioner brings this action under Government

1 Code section 6250, et seq.,¹ the California Public Records Act (PRA), to enforce his right to
2 receive public records.

3
4 **PARTIES**

5 2. Petitioner **Kenneth A. Perkins** is a competent adult residing in the County of Tuolumne,
6 State of California.

7 3. Respondent **Tuolumne County Economic Development Authority** (TCEDA) is a local
8 agency as defined by Government Code section 6252, subdivision (a). As a local agency, TCEDA
9 is required to comply with the California Public Records Act.

10 4. Respondent **Larry Cope** is sued in his official capacity as Chief Executive Officer of the
11 TCDEA. In this capacity, Cope has a ministerial duty to comply with the PRA on TCEDA's
12 behalf.

13
14 5. The term Respondent is used interchangeably in the singular and plural form to describe
15 both the TCEDA and Cope who are, for the purpose of this lawsuit, one and the same.

16 6. The true names of Respondent DOES 1 through 5, inclusive are unknown to Petitioner,
17 who therefore brings this Petition against DOES 1 through 5, inclusive by such fictitious names
18 and will seek leave of Court to show their true names, identities, and capacities when they have
19 been ascertained.

20
21 **JURISDICTION**

22 7. Pursuant to section 6258, "any person may institute proceedings for injunctive or
23 declarative relief or writ of mandate in any court of competent jurisdiction to enforce his or her
24 right to inspect or to receive a copy of any public record or class of public records under [the
25 PRA]." Petitioner is a person suing to enforce his right to receive public records.

26
27
28 ¹ Unless specified otherwise, subsequent code citations are to the Government Code.

1 8. The Tuolumne County Superior Court is the proper venue because the acts complained
2 of which are the subject of this Petition, have all occurred or will all occur in the County of
3 Tuolumne, State of California. The relief sought in this Petition is within the jurisdiction of this
4 Court.

5
6 **FACTS COMMON TO ALL CAUSES OF ACTION**

7 9. TCEDA is a joint powers authority comprised of Tuolumne County and the City of
8 Sonora. Its stated purpose is to “effectively implement, coordinate and administer general
9 economic development programs” in the City and County, and its annual budget of close to
10 \$460,000, funds two employees. The largest portion of TCEDA’s budget is for Respondent
11 Larry Cope’s compensation package, which is worth more than \$250,000. Petitioner is informed
12 and believes that this makes Cope one of the highest paid public employees in Tuolumne County.

13 10. TCEDA is funded 77 percent by the County and 23 percent by the City of Sonora. In
14 2016, the City provided \$87,261. In 2017, the City of Sonora provided more than \$102,000 in
15 funding to TCEDA, an increase of \$15,000. This year, the City is being asked again to fund
16 TCEDA at \$102,000

17 11. Respondents justify their need for funding from the City of Sonora by claiming to have
18 generated tens of millions of dollars in economic benefits. The gist of the PRA requests at issue in
19 this case is that Petitioner has requested records with information that will prove TCEDA’s
20 claims about the value it generates.

21 12. In response to Petitioner’s PRA requests, TCEDA has generally provided copies of its
22 glossy brochures, annual goals, mission statements, and other marketing materials, necessarily
23 prepared with tens of thousands of County and City dollars, but nothing else that demonstrates a
24 return on the City’s or County’s investment.

25 13. Petitioner brings this action to enforce his rights under the PRA because TCEDA can
26 certainly provide information that supports its claims without divulging any information that is
27 exempt from PRA disclosure.
28

1 **A. Petitioner's First PRA Request**

2 14. On November 13, 2017, Petitioner requested public records from TCEDA. His written
3 request sought the following:

4 presentations given by the TCEDA CEO to the TCEDA Board regarding all
5 matters concerning the organization, its goals, strategy, objectives, finances,
6 measurable performance outcomes and any and all matters that might relate to
7 local economic development, job and business creation, outreach programs, small
8 business advice, business assistance programs, business assistance guides, ongoing
interaction with local businesses and business conditions in all business
downtowns.

9 15. Respondents interpreted this request as a request for TCEDA board agendas and minutes
10 and CEO reports. In its November 22, 2017 response to Petitioner's request, Respondents
11 provided an internet link to board agendas and minutes and PDF documents with CEO reports.

12 16. On December 12, 2017, after some discussion about the adequacy of Respondents'
13 response to Petitioner's request, Petitioner stated that he was

14 seeking 'copies of all documentation concerning' the 'presentations given by the
15 TCEDA CEO to the TCEDA Board' regarding that organization and its activities
16 during the past 12 months. To date, I have only received two or three slides from
17 each of the various PowerPoint presentations that were made by the TCEDA
18 CEO. These slides fail to provide explanations of or data to support the
19 information contained therein. **As such, I am continuing to seek the 'backup
data' that was the basis for the information provided to the TCEDA Board.** If
that data is contained in the 'agenda packets,' then please send me those
packets." (emphasis added)

20 Petitioner went on to write that the agenda packets were not on the website and reasserted his desire
21 to obtain not only the agendas, but also the entire agenda packets.

22 17. Respondent would not provide any "back up data" and claimed that such records were
23 exempt pursuant to Government Code section 6254.15.

24 18. Attached as **Exhibit A** is a true and correct copy of Petitioner's November 13, 2017
25 Public Records Act request. Attached as **Exhibit B** is a true and correct copy of Petitioner's
26 subsequent email discussions, starting with the most recent (TCEDA's December 26 assertion
27
28

1 that records are exempt under Government Code section 6254.15) and concluding with the oldest
2 (TCEDA'S initial November 22, 2017 response to the request).

3 **B. Petitioner's Second PRA Request**

4 19. On April 12, 2018, Petitioner submitted another public records request. This request
5 sought five categories of records generally described as containing information relating to the
6 substance of TCEDA's claims about the results of its business attraction and retention programs.
7 A true and correct copy of this request is attached as **Exhibit C**.

8 20. In TCEDA's April 23, 2018 written response, it restated Petitioner's request as seeking
9 records from seven categories of records and asserted that the records were exempt under section
10 6254.15. A true and correct copy of this responsive letter is attached as **Exhibit D**.

11 21. Under section 6254.15, agencies may, under certain situations, withhold corporate
12 financial records and corporate proprietary information "furnished to a government agency by a
13 private company for the purpose of permitting the agency to work with the company in retaining,
14 locating, or expanding a facility within California." The situations permitting nondisclosure, as
15 allowed under section 6254.15, do not apply because even if the information was provided for the
16 specified purpose, the data is not the type of financial records or proprietary information that
17 would justify the exemption.
18

19 22. Regardless, even if an exemption is permissible, Respondents are still required to disclose
20 non-exempt portions of relevant records by redacting exempt information. This they have not
21 done.

22 23. In an April 27, 2018 response to Respondents, Petitioner attempted to demonstrate that
23 section 6254.15 does not apply. In a May 14, 2018 response, Respondents reaffirmed their
24 position that the records in question are exempt. Attached as **Exhibit E** is a true and correct copy
25 of Petitioner's April 27 letter, and attached as **Exhibit F** is a true and correct copy of TCEDA's
26 May 14 response. No further discussions between the parties is likely to change the result.
27
28

FIRST CAUSE OF ACTION
Writ of Mandate (Gov. Code § 6258; CCP § 1085)

24. Plaintiff incorporates by reference each preceding paragraph.

25. A writ of mandate may issue to compel disclosure of public records “[w]henever it is made to appear by verified petition to the superior court ... that certain public records are being improperly withheld from a member of the public.” (§ 6259, subd. (a).)

26. Petitioner requested public records from Respondents.

27. Unless an exemption applies, Respondents are required to disclose the public records that Petitioner requested. (§ 6253.) If any portion of the records are exempt, Respondents are still required to disclose the non-exempt portions. (§ 6253, subd. (a); *Times Mirror Co. v. Superior Court* (1991) 53 Cal.3d 1325, 1359.)

28. Respondents claim that the records Petitioner requests are exempt under section 6254.15. Section 6254.15 does not apply because the records in question are not “corporate financial records” or the type of “corporate propriety information” described in the statute, and even if it is, that information can be redacted from Respondents’ response.

29. Section 6259 permits the court to review the records in question *in camera* to determine whether the section 6254.15 exemption applies.

30. Petitioner does not have any other remedy in the ordinary course of law. He is entitled to receive the records he requested, and Respondents are refusing to disclose them. Respondents have even rejected his request for reconsideration. Whatever administrative remedies he has have been exhausted. Indeed, the PRA explicitly authorizes writ of mandate as an appropriate remedy under these circumstances.

31. Under section 6253.1, Respondents had an affirmative duty to help Petitioner in making a focused and effective request that seeks information responsive to the purpose of his request or overcomes any practical basis for denying his access to records.

1 32. The purpose Petitioner's request was clear, yet Respondents have done nothing to help
2 him locate records responsive to this purpose nor have they helped him overcome any practical
3 basis that denied his access to records.

4
5 **SECOND CAUSE OF ACTION**
6 Declaratory Relief (Gov. Code § 6258; CCP § 1060)

7 33. Petitioner incorporates by reference each preceding paragraph.

8 34. There is an actual controversy between the parties as to whether Respondent satisfied all
9 its PRA obligations.

10 35. Declaratory relief is necessary to resolve this controversy and determine whether
11 Respondent violated the PRA.

12 36. Declaratory relief is specifically authorized as a remedy for PRA violations.

13 37. Petitioner alleges the following PRA violations:

- 14
- 15 a. Failure to disclose nonexempt public records, either in their entirety or segregable
 - 16 portions of public records containing exempt information;
 - 17 b. Inadequate justification for withholding public records; and
 - 18 c. Failure to assist Petitioner in locating records that are responsive to the purpose of
 - 19 his request and/or failure to make any inquiry to clarify the purpose of Petitioner's
 - 20 request in order to fulfill its duty to assist Petitioner in locating responsive
 - 21 records.

22 //

23 //

24 //

1 PRAYER FOR RELIEF

2 Petitioner prays that:

3 1. The Court issue a Writ of Mandate compelling Respondents to disclose the public
4 records they improperly withheld from Petitioner and/or issue an Alternative Writ of Mandate
5 and Order to Show Cause why they have not done so;

6 2. The Court review the records Respondents have withheld, *in camera*, if necessary to
7 determine whether the claimed section 6254.15 exemption applies;

8 3. The Court enter a Declaratory Judgment that Respondents violated the California Public
9 Records Act;

10 4. The Court award Petitioner his attorneys' fees and costs of suit incurred herein; and

11 5. The Court award Petitioner such other and further relief as the Court may deem just and
12 proper.
13

14
15 Dated: June 9, 2018

Respectfully submitted,
LAW OFFICE OF CHAD D. MORGAN

16
17 By: 

18 CHAD D. MORGAN
19 Attorney for Petitioner, Kenneth A. Perkins
20
21
22
23
24
25
26
27
28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

VERIFICATION

I, Kenneth A. Perkins, declare that I am the Petitioner in the above-entitled action. I have read the foregoing **Verified Petition for Writ of Mandate; Complaint for Declaratory Relief** and know the contents thereof to be true to my own knowledge, except as to those statements made upon information and belief, and as to them, I believe them to be true.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on 06/09/2018 in sonora, CA.

Kenn Perkins

Kenneth A. Perkins

EXHIBIT A

EXHIBIT A

2

Address: 14209 Stanton Circle, Sonora, CA 95370
Home: 209-768-8622; 768-5616
Email: Kennyperkins@comcast.net

4 Attachments

November 13, 2017

Tuolumne County Economic Development Authority (TCEDA)
Attn: Mr. Larry Cope, CEO
99 North Washington Street
Sonora, California 95370

RE: Request for Public Information

Dear Mr. Cope:

Under the California Public Records Act § 6250 et seq., I am requesting an opportunity to obtain copies of all public records that cover TCEDA Board agenda and minutes for the past 12 months. I am requesting public copies of all documentation concerning:

- 1) presentations given by the TCEDA CEO to the TCEDA Board regarding all matters concerning the organization, its goals, strategy, objectives, finances, measurable performance outcomes and any and all matters that might relate to local economic development, job and business creation, outreach programs, small business advice, business assistance programs, business assistance guides, ongoing interaction with local businesses and business conditions in all business downtowns.

If there are any fees for searching or copying these records, please inform me if the cost will exceed \$200. However, I would also like to request a waiver of all fees in that the disclosure of the requested information is in the public interest and will contribute significantly to the public's understanding of all ongoing costs and increases in expenditures as recently outlined and reported in the Union Democrat, TCEDA Board and by the City of Sonora Council. This information is not being sought for commercial purposes.

The California Public Records Act requires a response within ten business days. If access to the records I am requesting will take longer, please contact me with information about when I might expect copies or the ability to inspect the requested records.

If you deny any or all this request, please cite each specific exemption you feel justifies the refusal to release the information and notify me of the appeal procedures available to me under the law.

Thank you for considering my request.


Ken Perkins

EXHIBIT B

EXHIBIT B

RE: TCEDA PRA 11/13 request

Carlyn Drivdahl

12/26/2017 4:45 PM 

To Ken

Ken,

A new Public Records Act request is not necessary. With regard to "back up data" for the Executive Director's Reports, these records are exempt from disclosure pursuant to Government Code section 6254.15, which states in part: "Nothing in this chapter shall be construed to require the disclosure of records that are any of the following: corporate financial records, corporate proprietary information including trade secrets, and information relating to siting within the state furnished to a government agency by a private company for the purpose of permitting the agency to work with the company in retaining, locating, or expanding a facility within California."

Do you still wish to obtain any agenda packets presented to the TCEDA Board during the past year?

Carlyn

From: Ken [mailto:kennyperkins@comcast.net (mailto:kennyperkins@comcast.net)]

Sent: Monday, December 25, 2017 5:49 PM

To: Carlyn Drivdahl

Subject: Fwd: TCEDA PRA 11/13 request

Carlyn -

Could you please give me an update on the status of my follow-up request as outlined below?

If I need to submit a new Public Record Act request for the information, please advise.

Ken Perkins

From: Ken (mailto:kennyperkins@comcast.net)

To: Carlyn Drivdahl (mailto:CDrivdahl@co.tuolumne.ca.us)

Sent: Tuesday, December 12, 2017 10:45:40 PM

Subject: Re: TCEDA PRA 11/13 request

Carlyn -

Thank you for contacting me regarding my Public Records Act Request.

As I stated in my original request for information dated November 13, 2017, I am seeking "copies of all documentation concerning" the "presentations given by the TCEDA CEO to the TCEDA Board" regarding that organization and its activities during the past 12 months. To date, I have only received two or three slides from each of the various PowerPoint presentations that were made by the TCEDA CEO. These slides fail to provide explanations of or data to support the information contained therein. As such, I am continuing to seek the "backup data" that was the basis for the information provided to the TCEDA Board. If that data is contained in the "agenda packets," then please send me those packets.

Since the agenda packets are apparently not posted on the TCEDA website, I do not know the extent of their content; consequently, if there is additional documentation regarding these matters that was not included in the agenda packets, then I am continuing to request those documents as well.

I am looking forward to receiving all of the documentation that I have requested.

From: Carlyn Drivdahl (mailto:CDrivdahl@co.tuolumne.ca.us)
To: Ken (mailto:kennyperkins@comcast.net)
Sent: Tuesday, December 12, 2017 9:25:23 AM
Subject: RE: TCEDA PRA 11/13 request

Ken,

It was my understanding that you were requesting any documents related to Larry's Executive Director reports. As Larry generally presents all of the items before the TCEDA Board, are you looking for all agenda packets for the last year?

Carlyn

From: Ken [mailto:kennyperkins@comcast.net (mailto:kennyperkins@comcast.net)]
Sent: Friday, November 24, 2017 8:11 PM
To: Carlyn Drivdahl
Subject: Re: TCEDA PRA 11/13 request

Carlyn -

I believe that the public information I was seeking under my November 13, 2017 California Public Records Act request for specific documents was incomplete in your submittal to me.

For example, I requested documents (presentations) given by the TCEDA CEO to the TCEDA Board of Directors concerning all matters concerning "outreach programs." I understand that an RFP had been

published on the TCEDA website regarding an Outreach Program and that this topic was addressed at length at the November TCEDA Board of Director's meeting.

Why was this information or documentation excluded in your disclosure?

It is a misdemeanor crime under the California Government Code (<http://www.leginfo.ca.gov/cgi-bin/waisgate?WAISSdocID=1145521432+0+0+0&WAISSaction=retrieve>) for a public official to knowingly make false statements in writing to the public. This might also include withholding information.

Regards,

Ken Perkins

From: Ken (<mailto:kennyperkins@comcast.net>)
To: Carlyn Drivdahl (<mailto:CDrivdahl@co.tuolumne.ca.us>)
Sent: Wednesday, November 22, 2017 12:51:55 PM
Subject: Re: TCEDA PRA 11/13 request

Carlyn-

Take a look at the Feb 2017 CEO Report document that was attached to your email to me.

It has only three PowerPoint slides. None of which make any sense, let alone to the TCEDA Board of Directors.

Do you want me to believe this is the entire report from the CEO of TCEDA to the TCEDA Board of Directors?

If so, please advise.

If you can't, please have Mr. Cope verify that this is the extent of his presentation to the TCEDA Board of Directors.

Ken Perkins

From: Carlyn Drivdahl (<mailto:CDrivdahl@co.tuolumne.ca.us>)
To: Ken (<mailto:kennyperkins@comcast.net>)
Sent: Wednesday, November 22, 2017 8:56:32 AM
Subject: TCEDA PRA 11/13 request

Ken,

I'm responding to your November 13, 2017 Public Records Act request to the Tuolumne County Economic Development Authority. You have requested the following public records:

TCEDA Board agenda and minutes for the past 12 months

RESPONSE: TCEDA Board agendas and minutes can be found on the TCEDA's website:
<https://tceda.net/meetings-agenda-minutes/> (<https://tceda.net/meetings-agenda-minutes/>)

Presentations given by the TCEDA CEO to the TCEDA Board regarding all matters concerning the organization, its goals, strategy, objectives, finances, measurable performance outcomes and any and all matters that might relate to local economic development, job and business creation, outreach programs, small business advice, business assistance programs, business assistance guides, ongoing interaction with local businesses and business conditions in all business downtowns.

RESPONSE: Attached please find the documents TCEDA has located responsive to your request.
CEO Reports for:

September/October/November Report given on November 9, 2017
May/June/July/August/September Report given on September 8, 2017
April/May Report given on May given at May 12, 2017 meeting
March Report – Verbal Report given on March 10, 2017
January/February Report Was given on February 10, 2017

Please let me know if you have any questions or if I can be of further assistance. Have a wonderful Thanksgiving!

Sincerely,
Carlyn Drivdahl

Carlyn M. Drivdahl
Deputy County Counsel
Tuolumne County
(209) 533-5517

The information contained in this electronic mail message is information protected by the attorney-client or the attorney work product privilege, or both. It is intended only for the use of the individual named above and the privileges are not waived by virtue of this having been sent by electronic mail. If the person actually receiving this electronic mail, or any other reader of this electronic mail is not the named recipient, employee or agent responsible to deliver to the named recipient, any use, dissemination, distribution or copying of this communication is strictly prohibited. If you have received this communication in error, please advise the sender immediately by reply e-mail and delete this message.

EXHIBIT C

EXHIBIT C

Address: 14209 Stanton Circle, Sonora, CA 95370
Home: 209-768-8622; 768-5616
Email: Kennyperkins@comcast.net
Website: www.theapfund.com

April 12, 2018

Tuolumne County Economic Development Authority

Larry Cope, Director
99 North Washington Street
Sonora, California 95370

RE: Request for Information Regarding Business Retention Program

Dear Mr. Cope:

Under the California Public Records Act § 6250 et seq., I am requesting an opportunity to inspect or obtain copies of all internal records, documents, letters and reports that cover the Authority's Business Retention Program, which is one of the Action Items in both your current five-year Action Plan and in past plans, goals and objectives. We seek all information on the business retention and expansion program that focuses on companies that were planning or thinking about leaving the County or City of Sonora but if it were not for the intervention of TCEDA, these companies or businesses did not leave the County or were closed down. We seek the names of these businesses that was retained, expanded or relocated within the County. The following is a further breakdown of the information we seek so as to assist you gathering up and reproducing the material we seek in this request -

- 1) A copy of all documents, reports, letters, analysis concerning those companies, businesses, start-ups that were contacted and assisted in staying in the County.
- 2) A list of all companies or businesses that have received assistance from TCEDA concerning their need for more capital, training of personnel or expanding their markets.
- 3) Because of TCEDA's business retention program, please provided the number of jobs that were retained as a result and within the County or City of Sonora; or the number of jobs or job titles that have received personnel training within each of these businesses.
- 4) A copy of all documents, letters, reports and analysis on TCEDA's business attraction and recruitment program. As a result of attending hundreds of industry meetings, networking events, trade shows and in-person company visits over the past five years focusing on companies that can benefit from the County's three main attractions (natural surroundings, available natural resources, growing healthcare needs), provide the number and/or names of the businesses or companies that have been opened or relocated due to TCEDA business attraction and recruitment program.
- 5) All the above documented information must cover a period of at least five (5) years since the business retention program has been ineffective for over five years or longer.

If there are any fees for searching or copying these records, please inform me if the cost will exceed \$1000. However, I would also like to request a waiver of all fees in that the disclosure of the requested information is in the public interest and will contribute significantly to the public's understanding of all ongoing costs and increases in expenditures as recently outlined and reported

in the Union Democrat and the City of Sonora Council agenda and minutes. This information is not being sought for commercial purposes.

The California Public Records Act requires a response within ten business days. If access to the records I am requesting will take longer, please contact me with information about when I might expect copies or the ability to inspect the requested records.

If you deny any or all of this request, please cite each specific exemption you feel justifies the refusal to release the information and notify me of the appeal procedures available to me under the law.

Thank you for considering my request.

Sincerely,

Ken Perkins

Cc: Carlyn Drivdahl

EXHIBIT D

EXHIBIT D



Office of the County Counsel

"Providing Quality Legal Services to the County of Tuolumne"

Sarah Carrillo
County Counsel

Deputies

Christopher Schmidt
Carlyn M. Drivdahl
Cody M. Nesper

Assistant to
County Counsel
Leah Moroles

April 23, 2018

Ken Perkins
14209 Stanton Circle
Sonora, CA 95370
kennyperkins@comcast.net
VIA EMAIL

RE: Public Records Act Request

Dear Ken:

I am in receipt of your letter dated April 12, 2018, which was referred to my office for a response. You are requesting TCEDA documents under the California Public Records Act (Government Code § 6250 et seq.). I will deal with your request(s) separately below.

Specifically, the information you request is as follows:

1. **"all internal records, documents, letters and reports that cover the Authority's Business Retention Program"**

Response: The TCEDA's Business Retention Program is covered in the TCEDA work plans and CEO reports, which have been previously provided to you. Enclosed herewith are all the documents the TCEDA has found that were responsive to your request. Records relating to specific businesses are exempt from disclosure pursuant to Government Code section 6254.15, which states in part: "Nothing in this chapter shall be construed to require the disclosure of records that are any of the following: corporate financial records, corporate proprietary information including trade secrets, and information relating to siting within the state furnished to a government agency by a private company for the purpose of permitting the agency to work with the company in retaining, locating, or expanding a facility within California."

2. **"all information on the business retention and expansion program that focuses on companies that were planning or thinking about leaving the County or City of Sonora but if it were not for the intervention of TCEDA, these companies or businesses did not leave the County or were closed down"**

Response: Records relating to specific businesses are exempt from disclosure pursuant to Government Code section 6254.15, as described above.

3. **"the names of these businesses that was retained, expanded or relocated within the County"**

Response: Records relating to specific businesses are exempt from disclosure pursuant to Government Code section 6254.15, as described above.

4. **"all documents, reports, letters, analysis concerning those companies, businesses, start-ups that were contacted and assisted in staying in the County."**

Response: Records relating to specific businesses are exempt from disclosure pursuant to Government Code section 6254.15, as described above.

5. **"A list of all companies or businesses that have received assistance from TCEDA concerning their need for more capital, training of personnel or expanding their markets"**

Response: Records relating to specific businesses are exempt from disclosure pursuant to Government Code section 6254.15, as described above.

6. **"Because of TCEDA's business retention program, please provided the number of jobs that were retained as a result and within the County or City of Sonora; or the number of jobs or job titles that have received personnel training within each of these businesses"**

Response: Records relating to specific businesses are exempt from disclosure pursuant to Government Code section 6254.15, as described above.

7. **"all documents, letters, reports and analysis on TCEDA's business attraction and recruitment program"**

Response: Enclosed herewith are all the documents the TCEDA has found that were responsive to your request. Records relating to specific businesses are exempt from disclosure pursuant to Government Code section 6254.15, as described above.

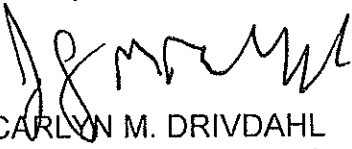
8. **"the number and/or names of the businesses or companies that have been opened or relocated due to TCEDA business attraction and recruitment program"**

Response: Records relating to specific businesses are exempt from disclosure pursuant to Government Code section 6254.15, as described above.

Should you have any questions, please feel free to contact me.

Regards,

SARAH CARRILLO
County Counsel



CARLYN M. DRIVDAHL
Deputy County Counsel

Enclosure

EXHIBIT E

EXHIBIT E

April 27, 2018

Office of the County Counsel
Attn: Carlyn M. Drivdahl
2 South Green Street
Sonora, California 95370

RE: CPRA Request for Information Regarding TCEDA Business Retention Program

Dear Carlyn:

I have received and reviewed your April 23, 2018 letter responding to my April 12, 2018 California Public Records Act (CPRA) request for basic economic development information from Tuolumne County's Economic Development Authority (EDA). Thank you for your quick response but I was surprised that you claimed such a broad base and possibly unsupported legal interpretation of the law that most of the information I was seeking was exempt under CPRA.

I would ask that you take a second look at my request and please reconsider the findings that the information that I am requesting is exempt under CPRA. Especially given that the information I am seeking has already been discussed by Mr. Larry Cope, Director of EDA, in numerous venues such as local newspaper articles (The Union Democrat), radio interview on TVML, during numerous public presentations to local policy makers that include, but not limited to, the City of Sonora Council members, the EDA Board of Directors, the Tuolumne County Board of Supervisors, the US Economic Development Agency and various civic groups such as the Tuolumne County Chamber of Commerce, SCORE, and other similar civic groups over the past five years. Most of the economic data that I have requested does not involve disclosure of corporate financial data, proprietary information including trade secrets or any information regarding "siting" as related to private companies seeking permits or other regulatory approvals.

Since EDA is not a regulatory agency, the data is less likely to be confidential or exempt than data involving names of company employees or financial stock prices of same. I merely seek to understand how EDA came up with their economic improvement estimates concerning the number of new businesses that have been created over the past five years in Tuolumne County and the City of Sonora, including the number existing businesses that might have been contacted by EDA and where convinced to stay in the County during the same period. Again, how did EDA come up with these numbers without any documented numerical analysis?

For example, my request for information was generated in part by EDA's November 2017 "CEO Executive Summary" report to the EDA Board of Directors. In this report and under the section "Attraction and Business Retention & Expansion," EDA claims to have created "2,088 jobs at an average rate of \$20.87 per hour that we are assisting on." They go on to state that "TCEDA has projects that total \$392,950,000 in investments." There are a few more questionable claims regarding the contact of thousands of people, companies, partners, investors and so on.

I would request that EDA provide the documents that I have been seeking that contain the non-exempt raw data that allowed EDA to claim that "over 10 million dollars of economic improvements

have been realized in the City of Sonora last year" and how EDA will go about delivering "over 60 million dollars of economic improvements in the coming years" as quoted in the Union Democrat during public budget hearings in 2017. This is not a fishing expedition on my part. I have been trying to get verifiable economic performance data from TCEDA over the past two years, but with little success. Documents that primarily deal with form letters and useless charts that contain almost of information. I truly want EDA to show their data relative to the numerous public statements about the hundreds of new jobs that have been created and the hundreds of millions of dollars in GDP County growth because of projects EDA has been actively involved with to date. EDA does not have to provide the names these businesses, but they should at least be able to list and disclose the type of projects that they have participated in or the types of projects that will allegedly produce over \$300 million of GDP improvements as stated in their performance reports to EDA Board of Directors and to the City of Sonora Council members.

In your April 23, 2018 letter to me, you used Government Code section 6254.15 as the overarching legal principle to deny my request for public economic information from EDA. The EDA documents you sent forwarded to me only included eight (8) work product documents supposedly spanning over a period of five-years. All these documents simply deal with information concerning the types of draft form letters and general guidelines sent to companies and the general public. These documents did not contain any of the specific economic data I was requesting. That would appear to be, in my opinion, an obvious and transparent attempt to delay, block and deny me access to non-exempt public information regarding how many new businesses were relocated in Tuolumne County over the past five years because of EDA's proclaimed intervention. How can this type of raw data be exempt under 6254.12? Yes, there are 76 exemptions listed in the CPRA code, but I asked for economic development data and the method(s) used by EDA that simply can be an addition and subtraction exercise in numerical data analysis.

So that there isn't any misunderstanding going forward, I am again requesting that EDA provide me with the information I requested in my April 12, 2018 CPRA request and they do not have to disclose any names of businesses or any other exempt information as defined by section 6254.12.

In a recent California Supreme Court ruling regarding the right of the public to gain access to public records, the court stated: "The whole purpose of CPRA is to ensure transparency in government activities. I believe in this case you are using a very broad brush to deny me access to non-exempt documents and you have framed your denial in a manner that could be interpreted as an abuse of discretion. Therefore, I believe that the information I have requested is not exempt under CPRA and that this letter will serve as a refiling my April 12, 2018 CPRA request (attached). It will be acceptable to me if you need to redact any confidential or exempt information (such as business names) as defined by CPRA legal requirements.

If there are any fees for searching or copying these records, please inform me if the cost will exceed \$1000. However, I would also like to request a waiver of all fees in that the disclosure of the requested information is in the public interest and will contribute significantly to the public's understanding of all ongoing costs and increases in expenditures as recently outlined and reported in the Union Democrat and the City of Sonora Council agenda and minutes. This information is not being sought for commercial purposes.

The California Public Records Act requires a response within ten business days. If access to the records I am requesting will take longer, please contact me with information about when I might expect copies or the ability to inspect the requested records.

If you deny any or all this request, please cite each specific exemption you feel justifies the refusal to release the information and notify me of the appeal procedures available to me under the law.

Thank you, in advance, for considering my renewed request.

Sincerely,

Ken Perkins

Cc: Mr. Larry Cope, TCEDA

Attached:

CEO Executive Summary Report, November 2017
April 12, 2018 Request for Information Regarding Business Retention Program

EXHIBIT F

EXHIBIT F



Office of the County Counsel

"Providing Quality Legal Services to the County of Tuolumne"

Sarah Carrillo
County Counsel

Deputies
Christopher Schmidt
Carlyn M. Drivdahl
Cody M. Nesper

Assistant to
County Counsel
Leah Moroles

May 14, 2018

VIA EMAIL

Ken Perkins
14209 Stanton Circle
Sonora, CA 95370
kennyperkins@comcast.net

RE: Follow-up Response to Public Records Act Request Regarding TCEDA's
Business Retention Program

Dear Ken:

Thank you for the opportunity to expand on my earlier response to your April 12th Public Records Act request. I understand you are requesting the raw data that support TCEDA statements such as those mentioned in the November 2017 CEO Executive Summary cited in your April 27th letter. You have expressed concern and disagreement regarding the application of Government Code section 6254.15 to exempt this information from disclosure under the Public Records Act.

Government Code section 6254.15 was adopted by the California Legislature in 1995. It was added at the request of the California Trade and Commerce Agency ("Agency"), which was concerned that there was no specific exemption for the confidential materials obtained or generated by the Agency when assisting a company wishing to expand or locate within California. When a company provided information to the Agency, it was with the understanding that the information will not be disclosed. According to the Agency, if it were forced by a court to release any portion of sensitive, confidential information, it would have a devastating impact on the retention/expansion efforts of the Agency.¹

The raw data you are requesting falls squarely within the language and intent of Government Code section 6254.15 as corporate proprietary information furnished to a governmental agency by a private company for the purpose of permitting the agency to work with the company in retaining, locating or expanding a facility within California. Private businesses work with TCEDA with the expectation that their expansion projects, their struggles to thrive, or their plans to move to Tuolumne County, and the specific details related to each, will not be disclosed. Publicly releasing this information would jeopardize these companies' commercial position and could result in competitive harm. Removing business names from the data does not resolve the concerns. If companies no longer felt the

¹ http://leginfo.ca.gov/pub/95-96/bill/asm/ab_1151-1200/ab_1158_cfa_950831_102058_asm_floor.html

information they provide to TCEDA is confidential, they will not work with TCEDA, crippling the economic development efforts of TCEDA.

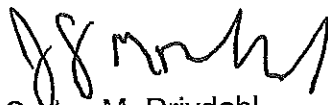
TCEDA does provide aggregated information to the public as you have pointed out. However, the raw data will not be released pursuant to Government Code section 6254.15. I have included two (2) documents handed out at the May 11th TCEDA Board meeting that address the Business Retention Program.

I understand your frustration but I hope that this letter more clearly explains the reasoning behind TCEDA's use of the PRA exemption provided by Government Code section 6254.15. Given your continued passion for this subject, I will ensure the TCEDA Board receives copies of all our correspondence.

Please feel free to contact me if you have further questions.

Regards,

SARAH CARRILLO
County Counsel

A handwritten signature in black ink, appearing to read 'Carlyn M. Drivdahl', written over the printed name.

Carlyn M. Drivdahl
Deputy County Counsel

C: Larry Cope, TCEDA CEO

TITLE	Hello
FILE NAME	1528593341-Petiti...te.pdf-1528593367
DOCUMENT ID	dfbcaebe5b350b545ad65354e6dea316edc2cee9
STATUS	Ⓢ Completed

This document was requested and signed on lexicata.com

Document History



SENT

06/10/2018
01:17:40 UTC

Sent for signature to Kenneth A. Perkins
(kennyperkins@comcast.net) from chad@chadmorgan.com
IP: 104.3.16.227



VIEWED

06/10/2018
02:08:58 UTC

Viewed by Kenneth A. Perkins (kennyperkins@comcast.net)
IP: 174.222.7.136



SIGNED

06/10/2018
02:10:27 UTC

Signed by Kenneth A. Perkins (kennyperkins@comcast.net)
IP: 174.222.7.136



COMPLETED

06/10/2018
02:10:27 UTC

The document has been completed.