

MEMORANDUM OF LAW

DATE: April 18, 1988

TO: William Bamberger, RUIS Administrator

FROM: City Attorney

SUBJECT: Public Access Request for Contractor's File

In your memo of March 16, 1988 you requested an opinion on whether a private company (All Trade Services) should be allowed access to information contained in the Building Permit and Inspection System (BPIS) regarding Contractors' license numbers, names and status of workers' compensation insurance. You explained that this information is used by the City Building Inspection Department and County Department of Planning and Land Use as part of BPIS to assist in issuing building permits.

California Government Code section 6250 et. seq., the California Public Records Act, at section 6252(d) states: "Public Records' includes any writing containing information relating to the conduct of the public's business prepared, owned, used, or retained by any state or local agency regardless of physical form or characteristics."

Case law holds that, "The mere custody of a writing by a public agency does not make it a public record, but if a record is kept by an officer because it is necessary or convenient to the discharge of his official duty it is a public record." Braun v. City of Taft (1984) 154 Cal.App.3d 332, 340. The court in San Gabriel Tribune v. Superior Court (1983) 143 Cal.App.3d 762, 774 stated: "This definition is intended to cover every conceivable kind of record that is involved in the governmental process and will pertain to any new form of record-keeping instrument as it is developed. Only purely personal information unrelated to "the conduct of the public's business" could be considered exempt from this definition."

In this particular case the list of contractors is used by the City Building Inspection Department and County Department of Planning and Land Use as a convenience in the discharge of duties, is not a personal communication and therefore comes under

the definition of a public record. Only records specifically mentioned in California Government Code section 6254 EXEMPTION OF PARTICULAR RECORDS are exempted from the requirement of disclosure. Since this type of list is not exempted, the information on it therefore must be disclosed.

If there is further question, please let me know.

JOHN W. WITT, City Attorney

By
Mary Kay Jackson
Deputy City Attorney

MKJ:mrh:820(x043.2)

cc Ron Johnson

ML-88-38