

Records Request Placed for Written City Attorney Opinion Regarding 1988 Prop Q

Date: 5/20/2015 10:41 PM
From: pmonette-Shaw@earthlink.net
Subject: **IMMEDIATE DISCLOSURE REQUEST FOR PUBLIC RECORDS: Written City Attorney "Opinion" on Prop. Q Hearings**
To: Mark.Morewitz@sfdph.org

IMMEDIATE DISCLOSURE REQUEST FOR PUBLIC RECORDS: Written City Attorney "Opinion" on Prop. Q Hearings

May 20, 2015

Mark Morewitz, MSW
Health Commission Executive Secretary
San Francisco Health Commission
101 Grove Street, Room 311
San Francisco, CA 94102

Dear Mr. Morewitz,

This is an Immediate Disclosure Request for public records under San Francisco's Sunshine Ordinance, the California Public Records Act, Proposition 59, and the Brown Act.

I was quite shocked to hear Dr. Edward Chow state during yesterday's health Commission meeting that the City Attorney has issued an "opinion" to permit the Health Commission to change the intent of "Prop. Q" hearings on the reduction of services at private-sector hospitals, and instead of the will of the people to have the Health Commissions vote on "Findings" that reductions in private-sector facility services will or will not have a negative impact on the health of San Franciscans, that the Health Commission can stop ruling way or another on whether the service reductions "will" or "will not" have negative consequences.

Please provide the written City Attorney opinion that appears to overturn the will of voters who in 1988 passed Prop Q. requiring the Health Commission to vote up or down on whether private-facility healthcare reductions will or will not have a detrimental effect on healthcare provided to San Franciscans. Specifically, this records request seeks the written City Attorney opinion.

Thank you.
Patrick Monette-Shaw
Columnist
Westside Observer Newspaper

Records Request Response for Written City Attorney Opinion Regarding 1988 Prop Q

Date: 5/29/2015 12:03 AM
From: Mark.Morewitz@sfdph.org
Subject: **IMMEDIATE DISCLOSURE REQUEST FOR PUBLIC RECORDS: Written City Attorney "Opinion" on Prop. Q Hearings**
To: pmonette-Shaw@earthlink.net

Dear Mr. Monette-Shaw,

I write in response to the above -referenced request for records. Additional time was required by the Health Commission in responding to your request due to the need to consult with another interested department. My apologies for any inconvenience this may have caused you. In addition, I misread your original request and mistakenly understood that I had ten days to respond to your request although I now understand that I should have responded within 24-hours; this was a clerical error on my part and again, I sincerely apologize for my error, which I understand is unacceptable. You should have received a timely response to your original request.

In your letter you requested “the written City Attorney opinion that appears to overturn the will of voters who in 1988 passed Prop Q, requiring the Health Commission to vote up or down on whether private-facility healthcare reductions will or will not have a detrimental affect on healthcare provided to San Franciscans. Specifically, this records request seeks the written City Attorney opinion.”

To the extent the Health Commission has any records responsive to this request, such records constitute protected attorney-client communications and/or attorney work product privilege and are exempt from disclosure [emphasis added]. The Public Records Act does not require an agency to provide records protected by these privileges. Cal. Gov’t Code § 6254(k) (protecting from disclosure records that are confidential under federal or state law, including provisions of the Evidence Code relating to privilege); Cal. Evid. Code § 954 (communications between attorneys and their clients are privileged); Cal. Code of Civil Pro. § 2018.030 (protecting from disclosure any writing that reflects an attorney’s impressions, conclusions, opinion, or legal research or theories); see also Cal. Gov’t Code § 6276.04 (cross-referencing in the Public Records Act the attorney-client and attorney work product privilege).

Sincerely,

Mark Morewitz, MSW
Health Commission Executive Secretary
Phone: (415) 554-2666
Fax (415) 554-2665