



Public Works for a Better Government

December 9, 2016

Ms. Mia Marvelli, Executive Director
California Building Standards Commission
2525 Natomas Park Drive, Suite 130
Sacramento, CA 95833

Re: Public Records Act Request

Dear Ms. Marvelli:

Pursuant to my rights under the California Public Records Act (**Calif. Govt. Code § 6250 et. seq.**), I ask to obtain a copy of the following in electronic format, which I understand to be held by your agency. On or around October 27 and until on or around November 7, the Building Standards Commission displayed on its web site a searchable PDF file of the California Electric Code, 2016 Triennial Edition. The file was displayed at the following URL:

<http://www.bsc.ca.gov/Codes.aspx>

After that file was removed from the Building Standards Commission web site, it was replaced with a link to the following non-governmental location:

<http://www.nfpa.org/codes-and-standards/document-information-pages/free-access?mode=view&t=other&c=CALNEC2016>

However, that external site is substantially less useful than the PDF file that was posted on the government web site. In particular, it is impossible to print or copy pages, it is impossible to search the file, and one cannot extract text to use in communicating public safety requirements with others by creating a flier or posting portions of the law with commentary on a web site. The external site also fails to meet the accessibility requirements mandated by law. (**Calif. Govt. Code § 11135**)

The record I am requesting, a PDF file, should be disclosed because it falls within the requirements that “agency shall make the information available in any electronic format in which it holds the information” and “requested format is one that has been used by the agency to create copies for its own use.” (**Calif. Govt. Code § 6253.9**)

Access to California Title 24, Part 3 in a meaningful manner is particularly important because of the requirements of the Health and Safety Code which allows cities or counties to make “such modifications or changes [that] are reasonably necessary because of local climatic, geological or topographical conditions.” (**Calif. Health & Saf. Code § 17958.7**) In order to evaluate such modifications, citizens have a

compelling need to examine the full text of the existing codes so that they may participate in the modification process instituted by their local governments.

The California Electrical Code was specifically adopted at the direction of the legislature. The Health and Safety Code specifies exactly which codes “shall be adopted by reference” and the only discretion granted to the Commission is to make “additions or deletions.” (**Calif. Health & Saf. Code § 17922**)

The fact that California Title 24, Part 3 is mandated by the legislature, then promulgated as a binding regulation by the Commission, makes public access to this document imperative. Access to this document falls directly within the purpose of the California Public Records Act declaration that “the Legislature, mindful of the right of individuals to privacy, finds and declares that access to information concerning the conduct of the people’s business is a fundamental and necessary right of every person in this state.” (**Calif. Govt. Code § 6250**)

If you determine that any or all of the information qualifies for an exemption from disclosure, I ask you to note whether, as is normally the case under the Act, the exemption is discretionary, and if so whether it is necessary in this case to exercise your discretion to withhold the information given the substantial public interest in disclosure of this important public safety information. In particular, I ask that your authority under the Health and Safety Code “shall be broadly construed if it furthers the people’s right of access, and narrowly construed if it limits the right of access.” (**Calif. Const. Article 1 § 3(b)**)

If you determine that some but not all of the information is exempt from disclosure and that you intend to withhold it, I ask that you redact it for the time being and make the rest available as requested. In any event, please provide a signed notification citing the legal authorities on which you rely if you determine that any or all of the information is exempt and will not be disclosed.

I ask for a determination on this request within 10 days of your receipt of it, and an even prompter reply if you can make that determination without having to review the record[s] in question. If I can provide any clarification that will help expedite your attention to my request, please contact me at 707-827-7290 by phone or carl@media.org by email.

Thank you for your time and attention to this matter.

Sincerely yours,



Digitally signed by Carl
Malamud
DN: cn=Carl Malamud,
o=Public.Resource.Org,
ou,
email=carl@media.org,
c=US
Date: 2016.12.08
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Carl Malamud, President and Founder
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