

April 11, 2025

**VIA E-MAIL ONLY**

Jim Gates  
142 Via Pasqual  
Redondo Beach, CA 90277  
red.lancair@gmail.com

Re: Final Demand for Return or Destruction of Privileged, Exempt, or Confidential Records Inadvertently Disclosed (Request Nos. W013409 and W0134096)

Dear Mr. Gates:

This office represents the City of Torrance (“City”) with respect to your continued possession, reproduction, and dissemination of information known to be protected, confidential personal identifying information exempt from disclosure under the California Public Records Act (Gov. Code, §§ 7920.000–7931.000, the “Act”). This letter responds to your March 6, 2025 letter responding the City Attorney’s March 4, 2025 letter, wherein he asked you to destroy confidential information regarding individuals who have submitted complaints to the City regarding airport noise, as well as to remove it from where you posted, or caused the information to be posted, on the internet.

As explained in detail herein, the names of individuals complaining to the City about airport noise are clearly protected from disclosure. (*City of San Jose v. Super. Ct.* (1999) 74 Cal.App.4th 1008, 1012 [finding exempt the names of airport complainants and other identifying information under the same rationale the City has explained, here].) The inadvertent disclosure of this confidential information does not waive applicable privileges or exemptions under the Act. (See, e.g., *Ardon v. City of Los Angeles* (2016) 62 Cal.4th 1176, 1180 [“A governmental entity’s inadvertent release of privileged documents under the Public Records Act does not waive the privilege.”]; *Newark Unified Sch. Dist. v. Super. Ct.* (2015) 245 Cal.App.4th 887, 911.)

**I. Demand For Destruction and Removal of Confidential Information**

As the City has previously explained, you have a responsibility to ensure that all the inadvertently disclosed confidential information is returned or removed, including from any digital platforms and online posts. Accordingly, this letter serves as the City’s final demand for return or destruction of the privileged, exempt, or confidential records inadvertently disclosed in response to Public Records Request Nos. W013409 and W0134096, including removal of this information from all websites and social media platforms where you have the ability to do so.

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Specifically, and to avoid any confusion, this office understands you control or otherwise have the ability to remove the inadvertently disclosed confidential information from various “friends of the airport” websites, which contain “Problems With The Airport Noise Abatement Report” and associated names and other identifying information.<sup>1</sup> As shown in a redacted image below (which appears on the internet in its unredacted form), you created a “Complaint Log Summary” and other summary tables that have been republished in posts online and the NextDoor application. The names and any street addresses of complainants republished therein must be removed from all the places you have posted it.

COMPLAINT LOG SUMMARY							
LAST NAME	ZDNE	ZIP	OCT	NOV	DEC	TOTAL	% of TOTAL
[REDACTED]	3	90505	315	175	356	846	53.3%
[REDACTED]	9	90504	0	0	400	400	25.2%
[REDACTED]	3	90505	58	59	16	133	8.4%
[REDACTED]	8	90277	19	19	10	48	3.0%
[REDACTED]	8	90277	11	23	2	36	2.3%
[REDACTED]	10	90710	10	9	4	23	1.4%
[REDACTED]	3	90505	6	7	5	18	1.1%
[REDACTED]	8	90505	3	7	5	15	0.9%
[REDACTED]	10	90274	15	0	0	15	0.9%
[REDACTED]	8	90505	5	8	1	14	0.9%
[REDACTED]	8	90505	9	2	0	11	0.7%
[REDACTED]	3	90505	1	3	3	7	0.4%
[REDACTED]	3	90505	0	0	5	5	0.3%
[REDACTED]	8	90505	1	1	1	3	0.2%
[REDACTED]	9	90504	2	0	0	2	0.1%
[REDACTED]	4	90501	1	1	0	2	0.1%
[REDACTED]	9	90504	1	0	0	1	0.1%
[REDACTED]	8	90277	0	1	0	1	0.1%
[REDACTED]	3	90505	0	0	1	1	0.1%
[REDACTED]	9	90503	1	0	0	1	0.1%
[REDACTED]	9	90503	0	1	0	1	0.1%
[REDACTED]	3	90501	0	1	0	1	0.1%
[REDACTED]	1	90505	0	1	0	1	0.1%
[REDACTED]	9	90504	0	1	0	1	0.1%
[REDACTED]	3	90505	0	1	0	1	0.1%
<b>TOTALS</b>			<b>458</b>	<b>320</b>	<b>309</b>	<b>1587</b>	
<b>% of TOTAL</b>			<b>29%</b>	<b>20%</b>	<b>51%</b>		

<sup>1</sup> Available at, <https://us21.campaign-archive.com/?u=5c25ae03f47db4584d71b1576&id=5d7697eb1d> (last accessed April 11, 2025, 11:51 a.m. PST).

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This letter serves as the City’s final demand that you comply with your obligation to remove or destroy this information inadvertently disclosed. ***Please provide written confirmation that the above-described confidential information has been removed from the internet and otherwise destroyed no later than close of business (5:00 p.m. PST), April 21, 2025***, or the City will be forced to file a lawsuit and seek an injunction ordering you to do so.

## **II. Legal Authority**

The Act generally provides the public with a right of access to public records, with limited rules governing disclosure. (See Gov. Code, §§ 7921.000–7921.710.) Acknowledging the very real risks of identity theft and other concerns regarding constitutional rights to privacy, sealed documents, and other sensitive information, certain public records are expressly exempt from disclosure under the Act. Such records include social security numbers and related matters, as well as certain law enforcement records, voter information, financial and tax records, health care information, personal information and customer records, other private records or privileged materials, and personal information of public employees or officials. (See Gov. Code, §§ 7922.200–7922.210, 7923.600–7929.610.) However, in addition to these specific exemptions for certain sensitive or personal identifying information, the Act also provides for a general exemption. This general, catch-all exemption applies in particular cases where, as here, the public interest served by nondisclosure clearly outweighs that of disclosure. (See Gov. Code, § 7922.000; with *City of San Jose*, 74 Cal.App.4th at p. 1012.)

As explained by the City Attorney and City Clerk on several prior occasions,<sup>2</sup> controlling authority is directly on point. In an uncannily similar situation, the Court of Appeal found that “the public interest in protecting the privacy of noise complainants and in preventing a chilling effect on complaints clearly outweighs the public interest in disclosure of complainants’ names, addresses, and telephone numbers.” (*City of San Jose*, 74 Cal.App.4th at p. 1012.) The court held that the City of San Jose had correctly found that it should not release the names, addresses, and telephone numbers of the airport noise complainants because their privacy rights outweighed the public interest in disclosure. (*Id.* at pp. 1012–13.)

The *San Jose* court not only found in favor of nondisclosure under the same general public interest exemption asserted here, it likewise acknowledged and rejected many of the same justifications you attempt to advance in favor of disclosure. (See *City of San Jose*, 74 Cal.App.4th at pp. 1013–14.) For example, the local San Jose newspaper had similarly argued that the “validity of the complaints cannot be evaluated without access to those individuals” information. (*Ibid.*) This argument was rejected. Likewise, as the City has here, the City of San Jose similarly “argued that the airport noise complainants’ privacy interest in their personal information outweigh[s] the public interest in disclosure of their names, addresses, and telephone numbers.” (*Ibid.*) As here,

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<sup>2</sup> Immediately upon discovery of this inadvertent disclosure, the City has attempted to advise you of the legal obligation to return, destroy, and remove this personal identifying information. You have refused.

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the City’s primary concern is that it will subject the complainants to harassment and intimidation, and ultimately have a chilling effect on the complainants’ comfort in further complaining to the City. (See *ibid.*) This is not a close call—the law is clear. Threats of harassment and intimidation, and thus a chilling effect, are similarly not phantom fears. (See *id.* at p. 1014.) There, the City of San Jose had submitted evidence of this likely chilling effect in the form of copies of a number of letters that it had received from a local pro-airport activist, Jon Rodgers. Specifically, the City of San Jose pointed to an article highlighting Rodgers’s success with respect to the Tahoe Airport, as published in a pilots’ association newsletter. (*Ibid.*) Much like your online posts, the report was entitled “The More You Complain, the More You Must Disclose” and highlighted as a success story Rogers’s prior success that “when anti-airport groups are given the message . . . [n]oise complaints there fell from a high of 450 prior to 1994, to only 36 last year.” (See *ibid.* [internal quotations omitted].)

This office trusts that the issue is now crystal clear, and you will voluntarily comply with the City’s demand. Thank you for your attention to this matter.

Sincerely,

RUTAN & TUCKER, LLP



Alan B. Fenstermacher

cc: Patrick Sullivan, City Attorney  
Tatia Strader, Assistant City Attorney