

Report to the Los Angeles City Ethics Commission on
Violations of LAMC §49.5.5(A) by Chad Molnar

October 13, 2016

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¹Note that blue text indicates clickable links internal to this document whereas magenta text indicates clickable links to resources on the Internet.

1 Synopsis

1. Chad Molnar, chief of staff to Council District 11 representative Mike Bonin, has, in his official capacity, repeatedly and intentionally violated the California Public Records Act. His violations have created private disadvantages for me and others and private advantages for others. Thus his actions constitute violations of LAMC §49.5.5(A).

2 Background

2. Chad Molnar is Council District 11 (“CD11”) representative Mike Bonin’s chief of staff. Laura McLennan is Mike Bonin’s deputy chief of staff.
3. A proposed business improvement district (“BID”) for Venice Beach (“VBBID”) is presently before the Council. This was moved by Mike Bonin and is up for final approval on November 8, 2016. It is found in [Council File 16-0749](#). Carl Lambert and Mark Sokol are two proponents of the VBBID.² Both Lambert and Sokol have contributed money to Mike Bonin’s campaigns.

3 Laws

4. The California Public Records Act (“CPRA”) is found at [Government Code §6250 et seq.](#) It states in part at §6253(c) that:

Each agency, upon a request for a copy of records, shall, within 10 days from receipt of the request, determine whether the request, in whole or in part, seeks copies of disclosable public records in the possession of the agency and shall promptly notify the person making the request of the determination and the reasons therefor. In unusual circumstances, the time limit prescribed in this section may be extended by written notice by the head of the agency or his or her designee to the person making the request, setting forth the reasons for the extension and the date on which a determination is expected to be dispatched. No notice shall specify a date that would result in an extension for more than 14 days. When the agency dispatches the determination, and if the agency determines that the request seeks disclosable public records, the agency shall state the estimated date and time when the records will be made available.

5. The [Preamble](#) to the California Constitution states:

We, the People of the State of California, grateful to Almighty God for our freedom, in order to secure and perpetuate its blessings, do establish this Constitution.

²“Proponent” is an official position with respect to proposed BIDs. Proponents propose a BID to the City, which then approves or rejects the proposal.

6. **Article I, Section I** of the California Constitution states in part that:

All people are by nature free and independent and have inalienable rights.

7. According to the California Constitution at **Article 1, Section 3(b)**, one of these rights is “the right of access to information concerning the conduct of the people’s business.” This right is implemented by an explicit Constitutional requirement that local agencies comply with CPRA:

(b)(1) The people have the right of access to information concerning the conduct of the people’s business, and, therefore, the meetings of public bodies and the writings of public officials and agencies shall be open to public scrutiny.

(b)(7) In order to ensure public access to the meetings of public bodies and the writings of public officials and agencies, as specified in paragraph (1), each local agency is hereby required to comply with the California Public Records Act . . .

8. The Los Angeles City Charter at **§213** states:

In addition to the powers and duties prescribed by the Charter, the officers, employees, and boards of the City shall have such other powers and perform such other duties as may be prescribed by the laws of the State of California, or by ordinance, not in conflict with the Charter, or by resolution adopted by the Council, not in conflict with the provisions of the Charter or ordinance.

9. The Los Angeles Municipal Code at **§49.5.5(A)** states in part that:

City officials [and] agency employees, . . . shall not misuse or attempt to misuse their positions . . . to create or attempt to create a private advantage or disadvantage, financial or otherwise, for any person.

4 Facts

10. Between August 22, 2016 and September 13, 2016, I submitted 5 CPRA requests to Laura McLennan.³ See Exhibit 1 (page 9).
11. On September 9, 2016, Chad Molnar responded to the request I had submitted on August 22, 2016 seeking clarification. See Exhibit 1 (page 9) for the original request, Exhibit 2 (page 15) for Chad Molnar’s response.⁴ On September 9, 2016 I replied to Chad Molnar’s request for clarification. See Exhibit 3 (page 17).
12. This is the only response to any of these five requests that I have received from CD11 to date.

³I submitted a few requests prior to August 22, but they are not relevant to this complaint.

⁴Note that although the date on this response is September 1, 2016, it wasn’t sent to me until September 9, 2016.

13. On September 30, 2016 I asked Chad Molnar and Laura McLennan for the status of my outstanding requests. I pointed out that their failure to respond put them in violation of CPRA and of various other laws. See Exhibit 4 (page 19).

14. On September 30, 2016, Chad Molnar responded to me, stating:

We have your requests, and we are working on them. You have a number of outstanding requests, and each additional one you submit requires us to devote an increasing portion of our staff resources to processing them. We also have a large number of CPRA requests from other sources in the queue as well. We have so many of them that in order to move all of these out the door in an expedited or even timely fashion we would need to take staff away from their jobs serving our constituents and devote them exclusively to processing these requests. That is not reasonable, and we don't believe it was ever the intent of CPRA to make our service to our constituents suffer.

That said, we are trying hard to process your requests as quickly as we can. We ask for your patience.

See Exhibit 5 (page 21).

15. On September 22, 2016 I made a CPRA request to CD11 and on October 3, 2016, Chad Molnar responded, telling me that I could have some of the records I'd requested.⁵ See Exhibit 6 (Page 23).

5 Arguments

5.1 Chad Molnar's actions with respect to public records are a misuse of his position

5.1.1 That his actions are a use of his position

16. Chad Molnar has the power to release records in response to CPRA requests or to decide not to release them, as seen in Paragraphs 11, 13, and 15 above. He has this power by virtue of his position, so exercising it is using his position.

5.1.2 That this use is a misuse

17. CPRA requires local agencies such as CD11 to respond to requests in a prescribed manner within 24 days of receipt (see Paragraph 4). Chad Molnar has failed to respond to five CPRA requests (Paragraph 10) within the required time frame (Paragraph 12) and, indeed, has announced explicitly that he does not intend to respond "in a timely fashion" (Paragraph 14). Thus Chad Molnar has violated CPRA repeatedly and intentionally.

⁵Although I have not received them at the time of this writing.

18. The City Charter (Paragraph 8) requires Chad Molnar to comply with CPRA and with the California Constitution, which in turn requires CD11, and therefore Chad Molnar, to comply with CPRA (Paragraph 7). He hasn't done so (Paragraph 17). Chad Molnar's use of his position-granted CPRA power in violation of the City Charter is a misuse of his position.

5.2 Chad Molnar's misuse of his position creates a private disadvantage for me

5.2.1 That his actions create a disadvantage for me

19. One of the blessings of the freedom which the Constitution of California was established to secure and perpetuate (Paragraph 5) is the inalienable right (Paragraph 6) to have local agencies, such as CD11, comply with CPRA (Paragraph 7). Chad Molnar's violation of this inalienable right diminishes my share of the blessings intended to be secured by the California Constitution, which certainly puts me at a disadvantage relative to those whose freedom-associated blessings have not been diminished through Chad Molnar's actions. Since blessings are an unalloyed good, having one's blessings diminished is also an absolute disadvantage.
20. More specifically, Chad Molnar's actions have deprived me of the right to be informed about the process of approving the Venice Beach Business Improvement District (Paragraph 3) and therefore to be able to make informed comment on this important pending public matter. This is an absolute disadvantage, but it is also a disadvantage relative to the BID Proponents whose emails I am seeking. They know the state of their relations with CD11, the reasoning behind CD11's decisions with respect to the VBBID, even which CD11 staff is involved in the VBBID establishment process, whereas I do not know these things. Thus Chad Molnar's actions put me at a disadvantage compared to them with respect to influencing the outcome of or even just comprehending the VBBID establishment process.

5.2.2 That the disadvantage is private

21. One way that a disadvantage can be private⁶ is for it to fail to be created as a result of public policy. The disadvantages that Chad Molnar has created for me (Section 5.2.1) are not only not a result of a public policy, their existence contradicts explicit public policies. Therefore these are private disadvantages.

5.3 That Chad Molnar violated LAMC §49.5.5(A)

22. Chad Molnar has misused his position⁷ to create a private⁸ disadvantage⁹ for me. Thus he has violated LAMC §49.5.5(A).

⁶As opposed to public.

⁷Section 5.1.

⁸Section 5.2.2.

⁹Section 5.2.1.

6 Other considerations

23. Chad Molnar's failure to comply with CPRA with respect to records relating to the formation of the VBBID may make the BID more likely to be approved by Council, which would advantage the BID proponents financially. It may also advantage Mike Bonin by allowing him to please the BID proponents, many of whom are his campaign donors. It may also allow CD11 and Mike Bonin to avoid the embarrassment which may follow from the exposure of their plans for the VBBID, which would be an advantage. It may advantage Chad Molnar personally as he is Mike Bonin's campaign treasurer, and presumably he gets a benefit from pleasing donors, especially repeat donors. All of these propositions are plausible, but because Chad Molnar will not comply with CPRA, I am unable to gather evidence either for or against them. This result may also advantage Mike Bonin, Chad Molnar, and CD11 in general.

7 Requested action

24. I ask the City Ethics Commission to investigate whether these actions constitute a violation of LAMC §49.5.5(A) on the part of Chad Molnar and, if they do, to see that he's held responsible for his actions.

8 Exhibits

8.1 Exhibit 1 – CPRA requests to CD11

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Looking

CPRA request (CD11.2016.08.22.a)

From: [REDACTED]
To: Laura McLennan <laura.mclennan@lacity.org>
Subject: CPRA request (CD11.2016.08.22.a)
Date: Monday, August 22, 2016 1:37 PM
Size: 664 B

Dear Laura,

I'd like to take a look at all issues of "Taylor's Weekly" for 2016 as well as any staff (including your boss) responses to them via email or chat.

Thanks,

[REDACTED]

CPRA request (CD11.2016.08.27.a)

From: [REDACTED]
To: Laura McLennan <laura.mclennan@lacity.org>
Subject: CPRA request (CD11.2016.08.27.a)
Date: Saturday, August 27, 2016 3:23 PM
Size: 2 KB

Good afternoon, Laura.

I saw on Facebook that Taylor Bazley told someone that BID security can't touch people or do anything more than what a private person could do. I would like to look at all records including but not limited to emails and chat logs that discuss this part of CD11's BID-related messaging. That is, why you all think it, how you're pushing it, what questions or concerns it's in response to, and so on.

Also, as an aside, it's not true. At least the first part, that they can't touch people, is not true. It's true that they can't do more than a private person can, but California's private person's arrest laws are astonishingly liberal. They allow physical restraints, e.g., like handcuffs, which BID security in Hollywood uses regularly. They allow physical transport of prisoners in private vehicles, also used by BID security. If you all are interested in understanding the concerns that are evidently being brought to you, I can share documentary evidence of this that may help your boss understand why people in Venice are so upset and why CD11's current messaging is just making them angrier.

Thanks,

[REDACTED]

CPRA request (CD11.2016.08.28.a)

From: [REDACTED]
To: Laura McLennan <laura.mclennan@lacity.org>
Subject: CPRA request (CD11.2016.08.28.a)
Date: Sunday, August 28, 2016 6:01 PM
Size: 3 KB

Good evening, Laura.

I'd like to take a look at all CD11 records of any kind relating to the VBBID from July 1, 2013 through December 31, 2014.

I'd also like to look at all emails from January 1, 2014 through August 1, 2016 between anyone at CD11 and anyone not at CD11 that relate to the BID. Note that my previous request was for internal CD11 emails only. If there's overlap between this request and others you can either provide me with duplicates or not, whichever is most convenient for you.

Also, I'd like to look at all emails to/from/cc/bcc anyone at CD11 from August 1, 2016 through August 28, 2016 that relate to the VBBID. I know you gave me a few from August 1 and later and I realize that I've requested some specific ones from beyond August 1. This part of my request is meant to encompass all other emails in the possession of CD11 that relate to the BID. Please note that I'd like to see all attachments to all emails as well as the emails themselves.

In short, I'd like to see all emails relating to the BID from July 1, 2013 through August 28, 2016 that you haven't already given me. If it's easier to just supply them again that's fine too. Can you please make sure that in whatever format you supply these the BCC fields are visible?

Additionally, I read somewhere that your boss attended a meeting with the NABID section of the Clerk's office on February 3, 2015 to discuss the BID. I would like to see all records relating to this meeting and any other meetings between anyone at CD11 and anyone anywhere concerning the BID. You previously gave me notes from another meeting from January 2015 with NABID. Perhaps there are notes from other meetings?

Finally, I previously asked you for CD11 chat logs from gchat or GEECS or whatever the system is called. You didn't provide any but you also neither said that there weren't any nor that there were some but that you're claiming they're exempt. Can you tell me what's up with that?

thanks for your help,

[REDACTED]

CPRA request (CD11.2016.09.03.a)

From: [REDACTED]
To: Laura McLennan <laura.mclennan@lacity.org>
Subject: CPRA request (CD11.2016.09.03.a)
Date: Saturday, September 03, 2016 1:44 PM
Size: 1 KB

Dear Ms. McLennan,

I'd like to take a look at all emails between anyone at CD11 and any of Carl Lambert, Andy Layman, or Steve Heumann from January 1, 2014 through whenever you fulfill this request.

I'd also like to see any emails or logs of chats between people at CD11 and anyone at lacity.org that mention those three people. For this part of the request I think it would suffice to use both their full and their last names as search terms.

I'm sorry to say that I don't know what email addresses any of those three people use.

Thanks for your help,

[REDACTED]

CPRA request (CD11.2016.09.13.a)

From: [REDACTED]
To: Laura McLennan <laura.mclennan@lacity.org>
Subject: CPRA request (CD11.2016.09.13.a)
Date: Tuesday, September 13, 2016 9:53 AM
Size: 1 KB

Good morning, Laura.

I'd like a complete functional copy of CD11's website at www.11thdistrict.com. I see it's served by Apache on Ubuntu Linux, so probably a tar archive would be easiest to produce (your IT people will understand this). Please let me know how much data is involved and I will make arrangements to supply sufficiently capacious storage.

Also, I need this data to reconstruct a working copy of the website in order to preserve this important historical record. As you're aware, the robots.txt file presently in place on the site prevents the automatic archiving of the site. Were CD11 to modify that restriction to allow, at least, Archive.Org to archive the site, my request would be obviated and I would be happy to withdraw it.

I hope CD11 can consider doing this, not only to satisfy this request in the most efficient way possible, but also to preserve this vital part of the history of our City for the future.

Thanks for your help,

[REDACTED]

8.2 Exhibit 2 – September 9, 2016 – Chad Molnar’s response to August 22, 2016 CPRA request¹⁰

¹⁰Note that although this item is dated September 1, 2016, it wasn’t sent to me until September 9, 2016.



MIKE BONIN

City of Los Angeles
Councilmember, Eleventh District

September 1, 2016

[REDACTED]

SENT VIA EMAIL: [REDACTED]

Dear [REDACTED]

This office is in receipt of your email dated August 22, 2016 requesting "all issues of "Taylor's Weekly" for 2016 as well as any staff (including your boss) responses to them via email or chat.

Please be advised that the office finds this request to be overly broad and is requesting that you please narrow your search to a specific subject matter and/or timeframe.

Documents which pre-date the Councilmember's term in office, may be available from the City Archives. The City Archives is located in the C. Erwin Piper Technical Center at 555 Ramirez Street, Space 320, Los Angeles, CA 90012. You can make an appointment to visit the City Archives and inspect their records by contacting Todd Gaydowski, City Records Management Officer at (213) 485-8783 or tgaydowaki@clerk.lacity.org, or acting City Archivist, Jay Jones at (213) 485-3512 or jjones@clerk.lacity.org.

Please contact me at (213) 473-7011 if you have any questions. Thank you.

Regards,

A handwritten signature in black ink, appearing to read "Chad Molnar".

CHAD MOLNAR

Chief of Staff, Council District 11

Westchester Office

7166 W. Manchester Boulevard
Los Angeles, CA 90045
(310) 568-8772
(310) 410-3946 Fax

City Hall

200 N. Spring Street, Room 475
Los Angeles, CA 90012
(213) 473-0111
(213) 473-6926 Fax

West Los Angeles Office

1645 Corinth Avenue, Room 201
Los Angeles, CA 90025
(310) 575-8461
(310) 575-8305 Fax



8.3 Exhibit 3 – September 9, 2016 – Response to Chad Molnar’s request for clarification

Re: CPRA follow up (CD11.2016.08.22.a)

From: [REDACTED]
To: chad.molnar@lacity.org, Laura McLennan <laura.mclennan@lacity.org>
Subject: Re: CPRA follow up (CD11.2016.08.22.a)
Date: Friday, September 09, 2016 1:07 PM
Size: 3 KB

Dear all,

First, my request was limited to a specific timeframe, namely 2016.

Second, perhaps "all responses" is too broad. How about for emails you include:

- a) All issues of "Taylor's Weekly."
- b) All emails that have Re:*** in the subject line, where "****" stands for whatever subject lines "Taylor's Weekly" has been sent out under in 2016.

For chat logs, perhaps you can help me to effectively delimit my search by describing the format and likely search terms?

Thanks,

[REDACTED]

On Mon, Aug 22, 2016, at 01:37 PM, [REDACTED] wrote:

Dear Laura,

I'd like to take a look at all issues of "Taylor's Weekly" for 2016 as well as any staff (including your boss) responses to them via email or chat.

Thanks,

On Fri, Sep 9, 2016, at 12:58 PM, Laura McLennan wrote:

Please see attached letter.

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[image: Logo5-web.png]

Laura McLennan

Deputy Chief of Staff

Councilmember Mike Bonin

City of Los Angeles

213-473-7011 | www.11thdistrict.com

[image: Facebook Button.png] <<http://www.facebook.com/MikeBoninCD11>>

[image:

Twitter button.png] <<http://www.twitter.com/mikebonin>>

Sign Up for Mike's Email Updates <http://www.11thdistrict.com/sign_up>

<http://www.11thdistrict.com/sign_up>

Download the City of Los Angeles MyLA311 app for smartphones!

[image: Android app on Google Play] [image: Download the app on the Apple

8.4 Exhibit 4 – September 30, 2016 – CPRA requests status query

CPRA requests to CD11

From: [REDACTED]
To: Laura McLennan <laura.mclennan@lacity.org>, chad.molnar@lacity.org
Subject: CPRA requests to CD11
Date: Friday, September 30, 2016 10:15 AM
Size: 3 KB

Good morning, Chad, Laura,

It's been three weeks since you responded to any of my pending requests. At this point they are all seriously overdue. I would like to think that CD11's lack of response is inadvertent, although it's increasingly harder to assume that it is, rather than a reaction to any use I may have made of the small amount of material with which you did supply me before cutting off communications. In any case, I hope you can at least let me know when you plan to respond to my six outstanding requests which are past their respond-by dates:

CD11.2016.09.18.a -- Form 700s and gift journals

CD11.2016.09.13.a -- Copy of www.11thdistrict.com

CD11.2016.09.03.a -- Lambert, Layman, Heumann emails

CD11.2016.08.28.a -- CD11 records and emails related to VBBID

CD11.2016.08.27.a -- CD11's BID-related messaging about powers of private security

CD11.2016.08.22.a -- Taylor's weekly

If this is all just some kind of misunderstanding, then I hope you all can remedy it by getting the CPRA process back on track soon. After all, the law requires ***prompt*** access to records, and a main reason for that is exceedingly relevant here. These records relate to a time-sensitive process, and their political value will be greatly attenuated after the BID approval process has run its course.

I realize that your boss and your office are in favor of the Venice Beach BID, but you all are also the custodians of these public records on the public's behalf. To delay access to them to further political goals or for any reason whatsoever would be not only a violation of the public trust, but also a violation of the City Charter's requirement that City officials obey laws, potential violations of LAMC 49.5.5(A) and of the California Code of Civil Procedure section 526a, and a violation of the oath that your boss took on assuming office.

So anyway, I hope that's not what's going on, and I look forward to your prompt and complete responses to these requests.

8.5 Exhibit 5 – September 30, 2016 – Chad Molnar response to CPRA requests status query

Re: CPRA requests to CD11

From: Chad Molnar <chad.molnar@lacity.org>
To: [REDACTED]
Cc: Laura McLennan <laura.mclennan@lacity.org>
Subject: Re: CPRA requests to CD11
Date: Friday, September 30, 2016 10:45 AM
X-Delivered-To: [REDACTED]
Size: 19 KB

[REDACTED]

We have your requests, and we are working on them. You have a number of outstanding requests, and each additional one you submit requires us to devote an increasing portion of our staff resources to processing them. We also have a large number of CPRA requests from other sources in the queue as well. We have so many of them that in order to move all of these out the door in an expedited or even timely fashion we would need to take staff away from their jobs serving our constituents and devote them exclusively to processing these requests. That is not reasonable, and we don't believe it was ever the intent of CPRA to make our service to our constituents suffer.

That said, we are trying hard to process your requests as quickly as we can. We ask for your patience.

Thanks.

--

Logo5-web.png

Chad Molnar
Chief of Staff
Councilmember Mike Bonin
City of Los Angeles
310-483-6099 | www.11thdistrict.com

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[Sign Up for Mike's Email Updates](#)

Download the City of Los Angeles MyLA311 app for smartphones!

Android app on Google Play Download the app on the Apple store

MyLA311 links Angelenos with the services and information they need to enjoy their city, beautify their community and stay connected with their local government. With MyLA311, City of Los Angeles information and services are just a few taps away.

On Fri, Sep 30, 2016 at 10:15 AM, [REDACTED] wrote:

Good morning, Chad, Laura,

It's been three weeks since you responded to any of my pending requests. At this point they are all seriously overdue. I would like to think that CD11's lack of response is inadvertent, although it's increasingly harder to assume that it is, rather than a reaction to any use I may have made of the small amount of material with which you did supply me

8.6 Exhibit 6 – September 18, 2016 – CPRA request and Chad Molnar response

CPRA request (CD11.2016.09.18.a)

From: [REDACTED]
To: Laura McLennan <laura.mclennan@lacity.org>
Subject: CPRA request (CD11.2016.09.18.a)
Date: Sunday, September 18, 2016 4:39 PM
Size: 814 B

Good evening, Laura.

I'd like to take a look at copies of all form 700s and all form 60s filed by anyone at CD11 since July 1, 2013. I'd also like to look at copies of gift journals and other lists of gifts received or offered which have been kept by anyone at CD11 since that date.

Thanks again for all your help,

[REDACTED]



MIKE BONIN
City of Los Angeles
Councilmember, Eleventh District

September 30, 2016

[REDACTED]
Los Angeles, CA [REDACTED]

Sent via email [REDACTED]

Dear [REDACTED]

This letter is in response to your email received September 18, 2016 requesting permission to take a look at copies of all form 700s and all form 60s filed by anyone at CD11 since July 1, 2013. This office is not the custodian of these records. You can make this request to Lisa Ishimaru of the City Ethics Commission, lisa.ishimaru@lacity.org

Additionally, in this same email, you requested to look at copies of gift journals and other lists of gifts received or offered which have been kept by anyone at CD11 since July 1, 2013. As to that request, the office has conducted a search and there are 5 pages of relevant documents. You can make an appointment to review these files in the office or the documents can be sent to you at a cost of .10 per page.

Regards,

CHAD MOLNAR
Chief of Staff, Council District 11

Westchester Office
7166 W. Manchester Boulevard
Los Angeles, CA 90045
(310) 568-8772
(310) 410-3946 Fax

City Hall
200 N. Spring Street, Room 475
Los Angeles, CA 90012
(213) 473-7011
(213) 473-6926 Fax

West Los Angeles Office
1645 Corinth Avenue, Room 201
Los Angeles, CA 90025
(310) 575-8461
(310) 575-8305 Fax

