



CITY OF BEVERLY HILLS

455 NORTH REXFORD DRIVE • BEVERLY HILLS, CALIFORNIA 90210

John A. Mirisch, Mayor

August 8, 2019

The Honorable Bob Wieckowski
California State Senate, 10th District
State Capitol, Room 4085
Sacramento, CA 95814

Re: SB 518 (Wieckowski) Civil actions: settlement offers.

City of Beverly Hills – OPPOSE

Dear Senator Wieckowski,

On behalf of the City of Beverly Hills, I write to you in respectful **OPPOSITION** to your **SB 518**, which would eliminate the use of an offer of compromise, as defined by the Code of Civil Procedure (CCP) Section 998, in California Public Records Act (CPRA) request cases.

The CPRA was established to help ensure that the public has access to information regarding the conduct of local and state government agencies. This access allows for civilian oversight of government agencies and how they conduct the people's business. The CPRA also makes certain allowances for agencies and provides them with a variety of discretionary exemptions from the CPRA that are generally focused on things such as personnel records, investigative records, drafts, and material made confidential by other state and federal statutes. Under the CPRA a record may also be withheld if the benefits of doing so clearly outweigh the public interest in disclosing the record.

Currently, records requestors who believe that a public agency has withheld a record that is not subject to the various CPRA exemptions may sue the agency in order to obtain the record. There is also no "meet and confer" requirement where a requestor must first meet and try to work with an agency to resolve a dispute over any records that may have been withheld. Once a suit has been filed, should a court rule that an agency improperly withheld even just one record, the court is required to award costs and reasonable attorney fees to the plaintiff.

Under CCP Section 998, local jurisdictions can make a compromise offer to a records requestor in order to avoid excessive litigation and costs. This helps to encourage litigants to resolve their disputes earlier on in the process by penalizing parties that fail to accept reasonable pretrial settlement offers. However, parties who refuse a pretrial offer and then subsequently fail to obtain a more favorable judgment are penalized through a loss of prevailing party costs and are then required to pay the defendant's court costs.

SB 518 would prohibit the use of CCP Section 998 offers in CPRA cases. This would encourage costly litigation when an amicable and fair agreement could have been reached under the current law. Furthermore, this bill would place public agencies at a disadvantage in CPRA cases and incentivize plaintiff attorneys to bring CPRA cases against those local agencies. For these reasons, the City of Beverly Hills must respectfully **OPPOSE** your **SB 518**. Thank you for your consideration.

Sincerely,



John A. Mirisch
Mayor, City of Beverly Hills

cc: Members and Consultants, Assembly Judiciary Committee
The Honorable Ben Allen, 26th Senate District
The Honorable Richard Bloom, 50th Assembly District
Andrew K. Antwih, Shaw / Yoder / Antwih, Inc.