



SUNSHINE ORDINANCE TASK FORCE

Complaint Committee

CITY AND COUNTY OF SAN FRANCISCO

MINUTES

**Hearing Room 408
City Hall, 1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102-4689**

**May 28, 2019
5:30 PM**

Regular Meeting

Members: Rodman Martin (Chair), Fiona Hinze and Matthew Cate

1. CALL TO ORDER, ROLL CALL, AND AGENDA CHANGES

Chair Martin called the meeting to order at 5:32 p.m. On the call of the roll Chair Martin and Member Cate were noted present. Member Hinze was noted absent. A quorum was present.

There were no agenda changes.

2. Approval of the April 23, 2019, Complaint Committee meeting minutes.

Public Comment:

David Steinberg provided a correction in the April 23, 2019, Complaint Committee meeting minutes

No Action Taken.

3. Public Comment: Members of the public may address the Committee on matters that are within the Committee's jurisdiction but not on today's agenda.

Speakers:

None.

4. **File No. 18049: Hearing on the Status of the Order of Determination:** Complaint filed by Robert M. Smith against the Fine Arts Museums of San Francisco (FAMSF) for violating Administrative Code (Sunshine Ordinance), Section 67.21, by failing to respond to a request for public records in a timely and/or complete manner.

Robert M. Smith (Petitioner) provided a summary of the complaint and requested the Committee to find a violation.

Mr. Smith stated that the number of responsive documents the Museum indicated that they would provide shrank from 250,000 to 24,000 and that delivery would take place every two weeks and be completed by July 15, 2019. Mr. Smith asked the Committee that his two complaints be referred to the District Attorney. Mr. Smith provided information regarding unjustified redactions to documents. Mr. Smith stated that he has not received the index of redactions. Mr. Smith requested that the July 15, 2019, deadline for all documents to be received.

Melissa Powers, Fine Arts Museums, (Respondent), provided a summary of the department's position. Ms. Powers stated that it was not possible to provide 5,000 documents every two weeks as previously requested by Member Hyland. Ms. Powers stated that she has provided a detailed index of redactions. Ms. Powers stated that Mr. Smith can contact her if he has issues with the documents and/ redactions. Ms. Powers addressed Mr. Smith's concerns regarding the large number of documents originally thought needed to be produced. Ms. Powers stated that they have already produced over 14,000 documents to Mr. Smith and that just over 300 documents remain to be reviewed by the City Attorney's Office before they are sent to Mr. Smith.

A question and answer period occurred. The parties were provided an opportunity for rebuttals.

Action: Moved by Member Cate, seconded by Chair Martin, to continue the matter to the call of the chair.

The Committee indication the following:

- Refer the matter to the Compliance and Amendments Committee additional review of the Status of the Order of Determination
- Requested that the remaining documents be provided by July 15, 2019
- Request that the Respondent and/or SOTF Administrator confirm that the Index of Records has been provided to the Petitioner
- Requested that the Petitioner provide a list of issues regarding redactions

Public Comment:
None.

The motion PASSED by the following vote:

Ayes: 2 - Cate, Martin

Noes: 0 - None

Absent: 1 - Hinze

The Chair called File Nos. 19019, 19020, 19021 and 19022 together.

5. **File No. 19019:** Complaint filed by Javad Mirsaidi against David Steinberg Public Works for allegedly violating Administrative Code (Sunshine Ordinance), Section 67.21, by failing to respond to a public records request in a timely and/or complete manner.

See File No. 10922 for additional information.

6. **File No. 19020:** Complaint filed by Javad Mirsaidi against David Steinberg and Public Works for allegedly violating Administrative Code (Sunshine Ordinance), Section 67.21, by failing to respond to a public records request in a timely and/or complete manner.

See File No. 10922 for additional information.

7. **File No. 19021:** Complaint filed by Javad Mirsaidi against David Steinberg and Public Works for allegedly violating Administrative Code (Sunshine Ordinance), Section 67.21, by failing to respond to a public records request in a timely and/or complete manner.

See File No. 10922 for additional information.

8. **File No. 19022:** Complaint filed by Javad Mirsaidi against David Steinberg and Public Works for allegedly violating Administrative Code (Sunshine Ordinance), Section 67.21, by failing to respond to a public records request in a timely and/or complete manner.

Javad Mirsaidi (Petitioner) provided a summary of the complaint and requested the Committee to find a violation. Mr. Mirsaidi stated that the City Attorney must act on the behalf of the people and that the City Attorney has done the opposite by slowing the process of responding to public records request. Mr. Mirsaidi inquired as to what the impact of litigation has on his request. Mr. Mirsaidi stated that the Office of the City Attorney requested that Public Works covert the format of the electronic records which is delaying the release of public records in a timely manner. Mr. Mirsaidi stated that there was no index of redactions to accompany the documents.

John Knadler spoke on behalf of the Petitioner and stated that he did not understand why the City Attorney was not able to review the documents in their original format.

Whitney Lay spoke on behalf of the Petitioner and stated he wanted to know the nature and clarification of the litigation hold.

David Steinberg, Public Works (Respondent), provided a summary of the department's position. Mr. Steinberg stated that the litigation hold refers a request to preserve records due to possible litigation received from the City Attorney. Mr. Steinberg stated that due

to the litigation hold request all records were referred to the City Attorney, in their request format, for review prior to Public Works redactions and subsequent release.

Erica Crane, City Attorney's Office, provided a summary of the department's position. Ms. Crane provided information about the process of litigation holds in the City Attorney's Office used in this case regarding review of records where potential litigation exists. Ms. Crane stated that the role of the City Attorney is to review and flag potential attorney/client issues.

A question and answer period occurred. The parties were provided an opportunity for rebuttals. Chair Martin requested that the City Attorney's office be present at the next SOTF hearing to be scheduled.

Action: Moved by Cate, seconded by Chair Martin to find that the SOTF has jurisdiction, find that the requested records are public and to refer the matter to the SOTF for hearing.

Public Comment:

John Knadler requested that the City Attorney provide better answers regarding how much time has been spent reviewing documents and the number remaining to be reviewed.

The motion PASSED by the following vote:

Ayes: 2 - Cate, Martin

Noes: 0 - None

Absent: 1 – Hinze

9. **ADJOURNMENT**

There being no further business the meeting was adjourned at 6:35 p.m.

APPROVED: 6/25/19

Complaint Committee

Sunshine Ordinance Task Force

N.B. The Minutes of this meeting set forth all actions taken by the Sunshine Ordinance Task Force on the matters stated, but not necessarily in the chronological sequence in which the matters were taken up.