

**SUNSHINE ORDINANCE
TASK FORCE**



**City Hall
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco 94102-4689
Tel. No. (415) 554-7724
Fax No. 415) 554-7854
TDD/TTY No. (415) 554-5227**

**ORDER OF DETERMINATION
July 3, 2009**

DATE THE DECISION ISSUED
June 23, 2009

PAUL WESTON v. THE DEPARTMENT OF HUMAN SERVICES (09024)

THE COMPLAINANT ALLEGES THE FOLLOWING

On May 10, 2009, Complainant Paul Weston made an Immediate Disclosure Request ("IDR") with the Department of Human Services ("DHS"). Paul Weston in his IDR requested the following:

- a. The most recent Statement of Service and Invoice for 150 Otis;
- b. The most recent Statement of Service and Invoice for the 150 Otis Winter Shelter;
- c. The most recent Statement of Service and Invoice of the St. Anthony foundation for their Dining Hall;
- d. The application and/or resume of Alonso Bowlegs (St. Vincent de Paul employee);
- e. The application and/or resume of Wayne Garnett (St. Vincent de Paul employee) and
- f. The application and/or résumé of Lessy Benedith (St. Vincent de Paul employee).

Since May 10, 2009, was a Sunday the deadline for compliance was the end of the business day on Tuesday May 12, 2009.

THE RESPONDENT AGENCY ALLEGES THE FOLLOWING

On May 11, 2009, Pamela Tebo of the office of the Executive Director of DHS responded to the IDR and stated that she needed clarification on what the term "most recent Statement of Service" means.

She also stated that she has requested the recent invoices for 150 Otis (Drop In) and 150 Otis (Shelter) and will forward once received. She stated that DHS does not fund St. Anthony's Dining Room and that DHS does not have access to their non-profit partners' personnel files.

On May 12, 2009, Pamela Tebo e-mailed Paul Weston and stated that the document was ready for pick up.

On May 13, 2009, Paul Weston went to DHS to pick up the documents and became upset when he determined that all of the documents were not available, including page B of the Statement of Service and Invoice. Soon afterwards, the second page of the Statement of Service and Invoice was made available to Paul Weston.

COMPLAINT FILED

On May 14, 2009, Paul Weston filed a complaint against DHS alleging violations of the Sunshine Ordinance.

HEARING ON THE COMPLAINT

On June 23, 2009, Complainant Paul Weston appeared before the Task Force and presented his claim. Respondent Agency was not represented.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Based on the testimony and evidence presented, the Task Force finds that the department failed to respond to an IDR for the complete Statement of Service and Invoice that was readily available.

Regarding the requests for resumes, the Task Force found that if the records were those of city employees or were otherwise in the City's possession, the documents would be disclosable. In this case, as the records are not those of city employees, but employees of a non-profit that holds a City contract and the records are not in the possession of the City, they are not public records subject to disclosure.

Moreover, while St. Vincent de Paul is subject to Chapter 12L of the Administration Code, the resumes of the non-profit's employees are not required to be disclosed under 12L.

DECISION AND ORDER OF DETERMINATION

The Task Force found that the department violated Sec. 67.25 (a) of the Ordinance for failure to fully respond to an Immediate Disclosure Request. As the missing document was provided, although 4 days after the IDR was made, no referral to the Compliance and Amendment or other Task Force Committee is necessary.

The Task Force hopes and expects that the Department of Human Services will avoid any delay in meeting its responsibilities under the Ordinance in the future.

This Order of Determination was adopted by the Sunshine Ordinance Task Force on June 23, 2009, by the following vote: (Craven-Green / Knee)

Ayes: Craven-Green, Knee, Cauthen, Washburn, Knoebber, Johnson, Chan,
Goldman, Chu
Excused: Williams

A handwritten signature in black ink that reads "Kristin M. Chu". The signature is written in a cursive, flowing style.

Kristin Murphy Chu, Chair
Sunshine Ordinance Task Force

c: Ernie Llorente, Deputy City Attorney
Paul Weston, complainant
Pamela Tebo, respondent