

**SUNSHINE ORDINANCE
TASK FORCE**



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ORDER OF DETERMINATION

April 7, 2009

DATE THE DECISION ISSUED

March 24, 2009

*VINCE COURTNEY(LABORERS UNION LOCAL 261) v. SAN FRANCISCO OFFICE
OF LABOR STANDARDS ENFORCEMENT (08057)*

FACTS OF THE CASE

On November 14, 2008, Vince Courtney while representing Laborer's Union Local 261 made an emergency 24 hour request (Sunshine Ordinance) on the Office of Labor Standards Enforcement for all documents and any other opinion, letter, records, case study, agreement, or any other "thing" that CAO Donna Levitt relied on when she made her determination that the installation of electrical conduit is now required to be done at the Electricians' wage rate despite the "fact" that such work is covered by the Agreement between the electrical workers union and the City. Vince Courtney claims that he did not receive a timely or sufficient response to the IDR from the Office of Labor Standards Enforcement.

COMPLAINT FILED

On December 15, 2008, Complainant filed a complaint with the Sunshine Ordinance Task Force Administrator alleging that OLSE had violated Sections 67.21(b) and 67.25 of the Sunshine Ordinance, and Section 6253(b) of the California Public Records Act ("CPRA") by its alleged failure to provide the requested documents.

HEARING ON THE COMPLAINT

On March 24, 2009, Complainant Vince Courtney appeared before the Task Force and presented his claim. Respondent Agency was represented by Donna Levitt, who presented the Office of Labor Standards Enforcement's defense.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Based on the testimony and evidence presented, the Task Force found that an Immediate Disclosure Request in this instance was inappropriate because of the number of documents and time that was needed to produce the records were significant. The Task Force also did not find a violation of the Ordinance, because all

responsive documents that existed were provided. Neither party alleged there were responsive unproduced documents. The Task Force cautioned OSLE that in the future, the agency should give requestors the benefit of the doubt and where a request looks like a section 67.25 "immediate disclosure request" even though the technical requirements haven't been met, the agency should treat the request as an IDR.

DECISION AND ORDER OF DETERMINATION

The Task Force finds that the agency did not violate the Sunshine Ordinance.

This Order of Determination was adopted by the Sunshine Ordinance Task Force on March 24, 2009, by the following vote: (Craven / Knoebber)

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



Kristin Murphy Chu, Chair
Sunshine Ordinance Task Force

c: Rosa Sanchez, Deputy City Attorney
Ernie Llorente, Deputy City Attorney
Vince Courtney, Complainant
Donna Levitt, Respondent