

**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

February 17, 2010

DATE THE DECISION ISSUED

January 26, 2010

KENNETH KINNARD v. HUMAN RIGHTS COMMISSION (09079)

FACTS OF THE CASE

Complainant Kenneth Kinnard alleged that on October 26, 2009, he sent an Immediate Disclosure Request (IDR) to the Human Rights Commission (HRC) requesting all documents related to a report mentioned in the January 13, 2005, draft minutes of the HRC, which stated that P&K Trucking "was no longer operating as a trucker, but rather providing brokering services for large contracts." Mr. Kinnard further alleged that HRC had not responded to his request.

COMPLAINT FILED

On November 5, 2009, Mr. Kinnard filed a complaint with the Task Force alleging a violation of Sunshine Ordinance Section 67.25.

HEARING ON THE COMPLAINT

On January 26, 2010, Complainant Kenneth Kinnard presented his case before the Task Force. Respondent Agency was represented by Melinda Kanios of the Human Rights Commission.

Mr. Kinnard told the Task Force that he wanted the HRC to show him proof regarding the allegations made about P&K Trucking in the January 13, 2005, HRC meeting, but had been told by HRC that no such documents existed. He asked the HRC to remove the allegations mentioned in minutes to which the HRC said a motion was needed to change the minutes. He said he made another Immediate Disclosure Request on January 6, 2010, to the HRC regarding another allegation and has not received a response.

Ms. Kanios said Mr. Kinnard has made several requests through the years and the department has always been responsive. She said his requests for documents have been duplicative and that was why she believed that all the information requested by Mr. Kinnard had been produced. She said she could not produce information that she did not have. Ms. Kanios also explained that the comments made in the January 2005 HRC meeting came as the result of an "arbitration" conducted by Harry Epstein and it was possible that Mr. Epstein might still have copies of the underlying documents, even if HRC did not.

ORDER OF DETERMINATION**FINDINGS OF FACT AND CONCLUSIONS OF LAW**

Upon questioning, Ms. Kanios admitted that she had failed to respond to the IDR in a timely fashion. It also became clear that Ms. Kanios had looked for documents responsive to Mr. Kinnard's request in only one location, but that there were other potential locations where responsive documents might exist. Ms. Kanios committed to looking in each of the other locations where responsive documents might exist. The Task Force also noted that while duplicative Sunshine Requests must be responded to, HRC could avoid expending more time on searching for information in response to duplicative requests by keeping a file of documents produced to Mr. Kinnard's past requests.

Based on the testimony and evidence presented the Task Force asked Ms. Kanios to work with Mr. Kinnard to see if the documentation supporting the claim that P&K Trucking "was no longer operating as a trucker, but rather providing brokering services for large contracts" was stored elsewhere and also to seek out the arbitrator of the case to see what documents he might still have.

DECISION AND ORDER OF DETERMINATION

The Task Force finds that the agency violated Section(s) 67.25 for failure to comply with an Immediate Disclosure Request and 67.21 for failure to provide responsive documents. The Task Force recognizes and appreciates the HRC's commitment to continue to work with Mr. Kinnard to get him the documents as soon as possible. The HRC is to provide a status report to the Compliance and Amendments Committee on March 9, 2010.

This Order of Determination was adopted by the Sunshine Ordinance Task Force on January 26, 2010, by the following vote: (Craven-Green / Goldman)
Ayes: Cauthen, Manneh, Washburn, Johnson, Chan, Goldman, Williams, Craven-Green



Richard A. Knee, Chair
Sunshine Ordinance Task Force

c: Jerry Threet, Deputy City Attorney
Kenneth Kinnard, complainant
Melinda Kanios, respondent