

**SUNSHINE ORDINANCE
TASK FORCE**



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ORDER OF DETERMINATION

June 1, 2010

DATE THE DECISION ISSUED

April 27, 2010

ELLEN TSANG V PLANNING DEPARTMENT (10012)

FACTS OF THE CASE

Complainant Ellen Tsang alleges that the San Francisco Planning Department ("Planning") failed to disclose documents and records relating to the complaints listed as #5 in an email dated February 12, 2010, which pertained to a property at 769 North Point, San Francisco. Ms. Tsang further requested the dates of the complaints, where the complaints originated, a description of the complaint, etc. Ms. Tsang made this request on March 24, 2010, via email and addressed to Agnes Lau.

COMPLAINT FILED

On March 29, 2010, Ms. Tsang filed a Sunshine Complaint against Planning.

HEARING ON THE COMPLAINT

On April 27, 2010, Ms. Tsang appeared before the Task Force and presented her claim. The respondent agency was not represented and no one in the audience presented facts and evidence in support of the respondent.

Ms. Tsang said that an email from Ms. Lau to the Building Department on February 12, 2010, stated that the department had received a few complaints for violation of the building code. The email was in reference to a property at 769 North Point, which housed an illegal oversized storage shed in the rear yard. Ms. Lau's correspondence stated that a variance was denied by Planning as the shed was too large and required a reduction in size. Ms. Tsang stated that on March 24, 2010, she submitted an Immediate Disclosure Request to Ms. Lau, requesting receipt of the documents electronically via email. Neither Ms. Lau nor anyone else in Planning responded to her request. Ms. Tsang further stated that Planning did not respond to her Immediate Disclosure Request and did not respond within the required five business days of receiving a complaint.

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

Based on the testimony and evidence presented, the Task Force finds that Planning clearly violated the Ordinance and that there was some dispute on whether all requested documents had been produced.

DECISION AND ORDER OF DETERMINATION

The Task Force finds that the Respondent violated Section(s) 67.21(e) and 67.25 of the Sunshine Ordinance for failure to respond to an Immediate Disclosure Request, for failure to produce the requested records within the required time, and for failure to send a knowledgeable representative to discuss the case with the Task Force. The Respondent shall release the records requested within 5 business days after receiving this Order and shall appear before the Task Force on June 22, 2010.

This Order of Determination was adopted by the Sunshine Ordinance Task Force on April 27, 2010, by the following vote: (Craven-Green / Goldman)
Ayes: Craven-Green, Washburn, Knoebber, Wolfe, Goldman, Williams, Knee
Excused: Cauthen, Manneh, Johnson, Chan



Richard A. Knee, Chair
Sunshine Ordinance Task Force

c: Jerry Threet, Deputy City Attorney
Ellen Tsang, Complainant
Brian Smith, Jonas Ionin, Respondents