

**SUNSHINE ORDINANCE
TASK FORCE**



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ORDER OF DETERMINATION

June 14, 2010

DATE THE DECISION ISSUED

May 25, 2010

NICK PASQUARIELLO V BAY AREA VIDEO COALITION (10013)

FACTS OF THE CASE

Nick Pasquariello ("Complainant") alleges that he made an Immediate Disclosure Request ("IDR") to Ken Ikeda at the Bay Area Video Coalition (BAVC) for all contracts, grantee bids, responses to Requests for Proposals ("RFPs") and all other records of communication between the City and persons or entities seeking contracts, and that as of April 5, 2010, he had received no response.

COMPLAINT FILED

On April 5, 2010, Complainant filed this Sunshine Complaint against "the Department of Technology (Bay Area Video Coalition)"

HEARING ON THE COMPLAINT

On May 25, 2010, Mr. Pasquariello presented his case before the Task Force. BAVC was represented by Krisana Hodges. Barry Fraser, an analyst with the Department of Technology, also was present.

Mr. Pasquariello told the Task Force that he appeared before the Task Force three months ago because BAVC failed to respond to his letter asking it to explain its policy of scanning driver's licenses. BAVC, he said, receives public money and the residents of the City and County of San Francisco have the right to know how the organization is spending it. Steve Zeltzer said he also had requested documents from BAVC and had not received a response. BAVC should be subject to rules that other contractors with the City have to follow, he said. This is especially important when there is a decline in the number of users of the station. He said there were 130 producers before and now only 50 people make use of it. He wanted to know where the money was going if fewer people were making use of it. A member of the public claimed he saw numerous items being given away when the station closed in late 2009. The public has the right to know what was given away, he said. A female speaker said Mr. Pasquariello needs to ascertain for himself how the money was being spent and if the services are being provided in compliance with the contract it has

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signed with the City.

Ms. Hodges said the contract with the City stipulates that only the contract and its application documents are subject to disclosure under Section 67.24(e). There are no other provisions, she said. The document that Mr. Pasquariello wants was available online through the Department of Technology. Administrative Code 12L, she said, calls for open board meetings, which it holds, and that there are no complaints against BAVC for not holding open meetings as required. The other requirements mentioned in 12L have not been requested. She said tried to contact Mr. Pasquariello several times but that he has not responded.

Mr. Fraser said the department received one faxed request for documents on December 16, 2009, and the department responded to it the next day. Since then, he said, the department has not received anything from Mr. Pasquariello. He offered to help the Task Force resolve the issue and said he was also prepared to talk to Mr. Pasquariello to see what additional documents he wanted.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Based on the testimony and evidence presented, the Task Force finds that BAVC violated the Ordinance.

DECISION AND ORDER OF DETERMINATION

The Task Force finds that BAVC violated Section 67.21(b) for untimely response and Section 67.26 for withholding. BAVC shall release the records requested within five business days of the issuance of this Order and appear before the Task Force on June 22, 2010.

This Order of Determination was adopted by the Sunshine Ordinance Task Force on May 25, 2010, by the following vote: (Cauthen / Washburn)

Ayes: Cauthen, Washburn, Wolfe, Chan, Johnson, Williams

Noes: Snyder, Knoebber, Knee



Richard A. Knee, Chair
Sunshine Ordinance Task Force

c: Jerry Threet, Deputy City Attorney
Nick Pasquariello, Complainant
Krisana Hodges & Barry Fraser, Respondents