

**SUNSHINE ORDINANCE
TASK FORCE**



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June 17, 2011

Honorable Edwin Lee, Mayor
Honorable Members of the Board of Supervisors
City and County of San Francisco

Dear Ladies and Gentlemen:

Over the past several months, the Sunshine Ordinance Task Force has been alerted to numerous instances in which Arts Commission staff personnel have withheld disclosable public information, oral and/or documentary, in violation of the City Sunshine Ordinance and the California Public Records Act.

In addition, the Commission or its staff has repeatedly failed to send a knowledgeable representative to meetings at which the Task Force or one of its committees has dealt with citizens' allegations of said violations, such failures also constituting a violation of the Ordinance.

The violations include:

1. Failure to respond adequately, as required in Sunshine Ordinance Sections 67.21 and 67.26, to a public records request for documents and records showing how much salary and benefits were paid to Howard Lazar, Evelyn Russell and other Commission employees from \$118,759 in salaries and \$42,820 in benefits reported to the Controller (presumably in connection with the setting of street artists' permit fees) (Task Force Case No. 10069).
2. Failure to respond adequately to a public records request for copies of all documents and/or records used to determine that the Commission's Director of Programs, Jill Manton, the Commission's Director of Cultural Affairs, Luis Cancel, spent 5 percent of their time to manage and/or supervise the Street Artists Program during the 2009-10 fiscal year (Task Force Case No. 10074).

Specifically, the Commission staff violated Sunshine Ordinance Sections 67.21(c) by not assisting the requestor in identifying the existence, form and nature of the requested information or record; 67.21(e) by not sending a representative knowledgeable on the matter to the Task Force hearing on February 22, 2011; 67.22 by not providing easily

obtainable oral information on how the 5 percent figure was determined; and 67.27(a) by not providing written statutory- or case-law justification for withholding the requested information.

3. Most recently: Failure to disclose to a member of the public the reason(s) for a performance-based increase in compensation increase in compensation for a staff member, and to send a knowledgeable representative to the Task Force hearing on the matter (Task Force Case No. 11023).

Specifically, the Commission staff violated Sunshine Ordinance Sections 67.21(e) by not sending a representative knowledgeable on the matter to the Task Force hearing on May 18, 2011, and 67.24(c)(6) by not disclosing the reason for any performance-based increase in compensation for a staff member.

Regarding the attendance of knowledgeable representatives at Task Force and committee hearings, per Sunshine Ordinance 67.21(e), the Task Force recognizes that extenuating and mitigating circumstances might on occasion arise. In these particular matters, however, the absence of knowledgeable representation on the Commission staff's part is repeated, and shows a callous disregard for the public's right to know and for the Task Force's exercise of due process.

Particularly as deliberations on the City's 2011-12 budget are in progress, every City entity must be held accountable for the amount of money it is requesting, its intended use of that money, and its expenditures during the current and previous fiscal years.

In that light and considering the unwillingness of the Arts Commission staff to provide detailed, disclosable information upon request, the Task Force strongly urges the Board of Supervisors to give extra careful scrutiny to the Commission's spending policies and practices, and to its requested budget for the fiscal year forthcoming. The Task Force also urges the Board of Supervisors to raise concerns with the Commission regarding the Commission staff personnel's repeated flouting of their obligations under the Sunshine Ordinance. Thank you for your attention.

Sincerely,



Richard A. Knee
Sunshine Ordinance Task Force Chair

Cc: Arts Commission