

**SUNSHINE ORDINANCE
TASK FORCE**



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San Francisco Ethics Commission
25 Van Ness Avenue, Suite 220
San Francisco CA 94102

Referral of Sunshine Ordinance Complaint #10013, Nick Pasquariello v. Department of Technology

This referral stems from the failure of Bay Area Video Coalition (BAVC) to comply with an Order of Determination that the Sunshine Ordinance Task Force issued on May 25, 2010, wherein BAVC was ordered to provide a copy of the contract it had with the Department of Technology (DT). The referral is made pursuant to Sunshine Ordinance Section 67.30(c).

Background

Nick Pasquariello said he made an Immediate Disclosure Request (IDR) to Ken Ikeda at BAVC on March 25, 2010, and that as of April 5, 2010, the day the complaint was filed, he had not received a response.

Task Force Hearing and Order of Determination

Mr. Pasquariello said at his hearing on May 25, 2010, that he had asked for copies of 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. In particular, he said, he wanted information regarding BAVC's policy of scanning driver's licenses. BAVC was represented at the hearing by Krisana Hodges. Mr. Ikeda, to whom the IDR was made, was not present. Ms. Hodges said the information Mr. Pasquariello sought was available at the department's website. That claim was supported by Barry Fraser, an analyst with the Department of Technology who also said he would speak to the complainant to satisfy his demands. The Task Force then found that BAVC had violated Section 67.21(b) for untimely response and Section 67.26 for improper withholding. BAVC was ordered to release the requested records and report back to the Task Force.

Hearing on the Issue of Compliance

The Compliance and Amendments Committee met on August 10 and was told that BAVC had not yet provided Mr. Pasquariello with the document he sought. Ms. Hodges again argued that the document was on the department's website and had directed Mr. Pasquariello. Moreover, she said, the department had made a printout and given it to Mr. Pasquariello. The Committee found that the Order of Determination was not met and referred it back to the full Task Force with a recommendation that it be referred to the Ethics Commission for willful violation of the Ordinance.

Task Force Referral

The Task Force met on July 27, 2010, and was again told that BAVC had not produced the document. Ms. Hodges again said the 100-page plus document was available on line and that demanding that the non-profit bear unnecessary costs was a burden to BAVC. She also added that BAVC did not have its own copy of the agreement but relied on the scanned version of the contract which was in the department's possession. The Task Force then advised her to copy the scanned version to a CD and provide it to Mr. Pasquariell. It was also noted that Mr. Ikeda was no in attendance.

Task Force members then voted to send the matter to the Ethics Commission for Mr. Ikeda's willful failure to comply with the Order of Determination. This request and referral are made under Section 67.30(c) of the Sunshine Ordinance whereby the Task Force shall make referrals to a municipal office with enforcement power under this Ordinance whenever it concludes that any person has violated any provision of this Ordinance.

Supporting Materials

The enclosed CD contains material in reference to this referral including (1) the May 25, 2010, Task Force Order of Determination; (2) documents regarding this complaint that have been submitted to the Sunshine Ordinance Task Force; (3) the minutes and audio track of the Compliance and Amendments Committee meeting on August 10, 2010, and (4) the minutes and audio tracks of the from the Task Force meetings on May 25, 2010, and July 27, 2010.

If you need any further information, please contact me or the Task Force Administrator at (415) 554-7724.



Richard A. Knee, Chair
Sunshine Ordinance Task Force



David Snyder, Member, Seat #1*
Sunshine Ordinance Task Force

cc: Jerry Threet, Deputy City Attorney
Jana Clark, Deputy City Attorney
Nick Pasquariello, Complainant
Ken Ikeda, Respondent
Barry Fraser, Respondent
Krisana Hodges, Respondent

*Seat #1 on the Task Force is designated for an attorney nominated by the Society of Professional Journalists, Northern California Chapter.