

Date: Jan. 10, 2012

Item No. 4  
File No. 11058

**SUNSHINE ORDINANCE TASK FORCE**  
**Compliance and Amendments Committee**  
**AGENDA PACKET CONTENTS LIST\***

- Nick Pasquariello v Film Commission**
- 
- 
- 
- 
- 
- 
- 
- 
- 
- 

Completed by: Chris Rustom

Date: Jan. 6, 2012

**\*This list reflects the explanatory documents provided**

~ Late Agenda Items (documents received too late for distribution to the Task Force Members)

\*\* The document this form replaces exceeds 25 pages and will therefore not be copied for the packet. The original document is in the file kept by the Administrator, and may be viewed in its entirety by the Task Force, or any member of the public upon request at City Hall, Room 244.



DENNIS J. HERRERA  
City Attorney

JERRY THREET  
Deputy City Attorney

Direct Dial: (415) 554-3914  
Email: jerry.threet@sfgov.org

**MEMORANDUM**

TO: Sunshine Ordinance Task Force  
FROM: Jerry Threet  
Deputy City Attorney  
DATE: September 21, 2011  
RE: *Nick Pasquariello v. Film Commission (11058)*

**COMPLAINT**

**THE COMPLAINANT ALLEGES THE FOLLOWING:**

Complainant Nick Pasquariello ("Complainant") alleges that the San Francisco Film Commission (the "Commission") failed to provide public records in response to his public records request, made on August 4, 2011 and amended on August 6, 2011, for various categories of information regarding TV spots and commercials filmed in the City during 2010 and 2011.

**COMPLAINANT FILES COMPLAINT:**

On August 16, 2011, Complainant filed this complaint against the Commission.

**JURISDICTION:**

The Commission is a City department subject to the provisions of the Sunshine Ordinance. The Department has not contested jurisdiction.

**APPLICABLE STATUTORY SECTION(S):**

- Section 67.21 governs the process for gaining access to public records.
- Section 67.25 governs the immediacy of response.
- Section 67.26 governs the withholding of records.
- Section 67.27 governs the written justifications for withholding of records.

**APPLICABLE CASE LAW:**

None

**ISSUES TO BE DETERMINED**

**Contested/Uncontested Facts:** Complainant alleges that he made a public records request on August 4, 2011 to the Commission, and amended it August 6, 2011. His request was for "the following public information from [the Commission's] permit files for all TV spots and commercials shot in San Francisco for the period August 1, 2010 up to and including August 1, 2011[:] [t]he name [addresses, [ ] phone numbers and email addresses] of the production company[:] [t]he name of the person who filed the permit[:] [t]he number of days of the shoots[:] [t]he dates of the shoots. Also [ ] the gross aggregate count for the number of shooting days for

**MEMORANDUM**

TO: Sunshine Ordinance Task Force  
DATE: September 21, 2011  
PAGE: 2  
RE: *Nick Pasquariello v. Film Commission (11058)*

---

all TV spot commercials for the [periods] August 1, 2010 through August 1, 2011 and August 1, 2009 through August 1, 2010."

As of the time this memorandum was drafted, no response to the complaint from the Commission had been provided to me.

**QUESTIONS THAT MIGHT ASSIST IN DETERMINING FACTS:**

- Did the Commission respond to the records request?
- If so, when did it respond and how?
- Were any records provided in response to the IDR?
- Is the information requested by Complainant available in documentary form or would responding require the Commission to compile the information from other sources or created new documents?
- Were any responsive records withheld?
- If so, was withholding held to a minimum?
- If so, was a written justification for withholding provided to Complainant that is consistent with the Ordinance?

**LEGAL ISSUES/LEGAL DETERMINATIONS:**

- Has the Commission timely responded to the public information request?
- Did the Commission justify any withholding in accordance with the requirements of the Ordinance?
- Are the Commission's justifications for withholding, if any, reasons allowed by the Ordinance?

**CONCLUSION**

THE TASK FORCE FINDS THE FOLLOWING FACTS TO BE TRUE:

THE TASK FORCE FINDS THE ALLEGED VIOLATIONS TO BE **TRUE OR NOT TRUE.**

## MEMORANDUM

TO: Sunshine Ordinance Task Force  
DATE: September 21, 2011  
PAGE: 3  
RE: *Nick Pasquariello v. Film Commission (11058)*

---

**CHAPTER 67, SAN FRANCISCO ADMINISTRATIVE CODE (SUNSHINE ORDINANCE)****SEC. 67.21. PROCESS FOR GAINING ACCESS TO PUBLIC RECORDS; ADMINISTRATIVE APPEALS.**

(b) A custodian of a public record shall, as soon as possible and within ten days following receipt of a request for inspection or copy of a public record, comply with such request. Such request may be delivered to the office of the custodian by the requester orally or in writing by fax, postal delivery, or e-mail. If the custodian believes the record or information requested is not a public record or is exempt, the custodian shall justify withholding any record by demonstrating, in writing as soon as possible and within ten days following receipt of a request, that the record in question is exempt under express provisions of this ordinance.

...

**SEC. 67.25. IMMEDIACY OF RESPONSE.**

- (a) Notwithstanding the 10-day period for response to a request permitted in Government Code Section 6256 and in this Article, a written request for information described in any category of non-exempt public information shall be satisfied no later than the close of business on the day following the day of the request. This deadline shall apply only if the words "Immediate Disclosure Request" are placed across the top of the request and on the envelope, subject line, or cover sheet in which the request is transmitted. Maximum deadlines provided in this article are appropriate for more extensive or demanding requests, but shall not be used to delay fulfilling a simple, routine or otherwise readily answerable request.
- (b) If the voluminous nature of the information requested, its location in a remote storage facility or the need to consult with another interested department warrants an extension of 10 days as provided in Government Code Section 6456.1, the requester shall be notified as required by the close of business on the business day following the request.
- (c) The person seeking the information need not state his or her reason for making the request or the use to which the information will be put, and requesters shall not be routinely asked to make such a disclosure. Where a record being requested contains information most of which is exempt from disclosure under the California Public Records Act and this article, however, the City Attorney or custodian of the record may inform the requester of the nature and extent of the non-exempt information and inquire as to the requester's purpose for seeking it, in order to suggest alternative sources for the information which may involve less redaction or to otherwise prepare a response to the request.
- (d) Notwithstanding any provisions of California Law or this ordinance, in response to a request for information describing any category of non-exempt public information, when so requested, the City and County shall produce any and all responsive public records as soon as reasonably possible on an incremental or "rolling" basis such that responsive records are produced as soon as possible by the end of the same business day that they are reviewed and collected. This section is intended to prohibit the withholding of public records that are responsive to a records request until all potentially responsive documents have been reviewed and collected. Failure to comply with this provision is a violation of this article.

**MEMORANDUM**

TO: Sunshine Ordinance Task Force  
DATE: September 21, 2011  
PAGE: 4  
RE: *Nick Pasquariello v. Film Commission (11058)*

---

**SEC. 67.26. WITHHOLDING KEPT TO A MINIMUM.**

No record shall be withheld from disclosure in its entirety unless all information contained in it is exempt from disclosure under express provisions of the California Public Records Act or of some other statute. Information that is exempt from disclosure shall be masked, deleted or otherwise segregated in order that the nonexempt portion of a requested record may be released, and keyed by footnote or other clear reference to the appropriate justification for withholding required by section 67.27 of this article. This work shall be done personally by the attorney or other staff member conducting the exemption review. The work of responding to a public-records request and preparing documents for disclosure shall be considered part of the regular work duties of any city employee, and no fee shall be charged to the requester to cover the personnel costs of responding to a records request.

**SEC. 67.27. JUSTIFICATION OF WITHHOLDING.**

Any withholding of information shall be justified, in writing, as follows:

- (a) A withholding under a specific permissive exemption in the California Public Records Act, or elsewhere, which permissive exemption is not forbidden to be asserted by this ordinance, shall cite that authority.
- (b) A withholding on the basis that disclosure is prohibited by law shall cite the specific statutory authority in the Public Records Act or elsewhere.
- (c) A withholding on the basis that disclosure would incur civil or criminal liability shall cite any specific statutory or case law, or any other public agency's litigation experience, supporting that position.
- (d) When a record being requested contains information, most of which is exempt from disclosure under the California Public Records Act and this Article, the custodian shall inform the requester of the nature and extent of the nonexempt information and suggest alternative sources for the information requested, if available.

**CAL. PUBLIC RECORDS ACT (GOVT. CODE §§ 6250, ET SEQ.)****SECTION 6253**

- (a) Public records are open to inspection at all times during the office hours of the state or local agency and every person has a right to inspect any public record, except as hereafter provided. Any reasonably segregable portion of a record shall be available for inspection by any person requesting the record after deletion of the portions that are exempted by law.
- (b) Except with respect to public records exempt from disclosure by express provisions of law, each state or local agency, upon a request for a copy of records that reasonably describes an identifiable record or records, shall make the records promptly available to any person upon payment of fees covering direct costs of duplication, or a statutory fee if applicable. Upon request, an exact copy shall be provided unless impracticable to do so.
- (c) Each agency, upon a request for a copy of records, shall, within 10 days from receipt of the request, determine whether the request, in whole or in part, seeks copies of disclosable public records in the possession of the agency and shall promptly notify the person making the request of the determination and the reasons therefor. In unusual circumstances, the time limit prescribed in this section may be extended by written notice by the head of the agency or his or her designee to the person making the request, setting forth the reasons for the extension and the date on which a determination is expected to be dispatched. No notice shall specify a date that would

**MEMORANDUM**

TO: Sunshine Ordinance Task Force  
DATE: September 21, 2011  
PAGE: 5  
RE: *Nick Pasquariello v. Film Commission (11058)*

---

result in an extension for more than 14 days. When the agency dispatches the determination, and if the agency determines that the request seeks disclosable public records, the agency shall state the estimated date and time when the records will be made available. As used in this section, "unusual circumstances" means the following, but only to the extent reasonably necessary to the proper processing of the particular request:

- (1) The need to search for and collect the requested records from field facilities or other establishments that are separate from the office processing the request.
- (2) The need to search for, collect, and appropriately examine a voluminous amount of separate and distinct records that are demanded in a single request.
- (3) The need for consultation, which shall be conducted with all practicable speed, with another agency having substantial interest in the determination of the request or among two or more components of the agency having substantial subject matter interest therein.
- (4) The need to compile data, to write programming language or a computer program, or to construct a computer report to extract data.

**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  
December 5, 2011**

**DATE THE DECISION ISSUED**  
November 29, 2011

*NICK PASQUARIELLO v FILM COMMISSION (CASE NO. 11058)*

**FACTS OF THE CASE**

Nick Pasquariello ("Complainant") alleges that the San Francisco Film Commission ("Film Commission") failed to provide public information in response to his public records request submitted on August 4, 2011 and amended on August 6, 2011, requesting various categories of information regarding television spots and commercials filmed in San Francisco between August 1, 2009 and August 1, 2011.

**COMPLAINT FILED**

On August 16, 2011, Mr. Pasquariello filed his complaint against Susannah Greason Robbins, Executive Director of the Film Commission.

**HEARING ON THE COMPLAINT**

On November 29, 2011, Complainant presented his case to the Task Force. The Film Commission was not represented and no one in the audience presented facts and evidence on behalf of the Film Commission.

Mr. Pasquariello told the Task Force the Film Commission is the liaison between film production companies and City departments, issuing permits to allow companies to film on City-owned property. He said he asked the Film Commission in August to provide him with identification and location information submitted by companies wanting to film television spots and commercials in San Francisco between August 2009 and August 2011. He said Ms. Robbins provided the information but had redacted company email addresses and cell phone numbers of location managers and contacts. He said Ms. Robbins' letter accompanying her response stated that the Film Commission does not provide personal information in response to public information requests.

Mr. Pasquariello said he disagrees with the Film Commission's position on the redacted information because information provided in the permit application is for the purpose of conducting City business, and is, therefore, a public record that must be disclosed. He added he has worked as a location scout in the movie business and understands that the

purpose of the form is to conduct business and the information contained in it is not personal.

**FINDINGS OF FACT AND CONCLUSIONS OF LAW**

Based on Complainant's testimony and supporting documentation, the Task Force concluded that the Film Commission did release the requested public records but had redacted company email addresses and the cell phone numbers of filming location contacts. The Task Force noted that the California Public Records Act and the Sunshine Ordinance presume that records in the possession of City agencies are public unless exempted from disclosure by law. Based on review of the released filming permits, the Task Force further concluded that the permit information was collected for the purpose of conducting government business and that no exemption from disclosure applied to the information that the Film Commission redacted.

**DECISION AND ORDER OF DETERMINATION**

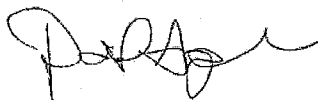
The Task Force finds that the Film Commission violated Sunshine Ordinance Sections 67.26 for failing to keep the withholding of public information to a minimum by redacting the disclosable public information, and 67.27 for failing to justify its withholding of the public information.

The Film Commission shall release the requested records without redaction within 5 business days of the issuance of this Order and appear before the Compliance and Amendments Committee on Tuesday, December 13, at 4:00 p.m. in Room 406 at City Hall. The Committee will review compliance with this Order.

This Order of Determination was adopted by the Sunshine Ordinance Task Force on November 29, 2011, by the following vote: (Washburn/Knee)  
Ayes: Snyder, Knee, Cauthen, Manneh, Washburn, Wolfe, Chan, West, Johnson  
Excused: Costa



Hope Johnson, Chair  
Sunshine Ordinance Task Force



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

cc: Nick Pasquariello, Complainant  
Susannah Greason Robbins, Respondent  
Jerry Threet, Deputy City Attorney

\*Sunshine Ordinance Task Force Seat #1 is a voting seat held by an attorney specializing in sunshine law.





Re: Order of Determination: #11058\_Nick Pasquariello v Film Commission 

Susannah Greason Robbins to: SOTF

12/06/2011 09:48 AM

Cc: Jerry Threet, jpk, Adine Varah

---

To whom it may concern:

Just to make the record clear, I was not able to attend on November 29th, nor were my staff, as we had an event that we were hosting that evening. I notified the SOTF well in advance of the meeting, at the task force meeting on September 27th, and by email on September 28th.

Also, I gave Mr. Pasquariello (and the Task Force) the redacted information on November 14, 2011, by email. Please see the cover letter attached below. I also have a printed version which Mr. Pasquariello has said he will pick up at the Film Office, as he has informed me he can't receive this information by email.

I see no acknowledgement that I provided the requested information on November 14th, and would like that entered into the record.



Server002.PDF

Susannah Greason Robbins  
Executive Director San Francisco Film Commission  
City Hall, Room 473  
1 Dr. Carlton B. Goodlett Pl.  
San Francisco, CA 94102

415-554-6241  
415-554-6503 Fax

[www.filmSF.org](http://www.filmSF.org)



Fw: Sunshine Complaint Received : 11058\_Nick Pasquariello v Film  
Commission  
Susannah Greason Robbins to: SOTF, jpk

09/14/2011 12:51 PM

Dear Mr. Pasquariello and the Sunshine Task Force,

We have received Mr. Pasquariello's complaint of September 7, 2011 regarding our redaction of private contact information for local production managers. As our office explained, we redacted what we understood to be the private, personal email addresses and phone numbers of the location managers on the ID pages of the permit applications in order to protect those individual's right to privacy under Article I, Section 1, of the California Constitution.

But in order to assist you in confirming and obtaining the business contact information for the location managers, we contacted the location managers who were part of your request and have been given their permission to release their contact information, including any such contact information that we erroneously understood to be private residence information.

Attached please find the documents you originally requested, with the contact information written in.

We hope this is helpful.



Sunshine Commercial Info.pdf

Best regards,

Susannah Greason Robbins  
Executive Director San Francisco Film Commission  
City Hall, Room 473  
1 Dr. Carlton B. Goodlett Pl.  
San Francisco, CA 94102

415-554-6241  
415-554-6503 Fax

[www.filmSF.org](http://www.filmSF.org)



**Fw: SOTF hearing reminder: #11058\_Nick Pasquariello v Film Commission**

Susannah Greason Robbins to: SOTF

12/09/2011 04:18 PM

Cc: jpk, Adine Varah

---

To Whom it May Concern,

Mr. Pasquariello and I have spoken on the phone and I have made arrangements for him to pick up the printed materials he requested. He asked that he be able to pick them up in person, as he informed me he cannot receive this type of file by email.

They are currently printed, sitting on my assistant's desk (Janet Austin), waiting for Mr. Pasquariello to pick them up. He said he didn't know what date he would be here.

I will not be attending another meeting of the task force, as I have fulfilled my obligation to Mr. Pasquariello, which I had also done by email on September 14th. (Please see attached letter).



Nick.pdf

Best regards,

Susannah Greason Robbins  
Executive Director San Francisco Film Commission  
City Hall, Room 473  
1 Dr. Carlton B. Goodlett Pl.  
San Francisco, CA 94102

415-554-6241  
415-554-6503 Fax

[www.filmSF.org](http://www.filmSF.org)



Fw: Sunshine Complaint Received : 11058\_Nick Pasquariello v Film  
Commission

Susannah Greason Robbins to: SOTF, jpk

09/14/2011 12:51 PM

Dear Mr. Pasquariello and the Sunshine Task Force,

We have received Mr. Pasquariello's complaint of September 7, 2011 regarding our redaction of private contact information for local production managers. As our office explained, we redacted what we understood to be the private, personal email addresses and phone numbers of the location managers on the ID pages of the permit applications in order to protect those individual's right to privacy under Article I, Section 1, of the California Constitution.

But in order to assist you in confirming and obtaining the business contact information for the location managers, we contacted the location managers who were part of your request and have been given their permission to release their contact information, including any such contact information that we erroneously understood to be private residence information.

Attached please find the documents you originally requested, with the contact information written in.

We hope this is helpful.



Sunshine Commercial Info.pdf

Best regards,

Susannah Greason Robbins  
Executive Director San Francisco Film Commission  
City Hall, Room 473  
1 Dr. Carlton B. Goodlett Pl.  
San Francisco, CA 94102

415-554-6241  
415-554-6503 Fax

[www.filmSF.org](http://www.filmSF.org)



Re: SOTF hearing reminder: #11058\_Nick Pasquariello v Film Commission

N to: sotf

12/10/2011 09:41 AM

---

Chris Rustom,

I cannot attend this meeting and request that you reschedule it for a future time.

Nick Pasquariello