

Date February 28, 2012

Item No. 8
File No. 11056

SUNSHINE ORDINANCE TASK FORCE
AGENDA PACKET CONTENTS LIST

ITEMS

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| <input type="checkbox"/> | <input checked="" type="checkbox"/> | Memorandum |
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Completed by: Andrea Ausberry Date February 22, 2012
Completed by: _____ Date _____

*An asterisked item represents the cover sheet to a document that exceeds 25 pages.
The complete document is in the file.

**SUNSHINE ORDINANCE
TASK FORCE**



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**ORDER OF DETERMINATION
November 4, 2011**

DATE THE DECISION ISSUED
October 25, 2011

*ALLEN GROSSMAN v DENNIS HERRERA & JACK SONG OF THE CITY ATTORNEY'S
OFFICE (CASE NO. 11056)*

FACTS OF THE CASE

Complainant Allen Grossman alleges that City Attorney Dennis Herrera and Jack Song, Deputy Press Secretary for the City Attorney, violated public records laws by 1) failing to fully respond to an Immediate Disclosure Request ("IDR") dated July 13, 2011, as well as the supplement to that request dated August 1, 2011 and 2) failing to respond to a request for public information dated August 1, 2011.

COMPLAINT FILED

On August 4, 2011, Mr. Grossman filed a complaint against Mr. Herrera and Mr. Song, alleging violations of Sunshine Ordinance Sections 67.21(b) and (c) and 67.22 (a) and (b) and California Public Records Act Sections 6253(b) and (c).

HEARING ON THE COMPLAINT

On October 25, 2011, Mr. Grossman presented his case to the Task Force. Mr. Song represented the City Attorney's Office ("CAO").

Mr. Grossman told the Task Force that the CAO has cut the level of service it provides to the Task Force for fiscal years 2009, 2010, and 2011 in accordance with General Fund reductions. The CAO, he said, has stated that the reductions were based on review of the services provided during each respective previous fiscal year, starting with a baseline budget established eight years ago. He said on July 13, 2011, he sent the CAO an IDR requesting a copy of that baseline budget established eight years ago; records showing which departments were included in that budget; and the baseline amounts allocated to each of those departments.

He said Mr. Song responded that copies of supporting documentation for the calculations used by the CAO to establish the baseline budget eight years ago were destroyed pursuant to the CAO's document retention policy. Mr. Song said the policy requires budget documents to be retained for two years. Later on July 13th, Mr. Grossman said, he sent

another IDR again specifically requesting the baseline budget established eight years ago. He said Mr. Song responded on July 15th asking him to clarify his request. He said he responded the same day clarifying he was requesting the baseline budget document itself.

Mr. Song told the Task Force he did not respond until July 20th. Mr. Grossman told the Task Force that Mr. Song sent copies of letters that the CAO had sent to 59 General Fund departments for various fiscal years. The letters indicated how many work hours the CAO had budgeted to the various departments, but did not indicate how the hours were calculated. The numbers had to have been calculated and approved before each letter was sent off to the departments, Mr. Grossman said. The failure to preserve records showing such calculations, he added, would be a violation of the CAO's own retention policy as well as state law.

Mr. Song said Mr. Grossman asked for baseline budget figures that were used to provide General Fund departments with legal services going back eight years. Mr. Song said that data, notes, and worksheets for the baseline budget eight years ago no longer existed, and that he referred Mr. Grossman to the Controller's web site. He said he provided Mr. Grossman with information showing how much had been appropriated to the Task Force annually between 1997 and 2011. Mr. Song admitted there was a delay in his response to the IDR because he was out of the office. However, he said, he again asked Mr. Grossman if he was still asking for the same document, baseline budget figures for the General Fund departments. He said Mr. Grossman said he was, and asked for documents that would be responsive.

On July 28th, he said, Mr. Grossman asked what happened to the documents that he requested. Mr. Song said that although he had already told Mr. Grossman that the documents from eight years ago did not exist, he responded with copies of all the letters that were sent to various departments advising them of their budget allocations. Mr. Song said all calculations are based on allocations made by the Controller's Office and Mr. Grossman was directed to the Controller's website that had the information. Mr. Song said he did not know if data, notes, and worksheets exist that support the calculation and approval of the budget for the last two years. He added that he did not know if those documents are considered privileged.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Based on the evidence presented, including correspondence between Mr. Grossman and the CAO, the Task Force found that Mr. Grossman was seeking documentation supporting the budget allocated by the CAO to General Fund departments, including the reduced number of hours provided to the Task Force. The Task Force found compelling Mr. Grossman's reasoning that the budget allocations for each year must be calculated and approved before being presented to each department by the City Attorney, and that such calculations must be kept as a matter of course in the CAO's files. Based on Mr. Song's statements and the CAO's document retention policy, the Task Force further found supporting documentation for the budget for the last two years may exist, possibly in the form of emails, letters, notes, calculations and databases.

DECISION AND ORDER OF DETERMINATION

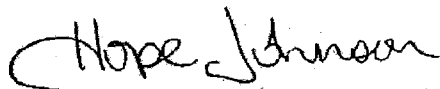
The Task Force found Jack Song in violation of Section 67.25(a) for failing to respond in a timely manner to two Immediate Disclosure Requests and Section 67.21(c) for not assisting the requestor by directing him to the proper office for responsive records. The Task Force also found City Attorney Dennis Herrera in violation of Section 67.26 for not keeping withholding to a minimum. The City Attorney is ordered, within five days of the issuance of this Order of Determination, to produce supporting documentation for the CAO's calculation of each General Fund department's budget for the last two years, and to appear before the Compliance and Amendments Committee on December 13, 2011. The Committee will evaluate the CAO's compliance with this order.

This Order of Determination was adopted by the Sunshine Ordinance Task Force on October 25, 2011, by the following vote: (Johnson/Costa)

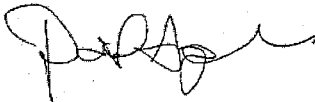
Ayes: Snyder, Knee, Washburn, Costa, Wolfe, Johnson

Excused: Cauthen

Absent: Knoebber, West, Manneh, Chan



Hope Johnson, Chair
Sunshine Ordinance Task Force



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

cc: Allen Grossman, Complainant
Dennis Herrera, City Attorney, Respondent
Jack Song, Deputy Press Secretary, Respondent
Jerry Threet, Deputy City Attorney

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

CITY AND COUNTY OF SAN FRANCISCO



DENNIS J. HERRERA
City Attorney

OFFICE OF THE CITY ATTORNEY

JERRY THREET
Deputy City Attorney

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

MEMORANDUM

TO: Sunshine Task Force
FROM: Jerry Threet
Deputy City Attorney
DATE: August 19, 2011
RE: *Complaint No. 11056, Allen Grossman v. Jack Song, et al.*

COMPLAINT

THE COMPLAINANT ALLEGES THE FOLLOWING:

Allen Grossman ("Complainant") alleges that City Attorney Dennis Herrera and CAO Deputy Press Secretary Jack Song ("CAO") violated public records laws by 1) failing to fully respond to his Immediate Disclosure Request ("IDR") dated July 13, 2011, as well as his supplement to that request dated August 1, 2011; and 2) failing to respond to his request for public information dated August 1, 2011.

COMPLAINANT FILES COMPLAINT:

On August 4, 2011, Complainant filed this complaint against Herrera and Song, alleging violations of the public records laws, including specifically Sunshine Ordinance ("Ordinance") Sections 67.21(b), 67.21(c), and 67.22 (a) and (b), as well as Sections 6253(b) and 6253(c) of the California Public Records Act ("CPRA").

JURISDICTION

The City Attorney's Office ("CAO") is a City department, and therefore the Task Force generally has jurisdiction to hear a public records complaint against it and its staff. The CAO does not contest jurisdiction.

APPLICABLE STATUTORY SECTION(S):

Section 67 of the San Francisco Administrative Code:

- 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 written justifications for withholding of records

Section 6250 et seq. of Cal. Gov't Code (PRA)

- Section 6253 governs time limits for responding to public records requests.

MEMORANDUM

TO: Sunshine Task Force
DATE: August 19, 2011
PAGE: 2
RE: Complaint No. 11056, Allen Grossman v. Jack Song, et al.

ISSUES TO BE DETERMINED

Contested/Uncontested Facts:
Complainants' Allegations

Complainant alleges that Herrera and Song failed to fully respond to his IDR, made by letter dated July 13, 2011, as supplemented by his letter dated August 1, 2011. Complainant further alleges that Herrera and Song failed to respond to his request for public information dated August 1, 2011. In support, Complainant provided copies of his original IDR dated July 13, 2011, addressed to Song and Herrera; an email exchange dated July 13, 2011 between Complainant and Song; a string of emails between Song and Complainant dated July 15, 2011 (2 emails) and July 20, 2011 (1 email); Song's July 28, 2011 response by email to the IDR, with copies of 59 documents attached; and Complainant's IDR letter dated August 1, 2011 addressed to Song and Herrera.

Complainant's July 13, 2011 IDR requests all public records and information related to the following:

1. The "baseline budget for hours of legal work was set for the General Fund departments" approximately 8 years ago, to which Mr. Song referred in his response to the undersigned's June 27, 2011 request []
2. All the General Fund departments included in that budget,
3. The baseline amounts allocated to each of those departments in that budget,
4. The budgeted hours of legal services allocated to each of those department for the fiscal years ended June 30, 2009, 2010, and 2011, respectively and
5. Historic levels of service to the SOTF. which presumably, would have been referred to or reflected in the "baseline budget for hours of legal work was set for the General Fund departments" approximately 8 years ago, to which Mr. Song referred in his response [to the undersigned's June 27, 2011 request].

The July 13, 2011 email exchange between Song and Complainant appears to start with Song responding to an earlier request from Complainant. Mr. Song's July 13, 2011 email explains that the CAO no longer has "the worksheets and notes used in preparing the baseline budgets for the General Fund departments 8 years ago" as the CAO's record retention policy provides that budget documents are kept for only 2 years. Mr. Song's email then goes on to state that the CAO nevertheless was able to retrieve aggregate data from its billing system that showed the total number of hours actually spent by attorneys providing legal services to the SOTF for fiscal years 1997-2011, and provided those numbers in the email. Complainant's response acknowledges receipt of that information and informs Song of his July 13, 2011 "follow-up IDR regarding this subject."

The July 15, 2011 email from Song responds to the last July 13, 2011 email from Complainant, explaining that Song was out of the office on July 14, 2011 and was writing to

MEMORANDUM

TO: Sunshine Task Force
DATE: August 19, 2011
PAGE: 3
RE: Complaint No. 11056, Allen Grossman v. Jack Song, et al.

seek clarification of the July 13, 2011 IDR. Mr. Song asked "Are you requesting [] baseline for general fund departments?" Complainant's response (dated after the close of the business day on Friday, July 13, 2011) referred to Mr. Song's response to his June 27, 2011 records request: "approximately 8 years ago" "a baseline budget for hours of legal work was set for the General Fund departments." Complainant further explained that he understood Song's statement as identifying the existence of a record prepared 8 years ago, and that his current IDR was requesting "a copy of that record, together with any other records that show the General Fund departments included in that baseline budget, the baseline amounts allocated to each of them [and] the number of hours allocated to each of [the General Fund departments] for the last three fiscal years."

On July 20, 2011, Complainant again emailed Song, advising that there had not yet been a response to his July 13, 2011 IDR. On July 28, 2011, Song responded by email, attaching documents responsive to the July 13, 2011 email, consisting of 59 letters to departments concerning their budget for legal advice from the CAO for certain fiscal years.

On August 1, 2011, Complainant sent a second IDR to Song and Herrera, stating:

the copies of 59 letters sent [] to various departments and others in August 2010 [] are not responsive to my [IDR] except to the extent they show the "budgeted hours" for FY 2011 for the addressees. []

At this point, either you have the baseline budget prepared "approximately 8 years ago" or you don't. For that matter, do you have any record that it ever existed or that the "General Fund departments" to whom the FY 2011 letters were sent are the same as those that were listed in the "baseline budget"? If so, please provide copies of those.

Further, how does the [CAO] define a "general Fund department" [] ?

Complainant provided no further allegations or supporting documents to evidence the alleged failure of Song and Herrera to respond to his August 1, 2011 IDR.

The CAO's Response

The CAO, through Mr. Song, provided its response in an August 16, 2011 email with supporting documents. Mr. Song's email is quoted at length, below:

In fact, this office responded several times to [complainant's] numerous requests for the same information, but he apparently is not satisfied with the answers. For FY 2011, we set the SOTF, a General Fund department, budget at 218 hours; however, the SOTF used 434.50 hours of legal services (almost double of what budgeted hours were). As we stated, we set these budgets based on our General Fund allocation/reduction, but if a department uses more hours than allocated, we continue to provide legal services. Mr. Grossman wants budget documents from 8 years ago that will show some sort of progression. As we informed Mr. Grossman, per our records retention policy, we do not have 8 year old budget documents.

Mr. Grossman made his initial request on June 27, 2011. This office responded in a timely fashion on July 7, 2011, informing Mr. Grossman that

MEMORANDUM

TO: Sunshine Task Force
DATE: August 19, 2011
PAGE: 4
RE: Complaint No. 11056, Allen Grossman v. Jack Song, et al.

we had no documents responsive to his request, and we directed him to the Controller's website where he could obtain the budget data he sought. Later that day, on July 7, Mr. Grossman sent a follow up request.

On July 13, 2011 we **again** informed Mr. Grossman that we did not have a baseline budget document from 8 years ago. Under our records retention policy, budget documents are kept for 2 years. However, in order to try answer his questions about the establishment of baseline legal hours for the Sunshine Ordinance Task Force (SOTF), we provided him with aggregate data retrieved from our law office management system showing total aggregate hours spent on SOTF legal work from fiscal year 1997 to fiscal year 2011. This data shows that notwithstanding drastic general fund cuts, this office continues to provide legal services to the Sunshine Ordinance Task Force. Later that day, July 13, he sent another request, labeled "Immediate Disclosure" again asking for a variation on documents we already told him, on July 7 and July 13, that we did not have pursuant to our records retention policy.

On July 15, 2011, Mr. Grossman again requested a copy of a document that we already told him that we did not have, and records showing the number of budgeted hours allocated to General Fund departments for the last 3 fiscal years. On July 28, we sent him the **only** responsive documents we had--the letters sent to the General Fund Departments in August 2010, informing the departments of their allocation of hours for fiscal year 2011. We no longer have copies of the letters for fiscal years 2009 and 2010, which were sent in 2008 and 2009, respectively. Under our records retention policy, budget documents and correspondence are kept for 2 years.

On August 1, 2011, Mr. Grossman sent another letter, labeled "July 13, 2011 Immediate Disclosure Request" again asking for documents we already told him we did not have. We responded to this August 1, letter on August 5, 2011, certainly within the required 10 day time frame. We again informed him that we did not have any baseline budgets. The numbers given in the previous year are used as the baseline for the next year. As we informed him on July 7, 2011, historic budgets are on the Controller's website. He also requested that we "define" a "General Fund Department." For the City Attorney's budget purposes, a "General Fund Department" is any department that does not fund our department through a work order. The Annual Appropriation Ordinance lists the Departments that provide work orders to our department. Those that do not, are referred to by our department as a "General Fund Department." We directed him to the final budget for fiscal year 2012 (FY12 AAO) located on the Controller's website at:
<http://www.sfcontroller.org/Modules/ShowDocument.aspx?documentid=2390>

This office made numerous attempts to provide Mr. Grossman with the budget information he sought; however, we cannot go back and conjure up

MEMORANDUM

TO: Sunshine Task Force
DATE: August 19, 2011
PAGE: 5
RE: Complaint No. 11056, Allen Grossman v. Jack Song, et al.

documents that were destroyed pursuant to our records retention policy. Therefore, there is no violation of the Sunshine Ordinance.

In support of the CAO's response, Mr. Song provides several documents: an August 5, 2011 email sent from Gina Gutierrez to Complainant under the signature of Mr. Song which responds to Complainant's August 1, 2011 IDR; Complainant's August 12, 2011 response to the August 5, 2011 Song email; and copies of several letters from the CAO to the SOTF concerning their budgeted hours for legal advice. The August 5, 2011 email from Song contained the following:

As we told you on July 7, 2011, we have **no** documents responsive to your request, and we directed you to the Controller's website where you could obtain the budget data you sought.

On July 13, 2011 we **again** informed you that we do not have a baseline budget document from 8 years ago. Under our records retention policy, budget documents are kept for 2 years. However, in order to try to answer your questions about the establishment of baseline legal hours for the Sunshine Ordinance Task Force (SOTF), we provided you with aggregate data retrieved from our law office management system showing total aggregate hours spent on SOTF legal work from fiscal year 1997 to fiscal year 2011.

On July 15, 2011, you again requested a copy of a document that we already told you we do not have, and records showing the number of budgeted hours allocated to General Fund departments for the last 3 fiscal years. On July 28, we sent you the **only** responsive documents we have -- the letters sent to the General Fund Departments in August 2010, informing the departments of their allocation of hours for fiscal year 2011. We know longer have copies of the letters for fiscal years 2009 and 2010, which were sent in 2008 and 2009, respectively. Under our records retention policy, budget documents and correspondence are kept for 2 years.

We do not have any baseline budgets. The numbers given in the previous year are used as the baseline for the next year. As we informed you on July 7, 2011, historic budgets are on the Controller's website.

You also requested that we "define" a "General Fund Department." For the City Attorney's budget purposes, a "General Fund Department" is any department that does not fund our department through a work order. The Annual Appropriation Ordinance lists the Departments that provide work orders to our department. Again, those departments that do not, are referred to by our department as a "General Fund Department." Please note that the final budget for fiscal year 2012 (FY12 AAO) can be found on the Controller's website at

<http://www.sfcontroller.org/Modules/ShowDocument.aspx?documentid=2390>

Complainant's August 12, 2011 response appears to pose several more information requests that Complainant has not alleged to be the basis for this complaint. This memo therefore does not consider these requests in connection with the instant complaint.

MEMORANDUM

TO: Sunshine Task Force
DATE: August 19, 2011
PAGE: 6
RE: *Complaint No. 11056, Allen Grossman v. Jack Song, et al.*

QUESTIONS THAT MIGHT ASSIST IN DETERMINING FACTS:

- What public records or information does Complainant allege is in the custody of the CAO that should have been provided but have not been provided by the CAO?

LEGAL ISSUES/LEGAL DETERMINATIONS:

- Did Mr. Song timely respond to the 2 records/information requests at issue?
- Did the CAO fail to provide responsive public records or information within its custody?
- If so, were such records or information exempt from production?
- If Mr. Song violated the provision of law alleged, are his actions legally attributable to Mr. Herrera?

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 Task Force
DATE: August 19, 2011
PAGE: 7
RE: Complaint No. 11056, Allen Grossman v. Jack Song, et al.

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

(a) Every person having custody of any public record or public information, as defined herein, (hereinafter referred to as a custodian of a public record) shall, at normal times and during normal and reasonable hours of operation, without unreasonable delay, and without requiring an appointment, permit the public record, or any segregable portion of a record, to be inspected and examined by any person and shall furnish one copy thereof upon payment of a reasonable copying charge, not to exceed the lesser of the actual cost or ten cents per page.

(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.

(c) A *custodian of a public record* shall assist a requester in identifying the existence, form, and nature of any records or information maintained by, available to, or in the custody of the custodian, whether or not the contents of those records are exempt from disclosure and shall, when requested to do so, provide in writing within seven days following receipt of a request, a statement as to the existence, quantity, form and nature of records relating to a particular subject or questions with enough specificity to enable a requester to identify records in order to make a request under (b). A custodian of any public record, when not in possession of the record requested, shall assist a requester in directing a request to the proper office or staff person.

(d) If the custodian refuses, fails to comply, or incompletely complies with a request described in (b), the person making the request may petition the *supervisor of records* for a determination whether the record requested is public. The supervisor of records shall inform the petitioner, as soon as possible and within 10 days, of its determination whether the record requested, or any part of the record requested, is public. Where requested by the petition, and where otherwise desirable, this determination shall be in writing. Upon the determination by the supervisor of records that the record is public, the supervisor of records shall immediately order the custodian of the public record to comply with the person's request. If the custodian refuses or fails to comply with any such order within 5 days, the supervisor of records shall notify the district attorney or the attorney general who shall take whatever measures she or he deems necessary and appropriate to insure compliance with the 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

MEMORANDUM

TO: Sunshine Task Force
DATE: August 19, 2011
PAGE: 8
RE: *Complaint No. 11056, Allen Grossman v. Jack Song, et al.*

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.

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.

MEMORANDUM

TO: Sunshine Task Force
DATE: August 19, 2011
PAGE: 9
RE: Complaint No. 11056, Allen Grossman v. Jack Song, et al.

(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 therefore. 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 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.

Aug 04 11 11:17a

Sunshine Ord. Task Fo:

415-554-76...

p.2

08/04/2011 11:04 4158313721

SFUFC/GROSSMAN

PAGE 02/17

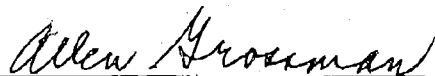
BY FACSIMILE**SUNSHINE ORDINANCE COMPLAINT**Date: August 4, 2011Complainant: Allen Grossman (Complainant).Respondents: Dennis Herrera, San Francisco City Attorney and Jack Song, Deputy Press Secretary (Song).

Violations Alleged: Failures to (1) fully respond to Complainant's Immediate Disclosure Request dated July 13, 2011, as supplemented by letter dated August 1, 2011, in violation of Section 67.21(b) of the San Francisco Sunshine Ordinance (Sunshine Ordinance) and Sections 6253(b) and 6253(c) of the California Public Records Act and (2) respond to Complainant's request for Public Information submitted by letter dated August 1, 2011, in violation of Sections 67.21(c) and 67.22 (a) and (b) of the Sunshine Ordinance.

Documents Submitted:

- (1) Facsimile Cover Sheet, Immediate Disclosure Request for copies of public records (2 pages), Facsimile Transmission Verification and email to Respondent Song, all sent July 13, 2011,
- (2) String of emails dated (inversely) July 20, 2011 (Complainant to Song), July 15, 2011 (Complainant to Song) and July 15 (Song to Complainant),
- (3) Email Song to Complainant dated July 28, 2011 forwarding copies of 59 letters dated August 23, 2010 (first and 59th attached) to various departments, policy bodies and the 11 San Francisco Supervisors, and
- (4) Facsimile Cover Sheet, Immediate Disclosure Request for copies of public records (2 pages), Facsimile Transmission Verification and email to Respondent Song, all sent August 1, 2011.

Complainant requests a public hearing before the Sunshine Ordinance Task Force.
No pre-hearing conference before the Complaint Committee is requested.



Allen Grossman,
111 30th Avenue
San Francisco, CA 94121
Phone: (415) 831-3720
FAX: (415) 831-3721
Email: grossman356@mac.com

Aug 04 11 11:17a

Sunshine Ord. Task For...

415-554-76...

p.3

08/04/2011

11:04

4158313721

SFUFC/GROSSMAN

PAGE 03/17

ALLEN GROSSMAN
111 30th AVENUE
SAN FRANCISCO, CALIFORNIA 94121-1005
TELEPHONE: (415) 831-3720
FACSIMILE: (415) 831-3721
Email: grossman356@mac.com

FACSIMILE TRANSMITTAL

To: Dennis Herrera, San Francisco City Attorney and
Jack Song, Public Information Officer, Office of San Francisco City
Attorney

FAX Number: (415) 554-4715

Phone Number: (415) 554-4653

Number of Pages: 3, including cover sheet

Date: July 13, 2011

From: Allen Grossman

Re: IMMEDIATE DISCLOSURE REQUEST

Message: Attached is an IMMEDIATE DISCLOSURE REQUEST dated
today (July 13, 2011). If any question regarding the request, please
contact the requestor at (415) 831-3720.

Thank You

**IF YOU DO NOT RECEIVE ALL PAGES OF THIS TRANSMISSION,
PLEASE CALL (415) 831-3720 AS SOON AS POSSIBLE**

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Aug 04 11 11:17a Sunshine Ord. Task For...
08/04/2011 11:04 4158313721

415-554-7600
SFUFC/GROSSMAN

p4
PAGE 04/17

Allen Grossman
111 30th Avenue
San Francisco, CA 94121-1005
Email: grossman356@mac.com
Phone: (415) 831-3720
FAX: (415) 831-3721

IMMEDIATE DISCLOSURE REQUEST

BY FACSIMILE

July 13, 2011

Mr. Dennis Herrera, San Francisco City Attorney and
Mr. Jack Song, Public Information Officer
Office of San Francisco City Attorney
City Hall, Room 234
San Francisco, CA 94102

This is an IMMEDIATE DISCLOSURE REQUEST (pursuant to Section 67.25(a) of the San Francisco Sunshine Ordinance) pursuant to Section 67.27(b) of the San Francisco Sunshine Ordinance and Section 6253(b) of the California Public Records Act and any other applicable provisions of California Public Records Act and the San Francisco Sunshine Ordinance for all public information and for copies of any and all public records, in any form of media, in the custody or control of or maintained by the San Francisco City Attorney or any of his staff members, in connection with, with respect to or that include or show:

(1) The "baseline budget for hours of legal work was set for the General Fund departments" approximately 8 years ago, to which Mr. Jack Song referred in his response to the undersigned's June 27, 2011 request, to wit:

"This in response to your request of June 27, 2011, for records "that show how the budgeted hours to the SOFT for each of those Fiscal Years [2009, 2010, 2011] was determined or calculated...." Except for the letters you attached to your request, we have no documents responsive to your request. Approximately 8 years ago, a baseline budget for hours of legal work was set for the General Fund departments. Since that time, the legal hours budgeted for each General Fund department have been reduced to correspond to the General Fund reductions to this office, which is a City department.

"The final Consolidated Budget and Annual Appropriation Ordinances (AAO) for Fiscal Years 2009 and 2010, and the proposed AAO for 2011 can be found on the Controller's website at the following link: <http://www.sfcontroller.org/index.aspx?page=396>"

- (2) All the General Fund departments included in that budget,
- (3) The baseline amounts allocated to each of those departments in that budget,
- (4) The budgeted hours of legal services allocated to each of those departments for the fiscal years ended June 30, 2009, 2010 and 2011, respectively and

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p.5

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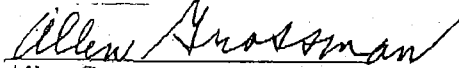
SFUFC/GROSSMAN

PAGE 05/17

(5) Historic levels of service to the SOTF", which, presumably, would have been referred to or reflected in the "baseline budget for hours of legal work was set for the General Fund departments" approximately 8 years ago, to which Mr. Song referred in his response.

If the requested records are kept electronically or in PDF format, please send them in their original format by email to the above email address. If the records are kept in some other format, please scan the relevant page(s) to PDF format and send them by email to the above email address.

This public records request is to be read broadly and any exemptions to disclosure of any public information in such public records are to be construed narrowly.


Allen Grossman

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Sunshine Ord. Task For...

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p6

08/04/2011 11:04 4158313721

SFUFC/GROSSMAN

PAGE 06/17

TRANSMISSION VERIFICATION REPORT

TIME : 07/13/2011 10:35
NAME : SFUFC/GROSSMAN
FAX : 4158313721
TEL : 4158313720
SER.# : G0J395977

DATE, TIME	07/13 10:35
FAX NO./NAME	5544715
DURATION	00:00:54
PAGE(S)	03
RESULT	OK
MODE	STANDARD ECM

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Aug 04 11 11:17a Sunshine Ord. Task For...

415-554-7600

p.7

08/04/2011 11:04 4158313721

SFUFC/GROSSMAN

PAGE 07/17

From: Allen Grossman <grossman356@mac.com>
Subject: **Re: Reply to Public Record Request/ IDR**
Date: July 13, 2011 4:32:10 PM PDT
To: Jack Song <Jack.Song@sfgov.org>
▶ 1 Attachment, 1.7 MB

Mr. Song,

Thanks for the information. By now you have probably seen my follow-up IDR regarding this subject, sent this morning by FAX. For your convenience I am attaching a copy.

Thank You,

Allen Grossman



IDR City Atty...311 (1.7 MB)

On Jul 13, 2011, at 3:27 PM, Jack Song wrote:

Dear Mr. Grossman:

This is in response to your July 7, 2011, follow-up request for additional information regarding how the baseline budget was set 8 years ago for legal work for the Sunshine Ordinance Task Force (SOTF). Per our records retention policy, budget documents are kept for 2 years. We reviewed our records again, but we no longer have the worksheets and notes used in preparing the baseline budgets for the General Fund departments 8 years ago.

However, in order to answer your question, we retrieved aggregate data from our law office management system to provide you with the total number of hours our office spent on SOTF work.

The aggregated total is as follows:

Fiscal year/Hours

FY1997: 182.25 hr

FY1998: 182.25 hr

FY1999: 681.95 hr

FY2000: 334.75 hr

FY2001: 629.30 hr

FY2002: 668.25 hr

FY2003: 426.25 hr

FY2004: 438.50 hr

#(1)-5

Aug 04 11 11:17a

Sunshine Ord. Task Force

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p.8

08/04/2011 11:04 4158313721

SFUFC/GROSSMAN

PAGE 08/17

FY2005: 504.00 hr
FY2006: 529.75 hr
FY2007: 576.00 hr
FY2008: 491.00 hr
FY2009 328.75 hr
FY2010 375.75 hr
FY2011 434.50 hr

Please be advised that while we establish legal budgets for the General Fund departments based on our General Fund allocations in an effort to distribute resources as equitably as possible, many departments exceed their allocation. Despite this situation, we continue to provide legal services for these departments as best we can given our own budget restrictions.

We hope this answers your questions, we can think of no other additional information that may be responsive to your request.

Best Regards,

Jack Song

Public Information Officer

OFFICE OF CITY ATTORNEY DENNIS HERRERA
San Francisco City Hall, Room 234
1 Dr. Carlton B. Goodlett Place
San Francisco, California 94102-4682

(415) 554-4653 Direct
(415) 554-4700 Reception
(415) 554-4715 Facsimile
(415) 554-6770 TTY
www.sfcityattorney.org

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Aug 04 11 11:17a Sunshine Ord. Task Force

415-554-7604

p.9

08/04/2011 11:04 4158313721

SFUFC/GROSSMAN

PAGE 09/17

From: Allen Grossman <grossman356@mac.com>
Subject: **Fwd: Immediate Disclosure Request (7/13/11)**
Date: July 20, 2011 11:59:55 AM PDT
To: Jack Song <Jack.Song@sfgov.org>
Cc: virginia.dario.elizondo@sfgov.org

Mr. Song,

My original Immediate Disclosure Request was submitted to you last Thursday and my "clarification" sent you after hours last Friday. Although there was no timely response to my request, I do want the requested copies of the identified public records. So please advise me whether I will be receiving them and, and if so, when.

Thank You,

Allen Grossman

Begin forwarded message:

From: Allen Grossman <grossman356@mac.com>
Date: July 15, 2011 5:17:47 PM PDT
To: Jack Song <Jack.Song@sfgov.org>
Cc: virginia.dario.elizondo@sfgov.org
Subject: Re: Immediate Disclosure Request (7/13/11)

Mr. Song,

Your question seems to suggest that my request for public information is broader than it is. In your response to my June 27, 2011 records request, you identified a record that was prepared "Approximately 8 years ago" that was "a baseline budget for hours of legal work was set for the General Fund departments."

Picking up on the existence of that record, I requested a copy of that record, together with any other records that show the General Fund departments included in that baseline budget, the baseline amounts allocated to each of them. In addition, I requested copies of records that show the number of budgeted hours allocated to them for each of the last three fiscal years.

If my request is still not clear, please let me know exactly what is confusing.

Thank You,

Allen Grossman

On Jul 15, 2011, at 1:30 PM, Jack Song wrote:

Dear Mr. Grossman:

I received your Immediate Disclosure Request. I was out of the office yesterday.

However, I need more clarification relating to your request.

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Sunshine Ord. Task Force

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p.10

08/04/2011

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SFUFC/GROSSMAN

PAGE 10/17

Are you requesting for baseline for general fund departments?

Please advise.

JACK SONG

Deputy Press Secretary

OFFICE OF CITY ATTORNEY DENNIS HERRERA

San Francisco City Hall, Room 234

1 Dr. Carlton B. Goodlett Place

San Francisco, California 94102-4682

(415) 554-4653 Direct

(415) 554-4700 Reception

(415) 554-4715 Facsimile

(415) 554-6770 TTY

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<PRA-Grossman_7-13-11.pdf>

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Sunshine Ord. Task For...

415-554-76...

p11

08/04/2011 11:04 4158313721

SFUFC/GROSSMAN

PAGE 11/17

From: Jack Song <Jack.Song@sfgov.org>
Subject: **re: General Fund Letters FY 2011**
Date: July 28, 2011 3:46:28 PM PDT
To: Allen Grossman <grossman356@mac.com>
1 Attachment, 277 KB

Dear Mr. Grossman:

Thank you for your patience.


We have tracked down the letters you had requested.

Best regards,

JACK SONG
Deputy Press Secretary

OFFICE OF CITY ATTORNEY DENNIS HERRERA
San Francisco City Hall, Room 234
1 Dr. Carlton B. Goodlett Place
San Francisco, California 94102-4682

(415) 554-4653 Direct
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SFUFC/GROSSMAN

p.12
PAGE 12/17

CITY AND COUNTY OF SAN FRANCISCO

OFFICE OF THE CITY ATTORNEY



DENNIS J. HERRERA
City Attorney

DIRECT DIAL: (415) 554-4748

August 23, 2010

Dr. Jay Xu
Director
Asian Art Museum
200 Larkin Street
San Francisco, CA 94102

Re: Legal Services- FY 2011

Dear Dr. Xu:

The San Francisco City Attorney's Office remains committed to providing your department with top-notch legal counsel and aggressive litigation services when necessary. I know I speak for everyone in my office when I say how proud we are to partner with you and your staff to address legal aspects of the complex public policy issues you face.

Regrettably, the annual General Fund allocation to our office was reduced once again, this year by another 22 percent. As a result, effective immediately, the level of service the City Attorney's Office provides to your department must be reduced in accordance with the General Fund cuts we have sustained. We have budgeted 156 hours for your department for Fiscal Year 2011.

Throughout the course of this fiscal year, the deputy city attorney assigned to your department will be available to meet with you to determine your most pressing legal priorities, and to identify strategies and resources for meeting those needs. I would additionally welcome the opportunity to explore with you possibilities for other funding sources in order to minimize service reductions. Please feel free to contact me directly should you have questions, or wish to discuss the needs of your department.

Please be assured that I remain fully committed to continuing to provide your department with the top quality legal services you have come to expect. Working together, I am hopeful that we will not only weather the current fiscal crisis effectively and prudently, but that we may forge an even stronger partnership by doing so.

Very truly yours,

DENNIS J. HERRERA
City Attorney

cc: Adine Varah, Deputy City Attorney

Aug 04 11 11:17a

Sunshine Ord. Task Force

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p.13

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SFUFC/GROSSMAN

PAGE 13/17

CITY AND COUNTY OF SAN FRANCISCO

OFFICE OF THE CITY ATTORNEY



DENNIS J. HERRERA
City Attorney

DIRECT DIAL: (415) 554-4748

August 23, 2010

Ms. Julia Sabory
Director
Youth Commission
City Hall, Room 345
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102

Re: Legal Services- FY 2011

Dear Ms. Sabory:

The San Francisco City Attorney's Office remains committed to providing your department with top-notch legal counsel and aggressive litigation services when necessary. I know I speak for everyone in my office when I say how proud we are to partner with you and your staff to address legal aspects of the complex public policy issues you face.

Regrettably, the annual General Fund allocation to our office was reduced once again, this year by another 22 percent. As a result, effective immediately, the level of service the City Attorney's Office provides to your department must be reduced in accordance with the General Fund cuts we have sustained. We have budgeted 12 hours for your department for Fiscal Year 2011.

Throughout the course of this fiscal year, the deputy city attorney assigned to your department will be available to meet with you to determine your most pressing legal priorities, and to identify strategies and resources for meeting those needs. I would additionally welcome the opportunity to explore with you possibilities for other funding sources in order to minimize service reductions. Please feel free to contact me directly should you have questions, or wish to discuss the needs of your department.

Please be assured that I remain fully committed to continuing to provide your department with the top quality legal services you have come to expect. Working together, I am hopeful that we will not only weather the current fiscal crisis effectively and prudently, but that we may forge an even stronger partnership by doing so.

Very truly yours,

DENNIS J. HERRERA
City Attorney

cc: Alicia Cabrera, Deputy City Attorney

Aug 04 11 11:18a

Sunshine Ord. Task Force

415-554-7600

p.14

08/04/2011

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SFUFC/GROSSMAN

PAGE 14/17

ALLEN GROSSMAN
111 30th AVENUE
SAN FRANCISCO, CALIFORNIA 94121-1005
TELEPHONE: (415) 831-3720
FACSIMILE: (415) 831-3721
Email: grossman356@mac.com

FACSIMILE TRANSMITTAL

To: Dennis Herrera, San Francisco City Attorney and Jack Song, Deputy
Press Secretary, Office of San Francisco City Attorney

FAX Number: (415) 554-4715

Phone Number: (415) 554-4653

Number of Pages: 2, including cover sheet

Date: August 1, 2011

From: Allen Grossman

Re: July 13, 2011 IMMEDIATE DISCLOSURE REQUEST

Message: Attached is my letter dated today with reference to the subject IDR.

**IF YOU DO NOT RECEIVE ALL PAGES OF THIS TRANSMISSION,
PLEASE CALL (415) 831-3720 AS SOON AS POSSIBLE**

CONFIDENTIALITY NOTE: The information contained in this facsimile message is legally privileged and confidential information intended only for the use of the individual or entity named above. If the receiver of this message is not the intended recipient, you are hereby notified that any dissemination, distribution or copy of this telecopy is strictly prohibited. If you have received this telecopy in error, please immediately notify us by telephone and return the original message to us at the above address via the U.S. Postal Service. Thank you.

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p.15

SFUFC/GROSSMAN

PAGE 15/17

Allen Grossman
111 30th Avenue
San Francisco, CA 94121-1005
Tel: (415) 831-3720
Fax: (415) 831-3721
Email: grossman356@mac.com

BY FACSIMILE

August 1, 2011

Mr. Jack Song,
Deputy Press Secretary
Office of City Attorney
San Francisco City Hall, Room 234
San Francisco, California 94102-4682

Re: July 13, 2011 Immediate Disclosure Request

Dear Mr. Song,

The copies of 59 letters sent by City Attorney Herrera to various departments and others in August 2010 (forwarded with your July 28, 2011 email to me) are not responsive to my Immediate Disclosure Request except to the extent they show the "budgeted hours" for FY 2011 for the addressees. Still missing are (1) a copy of the record you identified as "a baseline budget for hours of legal work was set for the General Fund departments" prepared "approximately 8 years ago" that showed the baseline amounts allocated to each of them and (2) copies of the FY 2009/2010 letters, which were requested in the IDR.

At this point, either you have the baseline budget prepared "approximately 8 years ago" or you don't. For that matter, do you have any record that it ever existed or that the "General Fund departments" to whom the FY 2011 letters were sent are the same as those that were listed in the "baseline budget"? If so, please provide copies of those.

Further, how does the City Attorney's Office define a "General Fund department" as there must be some explanation as to why certain "departments" were sent the FY 2011 letters and why other public bodies or departments were not sent similar letters? Please note that, after eliminating the FY 2011 letters sent to the 11 individual supervisors, a total of 48 were sent to various agencies, departments and public bodies, yet quite a few public bodies were not sent similar letters, including the Board of Appeals, Building Inspection Commission, Planning Commission and the Port Commission.

All this is public information. Please provide a complete response, without further delay.

Thank You,



Allen Grossman

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SFUFC/GROSSMAN

p.16
PAGE 16/17

TRANSMISSION VERIFICATION REPORT

TIME : 08/01/2011 10:46
NAME : SFUFC/GROSSMAN
FAX : 4158313721
TEL : 4158313720
SER.# : G0J395977

DATE, TIME	08/01 10:45
FAX NO./NAME	5544715
DURATION	00:00:41
PAGE(S)	02
RESULT	OK
MODE	STANDARD ECM

Aug 04 11 11:18a Sunshine Ord. Task Forw...

415-554-76...

p.17

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SFUFC/GROSSMAN

PAGE 17/17

From: Allen Grossman <grossman356@mac.com>
Subject: Re: General Fund Letters FY 2011/Reply
Date: August 1, 2011 11:32:16 AM PDT
To: Jack Song <Jack.Song@sfgov.org>
* 1 Attachment, 1.2 MB

Mr. Song,

Attached are copies of the FAX and letter I sent you and Mr. Herrera earlier this morning.

Allen Grossman



[ltr/FAX Song...pdf \(1.2 MB\)](#)

On Jul 28, 2011, at 3:46 PM, Jack Song wrote:

Dear Mr. Grossman:

Thank you for your patience.

We have tracked down the letters you had requested.

Best regards,

JACK SONG
Deputy Press Secretary

OFFICE OF CITY ATTORNEY DENNIS HERRERA
San Francisco City Hall, Room 234
1 Dr. Carlton B. Goodlett Place
San Francisco, California 94102-4682

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<Monthly Billing Report Letter - Final.pdf>

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Aug 04 11 11:17a Sunshine Ord. Task Force
08/04/2011 11:04 4158313721

415-554-7600

p.1

SFUFC/GROSSMAN

PAGE 01/17

ALLEN GROSSMAN
111 30th AVENUE
SAN FRANCISCO, CALIFORNIA 94121-1005
TELEPHONE: (415) 831-3720
FACSIMILE: (415) 831-3721
Email: grossman356@mac.com

FACSIMILE TRANSMITTAL

To: Chris Rustomi, Administrator
At: Sunshine Ordinance Task Force
FAX Number: (415) 554-7854
Phone Number: (415) 554-7724
Number of Pages: 17, including cover sheet
Date: August 4, 2011
From: Allen Grossman
Message: Sunshine Ordinance Complaint against San Francisco City Attorney
Dennis Herrera and Deputy Press Secretary Jack Song, dated August 4,
2011

**IF YOU DO NOT RECEIVE ALL PAGES OF THIS TRANSMISSION,
PLEASE CALL (415) 831-3720 AS SOON AS POSSIBLE**

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From: Gina Gutierrez <Gina.Gutierrez@sfgov.org>
Date: August 5, 2011 2:42:34 PM PDT
To: Allen Grossman <grossman356@mac.com>
Cc: Jack Song <Jack.Song@sfgov.org>
Subject: Response to Public Record Request

Dear Mr. Grossman:

This in response to your letter of August 1, 2011, wherein you continue to request a baseline budget for the hours of legal work set for the General Fund departments that was created approximately 8 years ago. As we told you on July 7, 2011, we have **no** documents responsive to your request, and we directed you to the Controller's website where you could obtain the budget data you sought.

On July 13, 2011 we **again** informed you that we do not have a baseline budget document from 8 years ago. Under our records retention policy, budget documents are kept for 2 years. However, in order to try to answer your questions about the establishment of baseline legal hours for the Sunshine Ordinance Task Force (SOTF), we provided you with aggregate data retrieved from our law office management system showing total aggregate hours spent on SOTF legal work from fiscal year 1997 to fiscal year 2011.

On July 15, 2011, you again requested a copy of a document that we already told you we do not have, and records showing the number of budgeted hours allocated to General Fund departments for the last 3 fiscal years. On July 28, we sent you the **only** responsive documents we have -- the letters sent to the General Fund Departments in August 2010, informing the departments of their allocation of hours for fiscal year 2011. We know longer have copies of the letters for fiscal years 2009 and 2010, which were sent in 2008 and 2009, respectively. Under our records retention policy, budget documents and correspondence are kept for 2 years.

We do not have any baseline budgets. The numbers given in the previous year are used as the baseline for the next year. As we informed you on July 7, 2011, historic budgets are on the Controller's website.

You also requested that we "define" a "General Fund Department." For the City Attorney's budget purposes, a "General Fund Department" is any department that does not fund our department through a work order. The Annual Appropriation Ordinance lists the Departments that provide work orders to our department. Again, those departments that do not, are referred to by our department as a "General Fund Department." Please note that the final budget for fiscal year 2012 (FY12 AAO) can be found on the Controller's website at <http://www.sfcontroller.org/Modules/ShowDocument.aspx?documentid=2390>

Best Regards,

/s/

JACK SONG
Public Information Officer

OFFICE OF CITY ATTORNEY DENNIS HERRERA
San Francisco City Hall, Room 234
1 Dr. Carlton B. Goodlett Place
San Francisco, California 94102-4682

(415) 554-4653 Direct
(415) 554-4700 Reception
(415) 554-4715 Facsimile
(415) 554-6770 TTY
www.sfcityattorney.org

JS/gg

P Save the Earth, one page at a time. Please consider the environment
before printing this email.

Allen Grossman
111 30th Avenue
San Francisco, CA 94121-1005
Tel: (415) 831-3720
Fax: (415) 831-3721
Email: grossman356@mac.com

BY FACSIMILE

August 12, 2011

Mr. Jack Song,
Deputy Press Secretary
Office of City Attorney
San Francisco City Hall, Room 234
San Francisco, California 94102-4682

Dear Mr. Song,

This letter is with further reference to both my June 27, 2011 record request (June RR) and my July 13, 2011 Immediate Disclosure Request (IDR). I have your August 5, 2011 Email which, as you know, I received after I had filed a complaint with the Sunshine Ordinance Task Force (SOTF) regarding the IDR.

In your responses to my June RR, you advised me that your office had no records responsive to the June RR. In your August 5, 2011 email you stated that your office had already provided me with copies of the only records retained by your office that are responsive to the IDR - namely copies of the 59 letters sent in August 2010 to the General Fund Departments informing them of reductions in hours allocated to them for FY 2011 - and that there were no other records responsive to my IDR.

In your responses to both requests, you advised me that the Controller's website has the budget information for FYs 2009 and 2010 and for the final budget for FY 2012, where I would find the list of the departments that "fund" the City Attorney's office, which, by definition, are not "General Fund Departments."

Combining your responses to the June RR and the IDR, you informed me that your office has no records that show (1) how the budgeted hours to the SOTF for each of FYs 2009, 2010 and 2011 were determined or calculated, whether data, computations, calculations or compilations, (2) your office's "careful review" of the historic levels of service the SOTF received over the course of fiscal years prior to FY 2009, (3) reductions in the General Fund Allocation to the City Attorney's office in or with respect to each of the FYs 2009, 2010 and 2011, respectively, (4) the baseline budget for hours of legal work set for the General Fund departments approximately 8 years ago (to which you referred in your response to the June RR), the individual General Fund departments included in that budget, the baseline amounts allocated to each of those departments in that budget or the budgeted hours of legal services allocated to each of those departments (other than SOTF) for the fiscal years ended June 30, 2009 and 2010, respectively, (5) other than

the compiled aggregate annual FY total hours your office spent on SOTF work for each of FYs 1997 through 2011 (provided in your July 13, 2011 email), the "historic levels of service to the SOTF", which would have been reflected in the baseline budget prepared approximately 8 years ago or in the determination of the levels of service for SOTF's FYs 2009, 2010 and 2011 or (6) whether any of such records had existed but were destroyed.

From your office's advice to other departments¹, I assume that, as a general rule, your office does not search its back-up electronic files in response to a public records requests. Since you haven't responded either way to my recent inquiry whether any back-ups of the requested records exist, I will also assume they do not.


On the Controller's website there is Consolidated Budget information for the FYs covered by the June RR and the IDR, to wit: the budget for FY 2004 (approximately eight years ago) on which the baseline budget was presumably based, and those for FYs 2009, 2010 and 2011.

Based on my reading of the amounts shown for General Fund Support, none of those budgets appear to support the reductions in hours to the SOTF for FYs 2009, 2010 and 2011. For example, GFS in FY 2004 (the presumed base year) was \$7,138,602, in FY 2009, \$10,006,566 (an increase of about 40%), in FY 2010, \$8,375,145 (an increase of about 17%) and in FY 2011, \$7,310,658 (an increase of about 4%).²

Although changes in hourly rates and billing conventions (e.g., six versus 15 minute minimums) can affect the number of hours represented by the dollar amounts, without the computations one can't know what were the changes or, for that matter, the number of hours used for the base period. For example, did your office use 438.5 hours, the compiled number of SOTF hours for FY 2004?

Given that your office has no records that show there were actual calculations made to determine the reductions in levels of service to the SOTF for the last three FYs or the specific adjustments to a FY 2004 baseline budget that resulted in those reductions, does your office have any other way of establishing that the reductions were not arbitrary?

Yours Very Truly,


Allen Grossman

¹ Good Government Guide 2010-11 Edition: Part Three, II-F-d., page 89.

² There are other anomalies in the budget numbers for those years. The total revenues for your office increase from \$46,108,000 in FY 2004 to \$63,231,000 in FY 2011, about 37%, as do Interdepartment Recoveries (which I understand to be, revenues from the departments who reimburse your office for legal services) by about 64%, so that there appears to have been a shift, at the expense of the GFS departments, to those other departments of more than their collective share in the total funds made available to your office.

CITY AND COUNTY OF SAN FRANCISCO



DENNIS J. HERRERA
City Attorney

OFFICE OF THE CITY ATTORNEY

DIRECT DIAL: (415) 554-4748

September 24, 2008

Mr. Frank Darby
Administrator
Sunshine Ordinance Task Force
City Hall, Room 244
San Francisco, CA 94102

Re: Legal Services- FY 2009

Dear Mr. Darby:

As you know the City Attorney's Office is committed to providing you with sound advice, carefully researched legal opinions, and assertive litigation services. We are proud to be your partner in addressing the complex public policy issues with which you are faced. Despite budget reductions in previous fiscal years, I have worked hard with you to manage priorities so as to maintain the level of services your department deserves and has come to expect. Regrettably, recent reductions in general fund support have placed the continued maintenance of current legal service levels beyond the reach of further prioritization. Prudent fiscal management requires me to institute a new approach.

Please be advised that, effective immediately, the level of service provided by the City Attorney's Office to your department will be adjusted. We have budgeted 350 hours for your department for Fiscal Year 2009. This number was reached after a careful review of the historic levels of service your department received over the course of the last several fiscal years.

Over the course of this fiscal year, the deputy city attorney assigned to your department will meet with you to determine your most pressing legal needs, and identify the strategies and resources necessary to meet those needs. In addition, I would welcome the opportunity to explore with you possibilities for additional funding sources in order to minimize service reductions. Please feel free to contact me directly should you have questions or wish to discuss the needs of your department.

Let me assure you that we remain committed to providing you with the quality legal services you require. Working together, I am confident that we will not only weather the current fiscal crisis, but forge an even stronger partnership by doing so.

Very truly yours,

A handwritten signature in black ink, appearing to read "Dennis J. Herrera".

DENNIS J. HERRERA
City Attorney

cc: Ernest Llorente, Deputy City Attorney

CITY AND COUNTY OF SAN FRANCISCO RECEIVED OFFICE OF THE CITY ATTORNEY



DENNIS J. HERRERA
City Attorney

BOARD OF SUPERVISORS
SAN FRANCISCO

DIRECT DIAL: (415) 554-4748

2009 SEP 11 PM 4:22

BY RC

September 4, 2009

Mr. Frank Darby
Sunshine Ordinance Task Force
City Hall, Room 244
San Francisco, CA 94102

Re: Legal Services- FY 2010

Dear Mr. Darby:

As you know the City Attorney's Office is committed to providing you with sound advice, carefully researched legal opinions, and assertive litigation services. We are proud to be your partner in addressing the complex public policy issues with which you are faced. Despite budget reductions in previous fiscal years, I have worked hard with you to manage priorities so as to maintain the level of services your department deserves and has come to expect. Regrettably, additional reductions in general fund support have placed the continued maintenance of current legal service levels beyond the reach of further prioritization. Prudent fiscal management requires me to institute a new approach.

Please be advised that, effective immediately, the level of service provided by the City Attorney's Office to your department will be cut in accordance with the General Fund cuts to our department. We have budgeted 350 hours for your department for Fiscal Year 2010.

Over the course of this fiscal year, the deputy city attorney assigned to your department will meet with you to determine your most pressing legal needs, and identify the strategies and resources necessary to meet those needs. In addition, I would welcome the opportunity to explore with you possibilities for additional funding sources in order to minimize service reductions. Please feel free to contact me directly should you have questions or wish to discuss the needs of your department.

Let me assure you that we remain committed to providing you with the quality legal services you require. Working together, I am confident that we will not only weather the current fiscal crisis, but forge an even stronger partnership by doing so.

Very truly yours,

A handwritten signature in black ink, appearing to read "Dennis J. Herrera".

DENNIS J. HERRERA
City Attorney

cc: Jerry Threet, Deputy City Attorney

CITY AND COUNTY OF SAN FRANCISCO

OFFICE OF THE CITY ATTORNEY



DENNIS J. HERRERA
City Attorney

DIRECT DIAL: (415) 554-4748

August 23, 2010

RECEIVED
BOARD OF SUPERVISORS
SAN FRANCISCO
2010 AUG 31 AM 10:40
BY _____

Mr. Richard Knee
Administrator
Sunshine Ordinance Task Force
City Hall, Room 244
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102

Re: Legal Services- FY 2011

Dear Mr. Knee:

The San Francisco City Attorney's Office remains committed to providing your department with top-notch legal counsel and aggressive litigation services when necessary. I know I speak for everyone in my office when I say how proud we are to partner with you and your staff to address legal aspects of the complex public policy issues you face.

Regrettably, the annual General Fund allocation to our office was reduced once again, this year by another 22 percent. As a result, effective immediately, the level of service the City Attorney's Office provides to your department must be reduced in accordance with the General Fund cuts we have sustained. We have budgeted 218 hours for your department for Fiscal Year 2011.

Throughout the course of this fiscal year, the deputy city attorney assigned to your department will be available to meet with you to determine your most pressing legal priorities, and to identify strategies and resources for meeting those needs. I would additionally welcome the opportunity to explore with you possibilities for other funding sources in order to minimize service reductions. Please feel free to contact me directly should you have questions, or wish to discuss the needs of your department.

Please be assured that I remain fully committed to continuing to provide your department with the top quality legal services you have come to expect. Working together, I am hopeful that we will not only weather the current fiscal crisis effectively and prudently, but that we may forge an even stronger partnership by doing so.

Very truly yours,


DENNIS J. HERRERA
City Attorney

cc: Jana Clark, Deputy City Attorney



Jack
Song/CTYATT@CTYATT
08/16/2011 04:27 PM

To SOTF/SOTF/SFGOV@SFGOV
cc Allen Grossman <grossman356@mac.com>
bcc
Subject response to Allen Grossman, complaint No. 11056

Honorable Members, Sunshine Ordinance Task Force
c/o Chris Rustom, Task Force Administrator
Office of the Clerk of the Board of Supervisors
City Hall, Room 244
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102

Re: Complaint No. 11056

Dear Sunshine Ordinance Task Force,

This in response to Mr. Grossman's complaint of August 4, 2011, wherein he alleges that this office failed to: 1) fully respond to his Immediate Disclosure Request dated July 13, 2011; and 2) respond to his follow up request of August 1, 2011. In fact, this office responded several times to his numerous requests for the same information, but he apparently is not satisfied with the answers. For FY 2011, we set the SOTF, a General Fund department, budget at 218 hours; however, the SOTF used 434.50 hours of legal services (almost double of what budgeted hours were). As we stated, we set these budgets based on our General Fund allocation/reduction, but if a department uses more hours than allocated, we continue to provide legal services. Mr. Grossman wants budget documents from 8 years ago that will show some sort of progression. As we informed Mr. Grossman, per our records retention policy, we do not have 8 year old budget documents.

Mr. Grossman made his initial request on June 27, 2011. This office responded in a timely fashion on July 7, 2011, informing Mr. Grossman that we had no documents responsive to his request, and we directed him to the Controller's website where he could obtain the budget data he sought. Later that day, on July 7, Mr. Grossman sent a follow up request.

On July 13, 2011 we **again** informed Mr. Grossman that we did not have a baseline budget document from 8 years ago. Under our records retention policy, budget documents are kept for 2 years. However, in order to try answer his questions about the establishment of baseline legal hours for the Sunshine Ordinance Task Force (SOTF), we provided him with aggregate data retrieved from our law office management system showing total aggregate hours spent on SOTF legal work from fiscal year 1997 to fiscal year 2011. This data shows that notwithstanding drastic general fund cuts, this office continues to provide legal services to the Sunshine Ordinance Task Force. Later that day, July 13, he sent another request, labeled "Immediate Disclosure" again asking for a variation on documents we already told him, on July 7 and July 13, that we did not have pursuant to our records retention policy.

On July 15, 2011, Mr. Grossman again requested a copy of a document that we already told him that we did not have, and records showing the number of budgeted hours allocated to General Fund departments for the last 3 fiscal years. On July 28, we sent him the **only** responsive documents we had--the letters sent to the General Fund Departments in August 2010, informing the departments of their allocation of hours for fiscal year 2011. We no longer have copies of the letters for fiscal years 2009 and 2010, which were sent in 2008 and 2009, respectively. Under our records retention policy, budget documents and correspondence are kept for 2 years.

On August 1, 2011, Mr. Grossman sent another letter, labeled "July 13, 2011 Immediate Disclosure Request" again asking for documents we already told him we did not have. We responded to this August 1, letter on August 5, 2011, certainly within the required 10 day time frame. We again informed him that we did not have any baseline budgets. The numbers given in the previous year are used as the baseline for the next year. As we informed him on July 7, 2011, historic budgets are on the Controller's website. He also requested that we "define" a "General Fund Department." For the City Attorney's budget purposes, a "General Fund Department" is any department that does not fund our department through a work order. The Annual Appropriation Ordinance lists the Departments that provide work orders to our department. Those that do not, are referred to by our department as a "General Fund Department." We directed him to the final budget for fiscal year 2012 (FY12 AAO) located on the Controller's website at:

<http://www.sfcontroller.org/Modules/ShowDocument.aspx?documentid=2390>

This office made numerous attempts to provide Mr. Grossman with the budget information he sought; however, we cannot go back and conjure up documents that were destroyed pursuant to our records retention policy. Therefore, there is no violation of the Sunshine Ordinance.

Best regards,

JACK SONG
Public Information Officer

OFFICE OF CITY ATTORNEY DENNIS HERRERA
San Francisco City Hall, Room 234
1 Dr. Carlton B. Goodlett Place
San Francisco, California 94102-4682

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Allen Grossman
111 30th Avenue
San Francisco, CA 94121-1005
Email: grossman356@mac.com
Phone: (415) 831-3720
FAX: (415) 831-3721

BY FACSIMILE

June 27, 2011

Mr. Jack Song, Public Information Officer
Office of San Francisco City Attorney
City Hall, Room 234
San Francisco, CA 94102

This is a public records request pursuant to the applicable provisions of California Public Records Act and the San Francisco Sunshine Ordinance for copies of any and all public records, in any form of media, in the custody or control of or maintained by the Office of the San Francisco City Attorney or any staff member in connection with or with respect to the following quotations from the three letters from Dennis J. Herrera, City Attorney, to the Administrator of the Sunshine Ordinance Task Force ("SOTF") attached to this request:

(1) Letter dated September 24, 2008 to Mr. Frank Darby, Administrator, Sunshine Ordinance Task Force, Re: Legal Services –FY 2009:

"Please be advised that, effective immediately, the level of service provided by the City Attorney's Office to your department will be adjusted. We have budgeted 350 hours for your department for Fiscal Year 2009. This number was reached after a careful review of the historic levels of service your department received over the course of the last several fiscal years."

(2) Letter dated September 4, 2009 to Mr. Frank Darby, Administrator, Sunshine Ordinance Task Force, Re: Legal Services –FY 2010:

"Please be advised that, effective immediately, the level of service provided by the City Attorney's Office to your department will be cut in accordance with the General Fund cuts to our department. We have budgeted 350 hours for your department for Fiscal Year 2010."

(3) Letter dated August 23, 2008 to Mr. Richard Knee, Administrator, Sunshine Ordinance Task Force, Re: Legal Services –FY 2011:

"Regrettably, the annual General Fund allocation to our office was reduced once again, this year by another 22 percent. As a result, effective immediately, the level of service the City Attorney's Office provides to your department must be reduced in accordance with the General Fund cuts we have sustained. We have budgeted 218 hours for your department for Fiscal Year 2011."

that show how the budgeted hours to the SOTF for each of those Fiscal Years was determined or calculated, including, but not limited to, data, computations, calculations, compilations, as well as historic levels of service to the SOTF and reductions in the General Fund Allocation to the City Attorney's office in or with respect to each of the Fiscal Years 2009, 2010 and 2011, respectively.

In accordance with Section 67.25(d) of the San Francisco Sunshine Ordinance, please produce the copies of any and all responsive public records as soon as reasonably possible on an incremental or "rolling" basis.

If the requested records are kept electronically or in PDF format, please send them in their original format by email to the above email address. If the records are kept in some other format, please scan the relevant page(s) to PDF format and send them by email to the above email address.

This public records request is to be read broadly and any exemptions to disclosure of any public information in such public records are to be construed narrowly.

Allen Grossman
Allen Grossman

From: Jack Song <Jack.Song@sfgov.org>
Date: July 7, 2011 10:51:29 AM PDT
To: Allen Grossman <grossman356@me.com>
Subject: Response to Public Record Request

Dear Mr. Grossman:

This in response to your request of June 27, 2011, for records "that show how the budgeted hours to the SOFT for each of those Fiscal Years [2009, 2010, 2011] was determined or calculated...." Except for the letters you attached to your request, we have no documents responsive to your request.

Approximately 8 years ago, a baseline budget for hours of legal work was set for the General Fund departments. Since that time, the legal hours budgeted for each General Fund department have been reduced to correspond to the General Fund reductions to this office, which is a City department.

The final Consolidated Budget and Annual Appropriation Ordinances (AAO) for Fiscal Years 2009 and 2010, and the proposed AAO for 2011 can be found on the Controller's website at the following link:

<http://www.sfcontroller.org/index.aspx?page=396>

Best regards,

JACK SONG
Public Information Officer

OFFICE OF CITY ATTORNEY DENNIS HERRERA
San Francisco City Hall, Room 234
1 Dr. Carlton B. Goodlett Place
San Francisco, California 94102-4682

(415) 554-4653 Direct