

**SUNSHINE ORDINANCE
TASK FORCE**



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April 30, 2012

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

**Re: Referral for Enforcement of Order of Determination, Action on Failure to Appear
Sunshine Complaint No. 11087, Lars Nyman v. Department of Public Works**

The Sunshine Ordinance Task Force ("Task Force") hereby refers for enforcement the Order of Determination ("Order") issued on February 27, 2012 in Sunshine Complaint No. 11087, Lars Nyman v. Department of Public Works.

This referral for enforcement is made pursuant to:

- (1) Sunshine Ordinance Section 67.30(c) whereby "the Task Force shall make referrals to a municipal office with enforcement power under this ordinance or under the California Public Records Act and the Brown Act whenever it concludes that any person has violated any provisions of this ordinance or the Acts";
- (2) San Francisco City Charter Section 15.102 which provides that the Ethics Commission "may adopt rules and regulations relating to carrying out the purposes and provisions of ordinances regarding open meetings and public records"; and
- (3) Sunshine Ordinance Section 67.35(d) whereby "any person may institute proceedings for enforcement and penalties under this act in any court of competent jurisdiction or before the Ethics Commission if enforcement action is not taken by a city or state official 40 days after a complaint is filed.

The Task Force further refers Frank Lee, Executive Assistant to the Director of the Department of Public Works, for failure to appear at the Task Force hearing on compliance in violation of Sunshine Ordinance Section 67.21(e). This referral is made pursuant to Sunshine Ordinance Section 67.30(c) as previously cited.

Background

Lars Nyman filed a complaint with the Task Force on November 14, 2011 alleging that the Department of Public Works (“DPW”) failed to adequately respond to his public records request dated October 6, 2011.

Task Force Hearing on Complaint

On January 3, 2011, the Task Force held a hearing on the complaint, finding DPW in violation of Sunshine Ordinance public records provisions. DPW was ordered to investigate the existence of and produce relevant project approval records to Mr. Nyman no later than February 5, 2012.

On March 20, 2012, the Task Force’s Compliance and Amendments Committee held a hearing on compliance with the Order to investigate and produce records, finding DPW had failed to comply. The matter was returned to the Task Force for further action with a recommendation that the Task Force refer the Order to the District Attorney or Board of Supervisors for enforcement.

On April 4, 2012, the Task Force held a hearing to consider further action. The Task Force found that DPW continued to fail to produce the records and found Mr. Lee in violation of Sunshine Ordinance Section 67.21(e) for failing to appear at the hearing on further action.

A description of the first Task Force hearing, violations found, and decision are described in the attached Order.

Thank you for your attention to this matter. Please contact the Task Force Administrator at sotf@sfgov.org or (415) 554-7724 for any additional information needed.



Hope Johnson, Chair
Sunshine Ordinance Task Force

Encl.

cc: Lars Nyman, Complainant
Frank Lee, Executive Assistant, Department of Public Works, Respondent
Mohammed Nuru, Director, Department of Public Works, Respondent
Jerry Threet, Deputy City Attorney