

**SUNSHINE ORDINANCE
TASK FORCE**



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May 18, 2012

Board of Supervisors
City and County of San Francisco
San Francisco City Hall
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco, CA 94102

**Re: Sunshine Complaint No. 11023, William Clark v. Arts Commission
Notice of Failure to Comply with Order of Determination**

The Sunshine Ordinance Task Force ("Task Force") hereby provides notice to the Board of Supervisors of Street Artist Program Director Howard Lazar's failure to comply with the Order of Determination ("Order") issued on June 18, 2011 in Sunshine Ordinance Complaint No. 11023, William Clark v. Arts Commission.

The Task Force requests the Board take action to enforce the Order of Determination and require Mr. Lazar and the Street Artists Program to produce the requested public records and public information to Mr. Clark. The Task Force further requests the Board investigate Mr. Lazar's continued Sunshine Ordinance violations and take appropriate action.

Background

On February 21, 2011, William Clark requested public records and public information regarding the justification for a Street Artist Program employee's change in job code and associated salary increase. Mr. Lazar charged Mr. Clark the copy fee allowed under the Sunshine Ordinance and then produced records. Upon review of the records, Mr. Clark determined that none of records were responsive to his request.

Mr. Clark filed a complaint with the Task Force on March 6, 2011 alleging that the San Francisco Arts Commission violated the Sunshine Ordinance by failing to provide public records and information responsive to his request.

Task Force Hearings on Complaint

On May 18, 2011, the Task Force held a hearing on the complaint. The Task Force found respondents in violation of the Sunshine Ordinance and ordered disclosure of the requested

public information no later than June 24, 2011. A description of the hearing, violations found, and the Task Force decision are described in the attached Order.

On July 12, 2011, the Task Force's Compliance and Amendments Committee held a hearing to monitor compliance with the Order. The Arts Commission had not provided the requested public information to Mr. Clark, and the Compliance and Amendments Committee recommended the full Task Force refer the matter to the Board of Supervisors for Mr. Lazar's failure to comply with the Order.

The Task Force approved notice of this matter to the Board at its regularly scheduled hearing on July 26, 2011. At that time, Mr. Lazar was still not in compliance with the Order. Please be advised that, in addition to the violations noticed herein, there have been multiple other violations found by the Task Force against Mr. Lazar. On numerous occasions, William Clark, a longtime San Francisco Street Artist, has attempted to learn detailed public information justifying the cost of the Street Artists Program which is funded by fees charged to the street artists themselves.

These current violations continue a pattern of non-compliance with the Sunshine Ordinance by the Arts Commission staff. The Task Force has notified the Board of the ongoing violations on several occasions. Mr. Clark's public records requests are reasonable for a street artist required to pay yearly increases in fees to the Street Artists Program, and he is entitled to the information under state and local law. Over the past two years, he has had difficulty receiving public records regarding supporting documentation and information for staff promotions and salary increases, minutes of Management Team meetings, justification for billing specific percentages of staff time to the Street Artists Program, and details of proposals for new street artists spaces (see, for example, Sunshine Compliant Nos. 10069, 10074, 11007, 11037, and 11045).

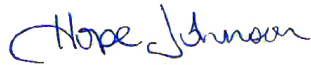
Most recently, Mr. Clark discovered that a section of an audio recording of a Street Artists Program meeting was missing. The section contained a verbal exchange between Mr. Clark's brother, also a longtime street artist, and former Director Luis Cancel. Mr. Lazar acknowledged a section of the meeting was not included on the audio recording, and could provide no explanation for its exclusion. (See Sunshine Complaint No. 11008.)

The Task Force reminds the Board that both the Director of Cultural Affairs and the President of the Arts Commission have resigned amid serious allegations since the date this notice was approved. In addition, the Controller's Office has issued a report confirming misappropriation of funds.

The Task Force brings to the attention of the Board that Mr. Clark is very familiar with the handling of street artists' money by the Arts Commission. Please find attached a copy of a newspaper article from 1987 detailing Mr. Clark's investigation which resulted in uncovering \$56,000.00 of "lost" street artist money. Due to this "found" money, the street artists were not required to pay an increase in permit fees that had been requested by the Arts Commission.

The Task Force strongly urges the Board to take action on these current violations. Copies of the Order and the aforementioned newspaper article are attached.

Thank you for your attention to this matter. Please confirm receipt of this notice to the Task Force Administrator at sotf@sfgov.org or (415) 554-7724. The Administrator is also available to provide any additional information needed.



Hope Johnson, Chair
Sunshine Ordinance Task Force

Encl.

cc: William Clark, Complainant
Tom Decaigny, Respondent
Howard Lazar, Respondent
Jerry Threet, Deputy City Attorney
Board President David Chiu, District 3
Supervisor Eric Mar, District 1
Supervisor Mark Farrell, District 2
Supervisor Carmen Chiu, District 4
Supervisor Christina Olague, District 5
Supervisor Jane Kim, District 6
Supervisor Sean Elsbernd, District 7
Supervisor Scott Wiener, District 8
Supervisor David Campos, District 9
Supervisor Malia Cohen, District 10
Supervisor John Avalos, District 11

Brothers Find \$56,000 for Street Artists

S.F. Mistake Put Money in General Fund

By Thomas G. Keane

Bill and Bob Clark have earned a modest living over the past 10 years hawking small metal items to tourists near Fisherman's Wharf and Ghirardelli Square.

Recently, the two San Francisco street artists have turned to detective work, poring over law books, attorneys' opinions and city ordinance codes.

The brothers' amateur sleuthing has helped uncover at least \$56,000 for a financially strapped program for street artists.

"I've lost sleep over this because no one wanted to talk about it," Bill Clark said recently over cheese sandwiches at a restaurant near Aquatic Park. "People tried to brush us off. They just figured we're hippie-types out for another free lunch."

Arts Commission

The street artist program is an arm of the Arts Commission that certifies people to sell handmade wares in public and assigns them spaces at 150 city-owned lots. It also screens applicants for the program and ensures that none sells store-bought goods.

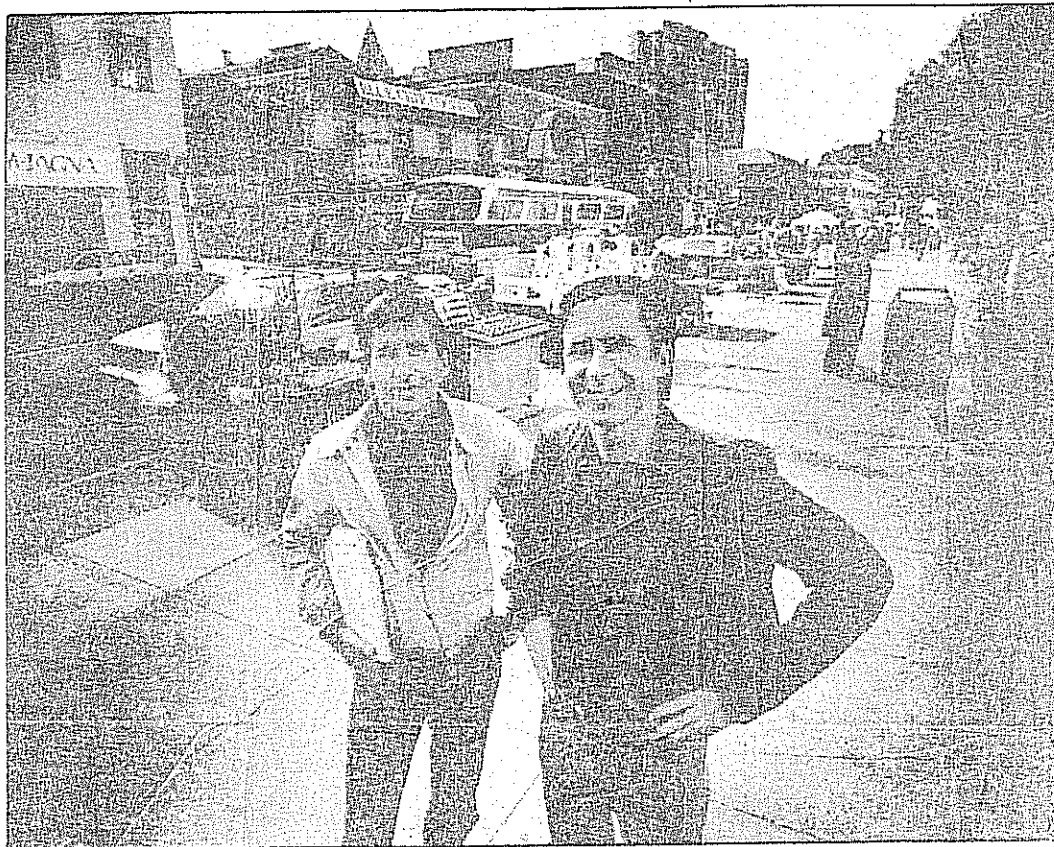
Fees collected for street artist licenses are used to pay for the program's three-member staff, a part-time screening committee and miscellaneous supplies.

The Clarks contend that the city misappropriated thousands of dollars from the street-artist program over the past 15 years by putting unspent fees into the city's general fund.

Convinced by their arguments, the city controller has agreed to credit the program with an additional \$56,000.

Fee Increase Blocked

The decision stopped an earlier move by the Arts Commission to raise the street-artist license fee from \$160 to \$232 this year, said Howard Lazar, the program's director. The fee increase had been ordered to cover a \$36,000 debt the



BY MICHAEL MALONEY/THE CHRONICLE

Street artist brothers Bill and Bob Clark turned amateur detectives to track down the money

program had run up over the past two years.

"I'm very glad the Clark brothers came forward," Lazar said. "I had no idea we had this much money saved up. I don't know if anyone had delved into the books in the controller's office all these years."

In 1974, Bill Clark and his twin brother, both former Eagle Scouts, led the successful fight for the initiative that legalized street vendors who create their own wares.

The law also established the street-artist program to monitor the vendors, checking for quality and ensuring that each one had equal opportunity for a selling space.

The money raised by the fees was always more than enough to finance the program. In fact, some funds were usually unspent, so the city, as it does with similar programs, dumped the leftovers each year into the general fund, where it

could be used for a variety of city expenses.

Old Documents

The 40-year-old brothers took dog-eared copies of old documents and government codes to City Hall and argued to have the money returned to the program.

They had unearthed records showing the street-artist program qualified as a "special fund," meaning the license fees cannot be used for any other expense.

The controller double-checked the books and found the Clarks were correct — in part. The street-artist program was given special status in 1978. After that, placing street-artist license money into the general fund was a mistake, a book-keeping error that was worth \$56,000 to the program.

The Arts Commission has asked the Board of Supervisors for a supplemental appropriation of \$22,000

this year, based on the Clarks' research. Lazar expects to get the money, but it is impossible to predict in a tight budget year.

"We don't have political power," said Bob Clark. "We're still viewed as the counterculture, the hippies who don't want to pay taxes. But in reality, we're competing small businesses, and every business has to fight to keep its costs down."

Mother Sentenced For School Attack

Pell City, Ala.

Vicki Elmore, a mother of four, was sentenced to at least six months in jail yesterday for hitting an assistant principal over the head with a wooden paddle to protest the corporal punishment of her son.

United Press International

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