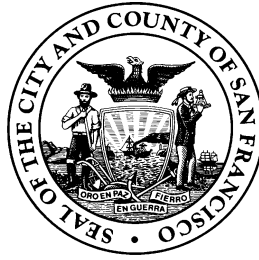


**SUNSHINE ORDINANCE
TASK FORCE**



City Hall
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco 94102-4689
Tel. No. (415) 554-7724
Fax No. (415) 554-7854
TDD/TTY No. (415) 554-5227

February 28, 2014

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

Re: Sunshine Ordinance Task Force (SOTF) referral to the Ethics Commission - Mica Ringel against John Raheim, Director, Planning Department. (Sunshine Ordinance Complaint No. 13024)

Dear Ethics Commission:

On October 2, 2013, the Task Force heard Complaint No. 13024, by Mica Ringel (Complainant) against the Planning Department via individuals Ben Fu, Don Lewis, and Lulu Hwang (Respondent). The Complainant alleges that the Planning Department violated the Sunshine Ordinance by failing to provide the appropriate access to various public records.

Mica Ringel appeared before the Task Force and presented his claim. Respondent, Lulu Hwang, Operations and IS Administrator, presented the Planning Department's defense, presenting the complete case file to the Task Force for the Mica Ringel on a compact disk. The issue in the case was whether the Planning Department violated Sections 67.21, 67.24, 67.25, 67.26, and 67.27 of the Ordinance.

Based on the testimony and evidence presented, the Task Force found the testimony of Complainant to be persuasive and finds Sections 67.21(a) and 67.29-7 of the Sunshine Ordinance to be applicable in this case. The Task Force does not find testimony provided by Respondent, Lulu Hwang of the Planning Department persuasive. An Order of Determination was issued on October 23, 2013, and the Planning Department was ordered to release the records requested, and issued an Order to appear before the Compliance and Amendments Committee on November 19, 2013.

At the November 19, 2013, Compliance and Amendments Committee, Mica Ringel provided an update on the October 23, 2013, Order of Determination from the October 2, 2013, full SOTF meeting.

Mica Ringel stated that the Planning Department has not provided all of the requested records associated with the proposed development at 480 Potrero Avenue, thus failing to comply with the Order of Determination. Mr. Ringel also stated that the Planning Department had provided additional documents but that he still considered the documents incomplete. Respondents Don Lewis, Nannie Turrell, Lulu Hwang, and Ben Fu, Planning Department, stated that all available records have been provided to the Complainant and non-substantive documents that were not placed into the administrative record are not available. The Planning Department is working with the Department of Technology to retrieve deleted emails.

Member Knee, seconded by Member Washburn, moved to refer the matter back to the SOTF with a recommendation for consideration of referral to Ethics Commission.

At the December 4, 2013, SOTF meeting Mica Ringel provided an update and overview of the complaint referred back to the full task force by the Compliance and Amendments Committee . LuLu Hwang and Sara Jones, Planning Department, provided an overview of the Planning Department's defense and submitted additional information on compact disk.

Member Washburn, seconded by Member Knee, moved to refer the complaint to the Education, Outreach and Training Committee (EOTC) to discuss possible changes to the Planning Department procedures.

At the January 13, 2014, EOTC meeting on the status of the Order of Determination against the Planning Department for allegedly failing to provide requested records associated with the proposed development of 480 Potrero Avenue, Mica Ringel provided an update on the information submitted by the Planning Department. Jonas Ionin, Custodian of Records, Planning Department (Respondent); provided an overview of the Planning Department's defense. The Committee requested the Planning Department to perform an additional email database search for "480 + Portrero" and "2011.0430".

Member Fischer, seconded by Member David, moved to refer the matter back to the Task Force.

At the February 5, 2014, SOTF meeting Mica Ringel provided an update of the complaint and requested the Task Force to find violation and refer the matter to the Ethics Commission.

Member Washburn, seconded by Member Oka, moved to find Director John Rahaim, Planning Department, in violation of the Sunshine Ordinance for willful failure to comply with the Sunshine Ordinance Task Force's Order of Determination dated October 23, 2013; referral to the Ethics Commission for enforcement.

This request and referral is made under Section 67.30(c) whereby the Task Force shall make referrals to a municipal office with enforcement power under the Sunshine 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.

Thank you for your timely attention to this matter. A description of the Task Force hearing, violations found, and decision are described in the attached Order of Determination. Please contact the Sunshine Ordinance Task Force Administrator at sof@sfgov.org or (415) 554-7724 with any questions or concerns.

A handwritten signature in cursive script, appearing to read "Kitt Grant".

Kitt Grant, Chair
Sunshine Ordinance Task Force

Encl.

c: Mica Ringel, Complainant
Jonas Ionin, Planning Department
John Rahaim, Director, Planning Department
Nicholas Colla, Deputy City Attorney
Jerry Threet, Deputy City Attorney

**ORDER OF DETERMINATION**

October 23, 2013

DATE THE DECISION ISSUED

October 2, 2013

CASE TITLE – MICA RINGEL V. PLANNING DEPARTMENT (13024)

FACTS OF THE CASE

Mica Ringel ("Complainant") complains that the Planning Department via individuals Ben Fu, Don Lewis, and Lulu Hwang ("Respondents") violated the Sunshine Ordinance by failing to provide the appropriate access to various public records.

COMPLAINT FILED

On April 26, 2013, "Complainant" filed a Complaint against "Respondents", seeking assistance from the Task Force regarding his public records request to the Planning Department on March 31, 2013. "Respondents" had provided some records to "Complainant", but "Complainant" noted the lack of certain correspondence or electronic data. The Planning Department, upon notification of the Complaint, engaged in further email correspondence with "Complainant". This correspondence culminated in a notification to the Task Force from "Complainant" on May 14, 2013, that the matter was not resolved, and included a summary of records "Complainant" continues to seek from Respondent.

HEARING ON THE COMPLAINT

On October 2, 2013, "Complainant", appeared before the Task Force claiming the Planning Department did not release the complete case file of a proposed development at 480 Potrero Avenue. Lulu Hwang, Operations and IS Administrator, Planning Department ("Respondent") presented the Planning Department's defense presenting the complete case file to the Task Force for the "Complainant" on a compact disk.

The issue in the case is whether the Planning Department violated Sections, 67.21, 67.24, 67.25, 67.26, and 67.27 of the Ordinance.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Based on the testimony and evidence presented the Task Force finds the testimony of "Complainant" to be persuasive and finds Sections 67.21(a) and 67.29-7 to be applicable in this case. The Task Force does not find the testimony provided by the Planning Department persuasive to this case.

DECISION AND ORDER OF DETERMINATION

The Task Force finds that the Planning Department violated Sections 67.21(a) and 67.29-7 of the Sunshine Ordinance for failing to make the case file accessible and not maintaining its records associated with the case file. The Planning Department shall release the records requested, if not provided on the compact disk released to "Complainant" the day of October 2, 2013, within 5 business days of the issuance of this Order and appear before the Compliance and Amendments Committee on November 19, 2013.

This Order of Determination was adopted by the Sunshine Ordinance Task Force on October 2, 2013 by the following vote: (Knee/Washburn)

Ayes: Knee, Washburn, David, Hyland, Oka, Fischer

Absent: Pilpel, Sims, Grant



Kitt Grant, Chair
Sunshine Ordinance Task Force

c: Celia Lee, Deputy City Attorney
Jerry Threet, Deputy City Attorney
Mica Ringel, Complainant
Lulu Hwang, Operations and IS Administrator, Planning Department, Respondent
Fu, Don Lewis, City Planner, Planning Department
John Rahaim, Planning Director, Planning Department
AnMarie Rodgers, Manager Legislative Affairs, Planning Department