

Date: August 12, 2008

Item No. 3

File No. 08036

SUNSHINE ORDINANCE TASK FORCE
COMPLAINT COMMITTEE
AGENDA PACKET CONTENTS LIST*

Determination of jurisdiction of complaint filed by Juan De Anza against the Department of Public Health for allegedly denying records and other allegations. (action item) (attachment)

- _____
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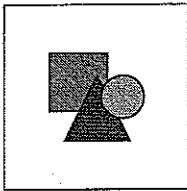
Completed by: Chris Rustom

Date: August 8, 2008

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

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

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



DENNIS J. HERRERA
City Attorney

ERNEST H. LLORENTE
Deputy City Attorney

DIRECT DIAL: (415) 554-4236
E-MAIL: ernest.llorente@sfgov.org

August 6, 2008

Nick Goldman, Chair
Members of the Complaint Committee

Re: Juan De Anda v. Department of Public Health (08036)

Dear Chair Goldman and Members of the Complaint Committee:

This letter addresses the issue of whether the Sunshine Ordinance Task Force ("Task Force") has jurisdiction over the complaint of Juan De Anda ("De Anda") against the San Francisco Department of Public Health ("DPH").

COMPLAINT

On June 25, 2008, Juan De Anda, filed a complaint with the Task Force against the San Francisco Department of Public Health (CBHS) and listed Ms. Maria Leach as the person he has had contact with. In his complaint, Juan De Anda claims ethics violation while using county money. Refusal to invite public to meetings and cherry picking who gets invited and who doesn't. Denial of financial records. Juan De Anda claims public records and public meeting violations.

SHORT ANSWER

Based on Complainant's allegation and the applicable sections of the Sunshine Ordinance and the California Public Records Act, which are cited below, the Sunshine Ordinance Task Force *does not* have jurisdiction over the allegations. The complaint in its present form is too vague and does not give notice as to what the Department is alleged to have done.

DISCUSSION AND ANALYSIS

Article I Section 3 of the California Constitution as amended by Proposition 59 in 2004, the State Public Records Act, the State Brown Act, and the Sunshine Ordinance as amended by Proposition G in 1999 generally covers the area of Public Records and Public Meeting laws that the Sunshine Ordinance Task Force uses in its work.

The Sunshine Ordinance is located in the San Francisco Administrative Code Chapter 67. All statutory references, unless stated otherwise, are to the Administrative Code. Section 67.21 generally covers requests for documents and Section 67.25 covers Immediate Disclosure Requests. Sections 67.3 through 67.17 cover the conduct of Policy Bodies.

CPRA Section 6253 generally covers Public Records Requests and the Ralph Brown Act; California Government Code Sections 54950 et seq. covers public meetings.

Letter to the Complaint Committee

Page 2

August 6, 2008

In this case Juan De Anda has claimed an Ethics violation that is not in the jurisdiction of the Task Force and have made allegations about meetings that may not involve policy bodies. He has also made allegations about denial of financial records but it is not clear what records he refers to. Given the lack of information in this complaint, the Task Force does not have jurisdiction over the subject matter of this complaint.



SUNSHINE ORDINANCE TASK FORCE
1 Dr. Carlton B. Goodlett Place, Room 244, San Francisco CA 94102
Tel. (415) 554-7724; Fax (415) 554-7854
http://www.sfgov.org/sunshine

SUNSHINE ORDINANCE COMPLAINT

Public Health (CBHS)

Complaint against which Department or Commission SAN FRANCISCO DEPARTMENT
Name of individual contacted at Department or Commission Ms MARIA LEACH

- Alleged violation public records access
Alleged violation of public meeting. Date of meeting

Sunshine Ordinance Section
(If known, please cite specific provision being violated)

Please describe alleged violation. Use additional paper if needed. Please attach any relevant documentation supporting your complaint.

Ethics violation while using county money. Refusal to invite public to meetings & cherry cherry picking who gets invited who doesn't. Denial of Financial Records

Do you wish a public hearing before the Sunshine Ordinance Task Force? yes no.

(Optional) Your name JUAN DE ARANDA Address SAN FRANCISCO, CA 94107 Date 6-25-08

Telephone (415) If anonymous, please let us know how to contact you.

Signature

1 NOTICE: PERSONAL INFORMATION THAT YOU PROVIDE IS SUBJECT TO DISCLOSURE UNDER THE CALIFORNIA PUBLIC RECORDS ACT AND THE SUNSHINE ORDINANCE, EXCEPT WHEN CONFIDENTIALITY IS SPECIFICALLY REQUESTED. COMPLAINANTS CAN BE ANONYMOUS AS LONG AS THE COMPLAINANT PROVIDES A RELIABLE MEANS OF CONTACT WITH THE SOTF (PHONE NUMBER, FAX NUMBER, OR E-MAIL ADDRESS).

Nelson Jim/DPH/SFGOV
07/03/2008 02:55 PM

To SOTF/SOTF/SFGOV@SFGOV
cc Bob Cabaj/DPH/SFGOV@SFGOV
bcc
Subject Fw: Sunshine complaint

History:  This message has been replied to.

Chris:

I am Maria Enriquez-Leach's supervisor. Ms. Leach has provided Mr. De Anda an apology about an oversight of not including him on her emailing information on a recent Client Council retreat, which clearly an oversight. He was also informed that he will be included on any future emails regarding upcoming events and activities. Please be informed that this is an individual that has filed numerous complaints and grievances with your office and many other city and county offices. I would advise to review any or all previous complaints regarding this individual. For your information, he has also requested to review some public records, which I am currently working on with Eileen Shields, Public Information Officer-SFDPH. If there should be any further need for information or action, I will be the point person to deal and address this matter. Please feel free to contact me at any time.

Sincerely,

Nelson Jim, MFT
Director of Cultural Competence and Client Relations
San Francisco Department of Public Health
1380 Howard Street, 5th Floor
San Francisco, CA 94103
nelson.jim@sfdph.org
(415) 255-3422 - ph
(415) 252-3079 - fax

--- Forwarded by Nelson Jim/DPH/SFGOV on 07/03/2008 02:45 PM ---



Maria Leach/DPH/SFGOV

07/03/2008 02:23 PM

To Nelson.Jim@sfdph.org
cc
Subject Fw: Sunshine complaint

Maria Enriquez-Leach, MFA
1380 Howard St. 2nd floor room. 230
San Francisco, California 94103

Phone no. 415-255-3695

Fax no. 415-252-3079

Email :Maria.Leach@sfdph.org

--- Forwarded by Maria Leach/DPH/SFGOV on 07/03/2008 02:21 PM ---



SOTF/SOTF/SFGOV

06/25/2008 03:53 PM

To Maria Leach/DPH/SFGOV@SFGOV
cc
Subject Sunshine complaint

Hello Maria,

We are in receipt of a complaint filed by Juan De Anda claiming alleged Sunshine violations for "ethics violation while using county money, refusal to invite public to meetings and cherry picking people who gets invited who doesn't and denial of financial records."

Is this something that could be straightened out before bringing it up with the Task Force?

Can I also contact you by phone?

Thanks

Chris Rustom
Asst. Administrator
Sunshine Ordinance Task Force
1 Dr. Carlton B. Goodlett Place
City Hall, Room 244
San Francisco, CA 94102-4689
SOTF@SFGov.org
OFC: (415) 554-7724
FAX: (415) 554-7854

Complete a SOTF Customer Satisfaction Survey by clicking the link below.
http://www.sfgov.org/site/sunshine_form.asp?id=34307

Nelson Jim/DPH/SFGOV
07/07/2008 02:04 PM

To SOTF/SOTF/SFGOV@SFGOV
cc
bcc
Subject Fw: public records

History:  This message has been replied to.

Chris:
Here is an email from Eileen Shields with the Mr. De Anda's email address.

Nelson Jim, MFT
Director of Cultural Competence and Client Relations
San Francisco Department of Public Health
1380 Howard Street, 5th Floor
San Francisco, CA 94103
nelson.jim@sfdph.org
(415) 255-3422 - ph
(415) 252-3079 - fax

— Forwarded by Nelson Jim/DPH/SFGOV on 07/07/2008 02:02 PM —



Eileen Shields/DPH/SFGOV
07/03/2008 03:34 PM

To axis-dsmiv@sbcglobal.net
cc Nelson Jim/DPH/SFGOV@SFGOV
Subject public records

The public records you have requested to review in person have been identified and are ready for your review. A copy of the request is attached.

At your convenience, please call Mr. Nelson Jim, Director of Cultural Competence and Client Relation, 255-3422, to make arrangements to review the file.



JuanDeA_CBHS_ClientCouncil.pdf

=====
Eileen Shields
Public Information Officer
San Francisco Department of Public Health
101 Grove St., Room 316
San Francisco, CA 94102
Office phone: 415/554-2507
Cell phone/Pager: 415/370-3377

City and County of San Francisco

Department of Public Health



Mitchell H. Katz, MD
Director of Health

Public Records Request Form

AXIS-dsmiv@sbcglobel.net

Date: 6-
Name: JUAN De Anda Phone # (415) 244-4815
Address: 401 3rd street E-mail ~~XXXXXX~~ AXIS-dsmiv@
San Francisco, CA 94107-1214

I am requesting the following public record from the San Francisco Department of Public Health. A request must "reasonably describe an identifiable record." See Government Code § 6253.

RECORD REQUESTED: *Please use a separate form for each public records request*
(CBHS) Community Behavioral Health Service
Client Council past & current records

- Please copy this record and send to the above mailing address.*
- Please copy the record and notify me when ready for pick up at 101 Grove St., Room 308.
- Please e-mail this record to me at the above e-mail address. (If available electronically).

I wish only to review the records in person. Please notify me when the record is available for viewing.

Copies of public documents are 10 ¢ per page; 20 ¢ per page double-sided.
*Postage costs are additional.

Payment is required before receiving records.
Check or money order only. Make payable to City & County of San Francisco.

Send completed form to: _____; or mail or hand-deliver to San Francisco Department of Public Health, Public Records Request, 101 Grove St., Room 316, San Francisco, CA 94102; or FAX, 415/554-2806.

Office Use Only: Date Received: _____ Date Completed _____

- Records available
- No records exist responsive to this request

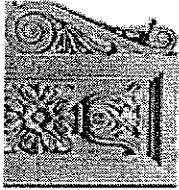
(415) 554-2600

101 Grove Street

San Francisco, CA 94102

sbcglobel.net
Jan 2005 - Jan 2009
Mrs. Maria Lench - (415) 255-3695

Refusing to disclose information



Chris Rustom /BOS/SFGOV
07/09/2008 10:11 AM

To SOTF/SOTF/SFGOV@SFGOV
cc
bcc
Subject Fw: Sunshine Complaint Received: #08036_Juan De Anda vs Public Health

----- Forwarded by Chris Rustom/BOS/SFGOV on 07/09/2008 10:13 AM -----



Eileen Shields /DPH/SFGOV
07/07/2008 05:18 PM

To Chris Rustom/BOS/SFGOV@SFGOV
cc
Subject Fw: Sunshine Complaint Received: #08036_Juan De Anda vs Public Health

Dear Mr. Rustom:

Regarding Mr. DeAnda's complaint to the SOTF on June 25th, please note the following:

This office received a public records request on June 25th from Mr. DeAnda, asking to review the file of the Community Behavioral Health Service Client Council. On Thursday, July 3, this office e-mailed Mr. DeAnda that the files were ready for his review and directed him to call to make arrangements with the office that maintains those records. Therefore, it appears Mr. DeAnda filed a complaint on the same day as he requested the information.

If Mr. DeAnda has records contrary to this and documentation that he asked for and was refused records as he alleges, I would ask that he produce them. This Department will respond accordingly.

Meanwhile, his complaint regarding ethics violation is not a matter appropriate to the SOTF.

At this time, we have no plans to send a representative to this hearing.

=====
Eileen Shields
Public Information Officer
San Francisco Department of Public Health
101 Grove St., Room 316
San Francisco, CA 94102
Office phone: 415/554-2507
Cell phone/Pager: 415/370-3377

Nelson Jim/DPH/SFGOV

SOTF/BOS/SFGOV
Sent by: SOTF

To Nelson Jim/DPH/SFGOV@SFGOV
cc



Eileen Shields/DPH/SFGOV
07/18/2008 03:58 PM

To SOTF/SOTF/SFGOV@SFGOV
cc
bcc
Subject Re: Complaint Committee Hearing Scheduled: #08036_Juan De Anda vs DPH

Dear Mr. Darby:

Please see the Department's original response to this complaint in the preceding e-mail of 7/7/08. Mr. DeAnda's complaint states, "Ethics violation while using county money. Refusal to invite public to meetings and cherry picking who gets invited who doesn't. Denial of financial records."

We have no documentation that Mr. DeAnda asked for records. No indication of what records he is referring to. Therefore, we cannot respond to a complaint that lacks such specificity.

The CBHS has its own consumer complaint process and until Mr. DeAnda has either worked through this system or produced records denying him and the public access to whatever meetings he is referring, we are without an ability to articulate a reasonable position relative to this complaint.

Given the baseless nature of this complaint, it is not that we contest jurisdiction, we see nothing of relevance that merits SOTF consideration. We submit this position in lieu of sending staff to this hearing.

=====

Eileen Shields
Public Information Officer
San Francisco Department of Public Health
101 Grove St., Room 316
San Francisco, CA 94102
Office phone: 415/554-2507
Cell phone/Pager: 415/370-3377