

Date: Dec. 9, 2008

Item No. 3
File No. 08052

SUNSHINE ORDINANCE TASK FORCE
COMPLAINT COMMITTEE
AGENDA PACKET CONTENTS LIST*

- Determination of jurisdiction and pre-hearing conference on
- complaint filed by Mr. Alvin against the Arts Commission for
- not releasing requested information
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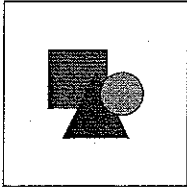
Completed by: Chris Rustom

Date: Nov. 21, 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

November 24, 2008

Nick Goldman, Chair
Member of the Complaint Committee

Re: Mr. Alvin Xex v. Arts Commission (08052))

Dear Chair Goldman and Member of the Complaint Committee:

This letter addresses the issue of whether the Sunshine Ordinance Task Force ("Task Force") has jurisdiction over the complaint of Mr. Alvin Xex against the San Francisco Arts Commission.

BACKGROUND

On November 3, 2008, Alvin Xex made a public records request to the Arts Commission and requested the numbers of Black men employed at the Arts Commission and arts groups funded by the Commission during the past five years (2003 -2008). Alvin Xex claims that he did not receive the requested documents. Mr. Alvin also claimed that he asked for the formula for giving away tax money to groups and individuals. To this request, Alvin Xex did not receive the requested document.

COMPLAINT

On November 13, 2008, Alvin Xex filed a complaint against the Arts Commission alleging violations sections 67.20 and 67.22 of the Sunshine Ordinance.

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* have jurisdiction over the allegation. The allegations are covered under Section 67.21 of the Ordinance.

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.

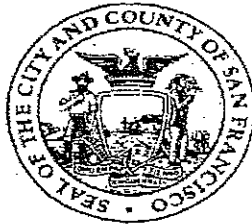
Letter to the Complaint Committee

Page 2

December 3, 2007

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. CPRA Section 6253 generally covers Public Records Requests.

In this case, Mr. Alvin claims that the Arts Commission failed to comply with his public records request. The Task Force has jurisdiction to hear this case and will have to determine whether the Arts Commission violated the Ordinance and/or the Public Records Act.



RECEIVED
BOARD OF SUPERVISORS
SAN FRANCISCO

2008 NOV 13 AM 9:53

Handwritten notes: "Original sent to [unclear] - [unclear]?"

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

Complaint against which Department or Commission

ARTS COMMISSION

Name of individual contacted at Department or Commission

Luis Caceres, et al.

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

Sunshine Ordinance Section

67.77, 67.70, 67.71

(If known, please cite specific provision(s) being violated)

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

I requested specific data (numbers, etc) of Black men employed at Commission and funded ARTS groups by Commission in past 5 years (2003-2008) in all positions (curators, producers, clerks, etc) in SF call 11/23/08

- Do you want a public hearing before the Sunshine Ordinance Task Force? yes no
- Do you also want a pre-hearing conference before the Complaint Committee? yes no

(Optional) Name Alvin Xey Address _____

Telephone No [redacted] E-Mail Address [redacted]

Date 1/05/08

Signature _____

I request confidentiality of my personal information. yes no

1 NOTICE: PERSONAL INFORMATION THAT YOU PROVIDE MAY BE SUBJECT TO DISCLOSURE UNDER THE CALIFORNIA PUBLIC RECORDS ACT AND THE SUNSHINE ORDINANCE, EXCEPT WHEN CONFIDENTIALITY IS SPECIFICALLY REQUESTED. YOU MAY LIST YOUR BUSINESS/OFFICE ADDRESS, TELEPHONE NUMBER AND E-MAIL ADDRESS IN LIEU OF YOUR HOME ADDRESS OR OTHER PERSONAL CONTACT INFORMATION. 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).

Vertical handwritten notes on the left margin.



11/18/2008 08:56 AM

To sotf@sfgov.org
cc
bcc
Subject Re: Sunshine Complaint

Reply:11.18.08; As indicated in formal complaint ! But again, to Luis Cancel, also, i spoke to an Asian male employe in person, handing him a query note--11.03/04.08, at the 25 Van Ness office. No response to my **two specific** questions about employe hiring and the formula for giving away tax money to groups and individuals !

Sincerely,

Alvin Xex

-----Original Message-----

From: SOTF <sotf@sfgov.org>
To: [REDACTED]
Sent: Mon, 17 Nov 2008 2:25 pm
Subject: Fw: Sunshine Complaint

Mr Alvin,

When did you make the request to the Arts Commission?

To whom did you make your request at the Arts Commission?

What was the Arts Commission's response?

Does the following reflect your request?

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

----- Forwarded by SOTF/SOTF/SFGOV on 11/17/2008 02:22 PM -----

<complaints@sfgov.org>

11/17/2008 02:22

To
<sotf@sfgov.org>

PM

cc

Subject
Sunshine Complaint

Submitted on: 11/17/2008 2:22:20 PM

Department: Arts Commission

Contacted: Luis Cancel

Public_Records_Violation: Yes

Public_Meeting_Violation: No

Meeting_Date:

Section(s)_Violated: 67.20, 67.22

Description: I requested specified data (numbers, ect) of Black men employed at Commission and arts groups funded by the Commission during the past five years (2003-2008) in all positions (curators, producers,clerks, ect)

Hearing: Yes

Pre-Hearing: Yes

Date: Nov 6, 2008

Name:

Address:

City:

Zip:

Phone:

Email:

Anonymous:

Confidentiality_Requested: Yes