

Date: January 9, 2008

Item No. 2

File No. 07075

SUNSHINE ORDINANCE TASK FORCE
COMPLIANCE AMENDMENTS COMMITTEE
AGENDA PACKET CONTENTS LIST*

- Order Of Determination Laura Carroll v. Mayor's Ofc of Housing**
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Completed by: Frank Darby

Date: January 3, 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.

**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

ORDER OF DETERMINATION
November 27, 2007

November 29, 2007

Laura Carroll
256 Presidio Ave #6
San Francisco, CA 94115

Douglas Shoemaker
Mayors Office of Housing
City Hall, Room 200
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102

Re: Complaint #07075 by Laura Carroll against the Mayor's Office of Housing (MOH) for violation of Sections 67.21 and 67.26 of the Sunshine Ordinance for alleged failure to provide documents, and failure to keep withholding to a minimum.

Based on the information provided to the Task Force from the Complainant Laura Carroll, supporter Dee Modglin, Respondent Myna Melgar, and hearing public comment, the following Order of Determination is adopted:

The Sunshine Ordinance Task Force finds the Mayor's Office of Housing in violation of Sections 67.21 of the Sunshine Ordinance for failure to respond in a timely manner. This matter is referred to the Compliance and Amendments Committee, for its December 12, 2007. Within 5 days of the Order of Determination, the MOH should produce to the Task Force and the complainant the correspondence from the City Attorney's Office specifying which documents MOH was advised to withhold from release on the basis of attorney-client privilege. The MOH is also instructed to double check to ensure that the withholding was as narrow as possible and whether redacted documents can be provided in certain circumstances.

This Order of Determination was adopted by the Sunshine Ordinance Task Force on November 27, 2007 by the following vote: (Craven / Cauthen)
Ayes: Craven, Knee, Cauthen, Chu, Comstock, Pilpel, Wolfe, Goldman, Williams
Absent: Chan

A handwritten signature in black ink, appearing to read "Doug Comstock".

Doug Comstock, Chair
Sunshine Ordinance Task Force

c: Ernie Llorente, Deputy City Attorney
Myrna Melgar, MOH

Michael Marx and Laura Carroll
256 Presidio Avenue #6, San Francisco CA 94115
503 332 5213 cell, icarroll88@msn.com email

December 18, 2007

Mr. Dennis Herrera, City Attorney of San Francisco
Office of the City Attorney
City Hall, 1 Dr. Carlton B. Goodlett Place, Room 234
San Francisco, CA 94102

RE: Request for City Attorney Review of Mayor's Office of Housing Privileged Documents/Files

Dear Mr. Herrera,

In your capacity of Supervisor of Records, I am writing to you at the recommendation of the Sunshine Ordinance Task Force (SOTF). At a recent hearing regarding my complaint against the Mayor's Office of Housing (MOH), the Task Force indicated that in the interest of ensuring withholding in relation to my records request has been as narrow as possible I ask your office to review documents and files the MOH has deemed attorney client privileged.

Earlier this year, I submitted a records request to the Mayor's Office of Housing. As part of their response to my request, I reviewed below market unit property files in their office, and found that a number of them just had one sheet in it stating attorney client privilege as per Government Code section 6254, suggesting the entire file had been deemed privileged.

In a subsequent records request I asked for copies of documents pertaining to recommendations to the City Attorney for changes to MOH's Condo Conversion program policies and procedures. MOH Deputy Director Doug Shoemaker has indicated all documents given to the City Attorney pertaining to proposed changes to program policies and procedures are privileged.

Sections 67.24bii and 67.26 of the Sunshine Ordinance, however, state that except for redacted parts of documents that reveal confidential communication between attorney and client (attorney opinion/advice), the public has the right to access the rest of a document and all other documents that were not privileged when they were received or created.

MOH has thus far indicated they will not release any documents or any portion of documents in both of these areas of request. I request that your office examine the legitimacy of their asserted privilege, and would like to ask you to have a neutral party in your office review all MOH privileged documents to ensure withholding of public records has been as narrow as possible. I request that the neutral party assigned to this not be the attorney or any staff that MOH has worked with regarding proposed MOH policy and procedure changes. For any record or part of a record MOH has improperly made privileged, I request their release.

Additionally, at the SOTF hearing on November 27th, along with citing MOH with a violation of the Sunshine Ordinance, the SOTF instructed MOH representative Ms. Myrna Melgar to provide me with the letter from the City Attorney's office to MOH regarding MOH records that have been redacted. To date I have not received a copy of this letter that as I understand it, is required when records are redacted. Any assistance in obtaining this letter would be greatly appreciated. Thank you very much for your assistance with these matters.

Sincerely,

Laura Carroll

Cc: Paula Jesson, Frank Darby (re: Complaint #07075), Douglas Shoemaker

