

Date: Feb. 10, 2009

Item No. 3

File No. 08052

## SUNSHINE ORDINANCE TASK FORCE

Compliance and Amendments Committee

AGENDA PACKET CONTENTS LIST\*

- Alvin Xex v Arts Commission
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Completed by: Chris Rustom

Date: Feb. 5, 2009

**\*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**



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**ORDER OF DETERMINATION**

January 29, 2009

**DATE THE DECISION ISSUED**

January 6, 2009

*ALVIN XEX v. ARTS COMMISSION (08052)*

**FACTS OF THE CASE**

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). Mr. Xex claims that he did not receive the requested documents. Mr. Xex also claimed that he asked for the formula for giving away tax money to groups and individuals. To this request, Mr. Xex claims that he did not receive the requested formula.

**COMPLAINT FILED**

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

**HEARING ON THE COMPLAINT**

On January 6, 2009, Complainant Mr Xex appeared before the Task Force and presented his case. Respondent Agency was represented by Arts Commission Deputy Director Nancy Gonchar.

**FINDINGS OF FACT AND CONCLUSIONS OF LAW**

Based on the testimony and evidence presented, the Task Force believed there might be a way to help Mr. Xex get some of the information he wants. For example, Ms Gonchar explained to the Task Force that there was an optional section in the city's employment application form that dealt with race and ethnicity but that information may not be retained by the Commission. Any such information in the possession of the Commission, however, would be releasable pursuant to Sec. 67.24(c)(1)(i) [requiring disclosure of ethnic group as to successful applicants].

**DECISION AND ORDER OF DETERMINATION**

A Task Force motion to find the commission in violation of the Sunshine Ordinance failed

**ORDER OF DETERMINATION**

for lack of a majority. A second motion to find the Commission not in violation of the Sunshine Ordinance passed. As such, the Chair forwarded the issue to the Compliance and Amendments Committee to help determine whether the Commission had any responsive information that could be released.

The Motion to find the Commission in violation failed on the following vote:

Ayes: Knee, Washburn, Johnson, Chan

Noes: Craven, Cauthen, Knoebber, Chu, Goldman

Excused: Williams

The Motion to find the Commission not in violation passed on the following vote:

Ayes: Craven, Knee, Cauthen, Washburn, Knoebber, Johnson, Chu, Chan, Goldman

Excused: Williams



Kristin Murphy Chu, Chair  
Sunshine Ordinance Task Force

c: Ernie Llorente, Deputy City Attorney  
Alvin Xex  
Nancy Gonchar, Arts Commission Deputy Director