Date: March 12, 2008

Item No. 8
File No. 07088

SUNSHINE ORDINANCE TASK FORCE

Compliance and Amendments Committee

AGENDA PACKET CONTENTS LIST*

- ☐ **Order Of Determination of Crossman vs Assessor's Ofc**
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Completed by: Frank Darby **Date:** March 6, 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

January 8, 2008

January 17, 2008

Kimo Crossman
kimo@webnetic.net

Phil Ting, Assessor
City Hall, Room 190
1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102

Re: Complaint # 07088 filed by Kimo Crossman against the Assessor's Office for alleged violation of Sections 67.1, 67.4 (a), 67.21 (a) and (b), 67.25 (a) and (d), 67.26, 67.27, and 67.34 of the Sunshine Ordinance, Government Code Sections 6253 (a) and (c), 6255 (a), and Constitution Article I, Section 3, for failure to provide requested records, untimely response, failure to provide passive meeting notice, invalid invocation of voluminous documents extension, failure to incrementally deliver records, willful failure and official misconduct.

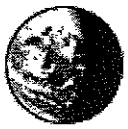
Based on the information provided to the Task Force from the Complainant Kimo Crossman, the Respondent Zoon Nugyen, and hearing public comment, the following Order of Determination is adopted:

The Sunshine Ordinance Task Force finds that the Assessor's Office violated Section 67.25 (d) of the Sunshine Ordinance for failure to provide records on a rolling basis. The Department is instructed to inform the Task Force and Mr. Crossman as to whether any entries were deleted from the calendar prior to providing the requested records, and to describe the type of entries that were deleted and an explanation for the deletions, within 5 days after the issuance of this Order of Determination.

This Order of Determination was adopted by the Sunshine Ordinance Task Force on January 8, 2008 by the following vote: (Comstock/Craven)
Ayes: Craven, Knee, Cauthen, Chu, Comstock, Chan, Goldman
Recused: Wolfe
Excused: Pilpel, Williams

Douglas Comstock, Chair
Sunshine Ordinance Task Force

cc: Ernie Llorente, Deputy City Attorney
Zoon Nugyen, Assessor's Office
Tim Kingsbury, Assessor's Office



kimo <kimo@webnetic.net>
Sent by:
kimocrossman@gmail.com

02/01/2008 09:44 AM

Please respond to
kimo@webnetic.net

To SOTF <sotf@sfgov.org>

cc "Phil Ting" <Phil.Ting@sfgov.org>, Assessor <Assessor@sfgov.org>, "Tim Kingsbury" <Tim.Kingsbury@sfgov.org>, "Zoon Nguyen"

bcc

Subject Re: Order of Determination: File #07088_Kimo Crossman v. Assessor's Office

SOTF Please add this to the file for this matter

Dear Assessor's office,

I have seen the letter you sent regarding calendar redactions. It was a surprise to me because of the following:

0) The letter was not sent to me. Please include me on all communications on this matter.
1) I specifically requested all calendars, not just Prop G version. I am still requesting all calendars that contain city business.
2) Under 67.26, 67.27 all redactions must be keyed with express permissive exemptions, specific facts and applicable balancing tests - that has not occurred. No Redactions were marked on the calendar provided to me. It is in fact unclear of a new calendar was created selectively or if the original was provided with redactions that were not keyed.
3) I request the most detailed view of the calendar entries, it is not clear that that was provided.
4) You had indicated that staff names were replaced with staff titles. Changing the Public Record is never allowed under law. Additionally if that viewed as a redaction, that is not a legal redaction (see 2).
5) As we know the SOTF found Phil Ting violated the Sunshine Ordinance 67.25 d, for failure to provide his readily accessible calendar on a daily incremental basis and instead took 14+ days to provide it. Since Calendars are frequently requested of public officials, the verbal claim that the office had never dealt with a matter like this does not hold any weight. I request a written response addressing this violation by Mr. Ting and a plan for corrective action written by him.

OFFICE OF THE ASSESSOR-RECORDER
SAN FRANCISCO

PHIL TING
ASSESSOR-RECORDER

January, 24, 2008

Honorable Members, Sunshine Ordinance Task Force
Sunshine Ordinance Task Force
c/o Frank Darby, Jr., Administrator
Office of the Clerk, Board of Supervisors
1 Dr. Carlton B. Goodlett Place
City Hall, Room 244
San Francisco, CA 94102-4689

Re: Sunshine Complaint: #07088

Dear Task Force Members:

This letter is in response to the Sunshine Ordinance Task Force Order of Determination dated January 17, 2008. The following entries were deleted from the calendar:

- Entries of a purely personal / private nature (such as childcare coordination, medical appointments, etc.), and personal or social events in which business pertaining to the Office of the Assessor-Recorder was not discussed;
- Entries involving meetings with the City Attorney that are to remain confidential due to attorney-client privileged communication;
- Entries involving confidential taxpayer or taxpayer information regarding assessments; and
- Specific names of Assessor-Recorder staff and other government employees were replaced by job title.

Thank you for your time, and if you have any questions, please feel free to contact me at 415-554-4734.

Sincerely,

Zoon Nguyen
Deputy Assessor-Recorder

City Hall Office: 1 Dr. Carlton B. Goodlett Place
Room 190, San Francisco, CA 94102-4698
Tel: (415) 554-5516 Fax: (415) 554-7151

Business Personal Property: 875 Stevenson Street
Room 100, San Francisco, CA 94103
Tel: (415) 554-5531 Fax: (415) 554-5544

CITY AND COUNTY OF SAN FRANCISCO

OFFICE OF THE CITY ATTORNEY

DENNIS J. HERRERA
City Attorney

ERNEST H. LLORENTE
Deputy City Attorney

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

MEMORANDUM

December 27, 2007

KIMO CROSSMAN v. THE ASSESSOR'S OFFICE (07088)

COMPLAINT

THE COMPLAINANT ALLEGES THE FOLLOWING FACTS:

On October 17,2007, Kimo Crossman made an Immediate Disclosure Request ("IDR") by e-mail to the Assessor's Office for calendars and any e-mails or documents for any Wi-Fi or Prop J related matters for the period of June 2007 to November 8, 2007. Additionally, Kimo Crossman requested Passive Meeting Notices or any Prop J or Wi-Fi related meetings that the Assessor-Recorder planned to participate in until November 8, 2007.

On October 19, 2007, Kimo Crossman by e-mail sent a new IDR clarifying the October 17, 2007 request.

THE RESPONDENT AGENCY RESPONDS:

On October 23, 2007, the Assessor's Office responded to the October 19, 2007 request and requested an extension of time because of voluminous records and the need to consult with another department. On October 23, 2007, the Assessor's Office produced calendars and stated that it did not have passive meeting notices because it did not have passive meetings during the period mentioned in the IDR.

THE COMPLAINANT FILES THE COMPLAINT:

On October 5, 2007 at 8:33:52 a.m. Crossman filed a complaint online and alleged that the Assessor's Office violated Sections 67.4(a)(1), 67.1, 67.25(a), 67.25(d), 67.21(a), 67.21(b) 67.27, 67.26, and 67.34 of the Ordinance, Government Code Sections 6253(c), 6263(d), 6255(a0, and California Constitution Article 1, Section 3 for the Assessor's Office failure to provide the records responsive to the IDR.

On November 6, 2007, Kimo Crossman responded to the October 23, 2007 response by the Assessor's Office and he stated that the provided calendars were not compliant to the IDR and that the Assessor's Office was violating the Ordinance.

THE RESPONDENT AGENCY STATES THE FOLLOWING:

Memorandum

On December 11, 2007, Zoon Nguyen, the representative of the Assessor's Office appeared before the Complaint Committee of the Task Force and acknowledged that the Task Force has jurisdiction over the complaint. Zoon Nguyen requested clarification as to complaint against the Assessor's Office. Ms. Nguyen stated that the Assessor did not call any Passive Meetings during the period in question and did not have any notices of meetings. Kimo Crossman stated at the hearing that he did not receive the passive meeting notice of November 1, 2007 meeting and that the calendars that were released did not comply with his public records request.

APPLICABLE STATUTORY SECTIONS:

1. Sunshine Ordinance § 67.21 addresses general requests for public documents.
2. Sunshine Ordinance § 67.25 addresses Immediate Disclosure Requests.
3. Sunshine Ordinance § 67.26 deals with redaction of records.
4. Sunshine Ordinance § 67.27 addresses legal justification for withholding of records.
5. Sunshine Ordinance § 67.29.5 requires a Department Head to maintain a daily calendar that is a public record.
6. Sunshine Ordinance § 67.29-7 requires a Department Head to maintain and preserve documents and correspondence.
7. Sunshine Ordinance § 67.34 deals with willful failure to comply with the requirements of the Sunshine Ordinance and the comparable state statutes to be Official Misconduct.
8. State Government Code § 6253 addresses requests for public records.
9. State Government Code § 6255 addresses legal justification for withholding of records.

APPLICABLE CASE LAW:

none

ISSUES TO BE DETERMINED

1. FACTUAL ISSUES

A. Uncontested Facts:

The parties agree to the following facts:

- Kimo Crossman requested the Assessor's calendar and any e-mails or documents for any Wi-Fi or Prop J related matters for the period of June 2007 to November 8, 2007. Additionally, Kimo Crossman requested certain passive meeting notices.

B. Contested facts/ Facts in dispute:

The Task Force must determine what facts are true.

i. Relevant facts in dispute: Whether the information released by the Assessor's Office complied with the Sunshine Ordinance and the State Public Records Act.

QUESTIONS THAT MIGHT ASSIST IN DETERMINING FACTS:

1. What is the statutory authority that justifies non-disclosure of the requested records?

2. LEGAL ISSUES/ LEGAL DETERMINATIONS:

- **Were sections of the Sunshine Ordinance, Brown Act, and/or Public Records Act violated?**
- **Was there an exception to the Sunshine Ordinance, under State, Federal, or case law?**

CONCLUSION

THE TASK FORCE FINDS THE FOLLOWING FACTS:

THE TASK FORCE FINDS THAT THE ALLEGED VIOLATIONS TO BE **TRUE OR NOT TRUE.**

Memorandum

ATTACHED STATUTORY SECTIONS FROM CHAPTER 67 OF THE SAN FRANCISCO ADMINISTRATIVE CODE (THE SUNSHINE ORDINANCE) UNLESS OTHERWISE SPECIFIED

Section 67.21 addresses general requests for public documents.

This section provides:

> (a) Every person having custody of any public record or public information, as defined herein, ... shall, at normal times and during normal and reasonable hours of operation, without unreasonable delay, and without requiring an appointment, permit the public record, or any segregable portion of a record, to be inspected and examined by any person and shall furnish one copy thereof upon payment of a reasonable copying charge, not to exceed the lesser of the actual cost or ten cents per page.
>
> (b) A custodian of a public record shall as soon as possible and within **ten days** (emphasis added) following receipt of a request for inspection or copy of a public record, comply with such request. Such request may be delivered to the office of the custodian by the requester orally or in writing by fax, postal delivery, or e-mail. If the custodian believes the record or information requested is not a public record or is exempt, the custodian shall justify withholding any record by demonstrating, in writing as soon as possible and within ten days following receipt of a request, that the record in question is exempt under express provisions of this ordinance.

Section 67.25 provides:

> a.) Notwithstanding the 10-day period for response to a request permitted in Government Code Section 6256 and in this Article, a written request for information described in any category of non-exempt public information shall be satisfied no later than the close of business on the day following the day of the request. This deadline shall apply only if the words "Immediate Disclosure Request" are placed across the top of the request and on the envelope, subject line, or cover sheet in which the request is transmitted. Maximum deadlines provided in this article are appropriate for more extensive or demanding requests, but shall not be used to delay fulfilling a simple, routine or otherwise readily answerable request.
>
> b.) If the voluminous nature of the information requested, its location in a remote storage facility or the need to consult with another interested department warrants an extension of 10 days as provided in Government Code Section 6456.1, the requestor shall be notified as required by the close of business on the business day following the request.

c.) The person seeking the information need not state his or her reason for making the request or the use to which the information will be put, and requesters shall not be routinely asked to make such a disclosure. Where a record being requested contains information most of which is exempt from disclosure under the California Public Records Act and this article, however, the City Attorney or custodian of the record may inform the requester of the nature and extent of the non-exempt information and inquire as to the requester's purpose for seeking it, in order to suggest alternative sources for the information which may involve less redaction or to otherwise prepare a response to the request

Section 67.26 provides:

> No record shall be withheld from disclosure in its entirety unless all information contained in it is exempt from disclosure under express provisions of the California Public Records Act or of some other statute. Information that is exempt from disclosure shall be masked, deleted or otherwise segregated in order that the nonexempt portion of a requested record may be released, and keyed by footnote or other clear reference to the appropriate justification for withholding required by section 67.27 of this article. This work shall be done personally by the attorney or other staff member conducting the exemption review. The work of responding to a public-records request and preparing documents for disclosure shall be considered part of the regular work duties of any city employee, and no fee shall be charged to the requester to cover the personnel costs of responding to a records request.

Section 67.27 provides:

> Any withholding of information shall be justified in writing, as follows:
>
> a.) A withholding under a specific permissive exemption in the California Public Records Act, or elsewhere, which permissive exemption is not forbidden to be asserted by this ordinance, shall cite that authority.
>
> b.) A withholding on the basis that disclosure is prohibited by law shall cite the specific statutory authority in the Public Records Act of elsewhere.
>
> c.) A withholding on the basis that disclosure would incur civil or criminal liability shall cite any specific statutory or case law, or any other public agency's litigation experience, supporting that position.
>
> d.) When a record being requested contains information, most of which is exempt from disclosure under the California Public Records Act and this Article, the custodian shall inform the requester of the nature and extent of the nonexempt information and suggest alternative sources for the information requested, if available.

Section 67.29-5 provides:

> The Mayor, the City Attorney, and every Department Heads shall deep or cause to be kept a daily calendar wherein is recorded the time and place of each meeting or event attended by that official, with the exclusion of purely personal or social events at which no city business is discussed and that do not take place a city Offices or at the offices or residences of people who do substantial business with or are otherwise substantially financially affected by actions of the city. For meetings not otherwise publicly recorded, that calendar shall include a general statement of issues discussed Such calendars shall be public records and shall be available to any requester three business days subsequent tot eh calendar entry date.

Section 67.29-7 provides:

> The Mayor and all Department Heads shall maintain and preserve in a professional and businesslike manner all documents and correspondence, including but not limited to letters, e-mails, drafts, memorandum, invoices, reports and proposals and shall disclose all such records in accordance with this ordinance.

Section 67.34 addresses willful failure as official misconduct.

> The willful failure of any elected official, department head, or other managerial city employee to discharge any duties imposed by the Sunshine Ordinance, the Brown Act or the Public Records Act shall be deemed official misconduct. Complaints involving allegations of willful violations of this ordinance, the Brown Act or the Public Records Act by elected officials or department heads of the City and County of San Francisco shall be handled by the Ethics Commission.

THE CALIFORNIA PUBLIC RECORDS ACT IS LOCATED IN THE STATE GOVERNMENT CODE SECTIONS 6250 ET SEQ. ALL STATUTORY REFERENCES, UNLESS STATED OTHERWISE, ARE TO THE GOVERNMENT CODE.

Section 6253 provides.

> a.) Public records are open to inspection at all times during the office hours of the state or local agency and every person has a right to inspect any public record, except as hereafter provided. Any reasonably segregable portion of a record shall be available for inspection by any person requesting the records after deletion of the portions that are exempted by law.
>
> b.) Except with respect to public records exempt from disclosure by express provisions of law, each state or local agency, upon a request for a

copy of records that reasonably describes an identifiable record or records, shall make the records promptly available to any person upon payment of fees covering direct costs of duplication, or a statutory fee if applicable. Upon request, an exact copy shall be provided unless impracticable to do so.

c.) Each agency, upon a request for a copy of records, shall within 10 days from receipt of the request, determine whether the request, in whole or in part, seeks copies of disclosable public records in the possession of the agency and shall promptly notify the person making the request of the determination and the reasons therefore....

d.) Nothing in this chapter shall be construed to permit an agency to delay or obstruct the inspection or copying of public records. The notification of denial of any request for records required by Section 6255 shall set forth the names and titles or positions of each person responsible for the denial.

Section 6255 provides:

a.) The agency shall justify withholding any record by demonstrating that the record in question is exempt under express provisions of this chapter or that on the facts of the particular case the public interest served by not disclosing the record clearly outweighs the public interest served by disclosure of the record.

b.) A response to a written request for inspection or copies of public records that includes a determination that the request is denied, in whole or in part, shall be in writing.

"Kimo Crossman"
<kimo@webnetic.net>

12/11/2007 06:34 PM

To "'Ernest Llorente'" <Ernest.Llorente@sfgov.org>, "'Sue Cauthen'" <SCau1321@aol.com>, "'Kristin Murphy Chu'" <kristin@chu.com>, "'Allen Grossman'"
cc "'SOTF'" <sotf@sfgov.org>

bcc

Subject Passive meeting notice question today

In today's Complaint committee meeting in the matter I have about Mr. Ting and his failure to provide Passive Meeting notice about a Wi-Fi meeting, Mr. Llorente suggested that Mr. Ting would have to have to have created the meeting for it to be passive. The ordinance does not require that. Mr. Ting is a Department head and people who were not city employees were at the planned meeting.

c) "Passive meeting body" shall mean:

(1) Advisory committees created by the initiative of a member of a policy body, the Mayor, or a department head;

(2) Any group that meets to discuss with or advise the Mayor or any Department Head on fiscal, economic, or policy issues;

(3) Social, recreational or ceremonial occasions sponsored or organized by or for a policy body to which a majority of the body has been invited.

OFFICE OF THE ASSESSOR-RECORDER
SAN FRANCISCO

PHIL TING
ASSESSOR-RECORDER

December 31, 2007

Honorable Members, Sunshine Ordinance Task Force
Sunshine Ordinance Task Force
c/o Frank Darby, Jr., Administrator
Office of the Clerk, Board of Supervisors
1 Dr. Carlton B. Goodlett Place
City Hall, Room 244
San Francisco, CA 94102-4689

Re: Sunshine Complaint: #07088

Dear Task Force Members:

The purpose of this letter is to follow up on the Complaint Committee Hearing that occurred on December 11, 2007, and to further respond to the complaint filed by Mr. Kimo Crossman against the Assessor-Recorder.

After reviewing the content of all previous correspondence with Mr. Crossman, as well as correspondence with Mr. Frank Darby (Administrator - Sunshine Task Force), and the proceedings at the Complaint Committee Hearing on December 11th, it is our understanding that the complaints against the Assessor-Recorder to be addressed at the Sunshine Task Force hearing on January 8, 2008 are as follows:

- Calendar was provided late due to invalid invocation of voluminous extension.
- There was a failure to provide passive meeting notice and/or emails related to WiFi and Proposition J.

It continues to be our position that these complaints are without merit.

As we have previously conveyed to Mr. Crossman and reiterated in our letter to the Sunshine Ordinance Task Force Complaint Committee (dated December 4, 2007), the Assessor-Recorder invoked an extension in compliance with Section 6253(c) of the California Public Records Act (Cal. Gov. Code Sec 6253(c)) and Sec 67.25(b)) of the San Francisco Sunshine Ordinance (S.F. Admin Code Sec. 67.25 [b]). As the Records Act states, such an extension is allowed when there is a "need to search for, collect, and appropriately examine a voluminous amount of separate and distinct records that are demanded in a single request." Mr. Crossman requested over five months of calendar records containing hundreds of distinct entries, each of which had to be examined separately due to the confidential and/or personal nature of some of the entries. In addition, the Records Act allows for an extension when there is the need for consultation, which shall be conducted with all practicable speed, with another agency having

City Hall Office: 1 Dr. Carlton B. Goodlett Place
Room 190, San Francisco, CA 94102-4698
Tel: (415) 554-5516 Fax: (415) 554-7151
www.sfgov.org/assessor
e-mail: assessor@sfgov.org

Business Personal Property: 875 Stevenson Street
Room 100, San Francisco, CA 94103
Tel: (415) 554-5531 Fax: (415) 554-5544

substantial interest in the determination of the request." This being the first request of this nature received by the Assessor-Recorder, consultation was required and did occur. As such, the extension was warranted, correctly invoked and adhered to.

In regards to Mr. Crossman's contention that the Assessor-Recorder failed to provide public records of passive meeting notices and emails related to WiFi and Prop J, there has been no such failure due to the fact that public records of this nature do not exist. In an effort to support his complaint, Mr. Crossman has produced a Press Advisory that was released for a Prop J press conference that the Assessor-Recorder attended on November 1, 2007. The event in question was a public press conference held at an offsite location at which the Assessor-Recorder participated as a private citizen. It was not a governmental event. The Assessor-Recorder's attendance at the event was not part of his work as Assessor-Recorder or as a City official. Thus, any records that may exist pertaining to this event are not public records.

Further, there is no obligation to include attendance at this event on the Assessor-Recorder's Prop G calendar. If Section 67.29-5 of the Ordinance were interpreted to mandate inclusion of such an event on the Assessor-Recorder's Prop G calendar, then *any* political event (relating to City issues or candidates for City office) attended by *any* department head would have to be recorded on the department head's Prop G calendar. We are not aware that Section 67.29-5 has ever been interpreted this broadly.

We have reviewed the definition of "passive meeting body" in the Sunshine Ordinance and there does not seem to be anything about this fact situation that resembles a passive meeting body. Thus, the event was not a gathering of a passive meeting body and any records pertaining to the event are not records of a passive meeting body.

It is our understanding that there have been two distinct requests made by Mr. Crossman to the Assessor-Recorder. The first being on October 17, 2007 at 9:23PM "for all your calendars and any emails or other documents you have been party to for any Wi-Fi or Prop J related matter. For the period of June 2007 to 11/08/07." We reasonably understood this request to be limited to calendar entries pertaining to WiFi or Prop J. The second request – and it was a distinctly different request, even though Mr. Crossman appeared to treat it as a clarification of the first request – was not limited to calendar entries on these subjects, but instead covered all subjects.

What follows is a timeline and summation of Assessor-Recorder Ting's actions pertaining to this matter which illustrate that all of Mr. Crossman's requests were accommodated in accordance with the California Public Records Act and the Sunshine Ordinance:

- On October 17, 2007 at 9:23 PM Mr. Crossman sent by e-mail an Immediate Disclosure Request to the Assessor-Recorder "for all your calendars and any emails or other documents you have been party to for any Wi-Fi or Prop J related matter. For the period of Jun 2007 to 11/08/07."

On October 19, 2007, the Assessor-Recorder timely responded, stating that "there are no public records in response to your request dated 10/17/07."

- On October 19, 2007 Mr. Crossman made a new request for the Assessor-Recorder's "calendars (stop) *and* emails related to WiFi." Only at this point did we understand that Mr. Crossman was requesting to see all of the Assessor-Recorder's calendars from June 2007, not just those related to WiFi or Prop J (of which there were none). Due to this new request, pursuant to section 6253(c) of the California Public Records Act (Cal. Gov. Code Sec 6253(c) and Sec 67.25(b)) of the San Francisco Sunshine Ordinance (S.F. Admin Code Sec. 67.25 [b]), the Assessor-Recorder invoked an extension of time to respond to Mr. Crossman's request "because of the need to search for, collect, and appropriately examine a voluminous set of records, and to consult with an interested department. We will respond more fully to your request no later than November 6, 2007 and, if possible, before then."

- This Office worked diligently to review and prepare the response to Mr. Crossman's October 19 request. On November 6, 2007, the Assessor-Recorder timely provided Mr. Crossman with daily calendars for the period of June 2007 to November 5, 2007 in accordance with SF Administrative Code Section 67.29-5.

- In addition to the requests outlined above, Mr. Crossman continued to request passive meeting notices related to WiFi and Prop J. The Assessor-Recorder continued to state that "there were no passive meetings, therefore, we have no passive meeting notices or any other public records in response to your request dated October 19, 2007."

Throughout this process, this Office has made every effort to act in good faith and comply with Mr. Crossman's request. The Office of the Assessor-Recorder is committed to maintaining open and accountable Government, recognizing that there are certain special considerations pertaining to confidentiality in a tax context. The mission of The Assessor-Recorder's Office is to record, collect and maintain public records. Therefore, the Office of the Assessor-Recorder makes every effort to make public records easily and readily available.

Please let us know if there are any other issues that we need to address prior to the hearing on January 8, 2008. Thank you for your time and consideration, and if you have any questions, please feel free to contact me at 415-554-4734.

Sincerely,

Zoon Nguyen
Deputy Assessor-Recorder

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CITY AND COUNTY OF SAN FRANCISCO

DENNIS J. HERRERA
City Attorney

OFFICE OF THE CITY ATTORNEY

ERNEST H. LLORENTE
Deputy City Attorney

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

December 3, 2007

Sue Cauthen, Chair
Members of the Complaint Committee

Re: Kimo Crossman v. San Francisco Assessor's Office (07088)

Dear Chair Cauthen and Members of the Complaint Committee:

This letter addresses the complaint of Kimo Crossman against the San Francisco Assessor's Office.

BACKGROUND

On October 17,2007, Kimo Crossman made an Immediate Disclosure Request ("IDR")by e-mail to the Assessor's Office for calendars and any e-mails or documents for any Wi-Fi or Prop J related matters for the period of June 2007 to November 8, 2007. Additionally, Kimo Crossman requested Passive Meeting Notices or any Prop J or Wi-Fi related meetings that the Assessor-Recorder planned to participate in until November 8, 2007.

On October 19, 2007, Kimo Crossman by e-mail sent a new IDR clarifying the October 17, 2007 request.

On October 23, 2007, the Assessor's Office responded to the October 19, 2007 request and requested an extension of time because of voluminous records and the need to consult with another department. On October 23, 2007, the Assessor's Office produced calendars and stated that it did not have passive meeting notices because it did not have passive meetings during the period mentioned in the IDR.

On November 6, 2007, Kimo Crossman responded that the provided calendars were not compliant to the IDR and that the Assessor's Office was violating the Ordinance.

COMPLAINT

On October 5, 2007 at 8:33:52 a.m. Crossman filed a complaint online and alleged that the Assessor's Office violated Sections 67.4(a)(1), 67.1, 67.25(a), 67.25(d), 67.21(a),67.21(b) 67.27, 67.26, and 67.34 of the Ordinance, Government Code Sections 6253(c), 6263(d), 6255(a0, and California Constitution Article 1, Section 3 for the Assessor's Office failure to provide the records responsive to the IDR.

SHORT ANSWER

The Sunshine Ordinance Task Force ("Task Force") has jurisdiction over the complaint because the allegations in the complaint are covered under 67.21 and 67.25 of the Ordinance.

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 67.1 covers findings and purpose of the Ordinance. Section 67.21 governs the release of public documents. Section 67.25 governs the release of public documents after an Immediate Disclosure Request. Section 67.4 covers passive meetings. Section 67.27 covers justification for withholding. Section 67.26 states that withholding of public records be kept to a minimum. Section 67.34 states that willful failure shall be official misconduct.

State Government Code Section 6253 deals with the release of public records, and Section 6255 covers justification for withholding of records.

Crossman made an IDR for certain records from the Assessor's Office. Mr. Crossman alleges that the response was untimely, that he did not receive what he requested, and that the provided calendars were insufficient. The Task Force has subject matter jurisdiction and must determine if the Assessor's Office violated the Ordinance or the State Public Records Act.

<complaints@sfgov.org>
11/05/2007 08:33 AM

To <sotf@sfgov.org>
cc
bcc
Subject Sunshine Complaint

History: This message has been forwarded.

Submitted on: 11/5/2007 8:33:52 AM

dept: Assessor's Office

contacted: Phil Ting

violation: Yes

meeting:

mtg_date:

section: 67.4 a (1), 67.1, 67.25 a, 67.25 d, 67.21 b, 67.21 a, 67.27, 67.26, 67.34, Government Code 6253 (a), 6253 (c), 6263 (d), 6255 (a), Constitution Article 1, Section 3

description: Refusal to provided public records, unreasonable delay, failure to provide Passive Meeting Notice, invalid invocation of voluminous extension, no incremental delivery or records, failure to expose government decision making in full view of public, Willful Failure and Official Misconduct, violation of constitutional right for access to information concerning the conduct of the people's business, meetings and writings of public officials.

hearing_yes: radiobutton

name: Kimo Crossman

address:

city:

zip:

date:

phone:

email: kimo@webnetic.net

anonymous:

User Data

Client IP (REMOTE_ADDR) : 172.31.2.69
Client IP via Proxy (HTTP_X_FORWARDED_FOR) :

"Kimo Crossman"
<kimo@webnetic.net>

11/05/2007 09:03 AM

To "'SOTF'" <sotf@sfgov.org>
cc
bcc
Subject RE: Filing complaint with Sunshine Task Force - Phil Ting

Yes that is the information I already sent you, it's unclear why you needed to reformat it when all this information was already provided. Please assign a complaint number and include the previously attached email as evidence.

-----Original Message-----
From: SOTF [mailto:sotf@sfgov.org]
Sent: Monday, November 05, 2007 8:43 AM
To: kimo@webnetic.net
Subject: RE: Filing complaint with Sunshine Task Force - Phil Ting

Mr. Crossman,

I have received your letter of complaint dated November 3, 2007. The following complaint form has been completed. Please review it for accuracy and make any necessary corrections.

Frank Darby, 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.

"Kimo Crossman" <kimo@webnetic.net>
11/05/2007 09:03 AM

To "'SOTF'" <sotf@sfgov.org>
cc
bcc
Subject RE: Filing complaint with Sunshine Task Force - Phil Ting

Yes that is the information I already sent you, it's unclear why you needed to reformat it when all this information was already provided. Please assign a complaint number and include the previously attached email as evidence.

-----Original Message-----
From: SOTF [mailto:sotf@sfgov.org]
Sent: Monday, November 05, 2007 8:43 AM
To: kimo@webnetic.net
Subject: RE: Filing complaint with Sunshine Task Force - Phil Ting

Mr. Crossman,

I have received your letter of complaint dated November 3, 2007. The following complaint form has been completed. Please review it for accuracy and make any necessary corrections.

Frank Darby, 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 11/05/2007 08:35 AM -----

<complaints@sfgov.org>
11/05/2007 08:33 AM

To <sotf@sfgov.org>
cc
Subject Sunshine Complaint

Submitted on: 11/5/2007 8:33:52 AM

dept: Assessor's Office

contacted: Phil Ting

violation: Yes

meeting:

mtg_date:

section: 67.4 a (1), 67.1, 67.25 a, 67.25 d, 67.21 b, 67.21 a, 67.27,

67.26, 67.34, Government Code 6253 (a), 6253 (c), 6263 (d), 6255 (a), Constitution Article 1, Section 3

description: Refusal to provided public records, unreasonable delay, failure to provide Passive Meeting Notice, invalid invocation of voluminous extension, no incremental delivery or records, failure to expose government decision making in full view of public, Willful Failure and Official Misconduct, violation of constitutional right for access to information concerning the conduct of the people's business, meetings and writings of public officials.

hearing_yes: radiobutton

name: Kimo Crossman

address:

city:

zip:

date:

phone:

email: kimo@webnetic.net

anonymous:

----- Forwarded by SOTF/SOTF/SFGOV on 11/05/2007 08:40 AM -----

"Kimo Crossman" <kimo@webnetic.net>		To
11/03/2007 03:36 PM	"'SOTF'" <sotf@sfgov.org>, "'Phil Ting'" <Phil.Ting@sfgov.org>	cc
	<home@prosf.org>, "'Allen Grossman'" <grossman356@mac.com>	Subject
	Filing complaint with Sunshine Taskforce - Phil Ting	

please assign a complaint number to this complaint

Submitted on: 11/3/07

dept: Assessor's office

contacted: Phil Ting

violation: 67.4 a (1), 67.1, 67.25 a, 67.25 d, 67.21 b, 67.21 a, 67.27, 67.26, 67.34, Government Code 6253 (a), 6253(c), 6263 (d), 6255 (a), Constitution Article 1, Section 3

Description:

refusal to provide public records, unreasonable delay, failure to provide Passive Meeting Notice, invalid invocation of voluminous extension, no incremental delivery of records, failure to expose government decision making in full view of public, Willful Failure and Official Misconduct, violation of constitutional right for access to information concerning the conduct of the people's business, meetings and writings of public officials.

hearing_yes: Yes

name: Kimo Crossman

email: kimo@webnetic.net

anonymous: No
Please include attached email as evidence
----- Message from "Kimo Crossman" <kimo@webnetic.net> on Fri, 2 Nov 2007 16:04:47 -0700 -----

To: "'Phil Ting'" <Phil.Ting@sfgov.org>

Subject RE: Immediate Disclosure Request on Wi-Fi and Prop J - Phil Ting : Dept Head.

Mr. Ting

You are going to have a difficult time explaining to SOTF, Ethics, the DA, and a judge why your calendar was not readily accessible.

-----Original Message-----
From: Phil Ting [mailto:Phil.Ting@sfgov.org]
Sent: Thursday, November 01, 2007 10:00 AM
To: Kimo Crossman
Subject: RE: Immediate Disclosure Request on Wi-Fi and Prop J - Phil Ting Dept Head.

Mr. Crossman,

In reference to your WiFi request, there are no public records in response to your request dated 10/17/07 at 9:23 PM.

In reference to your calendar request, dated October 19, 2007 at 5:40 PM. Pursuant to section 6253[c] of the California Public Records Act (Cal. Gov.

Code Sec 6253[c]) and Sec 67.25 [b]) of the San Francisco Sunshine Ordinance (S.F. Admin Code Sec. 67.25[b]), we are invoking an extension of time to respond to your request because of the need to search for, collect,

and appropriately examine a voluminous set of records, and to consult with an interested department. We will respond more fully to your request no later than November 6, 2007 and, if possible, before then.

Thanks,

Phil

Phil Ting
Assessor-Recorder
City and County of San Francisco
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102
phone: (415) 554-4999
fax: (415) 554-5553

"Kimo Crossman"
<kimo@webnetic.ne
t>

10/30/2007 07:06
PM

To
"'Phil Ting'" <Phil.Ting@sfgov.org>
cc
<home@prosf.org>, "'Wayne Lanier'"
<w_lanier@pacbell.net>, "'Allen
Grossman'" <grossman356@mac.com>
Subject
RE: Immediate Disclosure Request on
Wi-Fi and Prop J - Phil Ting Dept
Head.

Mr. Ting:

Please know that I believe this is to be unreasonable delay and I will be filling a complaint with the Attorney General, DA and Sunshine taskforces against you. I believe this is Official Misconduct which is simply Willful

failure to do one's duty and can result in fines, loss of office and a misdemeanor conviction.

Possibly even professional decertifications and reporting to federal and state insurance and regulatory bodies.

My request stands.

The Clerk of the Board provided her calendar for a longer period in under 8

business hours (<one day).

-----Original Message-----
From: Kimo Crossman [mailto:kimo@webnetic.net]
Sent: Monday, October 29, 2007 5:41 PM
To: 'Phil Ting'
Subject: RE: Immediate Disclosure Request on Wi-Fi and Prop J - Phil Ting Dept Head.

Still awaiting

-----Original Message-----
From: Kimo Crossman [mailto:kimo@webnetic.net]
Sent: Friday, October 26, 2007 12:43 PM
To: 'Phil Ting'
Subject: RE: Immediate Disclosure Request on Wi-Fi and Prop J - Phil Ting Dept Head.

Awaiting your daily incremental delivery of records.

-----Original Message-----
From: Kimo Crossman [mailto:kimo@webnetic.net]
Sent: Tuesday, October 23, 2007 11:07 PM
To: 'Phil Ting'
Subject: RE: Immediate Disclosure Request on Wi-Fi and Prop J - Phil Ting Dept Head.

Also - please provide the Calendar records for 10/24/07-11/08/08 before providing earlier records.

-----Original Message-----
From: Kimo Crossman [mailto:kimo@webnetic.net]
Sent: Tuesday, October 23, 2007 10:49 PM
To: 'Phil Ting'
Subject: RE: Immediate Disclosure Request on Wi-Fi and Prop J - Phil Ting Dept Head.

Please provide records on a daily incremental basis per Sunshine. And Passive Meeting notice is still requested.

Please note that you previously claimed in writing that you had no such records - now you claim a voluminous number of such records.

-----Original Message-----
From: Phil Ting [mailto:Phil.Ting@sfgov.org]
Sent: Tuesday, October 23, 2007 4:50 PM
To: Kimo Crossman
Subject: RE: Immediate Disclosure Request on Wi-Fi and Prop J - Phil Ting Dept Head.

Mr. Crossman,

This is in response to your request dated October 19, 2007 at 5:40 PM. Pursuant to section 6253[c] of the California Public Records Act (Cal. Gov.

Code Sec 6253[c]) and Sec 67.25 [b]) of the San Francisco Sunshine Ordinance (S.F. Admin Code Sec. 67.25[b]), we are invoking an extension of time to respond to your request because of the need to search for, collect,

and appropriately examine a voluminous set of records, and to consult with an interested department. We will respond more fully to your request no later than November 6, 2007 and, if possible, before then.

Sincerely,

Phil Ting

"Kimo Crossman"
<kimo@webnetic.ne
t>

10/19/2007 05:40
PM

To
"'Phil Ting'" <Phil.Ting@sfgov.org>
cc

Subject
RE: Immediate Disclosure Request on Wi-Fi and Prop J - Phil Ting Dept Head.

Possibly there was a misunderstanding. I requested your calendars (stop) *and* emails related to WiFi.

You do have calendars right?

Also what about Passive Meeting notice for additional Wi-Fi meetings?

-----Original Message-----
From: Phil Ting [mailto:Phil.Ting@sfgov.org]
Sent: Friday, October 19, 2007 4:49 PM
To: Kimo Crossman
Subject: Re: Immediate Disclosure Request on Wi-Fi and Prop J - Phil Ting Dept Head.

Dear Mr. Crossman,

Thank you for your information request.

I appreciate your commitment and interest in making wi-fi a reality for San Francisco.

There are no public records in response to your request dated 10/17/07.

Sincerely,

Phil Ting

Phil Ting
Assessor-Recorder
City and County of San Francisco
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102
phone: (415) 554-4999
fax: (415) 554-5553
phil.ting@sfgov.org
http://www.sfgov.org/site/assessor_index.asp

"Kimo Crossman" <kimo@webnetic.net>
10/17/2007 09:23 PM

To <phil.ting@sfgov.org>
cc
Subject Immediate Disclosure Request on Wi-Fi and Prop J - Phil Ting Dept Head.

Immediate Disclosure Request

Dear Mr. Ting

Under the Sunshine Ordinance and CPRA and Prop 59, I am requesting the most detailed view of all your calendars and any emails or other documents you have been a party to for any Wi-Fi or Prop J related matters. For the period

of Jun 2007 to 11/08/0..

This includes emails sent to/from personal email accounts and personal calendars since they relate to city business.

If these documents exist as paper only, please provide Text Searchable PDF scanned versions otherwise please provide documents in their original electronic format with metadata.

Please provide information on a daily incremental basis and please key each redaction with a specific legal exemption.

Additionally under the Sunshine Ordinance, I request Passive Meeting notice of any Prop J or Wi-Fi related meetings that you plan to participate in until 11/8/07. I request notice as these meetings are scheduled.

Please email documents to Kimo@webnetic.net

"Kimo Crossman" <kimo@webnetic.net>
11/05/2007 09:41 PM

To "'SOTF'" <sotf@sfgov.org>
cc
bcc
Subject Please include email attached and pdf in the Phil Ting Sunshine complaint

This is evidence that Passive Meeting notice requested was not provided.
----- Message from "PRO-SF" <home@prosf.org> on Fri, 2 Nov 2007 12:00:52 -0800 -----

To: <home@prosf.org>

Subject: G Newsom, Phil Ting BEAT DEAD Earthlink/DTIS/Wif-Fi HORSE: Present Three New Dell Computers to FREE (slow) Internet for All Contest Winners

From: Jennifer Petrucione [mailto:jp@storefrontpolitical.com]
Sent: Thursday, November 01, 2007 5:40 PM
To: jp@storefrontpolitical.com
Cc: wifi4allsf@gmail.com
Subject: *** PRESS ADVISORY *** Mayor Gavin Newsom, Assessor-Recorder Phil Ting to Present Three New Dell Computers to ³FREE Internet for All² contest winners

November 1, 2007
Contact: Jennifer Petrucione, (415) 834-0501 ex 105

FOR IMMEDIATE RELEASE:

*** PRESS ADVISORY ***

Mayor Gavin Newsom, Assessor-Recorder Phil Ting
to Present Three New Dell Computers
to ³FREE Internet for All² contest winners

WHAT:
The campaign for free WiFi for all, Yes on Prop J, has been running a contest to solicit the best essays that answer the question: why should ALL San Franciscans should have free wireless Internet access? We¹ve received compelling first-hand accounts that illustrate just why Internet access is so important‹it¹s these stories that Proposition J is all about. Please attend tomorrow to hear and see these stories in person.

WHERE:
Pathways Learning Center
1470 Valencia (between 25th and 26th Streets)

WHEN:
Friday, November 2
1:30 PM

WHO:
- Mayor Gavin Newsom
- Assessor-Recorder Phil Ting
- Caminos Pathways Learning Center
- Self Help for the Elderly

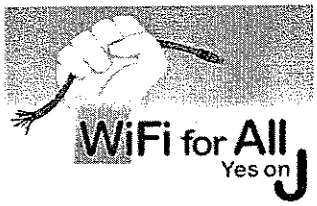
Contest winners:
- Teresa Zavala (nominated by CAMINOS, a Mission District resident, Spanish-speaking)
- Henry Lau (nominated by Self Help for the Elderly, a senior citizen living in Chinatown, Cantonese-speaking)
- Demetrius Raiford (nominated by Communities of Opportunity Heritage Camp, 10 years old, fifth grader at George Washington Carver Elementary School)

###

Jennifer Petrucione
Storefront Political Media

250 Sutter St, Suite 6[illegible]
San Francisco, CA 94108
415-834-0501
jp@storefrontpolitical.com

PropJ.PressAdvisory.1101.pdf



November 1, 2007
Contact: Jennifer Petrucione, (415) 834-0501 ex 105

FOR IMMEDIATE RELEASE:

*** PRESS ADVISORY ***

MAYOR GAVIN NEWSOM, ASSESSOR-RECORDER PHIL TING
TO PRESENT THREE NEW DELL COMPUTERS
TO *"FREE INTERNET FOR ALL"* CONTEST WINNERS

WHAT: The campaign for free WiFi for all, Yes on Prop J, has been running a contest to solicit the best essays that answer the question: why should ALL San Franciscans should have free wireless Internet access? We've received compelling first-hand accounts that illustrate just why Internet access is so important—it's these stories that Proposition J is all about. Please attend tomorrow to hear and see these stories in person.

WHERE: Pathways Learning Center
1470 Valencia (between 25th and 26th Streets)

WHEN: Friday, November 2
1:30 PM

WHO: Mayor Gavin Newsom
Assessor-Recorder Phil Ting
Caminos Pathways Learning Center
Self Help for the Elderly
Contest winners:
- **Teresa Zavala** (nominated by CAMINOS, a Mission District resident, Spanish-speaking)
- **Henry Lau** (nominated by Self Help for the Elderly, a senior citizen living in Chinatown, Cantonese-speaking)
- **Demetrius Raiford** (nominated by Communities of Opportunity Heritage Camp, 10 years old, fifth grader at George Washington Carver Elementary School)

###

"Kimo Crossman"
<kimo@webnetic.net>
11/06/2007 06:36 PM

To "'SOTF'" <sotf@sfgov.org>
cc
bcc
Subject Please add below email to Phil Ting Complaint

-----Original Message-----
From: Kimo Crossman [mailto:kimo@webnetic.net]
Sent: Tuesday, November 06, 2007 6:30 PM
To: 'Phil Ting'
Subject: RE: Filing complaint with Sunshine Taskforce - Phil Ting

I did not request Prop G calendars, I requested the calendars you currently had. State law overrides Sunshine on this.

You clearly had your calendar readily available and you invoked the extension incorrectly.

You will be found to have committed Official Misconduct. You scheduled to attend at least one Wi-Fi related meeting without providing Passive meeting notice.

Case law already shows that following bad attorney advice is not a valid legal excuse for not providing the requested info.

-----Original Message-----
From: Phil Ting [mailto:Phil.Ting@sfgov.org]
Sent: Tuesday, November 06, 2007 6:19 PM
To: Kimo Crossman
Subject: Re: Filing complaint with Sunshine Taskforce - Phil Ting

Mr. Crossman,

On October 17, 2007 at 9:23 p.m. you sent by e-mail an Immediate Disclosure Request for calendars and any e-mails or documents for any Wi-Fi or Prop J related matters for the period of June 2007 to November 8, 2007. Additionally, in your October 17 request you requested Passive Meeting Notices of any Prop J or WiFi related meetings that the Assessor-Recorder planned to participate in until November 8, 2007.

On October 19, 2007 at 5:40 p.m. you sent a new Immediate Disclosure Request clarifying the October 17, 2007 request. You stated that there was possibly a misunderstanding to your prior request. You clarified your request by stating that you were seeking "calendars (stop) *and* emails related to WiFi" and Passive Meeting Notices.

On October 23, 2007 we responded to your October 19, 2007 request. In our response, we invoked an extension of time to respond to your new request pursuant to Section 6253 (c) of the California Public Records Act and San Francisco Administrative Code Section 6725 (b) because of the need to search for, collect, and appropriately examine a voluminous set of records, and to consult with an interested department. Further, we informed you that we would respond more fully to your request no later than November 6, 2007 and, if possible, before then.

On October 23, 2007 you requested that we provide the documents in response to your request dated October 19, 2007 on a daily incremental basis.

On October 26, 2007 we informed you that we would produce as soon as

reasobably possible an incremental or rolling basi ıll non-exempt records.

Please find attached the calendars responsive to your October 19, 2007 Immediate Disclosure Request. We have provided you with the "Prop. G" daily calendars required by the SF Administrative Code Section 67.29-5 for the period June 2007 to November 5, 2007. These calendars list the Assessor-Recorder's daily meetings and activities in conformity w/ the Sunshine Ordinance. We have not provided you w/ copies of calendars for the period of November 6 to November 8, 2007. Under the Sunshine Ordinance, Prop. G calendars shall be available to any requester three business days subsequent to the calendar entry date (Administrative Code Sec. 67.29-5.)

Additionally, there were no passive meetings, therefore, we have no passive meeting notices or any other public records in response to your request dated October 19, 2007.

Phil Ting
Assessor-Recorder
City and County of San Francisco
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102
phone: (415) 554-4999
fax: (415) 554-5553

(See attached file: DOC002.PDF)

Zoon Nguyen/ASRREC/SFGOV
11/20/2007 04:43 PM

To sotf@sfgov.org
cc
bcc
Subject Sunshine Complaint Received: #07088_Kimo Crossman vs. Assessor's Office

Dear Mr. Darby,

This e-mail responds to your e-mail of November 14, 2007, notifying this Office of complaint #07088 filed by Kimo Crossman.

The complaint is without Merit.

This Office will be submitting a further response, or responses, regarding the subject complaint to the Complaint Committee and Task Force, as appropriate.

Thank you. Please feel free to contact me if you have any questions.

zoon nguyen
deputy assessor-recorder
415-554-4734

"Kimo Crossman"
<kimo@webnetic.net>

11/20/2007 06:43 PM

To "'SOTF'" <sotf@sfgov.org>

cc

bcc

Subject RE: Sunshine Complaint Received: #07090_Kimo Crossman vs SFMTA, SFMTA Commission & City Attorney

Please remove the City Attorney from this complaint.

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

"Kimo Crossman"
<kimo@webnetic.net>

11/21/2007 09:32 AM

To "'Phil Ting'" <Phil.Ting@sfgov.org>, "'Assessor'" <Assessor@SFGOV.ORG>, "'SOTF'" <sotf@sfgov.org>

cc

bcc

Subject (OVERDUE):: Sunshine Complaint Received: #07088_Kimo Crossman vs Assessor's Office

Five day response required

"Kimo Crossman"
<kimo@webnetic.net>

11/21/2007 09:34 AM

To "'Sandip Patel'" <sandip.patel@sfgov.org>, "'Paul Henderson'" <Paul.Henderson@sfgov.org>, "'District Attorney'" <districtattorney@sfgov.org>, "'SOTF'"

cc

bcc

Subject OVERDUE: Sunshine Complaint Received: #07089_Kimo Crossman vs District Attorney

Five Day response required

"Kimo Crossman"
<kimo@webnetic.net>

11/21/2007 09:34 AM

To <Caroline.Celaya@sfmta.com>, "'SOTF'" <sotf@sfgov.org>, "'True Judson'" <Judson.True@sfmta.com>, <Roberta.Boomer@sfmta.com>

cc

bcc

Subject OVERDUE: Sunshine Complaint Received: #07090_Kimo Crossman vs SFMTA, SFMTA Commission & City Attorney

Five Day response Required

Allen Grossman
<grossman356@mac.com>
11/21/2007 12:16 PM

To SOTF <sotf@sfgov.org>
cc Sandip Patel <sandip.patel@sfgov.org>, Paul Henderson <Paul.Henderson@sfgov.org>
bcc
Subject Re: Continuance Requested: 07077_Grossman vs DA

Mr. Darby,

Since the District Attorney's Office did not have a representative at the Complaint Committee meeting two weeks ago to discuss the complaint and, according to your posted schedule, the December SOTF meeting is scheduled for Christmas Day (and will probably be cancelled), I don't want to wait another two months for my complaint to be heard . So I do not agree to a continuance.

Allen Grossman

On Nov 20, 2007, at 3:28 PM, SOTF wrote:

> Mr. Grossman,
>
> The District Attorney's Office is requesting a continuance of the above
> titled complaint. Do you agree to a continuance?
>
> Frank Darby, 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

kimo <kimo@webnetic.net>
Sent by:
kimocrossman@gmail.com

11/26/2007 02:27 PM

Please respond to
kimo@webnetic.net

To SOTF <sotf@sfgov.org>, zoon.nguyen@sfgov.org

cc

bcc

Subject Re: Assessor's Response: #07088_Kimo Crossman vs. Assessor's Office

That is not a vaild response - you must state why your office feels that this complaint is not valid by citing case law and satutues.

"Without Merit" is a conclusion not a legal response.

On 11/26/07, **SOTF** <sotf@sfgov.org> wrote:

OFFICE OF THE ASSESSOR-RECORDER
SAN FRANCISCO

PHIL TING
ASSESSOR-RECORDER

RECEIVED 12/4
@ 3:51 PM — CHRIS R

December 4, 2007

Honorable Members, Complaint Committee
Sunshine Ordinance Task Force
c/o Frank Darby, Jr., Administrator
Office of the Clerk, Board of Supervisors
1 Dr. Carlton B. Goodlett Place
City Hall, Room 244
San Francisco, CA 94102-4689

Re: Sunshine Complaint: #07088

Dear Committee Members:

This letter is in response to the complaint filed by Kimo Crossman against the Assessor-Recorder.

We agree that the Sunshine Ordinance Task Force has jurisdiction over this matter, however it is our position that the complaint is without merit. Assuming the Task Force has a hearing on this matter, we will submit a further response concerning the merits. What follows is a timeline and summation of Assessor-Recorder Ting's actions pertaining to this matter which illustrate that all of Mr. Crossman's requests were accommodated in accordance with the California Public Records Act and The Sunshine Ordinance.

- On October 17, 2007 at 9:23 PM Mr. Crossman sent by e-mail an Immediate Disclosure Request to the Assessor-Recorder "for all your calendars and any emails or other documents you have been party to for any Wi-Fi or Prop J related matter. For the period of Jun 2007 to 11/08/07." On October 19, 2007, the Assessor-Recorder timely responded, stating that "there are no public records in response to your request dated 10/17/07."

- On October 19, 2007 Mr. Crossman made a new request for the Assessor-Recorder's "calendars (stop) *and* emails related to WiFi." Only at this point did we understand that Mr. Crossman was requesting to see all of the Assessor-Recorder's calendars from June 2007, not just those related to WiFi or Prop J (of which there were none). Due to this new request, pursuant to section 6253(c) of the California Public Records Act (Cal. Gov. Code Sec 6253(c) and Sec 67.25(b)) of the San Francisco Sunshine Ordinance (S.F. Admin Code Sec. 67.25 [b]), the Assessor-Recorder invoked an extension of time to respond to Mr. Crossman's request "because of the need to search for, collect, and appropriately examine a voluminous set of records, and to consult with an interested department. We will respond more fully to your request no later than November 6, 2007 and, if possible, before then."

City Hall Office: 1 Dr. Carlton B. Goodlett Place
Room 190, San Francisco, CA 94102-4698
Tel: (415) 554-5516 Fax: (415) 554-7151
www.sfgov.org/assessor
e-mail: assessor@sfgov.org

Business Personal Property: 875 Stevenson Street
Room 100, San Francisco, CA 94103
Tel: (415) 554-5531 Fax: (415) 554-5544

- This Office worked diligently to review and prepare the response to Mr. Crossman's October 19 request. On November 6, 2007, the Assessor-Recorder timely provided Mr. Crossman with daily calendars for the period of June 2007 to November 5, 2007 in accordance with SF Administrative Code Section 67.29-5.

- In addition to the requests outlined above, Mr. Crossman continued to request passive meeting notices related to WiFi and Prop J. The Assessor-Recorder continued to state that "there were no passive meetings, therefore, we have no passive meeting notices or any other public records in response to your request dated October 19, 2007."

Throughout this process, this Office has made every effort to act in good faith and comply with Mr. Crossman's request. The Office of the Assessor-Recorder is committed to maintaining open and accountable Government, recognizing that there are certain special considerations pertaining to confidentiality in a tax context. The mission of The Assessor-Recorder's Office is to record, collect and maintain public records. Therefore, the Office of the Assessor-Recorder makes every effort to make public records easily and readily available.

As previously stated, we believe Mr. Crossman's complaint is without merit. Assuming this matter is heard by the Task Force, the key issues are the following: (1) whether the Assessor-Recorder's responses to Mr. Crossman's requests were timely; (2) whether the Assessor-Recorder correctly declined to provide public records pertaining to Wi-Fi and Prop J, on the basis that no such records existed; (3) whether the Assessor-Record correctly declined to provide public records of passive meeting body notices, on the basis that no such records existed; and (4) whether the Assessor-Recorder provided calendars to Mr. Crossman in conformity with Section 67.29-5 of the Sunshine Ordinance.

Thank you for your consideration. If you have any questions, please feel free to contact me at 415-554-4734.

Sincerely,

For Zoon Nguyen
Deputy Assessor-Recorder

Records and maintains public documents and provides the public with access to official city records