

Date: Sept. 10, 2008

Item No. 5  
File No. 08031

**SUNSHINE ORDINANCE TASK FORCE**  
**Compliance and Amendments Committee**  
**AGENDA PACKET CONTENTS LIST\***

- Order Of Determination Kimo Crossman vs Ethics Commission**
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Completed by: Chris Rustom

Date: Sept. 5, 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**



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**ORDER OF DETERMINATION**  
August 4, 2008

**DATE THE DECISION ISSUED**  
July 22, 2008

**KIMO CROSSMAN v. SAN FRANCISCO ETHICS COMMISSION (08031)**

**FACTS OF THE CASE**

On May 28, 2008, Kimo Crossman made an Immediate Disclosure Request ("IDR") on-line to the San Francisco Ethics Commission. Kimo Crossman requested all communications regarding a Sunshine Ordinance Task Force referral that was sent to another body, as mentioned at a recent Board of Supervisors Rules Committee meeting by John St. Croix, Director of the Ethics Commission. On May 29, 2008, Richard Mo, Chief Enforcement Officer of the Ethics Commission and responded to the IDR a stated that the paper-only records were available for review and copying. Kimo Crossman requested that Mr. Mo have the documents scanned electronically and sent to him as an e-mail attachment. Mr. Mo replied and stated that he was under no obligation to scan records that were not originally in electronic format. He repeated his offer that Kimo Crossman could review the records in the office and/or have them copied.

**COMPLAINT FILED**

On June 3, 2008, Complainant Kimo Crossman filed a complaint against the Ethics Commission alleging that the Commission violated Sections 67.21-1 and 67.29-2 of the Sunshine Ordinance.

**HEARING ON THE COMPLAINT**

On July 22, 2008, Complainant Kimo Crossman appeared before the Task Force and presented his claim. Respondent Commission was represented by John St. Croix, who presented the Commission's defense by reading a written statement that was contemporaneously provided to the Task Force and the Complainant.

The issue in the case is whether the Commission violated Section(s) 67.1, 67.21, 67.21-1 & 67.29-2 of the Ordinance, Sections 6253.9, 6253 & 6255 of the California Public Records Act and Article I, Section 3 of the California Constitution.

**FINDINGS OF FACT AND CONCLUSIONS OF LAW**

The facts of this case and applicable law are similar to a previously decided case of Crossman v. SOTF Administrator (08018) in which Frank Darby refused to scan and e-mail

**ORDER OF DETERMINATION**

a limited number of paper documents. Consistent with the decision of that earlier case, the Task Force makes the following decision and order.

**DECISION AND ORDER OF DETERMINATION**

The Task Force finds that the Commission violated Section(s) 67.21-1 of the Sunshine Ordinance for failure to comply with a reasonable request to scan and email the limited number of responsive records when the Commission has the technology and feasibility to provide electronic copies and providing electronic copies, as opposed to copying paper copies which imposes a cost on the requestor, does not impose additional costs or time burdens on the Commission. The Commission shall scan and email the documents as requested within 5 business days of the issuance of this Order and appear before the Compliance and Amendments Committee on August 13, 2008.

This Order of Determination was adopted by the Sunshine Ordinance Task Force on July 22, 2008, by the following vote: ( Craven / Goldman )

Ayes: Craven, Washburn, Knoebber, Chu, Goldman, Williams

Noes: Pilpel

Excused: Cauthen, Gokhale, Chan

Recused: Knee



Kristin Murphy Chu, Chair  
Sunshine Ordinance Task Force

- c: Ernie Llorente, Deputy City Attorney
- Kimo Crossman
- Richard Mo, Ethics Commission
- John St. Croix, Ethics Commission