

Date: Oct. 8, 2008

Item No. 2

File No. 08024

## SUNSHINE ORDINANCE TASK FORCE

Compliance and Amendments Committee

AGENDA PACKET CONTENTS LIST\*

- Discussion on steps taken by the Arts Commission and the Street Artists Committee to ensure that both bodies avoid further seriatim meetings

Completed by: Chris Rustom

Date: Oct. 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.



SAN FRANCISCO ARTS COMMISSION

GAVIN NEWSOM  
MAYOR

LUIS R. CANCEL  
DIRECTOR OF  
CULTURAL AFFAIRS

PROGRAMS

CIVIC ART COLLECTION  
CIVIC DESIGN REVIEW  
COMMUNITY ARTS  
& EDUCATION  
CULTURAL EQUITY GRANTS  
PERFORMING ARTS  
PUBLIC ART  
STREET ARTISTS LICENSES

ARTS COMMISSION GALLERY  
401 VAN NESS AVENUE  
415.554.6080

WWW.SFARTSCOMMISSION.ORG

ARTSCOMMISSION@SFGOV.ORG

October 1, 2008

The Honorable Richard Knee, Chairman  
Honorable Members, Sunshine Ordinance Task Force  
Compliance and Amendments Committee  
c/o Chris Rustom, Deputy 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 Ordinance Task Force - #08024 Michael Addario v.  
Arts Commission

Dear Committee Members:

On July 22, 2008, the Sunshine Ordinance Task Force found that the Arts "Commission violated Section 67.5 of the Sunshine Ordinance for holding a seriatim meeting [regarding a proposed meeting schedule] at the committee level through the two [Street Artist] committee members at a non-public meeting and without public input." The Task Force did not find any violations on the other two issues raised by Mr. Addario's complaint.

In our letter of August 11<sup>th</sup> to you, we informed you that, in order to remedy the seriatim meeting issue under the Task Force's "Decision and Order of Determination," the Arts Commission scheduled a meeting of the Arts Commission's Street Artists Committee for Wednesday, August 13, 2008, and placed the following item on the agenda: "Hearing and possible motion to change the schedule of meetings of the Street Artists Committee from monthly to bi-monthly." Consistent with the requirements of the Sunshine Ordinance, this was a publicly-noticed, public meeting of the Street Artists Committee, and a copy of the agenda was available online at:

[http://www.sfgov.org/site/sfac\\_page.asp?id=85983](http://www.sfgov.org/site/sfac_page.asp?id=85983)



CITY AND COUNTY OF  
SAN FRANCISCO

Sunshine Ordinance Task Force, Compliance and Amendments  
Committee  
October 1, 2008  
Page 2

The Street Artists Committee did indeed hear the matter at its meeting of August 13<sup>th</sup>; various street artists, including Michael Addario, spoke, and the Committee voted to recommend to the full Arts Commission that the Committee change its schedule of meetings from monthly to bi-monthly.

Consistent with the requirements of the Sunshine Ordinance, the Committee's recommendation was publicly-noticed on the agenda of the public meeting of the full Arts Commission scheduled for Monday, September 8, 2008, and a copy of the agenda was available online at:

[http://www.sfgov.org/site/sfac\\_page.asp?id=87375](http://www.sfgov.org/site/sfac_page.asp?id=87375)

Please note that the full Commission's agenda specified the following two items: (1) "Motion to rescind Resolution No. 0407-08-096 ('Motion to change the schedule of meetings of the Street Artists Committee from monthly to bi-monthly, beginning with the meeting of May 14, 2008') pursuant to directive of Sunshine Ordinance Task Force"; and (2) "Motion to change the schedule of meetings of the Street Artists Committee from monthly to bimonthly, beginning with the meeting of May 14, 2008."

At its meeting of September 8<sup>th</sup>, the full Arts Commission heard the matter, unanimously voted to rescind its earlier resolution (Res. No. 0407-08-096) which had changed the Street Artists Committee's schedule of meetings from monthly to bi-monthly, and unanimously voted to change the Street Artists Committee's schedule of meetings from monthly to bi-monthly.

By taking these actions at both Committee and Commission levels, we hereby affirm that the Arts Commission has adequately remedied the seriatim meeting issue under the Task Force's "Decision and Order of Determination" of July 22<sup>nd</sup>.

Sunshine Ordinance Task Force, Compliance and Amendments  
Committee  
October 1, 2008  
Page 3

On September 23, 2008, we received a letter from Mr. Knee which stated that the Arts "Commission did not send a representative knowledgeable on the matter to either the SOTF" [July 22, 2008] "or the CAC" [August 13 and September 10, 2008] "meetings. These failures to appear violated Section 67.21(e) of the Ordinance." In response, we wish to inform you of the following:

1. The CAC meeting of August 13<sup>th</sup> coincided with the Arts Commission's Street Artists Committee which (as stated above) voted its recommendation of compliance with the July 22<sup>nd</sup> Sunshine Task Force Order of Determination. Furthermore, Howard Lazar wrote to the CAC ahead of time, on August 11<sup>th</sup>, stating that the Street Artists Committee meeting was scheduled for the same afternoon of the CAC meeting, August 13<sup>th</sup>, and was intending to comply with the order by hearing the matter and voting on it. In addition, we learned that the plaintiff Michael Addario himself had asked for a continuance of the CAC hearing because he wanted to attend the Street Artists Committee meeting – which he did so attend.
2. With respect to the CAC meeting of September 10<sup>th</sup>, Howard Lazar wrote to the CAC ahead of time, on September 9<sup>th</sup>, that, in lieu of his attendance at the meeting, he was affirming (in writing) that the Arts Commission's had taken steps (as outlined above) which "adequately remedied the seriatim meeting issued under the Task Force's 'Decision and Order of Determination' of July 22<sup>nd</sup>."
3. With respect to the July 22<sup>nd</sup> SOTF meeting whereby Mr. Knee's letter states "that the" [Arts] "Commission did not send a representative

Sunshine Ordinance Task Force, Compliance and Amendments  
Committee  
October 1, 2008  
Page 4

knowledgeable on the matter,” Howard Lazar was sent by his Commission and attended the meeting from its beginning at 4:00 p.m. and stayed for three hours. While the Arts Commission’s item was listed as #6, the SOTF took the following items out of order, in the following order: #1, #3, #8, #12, #9 and conducted extensive discussions on such items. Accordingly, the SOTF did not hear the Arts Commission’s item during the first three hours of the meeting. By 7:00 p.m., Mr. Lazar had to leave because of another obligation.

We were not aware that the meeting would run so late or that the item, originally listed as #6, would not be heard within the first three hours of the meeting. By 6:15 p.m., one of the female members of the SOTF removed herself from the hearing of one of the items and sat behind Mr. Lazar in the audience, whereupon Mr. Lazar informed her that he had to leave by 6:45 and asked her if she could request that the SOTF take up Item #6 on conclusion of the current item. She agreed to do so, but the current item continued on, and Mr. Lazar had to leave at 7:00. (Unfortunately, Mr. Lazar did not write down the name of the female member with whom he had spoken.)

In the future, we will make every effort to communicate any schedule issues to the Clerk as early as possible.

4. For the above reasons, we feel that there were no “failures to appear” on the part of the Arts Commission and that, therefore, the Commission did not violate Section 67.21(e).

Sunshine Ordinance Task Force, Compliance and Amendments  
Committee  
October 1, 2008  
Page 5

Mr. Knee's September 23<sup>rd</sup> letter also asks "to know what training and other steps the Commission and the Street Artists Committee are taking or have taken to ensure that both bodies avoid further seriatim meetings." We wish to inform you that at next Monday's meeting, October 6<sup>th</sup>, of the full Arts Commission, Deputy City Attorney Adine K. Varah will be giving a training session to all Arts Commissioners, staff, and public present at the meeting. This will be listed on the agenda as follows:

City Attorney's Presentation on Sunshine Ordinance and  
Brown Act

*Discussion*

Presentation by Deputy City Attorney Adine Varah reviewing  
the Sunshine Ordinance and Brown Act requirements for the  
Arts Commission.

Mr. Knee's September 23<sup>rd</sup> letter further informs us that "The matter" [Michael Addario vs. Arts Commission] "is being calendared for the CAC's October 8, 2008 regular meeting."

**This is to respectfully request that you please calendar the item to be heard early on the agenda, as Mr. Lazar has to leave for another obligation by 6:00 p.m.**

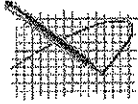
Sincerely,



Howard Lazar  
Street Artists Program Director

Sunshine Ordinance Task Force, Compliance and Amendments  
Committee  
October 1, 2008  
Page 6

Cc: The Honorable P. J. Johnston, President, Arts Commission  
The Honorable Alexander Lloyd, Chairman, Street Artists  
Committee  
All Honorable Arts Commissioners  
Mr. Luis R. Cancel, Director of Cultural Affairs



Howard  
Lazar/ARTSCOM/SFGOV  
10/01/2008 10:30 AM

To Chris Rustom/BOS/SFGOV@SFGOV  
Luis Cancel/ARTSCOM/SFGOV@SFGOV, Nancy  
cc Gonchar/ARTSCOM/SFGOV@SFGOV, Rachelle  
Axel/ARTSCOM/SFGOV@SFGOV, Evelyn  
bcc Adine Varah/CTYATT@CTYATT  
Subject #08024\_Michael Addario v Arts Commission: CAC October  
8, 2008 meeting

Mr. Chris Rustom  
Assistant Administrator  
Sunshine Ordinance Task Force

Dear Mr. Rustom:

Attached is a letter from me to Mr. Richard Knee, Chairman, and Members of the Compliance and Amendments Committee, in response to Mr. Knee's letter of September 23, 2008. Would you please forward my letter to Mr. Knee and the Members.

Also, the complaint #08024\_Michael Addario vs. Arts Commission is, according to Mr. Knee's letter, being calendared for the CAC's regular meeting of October 8th. I would be very grateful if you would **please schedule the hearing early on the agenda because I will have to leave the meeting at 6:00 p.m. for another business obligation .**

Sincerely,

Howard Lazar  
Street Artists program Director  
Arts Commission



TaskForceLetter100108.doc



SUNSHINE ORDINANCE  
TASK FORCE



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1 Dr. Carlton B. Goodlett Place, Room 244  
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Tel. No. (415) 554-7724  
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September 23, 2008

Alexander Lloyd, Chairman, Street Artists Committee  
Howard Lazar, Program Director, Street Artists Committee  
PJ Johnston, President, San Francisco Arts Commission  
25 Van Ness Avenue, Room 240  
San Francisco, CA 94102

Complaint #08024\_Michael Addario (Complainant) vs. Arts Commission (Respondent)

Gentlemen:

At its regular meeting of July 22, 2008, the Sunshine Ordinance Task Force (SOTF) issued an Order of Determination (Order) finding that the participation of two Commissioners in a non-public meeting of the Street Artists Committee constituted a seriatim meeting of the Commission in violation of Section 67.5 of the Sunshine Ordinance (Ordinance).

The August 4, 2008, letter announcing the Order directed the Commission to appear at the August 13, 2008, regular meeting of the SOTF's Compliance and Amendments Committee (CAC) to discuss the violation.

At that meeting, the matter was continued to the CAC's September 10, 2008, regular meeting, at which the Complainant said he did not know of additional seriatim meetings having occurred since the SOTF issued the Order.

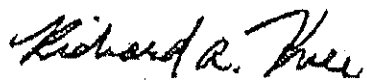
At the same time, we note that the Commission did not send a representative knowledgeable on the matter to either the SOTF or the CAC meetings. These failures to appear violated Section 67.21(e) of the Ordinance.

The CAC wishes to know what training and other steps the Commission and the Street Artists Committee are taking or have taken to ensure that both bodies avoid further seriatim meetings. The matter is being calendared for the CAC's October 8, 2008, regular meeting.

While the CAC will welcome your written response(s), we also ask that at least one representative knowledgeable on the matter appear at the meeting to answer any follow-up questions.

Thank you for your kind attention.

Sincerely,

A handwritten signature in cursive script that reads "Richard A. Knee".

Richard Knee  
Chairman, Compliance and Amendments Committee  
Sunshine Ordinance Task Force

Cc: All San Francisco Arts Commission members; Michael Addario