Date: Jan. 5, 2010

Item No. 2 & 3
File No. 09074

SUNSHINE ORDINANCE TASK FORCE

AGENDA PACKET CONTENTS LIST*

- ☒ **Kimo Crossman against Ethics Commission**
- ☐
- ☐
- ☐
- ☐
- ☐
- ☐
- ☐
- ☐
- ☐

Completed by: Chris Rustom **Date:** Dec. 30, 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.

<complaints@sfgov.org>
10/27/2009 02:00 PM

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

To:sotf@sfgov.orgEmail:complaints@sfgov.orgDEPARTMENT:Ethics Commission
CONTACTED:Richard Moe
PUBLIC_RECORDS_VIOLATION:Yes
PUBLIC_MEETING_VIOLATION:Yes
MEETING_DATE:
SECTIONS_VIOLATED:67.24 h g i
DESCRIPTION:While I would like the requested records, my complaint is that Ethics staff are invoking CPRA exemption 6255 with the city has waived under Sunshine which is allowed under CPRA 6253 (e) and all city staff are prohibited from invoking this exemption. Even if the 6255 exemption were possible to invoke here, they have performed not Public Interest balancing test with specific facts in this matter. Again this is a Sunshine Violation complaint because Ethics is invoking CPRA exemptions which are not allowed under local sunshine
HEARING:Yes
PRE-HEARING:No
DATE:10/26/09
NAME:Kimo Crossman
ADDRESS:
CITY:
ZIP:
PHONE:683-7643
CONTACT_EMAIL:kimo@webnetic
ANONYMOUS:
CONFIDENTIALITY_REQUESTED:No

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

10/26/2009 08:17 PM

Please respond to
kimo@webnetic.net

To Richard Mo <Richard.Mo@sfgov.org>, Ethics Commission <ethics.commission@sfgov.org>, SOTF <sotf@sfgov.org>, Richard Knee <rak0408@earthlink.net>, "John St.Croix"

cc

bcc

Subject Re: Sunshine Complaint Ethics staff invoking 6255 when prohibited to do so under Sunshine (Resubmit)

Resubmittal

On Mon, Oct 26, 2009 at 8:10 PM, Kimo Crossman <kimo@webnetic.net> wrote:

Complaint against which Department or Commission *

Ethics Commission

Name of individual contacted at Department or Commission

Richard Mo

Alleged Violation:

Public Records: * ○ Yes ○ No

Other Sunshine Violation YES

Public Meeting: * ○ Yes ○ No

Date of meeting:

Sunshine Ordinance Section:
(If known, please cite specific provision being violated)

67.24 h g i

Please describe alleged violation: *

While I would like the requested records, my complaint is that Ethics staff are invoking CPRA exemption 6255 with the city has waived under Sunshine which is allowed under CPRA 6253 (e) and all city staff are prohibited from invoking this exemption.

Even if the 6255 exemption were possible to invoke here, they have performed not Public Interest balancing test with specific facts in this matter.

Again this is a Sunshine Violation complaint because Ethics is invoking CPRA exemptions which are not allowed under local sunshine

Do you wish a public hearing before the Sunshine Ordinance Task Force? * ○ Yes ○ No

YES

Do you also want a pre-hearing conference conference before the Complaint Committee? ○ Yes ○ No

NO

(Optional)

Date:
10/26/09

Kimo Crossman
kimo@webnetic.net
415-683-7643

NO CONFIDENTIALITY REQUESTED

Name:
Address:
City:
Zip:
Telephone:
Email:

If anonymous, please let us know how to contact you. Thank you.

I request confidentiality of my personal information. ○ Yes ○ No

67.24
(g) Neither the City nor any office, employee, or agent thereof may assert California Public Records Act Section 6255 or any similar provision as the basis for withholding any documents or information requested under this ordinance.

(h) Neither the City nor any office, employee, or agent thereof may assert an exemption for

withholding for any document or information based on a "deliberative process" exemption, either as provided by California Public Records Act Section 6255 or any other provision of law that does not prohibit disclosure.

(i) Neither the City, nor any office, employee, or agent thereof, may assert an exemption for withholding for any document or information based on a finding or showing that the public interest in withholding the information outweighs the public interest in disclosure. All withholdings of documents or information must be based on an express provision of this ordinance providing for withholding of the specific type of information in question or on an express and specific exemption provided by California Public Records Act that is not forbidden by this ordinance.

---------- Forwarded message ----------
From: **Richard Mo** <Richard.Mo@sfgov.org>
Date: Mon, Oct 26, 2009 at 2:00 PM
Subject: Re: October 9, 2009 IDR
To: kimo@webnetic.net

Now I can file a Sunshine complaint against them not for withholding records but for invoking 6255!!!

Under the San Francisco Charter, the Ethics Commission may not disclose records related to its investigations to the extent that such records would be exempt from disclosure under the California Public Records Act. *See* S.F. Charter § C3.699-13(a) ("Records of any investigation shall be considered confidential information to the extent permitted by state law.") Several Public Records Act exemptions apply to the records sought by your request including, but not limited to, the deliberative process privilege and the official information privilege. *See* Gov't Code §§ 6254(k), 6255; Evid. Code § 1040.

Richard Y. Mo, Chief Enforcement Officer
San Francisco Ethics Commission
City and County of San Francisco
25 Van Ness Avenue, Suite 220
San Francisco, CA 94102
(P) 415.252.3103/(F) 415.252.3112
richard.mo@sfgov.org
http://www.sfgov.org/site/ethics_index.asp

-----kimocrossman@gmail.com wrote: -----

To: Richard Mo <Richard.Mo@sfgov.org>
From: Kimo Crossman <kimo@webnetic.net>
Sent by: kimocrossman@gmail.com
Date: 10/22/2009 05:30PM

Subject: Re: October 9, 2009 IDR

Hi as my earlier email to you indicated that I was open to reviewing the complete set of records for the case you had already pulled.

I am actually interested in the investigator and ethics records rather than the SOTF documents submitted

If you wish to withhold records, then please invoke a written exemption under CPRA taking into account Sunshine waivers and if you invoke a balancing test please provide specific facts weighing nondisclosure over the public interest in disclosure.

thank you

kimo

On Thu, Oct 22, 2009 at 5:08 PM, Richard Mo < Richard.Mo@sfgov.org > wrote:

Mr. Crossman -

There are eight complaints which you filed with the SOTF that it ultimately referred to Ethics.

Of these eight complaints, the vast majority of disclosable documents are those which were given to Ethics by the SOTF. Any investigator notes are confidential and thus not disclosable.

Assuming newly adopted regulations are ratified by the Board of Supervisors, additional documents from these files will become disclosable in 60 days.

Please let me know if you would like to review the disclosable documents.

Richard Y. Mo, Chief Enforcement Officer
San Francisco Ethics Commission
City and County of San Francisco
25 Van Ness Avenue, Suite 220
San Francisco, CA 94102
(P) 415.252.3103/(F) 415.252.3112

richard.mo@sfgov.org
http://www.sfgov.org/site/ethics_index.asp

----- kimocrossman@gmail.com wrote: -----

To: Richard Mo < Richard.Mo@sfgov.org >, "John St.Croix" < john.st.croix@sfgov.org >
From: Kimo Crossman < kimo@webnetic.net >
Sent by: kimocrossman@gmail.com
Date: 10/20/2009 03:03PM
Subject: Re: October 9, 2009 IDR

Hello?

On Tue, Oct 13, 2009 at 4:57 PM, Kimo Crossman, PMP® < kimo@webnetic.net > wrote:
Thank you,

Why don't you sent me the records for that first complaint - that may be all I need

On Tue, Oct 13, 2009 at 4:50 PM, Richard Mo < Richard.Mo@sfgov.org > wrote:
Dear Mr. Crossman:

This e-mail is in response to your Immediate Disclosure Request of Friday, October 9, 2009. Pursuant to Government Code Section 6253(c) and San Francisco Administrative Code section 67.25(b), records potentially responsive to your request are voluminous and staff hereby invokes the fourteen calendar day extension. Pursuant to S.F. Administrative Code section 67.25(d), staff will make these records available on a rolling basis and will so notify you.

For your reference, there are eight complaints which may contain records that are potentially responsive to your request. In addition to reviewing these complaints, staff must also retrieve and review archived electronic records. As of the close of business today, staff has reviewed one of the eight complaints, for which their are no documents responsive to your request.

If you have any questions, pelase call me at 415-252-3100.

Richard Y. Mo, Chief Enforcement Officer
San Francisco Ethics Commission
City and County of San Francisco
25 Van Ness Avenue, Suite 220
San Francisco, CA 94102
(P) 415.252.3100/(F) 415.252.3112
richard.mo@sfgov.org
http://www.sfgov.org/site/ethics_index.asp

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

11/03/2009 03:59 PM

Please respond to
kimo@webnetic.net

To SOTF <sotf@sfgov.org>
cc
bcc
Subject Fwd: Immediate Disclosure Request - ethics material related to Kimo Crossman

History: This message has been replied to.

Clerk - please include this email below in support material for
09074

---------- Forwarded message ----------
From: **Kimo Crossman, PMP®** <kimo@webnetic.net>
Date: Fri, Oct 9, 2009 at 12:12 PM
Subject: Immediate Disclosure Request - ethics material related to Kimo Crossman
To: "John St.Croix" <john.st.croix@sfgov.org>, Ethics Commission <
ethics.commission@sfgov.org>

Immediate Disclosure Request

For the Ethics Commission as a whole, Please email to me all records in the office related to Sunshine complaints that I have filed at SOTF and have been subsequently referred to the Ethics Commission.