

Date: March 24, 2009

Item No. 2

File No. 08057

SUNSHINE ORDINANCE TASK FORCE

AGENDA PACKET CONTENTS LIST*

- Vince Courtney against Labor Standards
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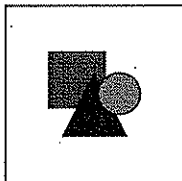
Completed by: Chris Rustom

Date: March 19, 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.



DENNIS J. HERRERA
City Attorney

ERNEST H. LLORENTE
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MEMORANDUM

February 17, 2009

VINCE COURTNEY (LABORER'S UNION LOCAL 261) v. SAN FRANCISCO OFFICE OF LABOR STANDARDS ENFORCEMENT (08057) Supplemental Memorandum

Please note the instructional memorandum prepared by DCA Sanchez dated January 21, 2009 for this case.

COMPLAINT

THE COMPLAINANT ALLEGES THE FOLLOWING FACTS:

On November 14, 2008, Vince Courtney while representing Laborer's Union Local 261 made an emergency 24 hour request (Sunshine Ordinance) on the Office of Labor Standards Enforcement for all documents and any other opinion, letter, records, case study, agreement, or any other "thing" that CAO Donna Levitt relied on when she made her determination that the installation of electrical conduit is now required to be done at the Electricians' wage rate despite the "fact" that such work is covered by the Agreement between the electrical workers union and the City. To this IDR Vince Courtney claims that he did not receive a response from the Office of Labor Standards Enforcement.

COMPLAINANT FILES COMPLAINT:

Vince Courtney files a complaint alleging violation of the Sunshine Ordinance

THE RESPONDENT AGENCY STATES THE FOLLOWING:

Memorandum

The Office of Labor Standards Enforcement replied to the complaint stating that the emergency 24 hour request was not an Immediate Disclosure Request and the Office was not on notice because the requirements for notice was not met. The Office claims that the Sunshine Ordinance requires that "Immediate Disclosure Request" be written on the top of the request. As to the request itself, the CAO did not understand the request to be a request for actual records but a request for an analysis as to the policy decision by the CAO. The CAO was not obliged to write an analysis but in response to the request did provide 550 pages of written materials.

APPLICABLE STATUTORY SECTION;

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. State Government Code § 6253 addresses requests for public records.
6. 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 complainant 's union made a public records request.
- The Office did not initially respond to the request.
- The Office provided 550 pages of materials to complainant.

B. Contested facts/ Facts in dispute:

The Task Force must determine what facts are true.

i. Relevant facts in dispute:

Memorandum

- Whether the Office properly responded to the Public Records Request?

QUESTIONS THAT MIGHT ASSIST IN DETERMINING FACTS;

LEGAL ISSUES/LEGAL DETERMINATIONS;

- Were sections of the Sunshine Ordinance (Section 67.21), Brown Act, Public Records Act, and/or California Constitution Article I, Section three violated?
- Was there an exception to the Sunshine Ordinance, under State, Federal, or case law?

CONCLUSION

THE TASK FORCE FINDS THE FOLLOWING FACTS TO BE TRUE:

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

Memorandum**THE CALIFORNIA CONSTITUTION AS AMENDED BY PROPOSITION 59 IN 2004 PROVIDES FOR OPENNESS IN GOVERNMENT.**

Article I Section 3 provides:

- a) The people have the right to instruct their representative, petition government for redress of grievances, and assemble freely to consult for the common good.
- b)(1) The people have the right of access to information concerning the conduct of the people's business, and therefore, the meetings of public bodies and the writings of public officials and agencies shall be open to public scrutiny.
 - 2) A statute, court rule, or other authority, including those in effect on the effective date of this subdivision that limits the right of access shall be adopted with findings demonstrating the interest protected by the limitation and the need for protecting that interest.
 - 3) Nothing in this subdivision supersedes or modifies the right of privacy guaranteed by Section 1 or affects the construction of any statute, court rule, or other authority to the extent that it protects that right to privacy, including any statutory procedures governing discovery or disclosure of information concerning the official performance or professional qualifications of a peace officer.
 - 4) Nothing in this subdivision supersedes or modifies any provision of this Constitution, including the guarantees that person may not be deprived of life, liberty, or property without due process of law, or denied equal protection of the laws, as provided by Section 7.
 - 5) This subdivision does not repeal or nullify, expressly or by implication, any constitutional or statutory exception to the right of access to public records or meetings or public bodies that is in effect on the effective date of this subdivision, including, but not limited to, any statute protecting the confidentiality of law enforcement and prosecution records.
 - 6) Nothing in this subdivision repeals, nullifies, supersedes, or modifies protections for the confidentiality of proceedings and records of the Legislature, the Members of the Legislature, and its employees, committee, and caucuses provided by Section 7 of Article IV, state law, or legislative rules adopted in furtherance of those provisions: nor does it affect the scope of permitted discovery in judicial or administrative proceedings regarding deliberations of the Legislature, the Members of the Legislature, and its employees, committees, and caucuses.

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

Section 67.1 addresses Findings and Purpose

The Board of Supervisors and the People of the City and County of San Francisco find and declare:

- (a) Government's duty is to serve the public, reaching its decisions in full view of the public.
- (b) Elected officials, commissions, boards, councils and other agencies of the City and County exist to conduct the people's business. The people do not cede to these entities the right to decide what the people should know about the operations of local government.
- (c) Although California has a long tradition of laws designed to protect the public's access to the workings of government, every generation of governmental leaders includes officials who feel more comfortable conducting public business away from the scrutiny of those who elect and employ them. New approaches to government constantly offer public officials additional ways to hide the making of public policy from the public. As government evolves, so must the laws designed to ensure that the process remains visible.
- (d) The right of the people to know what their government and those acting on behalf of their government are doing is fundamental to democracy, and with very few exceptions, that right supersedes any other policy interest government officials may use to prevent public access to information. Only in rare and unusual circumstances does the public benefit from allowing the business of government to be conducted in secret, and those circumstances should be carefully and narrowly defined to prevent public officials from abusing their authority.
- (e) Public officials who attempt to conduct the public's business in secret should be held accountable for their actions. Only a strong Open Government and Sunshine Ordinance, enforced by a strong Sunshine Ordinance Task Force can protect the public's interest in open government.
- (f) The people of San Francisco enact these amendments to assure that the people of the City remain in control of the government they have created.
- (g) Private entities and individuals and employees and officials of the City and County of San Francisco have rights to privacy that must be respected. However, when a person or entity is before a policy body or passive meeting body, that person, and the public, has the right to an open and public process.

Memorandum

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

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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.

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.

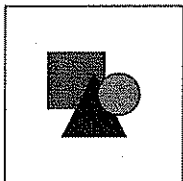
Section 6255 provides:

- 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

Memorandum

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.



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MEMORANDUM

January 21, 2009

*RE: LABORERS' UNION LOCAL 261 v. OFFICE OF LABOR STANDARDS
ENFORCEMENT ("OLSE") (08057)*

COMPLAINT

THE COMPLAINANT ALLEGES THE FOLLOWING FACTS:

On or about November 14, 2008, the Laborers' Union Local 261 ("Complainant"), submitted a request for documents to the Office of Labor Standards Enforcement ("OLSE"), requesting documentation relied upon in making an OLSE ruling. Complainant did not receive a response.

On or about December 11, 2008, Complainant submitted the same document request as an Emergency 24 hour request via facsimile and US Mail to OLSE. As of December 15, 2008, Complainant had not received a response from OLSE.

COMPLAINANT FILES COMPLAINT

On December 15, 2008, Complainant filed a complaint with the Sunshine Ordinance Task Force Administrator alleging that OLSE had violated Sections 67.21(b) and 67.25 of the Sunshine Ordinance, and Section 6253(b) of the California Public Records Act ("CPRA") by its alleged failure to provide the requested documents.

JURISDICTION

Based on the allegations of the complaint and the sections of the Ordinance stated below, the Task Force has jurisdiction to hear this matter. In addition the parties in this case do not contest jurisdiction.

APPLICABLE STATUTORY SECTIONS:

1. Sunshine Ordinance, San Francisco Administrative Code Section 67.21 addresses general requests for public documents.
2. Sunshine Ordinance, San Francisco Administrative Code Section 67.26 deals with withholding kept to a minimum.

Memorandum

3. Sunshine Ordinance, San Francisco Administrative Code Section 67.27 deal with justification for withholding.
4. Sunshine Ordinance, San Francisco Administrative Code Section 67.25 deals with immediacy of response.
5. California Public Records Act, Government Code Section 6253 deals with public records open to inspection, agency duties, and time limits.
6. California Public Records Act, Government Code Section 6255 deals with justification for withholding of records.

APPLICABLE CASE LAW:

none

ISSUES TO BE DETERMINED

1. FACTUAL ISSUES

A. Uncontested Facts:

- Complainant submitted document requests.

B. Contested facts/ Facts in dispute:

The Task Force must determine what facts are true.

i. Relevant facts in dispute:

- Whether OLSE has complied with the Sunshine Ordinance and Public Records request.

2. QUESTIONS THAT MIGHT ASSIST IN DETERMINING FACTS:

none.

3. LEGAL ISSUES/ LEGAL DETERMINATIONS:

- Were sections of the Sunshine Ordinance (Section 67.21 or 67.25), Brown Act, and/or Public Records Act were violated?

Memorandum

- **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

CALIFORNIA STATE CONSTITUTION, ARTICLE I, SECTION 1

§1 Inalienable rights

All people are by nature free and independent and have inalienable rights. Among these are enjoying and defending life and liberty, acquiring, possessing, and protecting property, and pursuing and obtaining safety, happiness, and privacy.

**THE CALIFORNIA CONSTITUTION AS AMENDED BY PROPOSITION 59 IN 2004
ARTICLE I, SECTION 3**

§3 Openness in Government

a) The people have the right to instruct their representative, petition government for redress of grievances, and assemble freely to consult for the common good.

b)(1) The people have the right of access to information concerning the conduct of the people's business, and therefore, the meetings of public bodies and the writings of public officials and agencies shall be open to public scrutiny.

2) A statute, court rule, or other authority, including those in effect on the effective date of this subdivision that limits the right of access shall be adopted with findings demonstrating the interest protect by the limitation and the need for protecting that interest.

3) Nothing in this subdivision supersedes or modifies the right of privacy guaranteed by Section 1 or affects the construction of any statute, court rule, or other authority to the extent that it protects that right to privacy, including any statutory procedures governing discovery or disclosure of information concerning the official performance or professional qualifications of a peace officer.

4) Nothing in this subdivision supersedes or modifies any provision of this Constitution, including the guarantees that person may not be deprived of life, liberty, or property without due process of law, or denied equal protection of the laws; as provided by Section 7.

5) This subdivision does not repeal or nullify, expressly or by implication, any constitutional or statutory exception to the right of access to public records or meetings or public bodies that is in effect on the effective date of this subdivision, including, but not limited to, any statute protecting the confidentiality of law enforcement and prosecution records.

Memorandum

6) Nothing in this subdivision repeals, nullifies, supersedes, or modifies protections for the confidentiality of proceedings and records of the Legislature, the Members of the Legislature, and its employees, committee, and caucuses provided by Section 7 of Article IV, state law, or legislative rules adopted in furtherance of those provisions: nor does it affect the scope of permitted discovery in judicial or administrative proceedings regarding deliberations of the Legislature, the Members of the Legislature, and its employees, committees, and caucuses.

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

Sunshine Ordinance 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.
- c.) A custodian of a public record shall assist a requester in identifying the existence, form, and nature of any records or information maintained by, available to, or in the custody of the custodian, whether or not the contents of those records are exempt from disclosure and shall, when requested to do so, provide in writing within seven days following receipt of a request, a statement as to the existence, quantity, form and nature of records relating to a particular subject or questions with enough specificity to enable a requester to identify records in order to make a request under (b). A custodian of any public record, when not in possession of the record requested, shall assist a requester in directing a request to the proper office or staff person.

...

Memorandum

- k.) Release of documentary public information, whether for inspection of the original or by providing a copy, shall be governed by the California Public Records Act Government Code Section 6250 et seq.) in particulars not addressed by this ordinance and in accordance with the enhanced disclosure requirement provided in this ordinance.
- l.) Inspection and copying of documentary public information stored in electronic form shall be made available to the person requesting the information in any form requested which is available to or easily generated by the department, its officers or employees, including disk, tape, printout or monitor at a charge no greater than the cost of the media on which it is duplicated. Inspection of documentary public information on a computer monitor need not be allowed where the information sought is necessarily and inseparably intertwined with information not subject to disclosure under this ordinance. Nothing in this section shall require a department to program or reprogram a computer to respond to a request for information or to release information where the release of that information would violate a licensing agreement or copyright law.

Sunshine Ordinance Section 67.26 deals with withholding kept to a minimum:

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.

Sunshine Ordinance Section 67.27 deals with justification of withholding:

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.

Memorandum

- 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.

Sunshine Ordinance Section 67.25 deals with immediacy of response:

- (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 requester 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.
- (d) Notwithstanding any provisions of California Law or this ordinance, in response to a request for information describing any category of non-exempt public information, when so requested, the City and County shall produce any and all responsive public records as soon as reasonably possible on an incremental or "rolling" basis such that responsive records are produced as soon as possible by the end of the same business day that they are reviewed and collected. This section is intended to prohibit the withholding of public records that are

Memorandum

responsive to a records request until all potentially responsive documents have been reviewed and collected. Failure to comply with this provision is a violation of this Article.

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....

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.



<complaints@sfgov.org>

12/15/2008 11:12 AM

To <sotf@sfgov.org>

cc

bcc

Subject Sunshine Complaint

Submitted on: 12/15/2008 11:12:44 AM

Department: Office of Labor Standards Enforcement

Contacted: Donna Levitt

Public_Records_Violation: Yes

Public_Meeting_Violation: No

Meeting_Date:

Section(s)_Violated:

Description: Dear SOTF:

The Mayor's Office of Labor Standards Enforcement has no legislative powers. Therefore, when its' CAO, Donna Levitt recently made a unilateral determination on a wage rate issue that the State of California will not determine itself, we requested documentation (or any other thing,) that was relied upon in making such a ruling.

There was no response to our letter of November 14, 1008, requesting what must have been relied on in the absence of any actual authority to make such a ruling, nor was there a response of any kind specifying the authority pursuant to which such a decision could be rendered.

Then, on December 11, 2008, our office sent the following emergency request via facsimile and US Mail:

From faxed and US Mailed request

RE: Emergency 24 hour Request (SF Sunshine Ordinance)

Dear Donna:

On November 14, 2008, I communicated with you by telephone and in writing, (letter attached,) and requested certain documents and any an all things that you relied on when you determined that the installation of electrical conduit is now required to be done at the Electricians' wage rate despite the fact that such work is covered by our Agreement, which is recognized by the Department of Industrial Relations of the State of California.

Because rather than respond, you and your office have remained silent on the matter, I formally request pursuant to the Ordinance, all of the documents and any other opinion, letter, record, case study, agreement, or any other "thing" that you relied on when making this unique determination. It is critical that the documents be made available to me within twenty-four hours.

As of today (12/15) there has been no response or records made available.

Kindly, advise of any procedural defects in this memorandum and allow for correction to be submitted accordingly.

Vince Courtney
City Representative

Hearing: Yes

Pre-Hearing: Yes

Date: December 15, 2008

Name: Vince Courtney, Laborers' Union Local 261

Address: 3271 18th Street

City: San Francisco

Zip: 94110

Phone: 415-810-4500

Email: vince@liuna261.org

Anonymous:

Confidentiality_Requested: No

GENERAL SERVICES AGENCY
OFFICE OF LABOR STANDARDS ENFORCEMENT
DONNA LEVITT, MANAGER



December 19, 2008

Mr. Frank Darby, Jr.
Administrator, Sunshine Ordinance Task Force
Office of the Clerk, Board of Supervisors
City Hall, Room 244
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102

RE: Complaint No. 08057 - Laborers' Union Local 261 v. Office of Labor Standards Enforcement

Dear Mr. Darby:

This is to acknowledge receipt of the above-entitled complaint. The Office of Labor Standards Enforcement does not contest the Task Force's jurisdiction over the complaint and does not request a prehearing conference. The complaint is without merit and should be dismissed. The Office of Labor Standards Enforcement reserves the right to supplement this letter with a subsequent letter to the Task Force in support of our view that the complaint is without merit.

Sincerely,

A handwritten signature in cursive script that reads "Donna Levitt".

Donna Levitt
Labor Standards Enforcement Officer

cc: Vince Courtney, Laborers' Union Local 261

GENERAL SERVICES AGENCY
OFFICE OF LABOR STANDARDS ENFORCEMENT
DONNA LEVITT, MANAGER



January 20, 2009

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

RE: Complaint No. 08057 – Vince Courtney v. Office of Labor Standards Enforcement

Dear Task Force Members:

This letter constitutes the response of the Office of Labor Standards Enforcement ("OLSE") to the above-entitled complaint. The complaint is without merit and should be dismissed.

BACKGROUND

OLSE enforces a number of local labor laws, including laws requiring the payment of prevailing wages on City-funded public works projects. *See generally* S.F. Admin. Code § 6.22(E). Laborers Union Local 261 ("Local 261") disagrees with OLSE's view that the prevailing wage for electricians rather than laborers should be paid for certain work on public works projects.

THE SUNSHINE COMPLAINT

On December 15, 2008, Vince Courtney, a representative of Local 261, filed a complaint with the Task Force, asserting:

- That OLSE had failed to respond to a public records request submitted by Local 261 in a letter dated November 14, 2008; and
- That OLSE had failed to respond to a follow-up public records request submitted by Local 261 in a letter dated December 11, 2008.

Both of these assertions are incorrect. And both misstate or ignore important facts. OLSE has not withheld any records from Local 261, and has not failed to respond to Local 261.

THE NOVEMBER 14 LETTER

Facts

Oscar De La Torre, Business Manager of Local 261, sent me a letter dated November 14, 2008 with the

subject line "Re: Conduit Work Assignments – OLSE position." (See Attachment A) In the letter Mr. De La Torre inquired whether OLSE had taken "a formal position... that all installation of electrical conduit is required to be done at the Electricians' prevailing wage rate." He also asked for "all documentation related to this new determination" and that I contact him "to discuss this further at your convenience."

Responding to Mr. De La Torre's request that I contact him to discuss this matter, I phoned him on the day I received the letter, and told him that OLSE had not made any "new determination" on this prevailing wage issue and asked for further clarification about his inquiry. We discussed the factors that OLSE considers when determining the appropriate prevailing wage rate for specific type of work on City contracts. Mr. De La Torre said that OLSE had no authority to determine the appropriate prevailing wage rate for electrical conduit installation and that he would send me a fax from the Department of Industrial Relations ("DIR") to back up his position. He asked me to provide him with OLSE's authority to make a determination of the appropriate prevailing wage rate for City contracts. He specifically said that he didn't want me to send him copies of things like hearing officer decisions. In light of our phone conversation, I distinctly understood Mr. De La Torre to clarify that he was not seeking records from OLSE but instead was asking us to prepare a position paper – that is, a written analysis or explanation of OLSE's authority and position regarding the prevailing wage rate for electrical conduit installation.

On November 17, I received a fax from Mr. De La Torre. (See Attachment B) The cover sheet referenced our phone conversation and said "[A]ttached is the position of the DIR... Please respond in writing within five days with the OLSE's position."

Analysis

In my phone conversation with Mr. De La Torre, I understood him to clarify that his November 14 letter was not a public records request, but rather that he was asking for a written analysis or explanation of OLSE's position. Thus, Local 261 did not have a public records request with OLSE that would trigger a duty to respond and provide records under the Public Records Act or the Sunshine Ordinance. My understanding that Local 261 was not seeking records is confirmed by the cover page of the November 17 fax that states that Mr. De La Torre was looking for a "respon[se] in writing" regarding OLSE's "position."

Such a request is not a public records request, but rather is an inquiry concerning OLSE policy. There is no legal duty to respond in writing to inquiries about OLSE policies – much less a duty to respond within a specified time frame. Failure to respond does not violate the Public Records Act or the Sunshine Ordinance.

Nevertheless, OLSE endeavors to respond to inquiries concerning its policies and practices. But on occasion we do so less quickly than we would like, because staff resources are limited and there are many competing demands and priorities placed on us as a result of the many local labor laws we enforce. In addition, we often discuss issues orally, either in person or by phone, with employers, employees, and unions, as we did in this case with Mr. De La Torre.

THE DECEMBER 11 LETTER

Facts

On December 11, 2008 at 3:08 PM, OLSE received a faxed letter from Oscar De La Torre. (See Attachment C) I was in a meeting at the time and left work before seeing the fax. I came to work the next morning (Friday, December 12) and, as is my usual custom, first checked and responded to my e-mails. I then attended a meeting in the office of my supervisor from 9:15 AM to approximately 10:30AM. I returned to my office after the meeting and only then saw the fax from Mr. De La Torre, sometime before 11:00 AM.

The subject line of the fax cover sheet simply read: "Emergency 24 hour Request." It did not have the designation "Immediate Disclosure Request." It did not even indicate that the second page, the faxed letter behind the cover sheet, was a public records request – much less an immediate disclosure request. The subject matter line of the second page, the letter, said "Emergency 24 hour Request (SF Sunshine Ordinance)." Again, there was no designation of an "Immediate Disclosure Request." In the letter, Mr. De La Torre requested "all of the documents and any other opinion, letter, record, case study, agreement, or other 'thing' ... relied on when making this unique determination" [that "the installation of electrical conduit is now required to be done at the Electricians' wage rate..."].

At 11:00AM on Friday I left the office to attend the Carpenters/San Francisco Building Trades Council's annual Moose Feed luncheon and returned to my office in time for a 3:00PM meeting. I came into the office on the weekend of December 13-14 to carefully read Mr. De La Torre's faxed letter and respond to it. I composed a letter in response, and left it for the OLSE secretary to fax and mail to Mr. De La Torre the first thing on Monday morning. The fax verification report shows that my letter was faxed to Local 261 at 9:09 AM on Monday, December 15, 2008. (See Attachment D) My letter informed Mr. De La Torre that his request required OLSE to locate and copy a voluminous amount of documents for which I would need additional time.

On Tuesday, December 16, I was surprised to receive an e-mail from the Sunshine Ordinance Task Force informing me that a complaint had been submitted by Vince Courtney on behalf of Local 261 on December 15 at 11:12 AM. The complaint stated that "[a]s of today (12/15) there has been no response or records made available." This statement was incorrect, as my response had been faxed to Local 261 two hours earlier, at 9:09 AM on December 15.

On December 19, 2008, OLSE secretary Winny Loi called Local 261 to notify Mr. Courtney that the requested records were ready for pickup. Ms. Loi was told that Mr. Courtney was out of town and that she should call back on Monday, December 22. Ms Loi called on Monday and was able to reach Mr. Courtney. Later that day, Local 261 picked up the 550 pages that OLSE had copied in response to the public records request and left \$55.00 in cash as payment.

Analysis

Mr. De La Torre's December 11 letter was not an immediate disclosure request ("IDR"). First, the Sunshine Ordinance requires that an IDR have "the words 'Immediate Disclosure Request' ... across the top of the request and on the envelope, subject line, or cover sheet in which the request is transmitted."

(S.F. Admin. Code § 67.25(a).) The December 11 letter did not meet these requirements. Neither the fax cover sheet nor the letter itself used the term "Immediate Disclosure Request" anywhere, and certainly not "across the top of the request and on the envelope, subject line, or cover sheet in which the request is transmitted." Second, the December 11 letter was not "a simple, routine or otherwise readily answerable request," as is required for an IDR. (*Id.*) Rather, it was a "more extensive or demanding request[]." (*Id.*) OLSE had to comb through a number of files to respond to the December 11 letter, expending approximately thirteen staff hours in the process, and yielding 550 pages of responsive records.

Within 10 days of receiving the December 11 letter, OLSE had both submitted its initial response to the public records request and also made the records available to Local 261. Thus, we complied with the time requirements for responding to a public records request. (Cal. Gov. Code § 6253(b); S.F. Admin. Code § 67.21(b).)

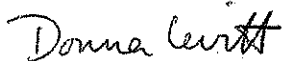
SUMMARY AND CONCLUSION

OLSE committed no Sunshine violation in its interactions with Local 261:

- We received a letter from Mr. De La Torre dated November 14. My discussion of the letter with Mr. De La Torre led me to conclude, correctly, that at that point Local 261 was not seeking public records from OLSE but rather was seeking a written analysis or explanation of OLSE's position regarding the underlying prevailing wage issue. Such an inquiry is not a public records request and is not subject to the rules governing public records requests.
- We received a faxed letter from Mr. De La Torre dated December 11 that was a public records request but not an immediate disclosure request. We provided the records requested within the time frame for responding to a public records request. And our preliminary response to the December 11 letter was faxed to Local 261 on December 15 two hours before Mr. Courtney submitted his Sunshine complaint, which wrongly asserted that OLSE had submitted no response.

Local 261's Sunshine complaint is without merit and should be dismissed.

Respectfully submitted,



Donna Levitt
Labor Standards Enforcement Officer

ATTACHMENT A



LABORERS' INTERNATIONAL UNION OF NORTH AMERICA
LOCAL UNION NO. 261



November 14, 2008

OSCAR DE LA TORRE
*Business Manager
Secretary-Treasurer*

RAMON HERNANDEZ
President

JESUS VILLALOBOS
Vice President

DAVID DE LA TORRE
Recording Secretary

VICTOR LOPES
Executive Board

JAVIER FLORES
Executive Board

VINCE COURTNEY
Executive Board

Donna Levitt
Chief Administrative Officer
Office of Labor Standards Enforcement
San Francisco City Hall
1 Dr. Carlton Goodlett Place, Room 430
San Francisco, CA 94102

Re: Conduit Work Assignments – OLSE position

Dear Donna:

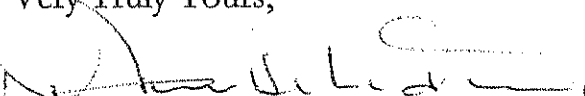
I have learned from one of our signatory contractors that there has been a formal position taken by your office that all installation of electrical conduit is required to be done at the Electricians' prevailing wage rate.

As you already are aware, the installation of conduit (and the appropriate wage rate in our area,) is also covered by the Laborers' Master Agreement, and has been performed by our signatory contractors. It is also recognized by the Department of Industrial Relations of the State of California.

Kindly notify me at once if this is correct and forward to my office any and all documentation related to this new determination.

Please contact me to discuss this further at your convenience.

Very Truly Yours,


Oscar De La Torre
Business Manager/ Secretary-Treasurer

LABORERS' INTERNATIONAL UNION OF NORTH AMERICA LOCAL #261

FACSIMILE TRANSMITTAL SHEET

TO: DONNA LEVITT	FROM: OSCAR DE LA TORRE
COMPANY:	DATE: 11/17/2008
FAX NUMBER: 415-554-6291	TOTAL NO. OF PAGES INCLUDING COVER: 2
PHONE NUMBER:	SENDER'S REFERENCE NUMBER:
RE:	YOUR REFERENCE NUMBER:

URGENT FOR REVIEW PLEASE COMMENT PLEASE REPLY PLEASE RECYCLE

As per our conversation, attached is the position of the DIR with regards wage determination where more than one craft classification performs the same work.

Please respond in writing within five days with the OLSE's position.

3271 18TH STREET, SAN FRANCISCO, CA 94110(MAILING ADDRESS)
701 ALABAMA STREET, SAN FRANCISCO, CA 94110

State of California
 Department of Industrial Relations
 Division of Labor Statistics and Research
 Prevailing Wage Unit



P.O. Box 420603
 San Francisco, CA 94142-0603
 Phone: (415) 703-4774
 Fax: (415) 703-4771

FAX TRANSMISSION

Urgent Action Needed Please Call To Discuss As You Requested For Your Information

DATE: December 15, 2006

TO: Denis J. Mulligan

COMPANY: Golden Gate Bridge Highway and Transportation District

FAX: 415-563-0809

NUMBER OF PAGES (including this cover page): 1

FROM: Jane Ham *JH*

SUBJECT: Request for Formal Determination of the Appropriate Craft Classification

MESSAGE

This is in response to your letter dated May 24, 2006, requesting the appropriate rate of pay for work involving the installation of electrical conduit and wiring, including all ancillary work on the Golden Gate Bridge. It is our understanding that the project(s) has been advertised and work has already begun.

Please note that were there are multiple crafts/classifications published in the Director's General Prevailing Wage Determinations at the time of the call for bids for a project that may perform a specific type of work and a minimum rate of pay decision was not requested or issued in accordance with the deadlines prescribed in Labor Code Section 1773.4, they may not be altered by a minimum rate of pay decision. As a result any information provided will be given in a strictly advisory role.

In addition, the Division of Labor Statistics and Research does not publish a specific craft/classification of "Electrical Conduit and Wire Installer." As a result this type of work is simply a task common amongst multiple trades, which combined with the aforementioned circumstances would preclude us from making a determination as to which craft/classification is responsible for the applicable scope of work.

The Department has concluded that the Division of Labor Statistics and Research will no longer issue minimum rate of pay decisions in cases where more than one craft/classification published in the General Determinations can perform a specific type of work on projects where no request for a rate of pay decision has been made prior to or within 20 days of the commencement for bids on the project.

In the case of "Electrical Conduit and Wire Installer," the scope of work provisions for the craft(s)/classification(s) of Electrician: Inside Wireman and Laborer include similar types of work. Therefore, as the awarding body, you can make the determination of the applicable rate of pay for the project(s).

If you have any questions, please contact the Prevailing Wage Unit at the address above or call 415-703-4774. You may also visit our website at www.dir.ca.gov to obtain current prevailing wage information.

jh:ts

cc: Gary O'Mara
 Jerrold C. Schaefer

The Division of Labor Statistics and Research (DLSR) is dedicated to serving the people of California by collecting, compiling, and presenting accurate and timely statistics and research relating to the condition of labor in the state. Californians have a right to expect the highest level and quality of service possible and we are fully committed to achieving this high standard.

LABORERS' INTERNATIONAL UNION OF NORTH
AMERICA LOCAL #261

PH(415) 826-4550 FX(415)826-1948

FACSIMILE TRANSMITTAL SHEET

TO:	Donna Levitt	FROM:	Oscar De La Torre
COMPANY:	Officer of Labor Standards	DATE:	12/11/2008
FAX NUMBER:	415-554-6291	TOTAL NO. OF PAGES INCLUDING COVER:	3
PHONE NUMBER:		SENDER'S REFERENCE NUMBER:	
RE:	Emergency 24 hour request	YOUR REFERENCE NUMBER:	

URGENT FOR REVIEW PLEASE COMMENT PLEASE REPLY PLEASE RECYCLE



LABORERS' INTERNATIONAL UNION OF NORTH AMERICA
LOCAL UNION NO. 261

OSCAR DE LA TORRE
Business Manager
Secretary-Treasurer

December 11, 2008

RAMON HERNANDEZ
President

Donna Levitt
Chief Administrative Officer
Office of Labor Standards Enforcement
City Hall, Room 430
1 Dr. Carlton Goodlett Place
San Francisco, CA 94102

JESUS VILLALOBOS
Vice President

DAVID DE LA TORRE
Recording Secretary

VICTOR LOPES
Executive Board

RE: Emergency 24 hour Request (SF Sunshine Ordinance)

JAVIER FLORES
Executive Board

Dear Donna:

VINCE COURTNEY
Executive Board

On November 14, 2008, I communicated with you by telephone and in writing, (letter attached,) and requested certain documents and any an all things that you relied on when you determined that the installation of electrical conduit is now required to be done at the Electricians' wage rate despite the fact that such work is covered by our Agreement, which is recognized by the Department of Industrial Relations of the State of California.

Because rather than respond, you and your office have remained silent on the matter, I formally request pursuant to the Ordinance, all of the documents and any other opinion, letter, record, case study, agreement, or any other "thing" that you relied on when making this unique determination. It is critical that the documents be made available to me within twenty-four hours.

If your office continues to choose to remain silent and fails to provide the records I am rightfully requesting, then I will have no choice but to set a hearing before the Task Force to compel your response.

Sincerely,

Oscar De La Torre
Business Manager/Secretary-Treasurer

ODLT:cbOpe3fu/aficio

Cc Edwin Lee, Chief Administrative Officer



LABORERS' INTERNATIONAL UNION OF NORTH AMERICA
LOCAL UNION NO. 261



November 14, 2008

OSCAR DE LA TORRE
Business Manager
Secretary-Treasurer

RAMON HERNANDEZ
President

JESUS VILLALOBOS
Vice President

DAVID DE LA TORRE
Recording Secretary

VICTOR LOPES
Executive Board

JAVIER FLORES
Executive Board

VINCE COURTNEY
Executive Board

Donna Levitt
Chief Administrative Officer
Office of Labor Standards Enforcement
San Francisco City Hall
1 Dr. Carlton Goodlett Place, Room 430
San Francisco, CA 94102

Re: Conduit Work Assignments – OLSE position

Dear Donna:

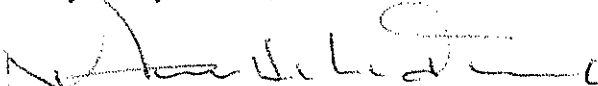
I have learned from one of our signatory contractors that there has been a formal position taken by your office that all installation of electrical conduit is required to be done at the Electricians' prevailing wage rate.

As you already are aware, the installation of conduit (and the appropriate wage rate in our area,) is also covered by the Laborers' Master Agreement, and has been performed by our signatory contractors. It is also recognized by the Department of Industrial Relations of the State of California.

Kindly notify me at once if this is correct and forward to my office any and all documentation related to this new determination.

Please contact me to discuss this further at your convenience.

Very Truly Yours,


Oscar De La Torre
Business Manager/ Secretary-Treasurer

ATTACHMENT D (2 PAGES)

TRANSMISSION VERIFICATION REPORT

TIME : 12/15/2008 09:09

DATE, TIME	12/15 09:09
FAX NO./NAME	98261948
DURATION	00:00:12
PAGE(S)	01
RESULT	OK
MODE	STANDARD

GENERAL SERVICES AGENCY
OFFICE OF LABOR STANDARDS ENFORCEMENT
DONNA LEVITT, MANAGER



Sent by Fax and US Mail

December 15, 2008

Re: Sunshine Request

Oscar De La Torre
Laborers' Local 261
3271 - 18th Street
San Francisco, CA 94110

Dear Mr. De La Torre,

I am in receipt of a fax dated December 11, 2008 in which you request "all of the documents and any other opinion, letter, record, case study, agreement, or other "thing" that you relied on when making this unique determination" "that the installation of electrical conduit is now required to be done at the Electricians' wage rate...". Because your request will require the Office of Labor Standards Enforcement to locate and copy a voluminous amount of documents and because of the upcoming holidays, I will need additional time. I will provide you with the documents on or before January 5th, 2009.

Your fax refers to a letter you sent me dated November 14, 2008 in which you inquired whether the Office of Labor Standards Enforcement had taken "a formal position... that all installation of electrical conduit is required to be done at the Electricians' prevailing wage rate". In that letter you asked for "all documentation related to this new determination".

On the day I received your letter, I called you and informed you by telephone that our office had not made any "new determination" and asked for further clarification about your inquiry. You said that you believe that OLSE has no authority to determine the appropriate prevailing wage rate for electrical conduit installation and you referred to a letter from the Department of Industrial Relations that you said showed that either the Laborers or the Electricians prevailing wage could be paid for this type of work. I asked you to send me a copy of the letter. We discussed the factors that OLSE considers when determining the appropriate prevailing wage rate for specific type of work on City contracts. You asked me to provide you with OLSE's authority to make a determination of the appropriate prevailing wage rate for City contracts.

On November 17, 2008, I received a fax from you that included a copy of a fax dated December 15, 2006 from Jane Ham at the Department of Industrial Relations, Division of Labor Statistic and Research to Denis Mulligan at the Golden Gate Bridge District. I began to work on a thoughtful analysis of the letter and any relevancy it might have to your question about OLSE's authority. I will include that response with the documents you requested in the Sunshine request.

Sincerely,

A handwritten signature in cursive script that reads "Donna Levitt".

Donna Levitt
Labor Standards Enforcement Officer



LESLIE AVERIETT
<averietta@yahoo.com>

01/06/2009 06:21 PM

Please respond to
averietta@yahoo.com

To SOTF@SFGOV.ORG

cc VINCE COURTNEY <mail@vincecourtney.com>

bcc

Subject POSTPONE JANUARY 13,2009 MEETING

TO: CHRIS RUSTOM, ASST. ADMINISTRATOR
SUNHINE ORDINANCE TASK FORCE

THIS E-MAIL IS REQUEST A POSTPONEMENT OR CONTINUANCE OF THE
HEARING SCHEDULED FOR JANUARY 13, 2009 FOR COMPLAINT #08057.

PLEASE CONTACT VINCE COURTNEY IF ANYTHING MORE NEEDS TO BE DONE.

PLEASE CONTACT VINCE WITH A NEW DATE & TIME FOR THIS HEARING.

THANK YOU FOR YOUR TIME AND ATTENTION TO THIS MATTER.



SOTF/SOTF/SFGOV
01/30/2009 07:17 AM

To vince@liuna261.org, Donna
Levitt/ADMSVC/SFGOV@SFGOV, Olga
Ryerson/ADMSVC/SFGOV@SFGOV

cc

bcc

Subject #08057_Vince Courtney v Labor Standards Enforcement

Dear Donna Levitz,

This is to confirm that the above mentioned case was scheduled to be heard on January 27, 2009, but was rescheduled to February 24, 2009, because the complainant requested a continuance..

Chris Rustom, Asst. 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



LABORERS' INTERNATIONAL UNION OF NORTH AMERICA
LOCAL UNION NO. 261



OSCAR DE LA TORRE
Business Manager
Secretary-Treasurer

February 11, 2009

RAMON HERNANDEZ
President

JESUS VILLALOBOS
Vice President

DAVID DE LA TORRE
Recording Secretary

VICTOR LOPES
Executive Board

JAVIER FLORES
Executive Board

VINCE COURTNEY
Executive Board

Chris Rustom, Asst. Administrator
Sunshine Ordinance Task Force
1 Dr. Carlton B. Goodlett Place
City Hall Room 244
San Francisco, CA 94102-4689

RE: Sunshine Complaint (No. 08057)

Dear Mr. Rustom,

The City of San Francisco and the Union have scheduled an arbitration hearing on February 24, 2009. This meeting will conflict with our meeting.

I would like to arrange to meet with you at City Hall to discuss the case.

Please contact me with a mutually agreeable date and time to meet.

Sincerely,

Vince Courtney/laa

Vince Courtney
City Representative

VC:laa
Ope3afi-cio