Date:	April 27, 2010	Item No.	9 & 10
		File No.	10011

SUNSHINE ORDINANCE TASK FORCE

Juai	n DeAnda against the	Department (of Public Healt
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oleted by:	Chris Rustom	Date:	April 22

^{**} 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.



RECEIVED BOARD OF SUPERVISORS
SAN FRANCISCO

2010 MAR 26 PM 2: 36

BY	
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SUNSHINE ORDINANCE TASK FORCE

1 Dr. Carlton B. Goodlett Place, Room 244, San Francisco CA 94102

Tel. (415) 554-7724; Fax (415) 554-7854 http://www.sfgov.org/sunshine

SUNSHINE ORDINANCE COMPLAINT
Complaint against which Department or Commission Supposition Supposition
Sunshine Ordinance Section
(If known, please cite specific provision(s) being violated)
Please describe alleged violation. Use additional paper if needed. Please attach any relevant documentation supporting your complaint. Standard Howards Standard Standard With holding Information on data on ethnic minorities. Which it Cowhisctors with Swords to Plowships to his to plowships to be supported by the standard security of the support of
Name JUAN DE AUDA Address 1060 Howard Street Telephone No. (415) 244 E-Mail Address Axis-dsmive Socyloba, ine
I request confidentiality of my personal information. yes no

¹ NOTICE: PERSONAL INFORMATION THAT YOU PROVIDE MAY BE SUBJECT TO DISCLOSURE UNDER THE CALIFORNIA PUBLIC RECORDS ACT AND THE SUNSHINE ORDINANCE, EXCEPT WHEN CONFIDENTIALITY IS SPECIFICALLY REQUESTED. YOU MAY LIST YOUR BUSINESS/OFFICE ADDRESS, TELEPHONE NUMBER AND E-MAIL ADDRESS IN LIEU OF YOUR HOME ADDRESS OR OTHER PERSONAL CONTACT INFORMATION. Complainants can be 600 nymous as long as the complainant provides a reliable means of contact with the SOTF (Phone number, fax number, or e-mail address).



Juan De Anda <axis-dsmiv@sbcglobal.net>

03/31/2010 07:42 AM

To donna.hall@sfgov.org

cc sott@sfgov.org

bcc

Subject Fw: Public Records Request Denial

Dear SOTF,

On March 26, 2010 I went to San Francisco Department of Pubic Health (SFDPH) Public Information Officer, Ms. Eileen Sheilds office seeking help to file a request for records but instead encountered a hostile response from her telling me I needed to go to Swords To Plowshares (STP) where the requester is but she became irate and didn't help and I filed a complaint with your office March 26, 2010. In her email she seems to be contacting STP immediately rather than assist me with my public records which SFDPH is contracting with. When I went to STP office I dropped of a complaint I had filed with San Francisco Human Rights Commission (SF-HRC) and was time stamped and did not go for other purposes but she seems obsessed to call parties that are involved in request and abandoning her responsibilities and ignoring public.

Sincerely,

Juan De Anda (415) 244-4815

: Juan De Anda <axis-dsmiv@sbcglobal.net> Sent: Tue, March 30, 2010 1:08:50 PM Subject: Re: Public Records Request

Dear Mr. DeAnda:

Regarding your public records request of March 26, 2010, the document you have requested—a copy of the CBHS Cultural Competency Plan— is only available in hard copy. Total pages are 68 @ 10 cents/page for a total of \$6.80. Do you want us to make a copy of this for you? Please advise.

The other information you have requested relating to Swords to Plowshares, it is my understanding from talking to the staff at Swords to Plowshares that you made the request to them directly on Friday, March 26, after you left this office. The Department of Public Health is not in possession of that information and you need to continue to work with Swords to Plowshares to access the information you have requested.

On a final note, I wish to remind you that you do not need a form to make a public records request, thereby avoiding drop in's at offices. As a member of the public, you can simply put your request in writing in the body of an e-mail. I hope this reminder will be helpful to you in making future requests. It also creates a paper trail, thereby assuring appropriate and timely responses.

Please let me know if you want us to make a copy of the Cultural Competency Plan.

(Embedded image moved to file: pic15654.jpg)

Juan De Anda <axis-dsmiv@sbcgl obal.net> Eileen Shields

То

03/29/2010 12:45

< Eileen. Shields@sfdph.org >

PM

CC

Subject Re: Public Records Request

This is my email address.

From: Eileen Shields < Eileen. Shields@sfdph.org >

To: axis-dsmiv@sbcglobal.net

Sent: Fri, January 8, 2010 9:55:07 AM Subject: Public Records Request

Dear Mr. DeAnda:

Attached are the documents you requested regarding Swords to Plowshares.

(See attached file: Swrds_Plshrs_ExhibitA.pdf)(See attached file: Sword_Plwshrs_DeAnda.pdf)(See attached file: Swords to Plowshares Contract.pdf)

(Embedded image moved to file: pic27973.jpg) pic15654.jpg



Juan De Anda <axis-dsmiv@sbcglobal.net> 03/31/2010 08:39 AM

To Eileen Shields < Eileen. Shields@sfdph.org>

cc sotf@sfgov.org, donna.hall@sfgov.org, mitch.katz@sfgov.org

bcc

Subject Invoking California Public Records Act Against SFDPH Public Information

Dear Ms. Shields,

I am invoking California Public Records Act Government Code 6250 against your office and request you "cease and desist" and comply with my public records request data from SFDPH contractor, Swords To Plowshares (STP), of ethnic minorities has served including Filipino, Asian, Hispanic, and Lesbian, Bisexual, Transgender (LGBT) communities for the past five years. You, not STP, are bound by CPRA Government Code 6250 and directing the public away from your office would be a violation of California law. Your failure to produce documentation is "aiding and abetting" to conceal STP is refusing to serve LGBT veteran population while receiving tax payers money.

Sincerely,

Juan De Anda

From: Eileen Shields <Eileen.Shields@sfdph.org> **To:** Juan De Anda <axis-dsmiv@sbcglobal.net>

Sent: Tue, March 30, 2010 1:08:50 PM **Subject:** Re: Public Records Request

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(Embedded image moved to file: pic15654.jpg)

Juan De Anda <axis-dsmiv@sbcgl

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Eileen Shields

03/29/2010 12:45

< Eileen Shields@sfdph.org >

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Summary of the California Public Records Act 2004

California Attorney General's Office



Juan De Anda <axis-dsmiv@sbcglobal.net >

04/01/2010 10:16 AM

To sotf@sfgov.org

cc donna.hall@sfgov.org, eileen.shields@sfdph.org,

mitch.katz@sfdph.org

bcc

Subject SFDPH Public Information Officer Violates Senate Bill 1732,

2009 Public Records Act

Dear SOTF,

I would like to include attachemt California Senate Bill 1732 Public Records Act Amendments which was passed in January 2009 which prohibits discrimination section 6257.7 and as a member of public and because I'm legally disabled Ms. Shields in her email below is directing me away from filing Public Records at her office. According to her email she claims I made request to Swords To Plowshares requesting data of how many Lesbian, Gay, Bisexual, Transgender (LGBT) veterans have they served for past five years while recieving SFDPH monies, but they have no written request from me and feel she is "aiding and abetting" to conceal data and not comply with SB 1732 but instead Ms Shields is exploiting my disability hoping I will not seek help from Senator Leland Yee Office who Chairs Public Records Committee.

Sincerely,

Juan De Anda

P.S. I do feel she is bullying and intimidating me because of my disability.

---- Forwarded Message ----

From: Eileen Shields < Eileen. Shields @sfdph.org > **To:** Juan De Anda < axis-dsmiv@sbcglobal.net >

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(Embedded image moved to file: pic15654.jpg)

Juan De Anda <axis-dsmiv@sbcgl

03/29/2010 12:45

obal.net>

To

<Eileen.Shields@sfdph.org>

PM

CC

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Eileen Shields

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LOZANO SMITH

Partnering for Excellence in Education and Government

CLIENT NEWS BRIEF

No. 30

August 2008

LEGISLATURE AMENDS THE BROWN ACT AND PUBLIC RECORDS ACT

The Governor recently signed Senate Bill 1732 ("SB 1732"), which makes certain changes to the Ralph M. Brown Act ("Brown Act") and the California Public Records Act ("CPRA"). These changes will go into effect on January 1, 2009.

The Brown Act is California's open meeting law, and generally requires all meetings of legislative bodies to be open to the public, except for certain authorized closed sessions. Currently, the Brown Act prohibits "any use of direct communication, personal intermediaries, or technological devices by a majority of the members of the legislative body to develop a collective concurrence as to action to be taken on an item by the members of the legislative body." (Gov. Code § 54952.2.) This provision of the Brown Act was addressed in Wolfe v. City of Fremont (2006) 144 Cal.App.4th 533 ("Wolfe"). The Wolfe court held that a series of individual meetings by members of the legislative body, or communication through an intermediary, does not violate the Brown Act so long as such communication does not result in a collective concurrence as to action to be taken on an item by the legislative body.

SB 1732 is intended to supersede the holding in <u>Wolfe</u>. In enacting SB 1732, the legislature expressed its disapproval of the <u>Wolfe</u> court's decision that only serial meetings <u>resulting</u> in a collective concurrence are prohibited, and expressed its intent to also prohibit the <u>process</u> of developing a collective concurrence. As a result, amended Government Code section 54952.2, subdivision (b)(1), prohibits a majority of the members of a legislative body, outside a public meeting, from using a series of communications of any kind, directly or through intermediaries, "to discuss, deliberate, or take action" on any item of business within its jurisdiction. However, the Legislature also added subdivision (b)(2) to the amended Government Code section 54952.2, which provides that this change in the law shall not prohibit public agency employees or officials from engaging in separate conversations or communications with members of a legislative body outside of a meeting to answer questions or provide information regarding a matter, as long as that employee or official does not communicate a member's comments or position on a matter to any other member.

SB 1732 also adds Government Code section 6252.7 to the CPRA. This new section provides that when members of a legislative body are authorized to access a writing of the body or the local agency, the local agency "shall not discriminate between or among any of those members as to which writing or portion thereof is made available or when it is made available."

Therefore, a local agency cannot discriminate between or among members of its legislative body with regard to providing access to a writing of the legislative body or the agency. If one member of a legislative body is provided access to a document, all other members of the legislative body must be provided equal access.

SB 1732 emphasizes the Legislature's concern that <u>all</u> discussion between the majority of the members of a public agency's legislative body regarding agency business takes place only in meetings open to the public, and that public records be equally available to members of the legislative body. If you have any questions regarding these changes, or the Brown Act or CPRA in general, please contact any of our six statewide offices.

As the information contained herein is necessarily general, its application to a particular set of facts and circumstances may vary. For this reason, this News Brief does not constitute legal advice. We recommend that you consult with your counsel prior to acting on the information contained herein.

9 0

Written by Maria DeLeon (mdeleon@lozanosmith.com), an associate in our San Ramon office, and Scott Cross (scross@lozanosmith.com), a shareholder, in our Fresno office.



Eileen Shields/DPH/SFGOV

04/19/2010 01:40 PM

To SOTF/SOTF/SFGOV@SFGOV

CC

bcc

Subject Sunshine Complaint Received: #10011_Juan De Anda v

Public Health

To SOTF:

Below is my e-mail response to Mr. DeAnda regarding his latest public records request for documents from Swords to Plowshares.

The SOTF will note that I sent this e-mail to Mr. DeAnda on March 30. However, his complaint that I was denying him information was submitted to the SOTF three days earlier on March 26, the very same day he appeared in my office and submitted this records request. I believe it is customary to wait until the 10-day response time has lapsed before filing complaints.

Not only did I follow up with Swords to Plowshares on behalf of Mr. DeAnda as evidenced by my knowledge that he had submitted a duplicate public records request directly with Swords to Plowshares on the same afternoon as he visited my office, but Swords to Plowshares informed me that the records he requested from them do not exist. He was told this by the staff and yet he is claiming that my office is withholding this information from him.

I also, on his behalf, checked with the staff at DPH who informed me that the records Mr. DeAnda requested are not records that DPH requires Swords to Plowshares to collect, analyze or report to us. Therefore, the records do not exist.

What, then, exactly is it that I am supposed to turn over to him? And what would a satisfactory resolution to his request for records from a contractor---records that are neither required nor maintained by this Department nor Swords to Plowshares-- look like?

The actions of this Department relating to Mr. DeAnda's public records requests are notable in their adherence to the letter and spirit of the Sunshine Ordinance. The records he are asking for are records that DPH does not have or maintain. He was redirected to the proper source where the records would have originated—an agency with which he is familiar. That they do not exist seems to be beside the point.

Finally, let's be clear that the one record he asked for that DPH does have--a copy of the Cultural Competency Plan--is still awaiting his response.

This complaint is specious and ill-founded. With due respect to the SOTF and prior to any action on this matter. I would ask Mr. DeAnda to produce documentation to support his complaint.



---- Forwarded by Eileen Shields/DPH/SFGOV on 04/19/2010 01:24 PM -----



Eileen Shields/DPH/SFGOV 03/30/2010 01:08 PM

To Juan De Anda <axis-dsmiv@sbcglobal.net>

CC



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Juan De Anda <axis-dsmiv@sbcglobal.net>



Juan De Anda <axis-dsmiv@sbcglobal.net> 03/29/2010 12:45 PM

To Eileen Shields < Eileen. Shields @sfdph.org>

CC

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