

Date: April 28, 2009

Item No. 14 & 15
File No. 09018

SUNSHINE ORDINANCE TASK FORCE

AGENDA PACKET CONTENTS LIST*

- Anonymous Tenants v Dept. of Building Inspection
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Completed by: Chris Rustom

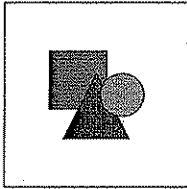
Date: April 24, 2009

***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.

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DENNIS J. HERRERA
City Attorney

ERNEST H. LLORENTE
Deputy City Attorney

DIRECT DIAL: (415) 554-4236
E-MAIL: ernest.llorente@sfgov.org

MEMORANDUM

April 20, 2009

*ANONYMOUS TENANTS v. DEPARTMENT OF BUILDING INSPECTION
(09018)*

COMPLAINT

THE COMPLAINANT ALLEGES THE FOLLOWING FACTS:

Anonymous Tenants had previously filed a complaint with the Task Force regarding the procedure of DBI in charging \$6.50 per page for documents requested by them. The Anonymous Tenants alleged violations of Sections 67.29-2, 67.21(1), 67.21-1 and 67.21 generally in their complaint. At the full Task Force hearing on January 27, 2009, the Task Force considered a motion by Member Knee and seconded by Member Cauthen that the Task Force find a violation of 67.21-1(b)(1)(ii)(iii). The motion failed to garner six votes to pass the motion. On the motion to reopen the motion by Member Cauthen and seconded by Member Chan, the motion failed to garner six votes to pass the motion. As a result the motions failed and the Task Force took no further action on this agenda item.

After the hearing, the Anonymous Tenants made requests from DBI for documents and was told that the fee for providing copies was \$6.50 per page.

COMPLAINANT FILES COMPLAINT:

On March 27, 2009, the tenants filed a complaint against DBI and alleged that DBI allegedly violated the Sunshine Ordinance, Section 67.28 for failure to provide an itemized cost analysis establishing that its cost per page impression exceeds 10 cents or one cent as the case may be.

Memorandum**THE RESPONDENT AGENCY STATES THE FOLLOWING:**

On March 31, 2009, William Strawn, Communications Manager of DBI filed an e-mail response and contested jurisdiction and stated that this same complaint was heard on January 27, 2009 and the Task Force voted and found no violation. In addition, William Strawn provided a letter which explained its position on the fees.

APPLICABLE STATUTORY SECTION:

Sunshine Ordinance Section 67.28 that deals with fees for duplication.

APPLICABLE CASE LAW: none**ISSUES TO BE DETERMINED****1. FACTUAL ISSUES****A. Uncontested Facts:**

- The complainants made a request for documents and were told that the cost for such duplication was \$6.50 per page.

B. Contested facts/ Facts in dispute:

The Task Force must determine what facts are true.

i. Relevant facts in dispute:

- Whether DBI complied with the requirements of section 67.28 of the Ordinance?

QUESTIONS THAT MIGHT ASSIST IN DETERMINING FACTS: none**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 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.
 - 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 67.28 of the Sunshine Ordinance deals with fees for duplication and provides:

- a. No fee shall be charged for making public records available for review.
- ...
- c. For documents assembled and copied to the order of the requester, unless a special fee has been established pursuant to subdivision (d) of this section, a fee not to exceed 10 cents per page may be charged, plus any postage.
- d. A department may establish and charge a higher fee than the ...10 cent presumptive fee in subdivision(c) if it prepares and posts an itemize cost analysis establishing that its cost per page impression exceeds 10 cents.... The cost per page impression shall include the following costs: one sheet of paper; one duplication cycle of the copying machine in terms of toner and other specifically identified operation or maintenance factors, excluding electrical. Any such cost analysis shall identify the manufacturer, mode, vendor and maintenance contractor, if any, of the copying machine or machines referred to.



<complaints@sfgov.org>
03/27/2009 03:03 PM

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

Submitted on: 3/27/2009 3:03:02 PM

Department: Dept of Building Inspection

Contacted: William Strawn and Alan Whiteside

Public_Records_Violation: Yes

Public_Meeting_Violation: No

Meeting_Date:

Section(s)_Violated: 67.28

Description: Charging \$6.50 for a copy of a public record.

Hearing: Yes

Pre-Hearing: No

Date: 3/27/09

Name: Anonymous Tenants

Address:

City:

Zip:

Phone:

Email:

Anonymous:

Confidentiality_Requested: Yes



tenants769np@yahoo.com

03/27/2009 01:11 PM

Please respond to
tenants769np@yahoo.com

To soft@sfgov.org

cc dougcoms@aol.com, joelynn114@hotmail.com,
kimo@webnetic.net, grossman356@mac.com,
rwhartzjr@sbcglobal.net, mail@csrsf.com,

bcc

Subject New Complaint

SO COMPLAINT vs. Mr. William Strawn and Mr. Alan Whiteside at DBI

Mr. William Strawn and Mr. Allan Whiteside at DBI demand the public to pay \$6.50 for a copy of public record, in our case, a copy of a permit application and/or a bar code page.

We saw the Bar Code page on DBI's computer. DBI has PaperFlow and PaperVision software that can scan, print and export documents.

\$6.50 for a copy is 650% higher than 10 cents per page. 10 cents is the allowable fee to be charged the public for a page of document.

Sunshine Ordinance/law requires them to post to the public an itemized cost analysis to establish the cost of \$6.50 per page which is 650% higher than 10 cents per copy.

\$6.50/ per page is an outrageous fee to charge the public.

After our repeated requests, they have refused to provide us an itemized cost analysis to establish their cost of \$6.50 per page.

They are in violation of **Sunshine Ordinance Section 67.28.**

Attachments:

Sunshine Ordinance Complaint Form

10 pages of supporting documents



Complaint and documents, DBI charges \$6.50 for a page.pdf

SUNSHINE ORDINANCE COMPLAINT

Complaint against which Department or Commission DEPT. OF BUILDING INSPECTION

Name of individual contacted at Department or Commission MR. WILLIAM STRAWN & MR. ALAN WHITESIDE

Alleged Violation Public records access

Public meeting _____ Date of meeting _____

Sunshine Ordinance

Section 67.28

(If known, please cite specific provision being violated)

Please describe alleged violation. Use additional paper if needed. Please attach any relevant documentation supporting your complaint.

Do you wish a public hearing before the Sunshine Ordinance Task Force? yes _____ no.

(Optional)

Your name _____ Address _____

Date 3-27-09

Telephone _____ If anonymous, please let us know how to contact you. E-MAIL : TENANTS769NP@YAHOO.COM

Thank you.

Notice: Personal Information that you provide is subject to disclosure under the California Public Records Act and the Sunshine Ordinance, except when confidentiality is specifically requested. Complainants can be anonymous as long as the complainant provides a reliable means of contact with the SOTF (Phone Number, Fax Number, or Email address).

ALLEGED VIOLATION

Mr. William Strawn and Mr. Allan Whiteside at DBI demand the public to pay \$6.50 for a copy of public record, in our case, a copy of a permit application and/or a bar code page. We saw the Bar Code page on DBI's computer. DBI has PaperFlow and PaperVision software that can scan, print and export documents.

\$6.50 for a copy is 650% higher than 10 cents per page. 10 cents is the allowable fee to be charged the public for a page of document.

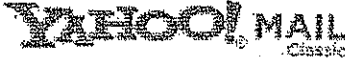
Sunshine Ordinance/law requires them to post to the public an itemized cost analysis to establish the cost of \$6.50 per page which is 650% higher than 10 cents per copy. \$6.50/ per page is an outrageous fee to charge the public.

After our repeated requests, they have refused to provide us an itemized cost analysis to establish their cost of \$6.50 per page.

They are in violation of Sunshine Ordinance Section 67.28.

Attachments:

- Sunshine Ordinance Complaint Form
- 10 pages of supporting documents



Print - Close Window

Subject: Re: 767 North Point Street, AP#200810305471

To: tenants769np@yahoo.com

From: "Alan E. Whiteside" <Alan.Whiteside@sfgov.org>

Date: Thu, 13 Nov 2008 11:59:21 -0800

Dear Tenants 769 North Point,

We are unable to FTP and/or e-mail any documents. I have filled out a Record Request form for you to complete for the application. A single document is a 2 day turn-around. There were no photographs nor plans with this permit application. You can pick up the copy on November 17 or until December 2 and pay the minimum records charge of \$6.50. Please go to the DBI Public Information Counter at 1660 Mission to complete the form and to pick up the copy. The copy will be held under 767 North Point.

Alan

Alan Whiteside, Custodian of Records
 Customer Service Division
 Department of Building Inspection
 1650 Mission Street, Room 302
 San Francisco, CA 94103
 (415) 558-6247 Office
 (415) 575-6875 Fax
 www.sfgov.org/dbi

Anita S.

Lee/DBI/SFGOV

To 11/13/2008 09:10
 Whiteside/DBI/SFGOV@SFGOV
 AM

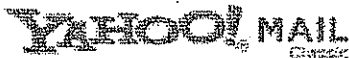
Alan E.

cc

tenants 769np@yahoo.com,
 kimo@webnetic.net, Laurence M.
 Kornfield/DBI/SFGOV@SFGOV

Subject

Fw: 767 North Point Street,
 AP#200810305471



File #200811045823; 2650-52 Hyde Steet

Tuesday, March 3, 2009 4:51 PM

From: "Tenants 769NorthPoint" <tenants769np@yahoo.com>

To: Patty.Herrera@sfgov.org

Cc: kimo@webnetic.net, "Allen Grossman" <grossman356@mac.com>, "Christian Holmer" <mail@csrsf.com>, "Ray Hartz Jr" <rwartzjr@sbcglobal.net>

SUNSHINE REQUEST
IMMEDIATE DISCLOSURE REQUEST

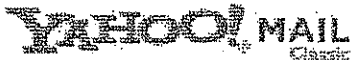
Dear Ms. Herrera:

Today we viewed the file #200811045823, Bar Code 47166 (consisting of 2 pages of plans, page 2 and 3, and one Bar Code page, page 1) at Microfilm division at DBI. While we were viewing this file we made a sunshine request by asking Benje to provide us a copy of the bar code page. Benje said he would have to ask you and you said no.

Before we left I again made a sunshine request directly to you for the Bar Code page of the above captioned file. You again refused and said it was part of the file and you would not give a copy of the bar code page to the public. I said it's not the part of the plans and it is only an information sheet. you still refused.

I request again please email this bar code page to us in PDF format, to: tenants769np@yahoo.com

Thank you.



Response to your email Immediate Disclosure Sunshine Request of March 3, 2009

Wednesday, March 4, 2009 2:06 PM

From: "William Strawn" <william.strawn@sfgov.org>
To: tenants769np@yahoo.com
Cc: "SOTF" <sotf@sfgov.org>, patty.herrera@sfgov.org, william.strawn@sfgov.org

March 4, 2009

Dear Tenants 769 NorthPoint:

Thank you for your email Immediate Disclosure Request, as sent to Patty Herrera, Supervisor of DBI's Customer Services Division.

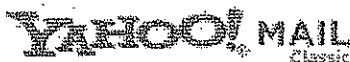
As Ms. Herrera explained to you during the discussion of your request yesterday, the Bar Code No. 47166 you viewed of file No. 200811045823 is a tracking number used by our digital scanning vendor. It is deleted normally prior to delivery of the plans you were viewing, and it is not part of the public record linking to the plans. In this case, it was erroneously left on the plans. Because it is the vendor's bar code, not the department's bar code -- we do not yet have such a system -- it is not part of the public record document. Thus, providing you with a copy of the above specific Bar Code page would not link to the plans you were viewing at DBI.

As you know, you may not obtain copies of these plans until you have the owner's permission, though you may -- as you have done -- come in and view these plans.

Also, as explained to you in your previous request for a special response for a PDF version of another permit application -- which you did not respond to when we offered to provide this to you once you paid the minimum \$6.50 fee as established by ordinance -- we do not have the capacity to easily provide this Bar Code page to you as a PDF; and providing such a public record in such a customized format is not DBI's established and publicized procedure.

Given the above information, should you still want to request a copy of the Bar Code page in a PDF format, you will need to fill out a records' request form and pay the minimum fee prior to our records' division meeting your exceptional request. I respectfully remind you that we are pleased to provide you with specific public records requested, though we continue to request that you follow the department's established procedures, which are in place to ensure that all such requests are managed fairly and the same for everyone.

Thank you, again, for your interest in the Department of Building Inspection.



Re: Minimum fee for a bar code page

Thursday, March 5, 2009 7:26 AM

From: "Tenants 769NorthPoint" <tenants769np@yahoo.com>

To: "William Strawn" <william.strawn@sfgov.org>

Cc: king@webnetc.net, "Allen Grossman" <grossman356@mac.com>, "Christien Holmer" <mail@csrsf.com>, "Ray Hartz Jr" <rwartzjr@sbcglobal.net>

Dear Mr. Strawn:

Please inform us what is the minimum fee that you charge for this Bar Code page?

Thank you.



Re: **Minimum fee for a bar code page**

Thursday, March 5, 2009 12:13 PM

From: "Tenants 769NorthPoint" <tenants769np@yahoo.com>

To: "William Strawn" <william.strawn@sfgov.org>, "Alan E. Whiteside" <Alan.Whiteside@sfgov.org>

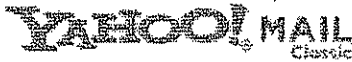
Cc: "Allen Grossman" <grossman356@mac.com>, kimo@webnetic.net, "Christian Holmer" <mail@csrsf.com>, "Ray Hartz Jr" <rwartzjr@sbcglobal.net>, "SOTF" <soft@sfgov.org>, patty.herrera@sfgov.org, william.strawn@sfgov.org

Dear Mr. Strawn:

Thank you for response. Is it correct that it will cost us \$6.50 for DBI to reproduce a copy of this bar code page?

Please inform us where we can see the break down of this cost of \$6.50 for a page of document?

Thank you.



Re: Minimum fee for a bar code page

Monday, March 9, 2009 8:21 AM

From: "Tenants 769NorthPoint" <tenants769np@yahoo.com>

To: "William Strawn" <william.strawn@sfgov.org>, "Alan E. Whiteside" <Alan.Whiteside@sfgov.org>

Cc: "Allen Grossman" <grossman356@mac.com>, Kimo@webnetic.net, "Christian Holmer" <mail@csrsf.com>, "Ray Hartz Jr" <rhartzjr@sbcglobal.net>, "SOTF" <sotf@sfgov.org>, patty.herrera@sfgov.org

Sunshine Request
Immediate Disclosure Request

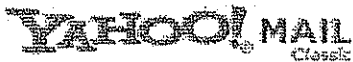
Re: SOTF case #08054

Dear Mr. Strawn:

Thank you for response. Is it correct that it will cost us \$6.50 for DBI to reproduce a copy of this bar code page?

Please inform us where we can see the break down of this cost of \$6.50 for a page of document?

Thank you.



Re: Minimum fee for a bar code page

Monday, March 9, 2009 10:53 AM

From: "Tenants 769NorthPoint" <tenants769np@yahoo.com>

To: "William Strawn" <william.strawn@sfgov.org>

Cc: "Alan E. Whiteside" <Alan.Whiteside@sfgov.org>, "Allen Grossman" <grossman356@mac.com>, kimo@webnetic.net, "Christian Holmer" <mail@csrsf.com>, patty.herrera@sfgov.org, "Ray Hartz Jr" <rwartzjr@sbcglobal.net>, "SOTF" <sof@sfgov.org>

**Sunshine Request
Immediate Disclosure Request**

Dear Mr. Strawn:

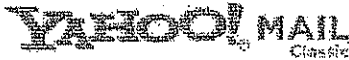
Thank you for responding but No, we did not misplace your March 5, 2009 email which did not state clearly that this Bar Code page costs \$6.50 for a copy. This Bar Code page is part of the file and not part of the plans and came with the plans. So just to press the print button on the computer to print a copy, you now demand to charge us \$6.50, is that correct?

This mornings our Immediate Disclosure Request, Sunshine Request asks for different information. We ask you for a break down on how you came up with \$6.50 charge for a bar code page? There is no special handling or process. How can you classify this document as a microfilm reproduction when this file is stored in your computer?

This Bar Code and two pages of plans were scanned into PaperFlow and are computer images, they are not retrieved from microfilm.

Please respond,

Thank you.



Re: Your Matrix Report

Monday, March 23, 2009 8:21 AM

From: "tenants769np@yahoo.com" <tenants769np@yahoo.com>
To: william.strawn@sfgov.org
Cc: "SOTF" <sotf@sfgov.org>, "Kristin Chu" <kristin@chu.com>, rwhartzjr@sbcglobal.net, scau1321@aol.com, "James Chaffee" <info@saveourlibraries.com>, "Richard Knee" <rak0408@earthlink.net>, "Doug Comstock" <dougcoms@aol.com>, "Allen Grossman" <grossman356@mac.com>, amwashburn@comcast.net, "Erica Craven" <ec@rolaw.com>, doylegenie@gmail.com, "Christian Holmer" <mail@csrsf.com>, "Peter Warfield" <libraryusers2004@yahoo.com>, "Joë Lynn" <joelynn114@hotmail.com>, "Oliver Luby" <oliverlear@yahoo.com>

**SUNSHINE REQUEST
IMMEDIATE DISCLOSURE REQUEST**

Dear Mr. Strawn:

SOTF member Ms. Sue Cauthen made the following statements:

"There is a requirement in the sunshine ordinance that when you charge a fee in excess of 10 cent per page you have to produce a document that set forth the actual cost that it cost you for producing the document.

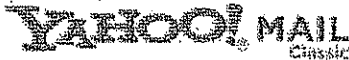
I have seen your appendix A11 but it simply states the charge, it does not state how they were derived and that is a requirement of the sunshine ordinance."

You led the SOTF members to believe that your Matrix Report is an all encompassing report which states DBI's itemized cost analysis to reproduce a page. Your Matrix Report is 42 pages long and I and others can't find this itemized cost analysis that break down on DBI's cost(s) to produce a one page reproduction of a document.

Several people have asked you for this information and you keep dancing around this Matrix Report. Isn't it true that DBI's itemized cost analysis is not in the Matrix Report?

If I am mistaken please name the page number in the Matrix Report which clearly states the break down cost(s) to derive this \$6.50 for a page of reproduction of document.

Thank you.



Fw: Re: Your Matrix Report

Wednesday, March 25, 2009 2:20 PM

From: "tenants769np@yahoo.com" <tenants769np@yahoo.com>

To: william.strawn@sfgov.org

Cc: "SOTF" <sotf@sfgov.org>, "Kristin Chu" <kristin@chu.com>, rwhartzjr@sbcglobal.net, scau1321@aol.com, "James Chaffee" <info@saveourlibraries.com>, "Richard Knee" <rak0408@earthlink.net>, "Doug Comstock" <dougcoms@aol.com>, "Allen Grossman" <grossman356@mac.com>, amwashburn@comcast.net, "Erica Craven" <elc@lrolaw.com>, doylegenie@gmail.com, croberts@sfxaminer.com, "Christian Holmer" <mail@csrsf.com>, "Peter Warfield" <libraryusers2004@yahoo.com>, "Joe Lynn" <joelynn114@hotmail.com>, "Oliver Luby" <oliverlear@yahoo.com>

SECOND REQUEST

— On Mon, 3/23/09, tenants769np@yahoo.com <tenants769np@yahoo.com> wrote:

From: tenants769np@yahoo.com <tenants769np@yahoo.com>
Subject: Re: Your Matrix Report
To: william.strawn@sfgov.org
Cc: "SOTF" <sotf@sfgov.org>, "Kristin Chu" <kristin@chu.com>, rwhartzjr@sbcglobal.net, scau1321@aol.com, "James Chaffee" <info@saveourlibraries.com>, "Richard Knee" <rak0408@earthlink.net>, "Doug Comstock" <dougcoms@aol.com>, "Allen Grossman" <grossman356@mac.com>, amwashburn@comcast.net, "Erica Craven" <elc@lrolaw.com>, doylegenie@gmail.com, "Christian Holmer" <mail@csrsf.com>, "Peter Warfield" <libraryusers2004@yahoo.com>, "Joe Lynn" <joelynn114@hotmail.com>, "Oliver Luby" <oliverlear@yahoo.com>
Date: Monday, March 23, 2009, 8:21 AM

**SUNSHINE REQUEST
IMMEDIATE DISCLOSURE REQUEST**

Dear Mr. Strawn:

SOTF member Ms. Sue Cauthen made the following statements:

"There is a requirement in the sunshine ordinance that when you charge a fee in excess of 10 cent per page you have to produce a document that set forth the actual cost that it cost you for producing the document.

I have seen your appendix A1L but it simply states the charge, it does not state how they were derived and that is a requirement of the sunshine ordinance."

You led the SOTF members to believe that your Matrix Report is an all encompassing report which states DBI's itemized cost analysis to reproduce a page. Your Matrix Report is 42 pages long and I and others can't find this itemized cost analysis that break down on DBI's cost(s) to produce a one page reproduction of a document. Several people have asked you for this information and you keep dancing around this Matrix Report.

Isn't it true that DBI's itemized cost analysis is not in the Matrix Report?
If I am mistaken please name the page number in the Matrix Report which clearly states the
break down cost(s) to derive this \$6.50 for a page of reproduction of document.

If the information does not exist please let us know.

Thank you.

William Strawn/DBI/SFGOV

03/31/2009 03:55 PM

To SOTF/SOTF/SFGOV@SFGOV, Jeremy
Hallisey/DBI/SFGOV@SFGOV, Patty
Herrera/DBI/SFGOV@SFGOV
cc Alan E. Whiteside/DBI/SFGOV@SFGOV,
SOTF/SOTF/SFGOV@SFGOV, Vivian
Day/DBI/SFGOV@SFGOV, william.strawn@sfgov.org

bcc

Subject Re: Sunshine Complaint Received: #09018_Anonymous
Tenants v Building Inspection 

March 31, 2009

Via Email

Dear Members of the Sunshine Ordinance Task Force:

Thank you for your email notification on March 27, 2009 of Complaint No. 09018, filed by Anonymous Tenants 769NorthPoint. The Department of Building Inspection contests jurisdiction of this complaint on the grounds that this is precisely the same complaint dismissed by the Sunshine Ordinance Task Force on January 27, 2009, when the Task Force voted and found "No violation."

On that basis, we respectfully request that the Task Force dismiss Complaint No. 09018 since it simply repeats a previous allegation that the Task Force has already acted upon.

Please see the attached response, which explains the Department's position and request.

Thank you for your interest in the Department of Building Inspection.

Sincerely,

William Strawn
Communications Manager



DBIDismissalLtrHdM March3109.doc

William Strawn
Communications Manager
Department of Building Inspection
San Francisco, CA 94103
william.strawn@sfgov.org
Tel. 415/558-6250 (O)



City of San Francisco
Building Inspection

Gavin Newsom, Mayor
Vivian L. Day, C.B.O., Director

March 31, 2009

SOTF@sfgov.org

Dear Members of the Sunshine Ordinance Task Force:

Thank you for your email notification on March 27, 2009 of Complaint No. 09018, filed by Anonymous Tenants 769NorthPoint. The Department of Building Inspection contests jurisdiction of this complaint on the grounds that this is precisely the same complaint dismissed by the Sunshine Ordinance Task Force on January 27, 2009, when the Task Force voted and found "No violation."

On that basis, we respectfully request that the Task Force dismiss Complaint No. 09018 since it simply repeats a previous allegation that the Task Force has already acted upon.

As we explained to the Task Force at its January 27th meeting, DBI's fees were modified in July 2008 following an in-depth analysis by Matrix Consulting that showed clearly the Department was failing to recover its costs of operations through a fee structure that had not been modified since the Department's establishment in 1995. The Mayor's Office, and the Board of Supervisors, voted unanimously to approve DBI's new fee ordinance in late July 2008, and the new fees – including minimal Administrative fees for the reproduction of computer-generated documents – took effect on September 2, 2008. The Task Force members discussed these fee implications during its discussion on January 27th and found "no violation" of the Sunshine Ordinance.

As DBI's Director has explained, the Matrix Fee report clearly states that administrative costs are set at 104 dollars an hour for services not covered in the fee schedule. In determining the minimum \$6.50 cost, we increased the minimum fee that had been previously determined and implemented over many years for extra service not covered by a simple photocopy. Similar fees are charged by both Oakland and San Jose – and, in fact, DBI's fee is lower than these other Bay Area cities.

As explained multiple times to this complainant, we do not retain paper files that can be photocopied; we digitize all files as a matter of our records' retention policy and to obey Board of Supervisor instructions to preserve the environment where possible. The fact that we only have the document originally requested as a computer-generated document requires the Department to charge its published minimum reproduction fee of \$6.50.

In addition, per the complainants' requests and as documented in the attachments you sent with this March 27, 2009 notification, we provided them with a copy of the Matrix Fee Report, which has been on the DBI web site since April 2008. The complainant refuses to accept clearly established, reviewed and legislatively approved departmental fees.

Per the advice the department has received from the City Attorney's office, and per the Task Force's action on January 27, 2009, we respectfully request the dismissal of Complaint No. 09018.

Thank you for your attention and consideration of the Department's views on this matter.

Sincerely,

William Strawn
Communications Manager, William.strawn@sfgov.org

Office of the Director
1660 Mission Street – San Francisco CA 94103
Office (415) 558-6131 – FAX (415) 558-6225 – www.sfgov.org/dbi



tenants769np@yahoo.com

04/07/2009 02:33 PM

Please respond to
tenants769np@yahoo.com

To sotf@sfgov.org, kristin@chu.com, elc@lrolaw.com,
scau1321@aol.com, rak0408@earthlink.net,
amwashburn@comcast.net, han467@gmail.com,
cc dougcoms@aol.com, joelynn114@hotmail.com,
croberts@sfexaminer.com, kimo@webnetic.net,
grossman356@mac.com, rwhartzjr@sbcglobal.net,

bcc

Subject Re: Case #09018_Anonymous Tenants v Building Inspection

Dear SOTF members:

Re: SOTF case #09018

This complaint is regarding a new set of records.



tenants769np@yahoo.com

04/07/2009 04:49 PM

Please respond to
tenants769np@yahoo.com

To sotf@sfgov.org, kristin@chu.com, elc@lrolaw.com,
scau1321@aol.com, rak0408@earthlink.net,
amwashburn@comcast.net, han467@gmail.com,
cc dougcoms@aol.com, joelynn114@hotmail.com,
croberts@sfxaminer.com, kimo@webnetic.net,
grossman356@mac.com, rwhartzjr@sbcglobal.net,
bcc

Subject Re: Case #09018_Anonymous Tenants v Building Inspection

Dear SOTF members:

Re: SOTF case #09018

This complaint is regarding a new set of records.

We respectfully ask you to deny Mr. William Strawn of DBI's jurisdiction challenge for several reasons.

1. **Case # 09018** is a complaint against Mr. William Strawn and Mr. Whiteside at DBI for failure to provide an itemized cost analysis as requested and in violation of Sunshine Ordinance section 67.28 Fees for Duplication.

The **prior case # 08054** was a complaint against DBI for failure to provide a document in PDF format and the cost issue was not in the prior case. We have requested for a rehearing for this prior case #08054.

It is crystal clear that these two cases have no similarities whatsoever.

2. Regarding to the prior case #08054, the respondent Mr. Strawn states: "the Members voted and found No Violation". It is incorrect. The members voted on Sec. 67.21-1 - b, 1, 2 and 3. The vote resulted in 5 to 3 in our favor and due to the current quorum requirement, the complaint just dies.

Mr. Strawn should not interpret the vote 5 to 3 as "No Violation".

3. Our new complaint SOTF Case # 09018 is against the respondents in violation of Sec. 67.28 Fees for Duplication. These two cases have no similarity whatsoever.

4. The respondent Mr. Strawn has repeatedly given the members incorrect information to mislead the members in order to gain the members' support.

5. The respondent Mr. Strawn continuously disregards the Sunshine Ordinance and repeatedly refuses to comply with the Sunshine Ordinance section 67.28.

6. The respondent Mr. Strawn has been falsely claiming that an itemized cost analysis for DBI charging the public \$6.50 per page can be found in the 42 pages Matriix report. We could not find anything in the Matrix report to support DBI's \$6.50/per page charge. We requested repeatedly and Mr. Strawn has refused to name the page in the Matrix report to support this \$6.50/page outrageous charge.

\$6.50/per page is 650% higher than the normal 10 cents per page charge permits by law.

7. The respondent Mr. Strawn uses the Board of Supervisors (BOS) and the City Attorney to intimidate and influence the members to gain the members' support. However the Sunshine Ordinance Laws supersedes the BOS, the City Attorney and the local city laws. Mr. Strawn has continuously solicited the help, support and advice from the city attorney's office. This is an unfair advantage over the public and he is in violation of the Sunshine Ordinance Laws. (See Sec. 67.36 and 67.21)

Sec. 67.36. Sunshine Ordinance Supersedes Other Local Laws:

The provisions of this Sunshine Ordinance supersede other local laws. Whenever a conflict in local law is identified, the requirement which would result in greater or more expedited public access to public information shall apply. (Added by Proposition G, 11/2/99)

Sec. 67.21. Process For Gaining Access To Public Records; Administrative Appeals:

(i) The San Francisco City Attorney's office shall act to protect and secure the rights of the people of San Francisco to access public information and public meetings and shall not act as legal counsel for any city employee or any person having custody of any public record for purposes of denying access to the public. The City Attorney may publish legal opinions in response to a request from any person as to whether a record or information is public. All communications with the City Attorney's Office with regard to this ordinance, including petitions, requests for opinion, and opinions shall be public records.

Mr. Strawn and Mr. Whiteside of DBI violated Sunshine Ordinance Section 67.28 by continuously refusing to provide the public with the itemized cost analysis for reproduce a single page when the cost is more than ten cent, in this case, the cost is 650% more.

The document requested is SOTF jurisdiction; the respondents should not waist more of the members' time.

This is the second time the same respondents challenge jurisdiction when they refused to produce public records. They did not even appear at the first jurisdiction hearing.

Thank you.

Below is SOTF Sec. 67.28 Fees for Duplication:

- (a) No fee shall be charged for making public records available for review.
- (b) For documents routinely produced in multiple copies for distribution, e.g. meeting agendas and related materials, unless a special fee has been established pursuant to subdivision (d) of this section, a fee not to exceed one cent per page may be charged, plus any postage costs.
- (c) For documents assembled and copied to the order of the requester, unless a special fee has

been established pursuant to subdivision (d) of this section, a fee not to exceed 10 cents per page may be charged, plus any postage.

(d) A department may establish and charge a higher fee than the one cent presumptive fee in subdivision (b) and the 10 cent presumptive fee in subdivision (c) if it prepares and posts an itemized cost analysis establishing that its cost per page impression exceeds 10 cents or one cent, as the case may be. The cost per page impression shall include the following costs: one sheet of paper; one duplication cycle of the copying machine in terms of toner and other specifically identified operation or maintenance factors, excluding electrical power. Any such cost analysis shall identify the manufacturer, model, vendor and maintenance contractor, if any, of the copying machine or machines referred to.

(e) Video copies of video recorded meetings shall be provided to the public upon request for \$10.00 or less per meeting. (Added by Ord. 265-93, App. 8/18/93; amended by Proposition G, 11/2/99)



tenants769np@yahoo.com

04/06/2009 09:41 PM

Please respond to
tenants769np@yahoo.com

To william.strawn@sfgov.org

cc sott@sfgov.org, kristin@chu.com, elc@lrolaw.com,
scau1321@aol.com, rak0408@earthlink.net,
amwashburn@comcast.net, han467@gmail.com,

bcc

Subject Re: Your Matrix Report and statement to member Sue
Cauthen

SUNSHINE REQUEST
IMMEDIATE DISCLOSURE REQUEST
FOURTH REQUEST

Dear Mr. Strawn:

Thank you for your e-mail. We have asked you repeatedly to provide us with the exact page in your Matrix Report where we should be able to find an itemized cost analysis which supports the itemized cost of \$6.50 to reproduce one page document according to you. As of today you still refuse to comply.

You are well aware at the January 27, 2009 hearing member Sue Cauthen stated: "I have seen your appendix AIL but it simply states the charges it does not state how they were derived and that is a requirement of the Sunshine Ordinance".

Your answer to member Sue Cauthen and the other members in respect to how the charges were derived was: **"It's called the Matrix Report, I don't know it by memory, I'd be happy to take a look and send you the relevant section"**.

We ask you again for the fourth time, please produce to us the relevant section or page in the Matrix Report that addresses how the charge of \$6.50/page is derived according to your statement to the members and the public.

If you can not produce the relevant section or page from the Matrix Report which should address member Sue Cauthen's comment, please be honest and tell the truth.

In your today's email you stated: "Your editorial comments about this cost analysis is your own opinion". Mr. Strawn, please do not use your official position to make false accusation against the members of the public. This itemized cost analysis comes directly from the members and the Sunshine Ordinance, it definitely is not our opinion.

It has been several months and today for the first time you mentioned San Francisco Building Code "Section 101A.11.1 through 101A.11.13, which also specifies the Department's established fees" according to you.

We request that you e-mail us 1) the relevant section or page of the Matrix Report;

2) San Francisco Building Code "Section 101A.11.1 through 101A.11.13".

Thank you.

--- On Mon, 4/6/09, William Strawn <i><william.strawn@sfgov.org> wrote:

From: William Strawn <william.strawn@sfgov.org>
Subject: Re: Fw: Re: Your Matrix Report
To: tenants769np@yahoo.com
Cc: Alan.White@sfgov.org, amwashburn@comcast.net, croberts@sfxaminer.com, "Doug Comstock" <dougcoms@aol.com>, doylegenie@gmail.com, "Erica Craven" <elc@lrolaw.com>, "Allen Grossman" <grossman356@mac.com>, "James Chaffee" <info@saveourlibraries.com>, "Joe Lynn" <joelynn114@hotmail.com>, "Kristin Chu" <kristin@chu.com>, "Peter Warfield" <libraryusers2004@yahoo.com>, "Christian Holmer" <mail@csrsf.com>, "Richard Knee" <rak0408@earthlink.net>, rwhartzjr@sbcglobal.net, scaul321@aol.com, "SOTF" <sotf@sfgov.org>, "Judy Boyajian" <Judy.Boyajian@sfgov.org>, "Vivian Day" <Vivian.Day@sfgov.org>, patty.herrera@sfgov.org, william.strawn@sfgov.org
Date: Monday, April 6, 2009, 11:59 AM

April 6, 2009

Tenants 769 NorthPoint:

Thank you for your recent emails regarding DBI's unanimously approved, passed and signed Fee Legislation and the Matrix Report supporting this legislation.

DBI responded long ago to you and provided you with the Matrix Report, which certainly contains the specific analysis you have requested. Your editorial comments about this cost analysis is your own opinion, but the Matrix Report contains the information you requested and we provided. This matter also was reviewed and discussed by the Sunshine Ordinance Task Force at its January 27, 2009 meeting, when it voted and found "no violation" based upon your earlier allegations to the contrary.

You also might want to look at the San Francisco Building Code, which as you know you may view here at our office, and specifically at Section 101A.11.1 through 101A.11.13, which also specifies the Department's established fees.

Thank you for your interest in the Department of Building Inspection.

Sincerely,

William Strawn

William Strawn
Communications Manager
Department of Building Inspection
San Francisco, CA 94103
william.strawn@sfgov.org
Tel. 415/558-6250 (O)
Blackberry: 415/850-9816


William Strawn/DBI/SFGOV

04/06/2009 11:59 AM

To tenants769np@yahoo.com

cc Alan.Whiteside@sfgov.org, amwashburn@comcast.net,
croberts@sfexaminer.com, Doug Comstock
<dougcoms@aol.com>, doylegenie@gmail.com, Erica

bcc

Subject Re: Fw: Re: Your Matrix Report 

April 6, 2009

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Thank you for your recent emails regarding DBI's unanimously approved, passed and signed Fee Legislation and the Matrix Report supporting this legislation.

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Thank you for your interest in the Department of Building Inspection.

Sincerely,

William Strawn

William Strawn
Communications Manager
Department of Building Inspection
San Francisco, CA 94103
william.strawn@sfgov.org
Tel. 415/558-6250 (O)
Blackberry: 415/850-9816

William Strawn/DBI/SFGOV
04/14/2009 03:17 PM

To SOTF/SOTF/SFGOV@SFGOV
cc Alan E. Whiteside/DBI/SFGOV@SFGOV,
SOTF/SOTF/SFGOV@SFGOV, tenants769np@yahoo.com,
Vivian Day/DBI/SFGOV@SFGOV, william.strawn@sfgov.org
bcc
Subject Re: DCA Jurisdictional Letter: #09018_Anonymous Tenants
v Building Inspection 

Thank you for sending along the City Attorney jurisdictional opinion, and for the reminder about today's 3:30 p.m. meeting.

Unfortunately, due to a scheduling conflict, DBI will not be able to attend today's 3:30 p.m. meeting. I believe our earlier submitted letter, and request for dismissal of this complaint, states clearly the Department's position.

Thank you, again, for your consideration.

Sincerely,

William Strawn

William Strawn
Communications Manager
Department of Building Inspection
San Francisco, CA 94103
william.strawn@sfgov.org
Tel. 415/558-6250 (O)
Blackberry: 415/850-9816



tenants769np@yahoo.com

04/22/2009 03:58 PM

Please respond to
tenants769np@yahoo.com

To sotf@sfgov.org, kristin@chu.com, elc@lrolaw.com,
scau1321@aol.com, rak0408@earthlink.net,
amwashburn@comcast.net, han467@gmail.com,
cc dougcoms@aol.com, joelynn114@hotmail.com,
croberts@sfexaminer.com, kimo@webnetic.net,
grossman356@mac.com, rwhartzjr@sbcglobal.net,

bcc

Subject Re: SOTF #09018, request for an itemized cost anylysis to
establish DBI's cost of \$6.50 per page

History

This message has been forwarded.

Dear SOTF members:

Re: SOTF #09018 request for public record - an itemized cost analysis to
establish DBI's cost of \$6.50 per page

This information below specifies that once a document is scanned into
PaperFlow it becomes an image in the computer and not be stored on the
microfilm. The computer image can easily be retrieved and printed. The Bar
Code page was scanned into the computer and was not retrieved from microfilm.

Many permit applications and documents are already stored in DBI's
computer. We have witnessed the DBI staff simply pushes the print button on
the computer and the document requested would be printed in just a few
seconds. However DBI charges the public \$6.50 for the first page.

Mr. Strawn and Mr. Whiteside have refused to provide us an itemized cost
analysis to establish their cost of \$6.50 per page.

INFORMATION BELOW:

From: Alex Stewart <alex@scanstore.com>

To: Edgar

Sent: Thu, 26 Feb 2009 12:47 pm

Subject: ScanStore Digitech Software Follow-up

All version of PaperFlow can output to PDF format, but only the versions that
have export can sent the PDF image to a location other than PaperVision.

This means that if you are not using PaperVision to retrieve then you have to
have a version of PaperFlow with Export to output the PDF file.

Below are the different version of PaperFlow and what they include:

Lite: Export Only

Standard: Choice of 2 of the 3 - Zonal OCR, Barcode and Export

Pro: Zonal OCR, Barcode & Export

You can however output to PaperVision and then export the PDF file from it.

If you have any other questions please feel free to ask me at your convenience.

Thank you!

-----Original Message-----

From: Alex Stewart <alex@scanstore.com>

To: Edgar

Sent: Thu, 5 Mar 2009 6:35 am

Subject: RE: ScanStore Digitech Follow-up - PDF Output Confirmation

Any image can easily be printed from either PaperFlow or PaperVision, which both have clearly visible print buttons available any time you are viewing an image.

PaperFlow can export images over the internet, but only by having a version of PaperFlow with the export images feature. With this you export the image and then send over the internet via whatever method you would like.

For PaperVision you can set up a full internet retrieval interface that lets you log in to a website and retrieve whatever images that you would like. It also has a method for generating a link to a document in the PaperVision system that you can send to people that will allow them to access just that document over the web. These features are only available in the Enterprise version of PaperVision and not the Xpress version.

If you have any questions please ask me at your convenience. Thank you.

Alex
Stewart, CDIA+

ScanStore

Toll Free: 877-355-4141 x101

To: alex@scanstore.com

Sent: Mon, 9 Mar 2009 10:44 am

Subject: Re: ScanStore Digitech Follow-up - PDF Output Confirmation

Hi Alex:

Thank you for getting back to me with the information, if I understand correctly,

1). Any version of PaperFlow can export PDF documents over the Internet if you use PaperVision?

2). And any version of PaperFlow can print documents and PaperVision can print documents?

3). You can scan documents into both PaperFlow and PaperVision.?

4). If we scan a document into PaperFlow how easy would it be to send over the Inertnet, usng PaperFlow only?

5). And if we have to use PaperVision to send a document over the Internet how easy would it be?

Thank you.

Edgar

-----Original
Message-----

From: Alex Stewart

Sent: Mon, 9 Mar 2009 11:03 am

Subject: RE: ScanStore Digitech Follow-up - PDF Output Confirmation

Hello Edgar,

Here are the answers:

1. Yes. It basically it creates a onetime document grant link that you can provide with password. Of course you can always print to PDF if you have a PDF conversion software.

2. Yes.

3. Yes, but with PaperVision only one at a time.

4. You would have to export the image out of PaperFlow with a version that had export. Then you could email the image, upload it to an ftp and anything else you can do on the internet with image files.

5. You would click the button for that option, fill in 3-4 fields for where it's going and how it needs to go and it creates a link that you can send to anyone you would like.

If you have any other questions please feel free to ask me at your convenience. Thank you.

Alex Stewart, CDIA+

ScanStore

Toll Free: 877-355-4141 x101

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