

Date: May 25, 2010

Item No. 10 & 11

File No. 10009

SUNSHINE ORDINANCE TASK FORCE

AGENDA PACKET CONTENTS LIST*

- Majeid Crawford against the City Attorney's Office**
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Completed by: Chris Rustom

Date: May 21, 2010

***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

JERRY THREET
Deputy City Attorney

DIRECT DIAL: (415) 554-3914
E-MAIL: jerry.threet@sfgov.org

MEMORANDUM

May 14, 2010

MAJEID CRAWFORD V. CITY ATTORNEY'S OFFICE (10009)

COMPLAINT

THE COMPLAINANT ALLEGES THE FOLLOWING:

Complainant Majeid Crawford alleges that Jack Song of the City Attorney's Office (the "CAO") failed to adequately respond to his February 9, 2010 Public Records Request. He further alleges that Mr. Song's response was "We do not have any documents responsive to your request[.]"

COMPLAINANT FILES COMPLAINT:

On March 3, 2010, Mr. Crawford filed a complaint with the Task Force alleging a violation.

JURISDICTION

Based on Complainant's allegation, the Sunshine Ordinance Task Force *does* have subject matter jurisdiction over the allegations, which if true, could constitute a violation of state or local public meetings laws.

APPLICABLE STATUTORY SECTION(S):

Section 67 of the San Francisco Administrative Code:

Section 67.21 deals with responses to a public records request and the format of requests and of responsive documents.

Section 67.26 deals with withholding of records.

Section 67.27 deals with written justification for withholding of records.

Section 6250 et seq. of the Cal. Gov't Code

Section 6253 deals with time of response.

APPLICABLE CASE LAW:

none.

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ISSUES TO BE DETERMINED

Uncontested Facts: Complainant Majeid Crawford issued a Public Records Request to Jack Song of the City Attorney's Office (the "CAO") on February 9, 2010. On February 26, 2010, Mr. Song's response was "We do not have any documents responsive to your request[.]".

Contested Facts: As of the date of this memorandum, the CAO had contested none of the facts alleged.

LEGAL ISSUES/LEGAL DETERMINATIONS:

This complaint appears to raise a simple factual issue for resolution by the Task Force under the Ordinance: whether there were documents responsive to the request that were not provided to Ms. Crawford by the City Attorney.

CONCLUSION

THE TASK FORCE FINDS THE FOLLOWING FACTS TO BE TRUE:

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

ATTACHED STATUTORY SECTIONS FROM CHAPTER 67 OF THE SAN FRANCISCO ADMINISTRATIVE CODE UNLESS OTHERWISE SPECIFIED

**SEC. 67.21. PROCESS FOR GAINING ACCESS TO PUBLIC RECORDS;
ADMINISTRATIVE APPEALS.**

(b) A custodian of a public record shall, as soon as possible and within ten days 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.

(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

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of documentary public information on a computer monitor need not be allowed where the information sought is necessarily and unseparably 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.

SEC. 67.26. 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.

SEC. 67.27. 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 or 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.

Cal. Public Records Act (Govt. Code §§ 6250, et seq.)

Section 6254

(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 record after deletion of the portions that are exempted by law.

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(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 therefor. In unusual circumstances, the time limit prescribed in this section may be extended by written notice by the head of the agency or his or her designee to the person making the request, setting forth the reasons for the extension and the date on which a determination is expected to be dispatched. No notice shall specify a date that would result in an extension for more than 14 days. When the agency dispatches the determination, and if the agency determines that the request seeks disclosable public records, the agency shall state the estimated date and time when the records will be made available. As used in this section, "unusual circumstances" means the following, but only to the extent reasonably necessary to the proper processing of the particular request:

- (1) The need to search for and collect the requested records from field facilities or other establishments that are separate from the office processing the request.
- (2) The need to search for, collect, and appropriately examine a voluminous amount of separate and distinct records that are demanded in a single request.
- (3) The need for consultation, which shall be conducted with all practicable speed, with another agency having substantial interest in the determination of the request or among two or more components of the agency having substantial subject matter interest therein.
- (4) The need to compile data, to write programming language or a computer program, or to construct a computer report to extract data.



<complaints@sfgov.org>
03/18/2010 09:59 AM

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

To:soft@sfgov.orgEmail:complaints@sfgov.orgDEPARTMENT:City Attorney's Office
CONTACTED:Jack Song
PUBLIC_RECORDS_VIOLATION:Yes
PUBLIC_MEETING_VIOLATION:No
MEETING_DATE:
SECTIONS_VIOLATED:
DESCRIPTION:See attached
HEARING:Yes
PRE-HEARING:Yes
DATE:March 10, 2010
NAME:Majeid Crawford
ADDRESS:
CITY:
ZIP:
PHONE:
CONTACT_EMAIL:aacdcbayarea@gmail.com
ANONYMOUS:
CONFIDENTIALITY_REQUESTED:No



Majeid Crawford
<aacdcbayarea@gmail.com>
03/10/2010 09:18 AM

To: sotf@sfgov.org
cc: Ross.mirkarimi@sfgov.org, Erris Edgerly
<errisedgerly@yahoo.com>, Daniel Landry
<danielblandry@yahoo.com>, Vallie Brown
bcc:
Subject: Sunshine Ordinance Complaint

From: Majeid Crawford, Brothers For Change, Inc – Board Member

To: Sunshine Ordinance Commission

Date: March 10, 2010

RE: Sunshine Ordinance Complaint against S.F. City Attorney's Office

Complaint against the S.F. City Attorney's Office

Individual I contacted was Jack Song, Public Information Officer, S.F. City Attorney's Office.

Alleged violation public records access

Description of alleged violation:

I sent Jack Song a Request For Information on February 9th, 2010. He responded to my request on Feb 26th, 2010 and wrote, "We do not have any documents responsive to your request for..." Please see below my specific question and total email conversation.

Yes – I want a public Hearing.

Yes – I want a pre-hearing conference as long as it does not delay the Public Hearing.

Majeid Crawford

1701 Turk Street # 9

San Francisco, CA 94115

415-424-0155

aacdcbayarea@gmail.com

I do not request confidentiality

----- Forwarded message -----

From: **Majeid Crawford** <aacdcbayarea@gmail.com>

Date: Tue, Feb 9, 2010 at 11:26 PM

Subject: Re: Sunshine Ordinance Request for Information from S.F. City Attorney

To: Jack Song <Jack.Song@sfgov.org>

Cc: ross.mirkarimi@sfgov.org, Erris Edgerly <errisedgerly@yahoo.com>, Daniel Landry <danielblandry@yahoo.com>, Vallie Brown <vallie.brown@sfgov.org>, Jacinta <dance.jacinta@gmail.com>

Dear Jack Song - Public Information Officer - S.F. City Attorney Office

I first wanted to thank you for your relatively quick and informative response. You really know how to explain things in a way that the average person can understand. I even learned a few things.

As a result of your response I am compelled to change my request. Below is my new request. Thank you in advance for any and all the information your Office can provide.

New - Request For Information under the S.F. Sunshine Ordinance dated (02/09/10):

TWO (2) PART QUESTION:

Definition:

* Departments = Departments in this email means any entity relating to the S.F. Mayors Dept or Office., S.F. Board of Supervisor, S.F. Airport, S.F. Port, the C.A. or any other entity that the City Attorneys Office is accountable to.

Part One (1): What is the current and complete policy for the Office of the S.F. City Attorney regarding the following: City Attorney policy as it relates to providing services to other City "departments" as it relates to, any City Attorney staff or contractor reviewing, commenting-on, advising, co-writing and/or writing-completely the following: (1) R.F.Q.; (2) R.F.P.; and/or (3) I.F.B. Please include the following specific information: (a) is there a set-fee that the City

Attorney charges other "departments" for the above mentioned services; (b) is the fee ever on a case-by-case basis; (c) is the fee based on a percent of the size of project; (d) are different "departments" charged differently and/or (e) is the fee based on the amount of hours City Attorey staff or contractor worked on aproject.

Part Two (2): What is the pertinent information and dollar amount of the last twenty times the S.F. City Attorneys Office charged a fee to another "department" for providing any services relating to an R.F.Q., R.F.P. and/or I.F.B. Please include the following specific information: (a) pertinent information relating to each specific fee for service; (b) the date the fee was issued; (c) the specific dollar amount of the fee; (d) was it a RFQ-RFP-IFB; and (e) department being charged a fee.

Note:

* I do not want any information that breaks attorney-client-privileged or the law, please provide all the pertinent information I am requesting within the legal limits. If this requires that some questions or parts of the question must be answered only partially, than please provide what you can.

* Please dis-regard the past question you were responding too. Above is the new and revised Request For Information, i.e. question.

Best regards,

Majeid Crawford

.....
On Tue, Feb 9, 2010 at 5:36 PM, Jack Song <Jack.Song@sfgov.org> wrote:

Dear Mr. Crawford:

We have no document responsive to your request for "the last twenty Request For Proposals (R.F.P.) that the City Attorneys Office wrote completely, co-wrote or reviewed on behalf off a S.F. City Government entitiy. Please give me the following specific information: (a) which City Government Entity did you provide the service for; (b) the nature and/or description of the R.F.P. and project; and (c) the amount the City Attorneys Office charged each specific City Government entity for the R.F.P. creation, co-creation or review. "

We do not keep a log or list of all of the documents reviewed by this office. We have dozens of deputy city attorneys throughout the office, including those located at the Port and Airport, who in the course of their duties may review and comment on draft Requests for Proposals or similar documents, e.g., Invitations for Bids (IFB), Requests for Qualifications (RFQ), that are sent to us by the City departments. To the extent that a deputy city attorney comments on a draft RFP, those comments are exempt

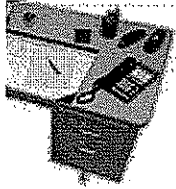
from disclosure on basis of attorney client privilege, Cal. Government Code Sec. 6354(k), and Cal. Evidence Code Sec. 954, or attorney work product, Cal. Government Code sec. 6254(k), and Cal. Code of Civil Procedure Sec. 2018.030(a). The final RFP is a public document which you can obtain from the department that issues it.

Best regards,

JACK SONG
Public Information Officer

OFFICE OF CITY ATTORNEY DENNIS HERRERA
San Francisco City Hall, Room 234
1 Dr. Carlton B. Goodlett Place
San Francisco, California 94102-4682

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www.sfcityattorney.org



Jack
Song/CTYATT@CTYATT
04/23/2010 10:38 AM

To SOTF/SOTF/SFGOV@SFGOV
cc
bcc
Subject Re: SOTF hearing: #10009_Majeid Crawford v City
Attorney's Office

Dear Chris:

I am double-checking to see what the new hearing date is.

We would like to send in our response letter to the task force.

We have no document responsive to Mr. Crawford's request for *"the last twenty Request For Proposals (R.F.P.) that the City Attorneys Office wrote completely, co-wrote or reviewed on behalf off a S.F. City Government entity. Please give me the following specific information: (a) which City Government Entity did you provide the service for; (b) the nature and/or description of the R.F.P. and project; and (c) the amount the City Attorneys Office charged each specific City Government entity for the R.F.P. creation, co-creation or rev iew."*

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Thank you, Chris.

Best regards,

JACK SONG
Public Information Officer

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San Francisco City Hall, Room 234
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San Francisco, California 94102-4682
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