| Date: | May 26, 2009 | ltem No | 18 |
|-------|--------------|----------|----|
| | | File No. | |

AGENDA PACKET CONTENTS LIST*

| | | | | - |
|---|--|--------------|---------------------------------------|------------|
| | | · | | - |
| | e . | | | |
| | | | | |
| • | | • | | |
| | | | | |
| | | <u> </u> | · · · · · · · · · · · · · · · · · · · | |
| | | | | |
| | | | | |
| | | | | · |
| | · • · • · · · · · · · · · · · · · · · · | | | |
| | ors Report | ors Report | ors Report | ors Report |

*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.

This page purposely left blank



City Hall 1 Dr. Carlton B. Goodlett Place, Room 244 San Francisco 94102-4689 Tel. No. (415) 554-7724 Fax No. 415) 554-7854 TDD/TTY No. (415) 554-5227

MEMORANDUM

Date:

May 15, 2009

To:

Sunshine Ordinance Task Force

From:

Chris Rustom

Subject:

Administrator's Report

Requests from community persons

• From April 22, 2009, to May 19, 2009, the Task Force's office responded to approximately 230 calls/emails/office visits from individuals requesting information regarding the Sunshine Ordinance, or to mediate request for records.

Annual report to the Board of Supervisors

2009 Complaint Log

2009 Potential Complaint Log

Communications Received Log (April 22, 2009 – May 19,2009)

Letter to Supervisor Maxwell

Orders of Determination

- 09006 Joshua Arce and Eric Brooks v SFPUC
- 09007 David Larkin v Public Works
- 09013 Steve Lawrence v SFPUC
- 09015 Raymond Banks v HIV Health Service Planning Council
- 09017 SORE v SFPUC
- 09018_Anonymous Tenants v Dept. of Bldg Inspection



City Hall
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco 94102-4689
Tel. No. (415) 554-7724
Fax No. 415) 554-7854
TDD/TTY No. (415) 554-5227

SUNSHINE ORDINANCE TASK FORCE 2008 ANNUAL REPORT

Honorable Board of Supervisors,

On behalf of my colleagues on the Sunshine Ordinance Task Force, I am proud to present our 2008 Annual Report which details our accomplishments for the year.

Over the last year the Task Force has, and will continue to, proactively seek opportunities for educating and advocating for open government to both the public and city departments. In addition we are developing recommended policies and procedures around the biggest open government issues to aid departments in responding to requests.

One of the most pressing open government issues facing San Francisco right now is the retention and disposal of all types of electronic documents including email. In recent years the Task Force has discovered that departments and agencies are managing these important public records in many different ways with varying degrees of success. The Task Force has an opportunity to develop best practices in this area and advocate for open government across the city. Unfortunately due to budget constraints in the Clerk of the Board's office, we are not able to address this issue with the urgency we would like. You will see, however, leadership in this area coming from SOTF in 2009.

After continuous work throughout 2008 we are ready to finalize the legislative amendments to the Sunshine Ordinance. Over the years it has become obvious that ambiguities and omissions in the Sunshine Ordinance have created unneeded tension between city departments and the public. In the amendments, we streamline open government processes in order to relieve that tension and set up clear expectations for all parties involved. In addition, we have added language to make the Ordinance more effective. We look forward to working with each Supervisor on this very exciting initiative in 2009.

During 2008 many of the members of the Task Force have changed which put us in a position to learn from the insights of new members while relying on the experience of continuing members. With the change of the members of the Task Force we took some time to look back at our work and see what we can learn. Some of the most significant findings and our general conclusions are:

- Most of the hearings are around public records (82%) rather than open meetings (18%). Public records issues should be a focus of education, policy developments and amendment priorities.
- If a complaint results in a hearing we usually find a violation (69% of the time).
- The success of Orders of Determinations and referrals should be studied and actions & alternatives developed.
- The highest frequency violation (42%) is 67.21, "Process for Gaining Access to Public Records; Administrative Appeals".67.21 should be a focus of education, policy developments and amendments priorities.
- We have a concentrated number of complainants: 49% of hearings were initiated by 5 unique complainants. These 5 complainants should be included in policy and amendments development and a focus of outreach efforts.
- We have a group of respondents (city departments) with multiple hearings: 65% of hearings involved 11 unique respondents. These 11 respondents should be a focus of education and outreach efforts and their feedback consulted in policy and amendments development.

We are grateful for our Assistant Administrator Chris Rustom from the Clerk of the Board's office and thankful to Angela Cavillo for her continued commitment to open government. Budget cuts in the City Attorney's office have lead the Task Force to aggressively streamline processes to decrease our reliance on DCA Ernie Llorente. Even during these tough economic times, Chris and Ernie's support has remained thorough and professional.

Finally, we would like to thank the sunshine advocates and concerned members of the public who participate in this process with us providing insight, opinions and thought leadership on open government in San Francisco.

We look forward to working closely with the Board of Supervisors in 2009.

Kristin Chu Chair

En F.M. Ch

ACCOMPLISHMENTS

- The Sunshine Ordinance Task Force continued to undertake an extensive review and discussion of the Sunshine Ordinance and proposed amendments in order to clarify and streamline the process.
- Fifty-eight complaints were filed by community members in 2008. Of the 58 complaints, the Task Force issued 31 Orders of Determination, 20 to city departments, 10 to agencies and commissions and one to a member of the Board of Supervisors.
- A total of 2,429 public inquiries were responded to by the SOTF administrator.
- One hundred percent of requests made to the Task Force were responded to within five days.
- Eight potential complaints were resolved through mediation initiated by the SOTF administrator.
- The SOTF's Deputy City Attorney provided over 60 pieces of written legal analysis on open government complaints and issues.
- The Compliance & Amendments Committee heard 15 cases and referred eight to the Ethics Commission and three to the Board of Supervisors. The Commission dismissed all eight referrals. The three letters to the Board of Supervisors was for enforcement and policy matters.
- The Complaint Committee reviewed 19 complaints and forwarded 17 to the full task force for review.
- Thirty-four complainants requested a Task Force hearing outright.
- The web site for the SOTF was redesigned to provide greater access to individuals seeking information regarding open government laws.
- A new feature on the web site is a chart showing all the Orders of Determination issued in 2008. The chart is also linked to the Orders, the referrals and referral agency's responses.
- The Education, Outreach and Training Committee started the process of updating its Mission Statement and Work Program to better reflect its function and mission.

Complaints Received or Adjudicated during 2008

| Date | Complainant | Department | Status | Violation |
|------------|-------------------------|-----------------------------------|--|--------------------------------------|
| Received 3 | Kimo Crossman | District Attorney | Complaint Committee 2/12/08, Task Force 2/26/08 | No violation |
| 1/7 | Hank Wilson | Health Dept. (HPPC) | Complaint Committee 2/12/08, withdrawn | |
| 1/10 | Christian Holmer | Mayor's Office | Complaint Committee 2/12/08, Task Force 2/26/08, withdrawn | |
| 1/10 | Kimo Crossman | City Attorney | Complaint Committee 2/12/08, Task Force 2/26/08, contd., 3/25/08, CAC 4/9/08. Referred to Task Force, Task Force 4/22/08, Referred to Ethics (sent:5/13/08, dismissed 11/5/08) | 67.21 (a) & (i), 67.24 (b) (1) (iii) |
| 1/10 | Kimo Crossman | City Attorney | Complaint Committee 2/12/08, Task Force 2/26/08, 3/25/08, CAC 4/9/08. Referred to Task Force, Task Force 4/22/08. Referred to Ethics (sent:5/13/08, dismissed 11/5/08) | 67.21 (a) & (i), 67.24 (b) (1) (iii) |
| 1/10 | Kimo Crossman | City Attorney | Complaint Committee 2/12/08, Task Force 2/26/08 contd, 3/25/08, CAC 4/9/08. Referred to Task Force, Task Force 4/22/08. Referred to Ethics (sent 5/13/08, dismissed 11/5/08) | 67.21 (i), 67.24 (b) (1) (iii) |
| 1/10 | Kimo Crossman | City Attorney | Complaint Committee 2/12/08, Task Force 2/26/08, 3/25/08, heard with 08004, CAC 4/9/08. Referred to Task Force, Task Force 4/22/08. Referred to Ethics (sent:5/13/08, dismissed 11/5/08) | 67.21 (a) & (i), 67.24 (b) (1) (iii) |
| 1/14 | Stephen Worsley | Rec & Park Dept. | Complaint Committee 2/12/08, Task Force 2/26/08. | No violation |
| 2/9 | Patrick Monett- Shaw | Board of Supervisors | Complaint Committee 3/11/08, withdrawn: 2/26/08 | |
| 2/11 | Patrick Monett- Shaw | Health Dept. | Task Force 3/25/08, withdrawn 3/15/08 | |
| 2/20 | David Waggoner | Ethics Commission | Complaint Committee 3/11/08; Task Force 3/25/08. | No action taken |
| 3/2 | Kimo Crossman | Clerk of the Board, SOTF Admin | Task Force 3/25/08, withdrawn 3/14/08 | |

| Date | Complainant | Department | Status | Violation |
|-------------|----------------------|---|--|--------------------|
| ⁻⁻ Received | | 1 | | |
| 3/2 | Kimo Crossman | SOTF Admin | Task Force 3/25/08, CAC 4/9/08. Referred to Task Force; Task Force 4/22/08; 5/27/08 Referred to BOS (sent 06/13/08) | 67.21 (a) |
| 3/4 | Jason Berckart | Human Rights Commission | Unable to contact complainant | |
| 3/4 | Deneise Bolbol | Zoological Society | Task Force 3/25/08 | 67.25 |
| 3/7 | Anonymous | Arts Commission | Task Force 4/22/08, withdrawn 3/20/08 | |
| 3/17 . | Kimo Crossman | Clerk of the Board, SOTF Admin | Task Force 4/22/08. | No violation |
| 3/17 | Kimo Crossman | Clerk of the Board, SOTF Admin | Task Force 4/22/08, CAC 5/14/08. | 67.21-1 (a) |
| 4/8 | Kimo Crossman | Clerk of the Board, SOTF Admin, DTIS | Task Force 4/22/08 | No violation |
| 5/2 | Peter Witt | Taxi Commission | Task Force 4/22/08, 5/27/08 | 67.15, 67.16 |
| 5/2 | Kimo Crossman | City Attorney | Task Force 5/27/08 | No violation |
| 5/2 | Kimo Crossman | Clerk of the Board | Task Force 5/27/08, 6/24/08, 7/22/08. | No action taken |
| 5/20 | Anonymous Tenants | Planning Department | Task Force 6/24/08, 7/22/08, CAC 8/13/08, 9/10/08. | 67.21 (b) & (c) |
| 5/20 | Michael Addario | Arts Commission | Complaint 6/10/08, Task Force 6/24/08, 7/22/08, CAC 8/13/08, 9/10/08. | 67.5 |
| 5/21 | Kimo Crossman | City Attorney | Task Force 6/24/08, 7/22/08, withdrawn 6/27/08 | - |
| 5/21 | Kimo Crossman | City Attorney | Task Force 6/24/08, 7/22/08 withdrawn 6/27/08 | |
| 5/21 | Kimo Crossman | Mayor's Office of Criminal Justice | Task Force 6/24/08, 7/22/08, withdrawn 8/21/08 | |
| 5/21 | Kimo Crossman | City Attorney | Task Force 6/24/08, 7/22/08, withdrawn 6/27/08 | |

| Date Received | Complainant | Department | Status | Violation |
|------------------|------------------|---|--|---|
| 5/29 | Barry Taranto | Taxi Commission | Task Force 6/24/08, 7/22/08, CAC 8/13/08 | 67.15 (c) |
| 5/29 | Kimo Crossman | Clerk of the Board, SOTF Admin | Complaint 8/12/08, withdrawn 8/11/08 | |
| 6/3 | Kimo Crossman | Ethics Commission | Task Force 7/22/08, CAC 8/13/08, 9/10/08; Task Force 9/23/08. Letter sent to BOS, Ethics | 67.21-1 |
| 6/4 | Kimo Crossman | City Attorney | Task Force 7/22/08, CAC 8/13/08, Task Force 8/26/08, 9/23/08. Letter sent to BOS, CAO | 67.21-1 and CPRA 6253.9 (a) (i) & (ii) |
| 6/25 | Charles Pitts | Human Services | Complaint 9/9/08; Task Force 9/23/08 | Differences settled |
| 6/27 | Thomas Picarello | Supervisor McGoldrick | Task Force 7/22/08, 8/26/08, 9/23/08 | No violation |
| 6/30 | Neils Welin | Municipal Transportation Authority | Complaint 8/12/08, withdrawn 7/14/08 | |
| 6/25 | Juan De Anda | Health Dept. | Complaint 8/12/08 (No jurisdiction), Task Force 8/26/08 (Appeal denied) | |
| 7/8 | Kimo Crossman | Supervisor Peskin | Task Force 8/26/08, 9/23/08, EOT 10/9/08 | 67.31 (e) & 67.24 (a) (ii) |
| 7/28 | Kin Tso | Animal Control and Welfare Commission | Task Force 8/26/08, CAC 9/10/08 | 67.15 |
| 7/28 | Allen Grossman | City Attorney | Task Force 8/26/08; 9/23/08, 10/28/08 | No violation |
| 7/30 | Eula Walters | Rec & Park Dept. | Complaint 9/9/08, Task Force 9/23/08. Appealed 10/28/08 | No violation |
| 8/1 | Kimo Crossman | DTIS & SFGTV | Task Force 8/26/08, withdrawn 8/19/08 | |
| 8/1 | Kimo Crossman | DTIS, SFGTV, City Administrator, Media Services, SOTF-Admin & Clerk of the Board | Complaint 9/9/08, Task Force 9/23/08, 10/28/08 (1st cont.), 11/25/08 (2nd cont.), withdrawn 11/10/08 | |
| 8/5 | Charles Pitts | Police Department | Task Force 8/26/08, withdrawn 8/11/08 | |

| Date Received | Complainant | Department | Status | Violation |
|------------------|------------------------------|--|---|--------------------|
| 8/19 | Brian Brown | Building Inspection Dept. | Task Force 9/23/08, 10/28/08, withdrawn 10/17/08 | |
| 8/26 | Barrry Taranto | Municipal Transportation Authority | Complaint Committee 10/14/08, contd 11/12/08, Task Force 12/2/08 | 67.15 |
| 8/26 | Karl Beale | Rec and Park Dept. & Library | Complaint Committee 10/14/08, Task Force 10/28/08 | No violation |
| 8/26 | Peter Witt | Taxi Commission | Task Force 10/28/08, CAC 11/12/08 | 67.16 |
| 8/26 | Anonymous Tenants | Building Inspection | Task Force 10/28/08, withdrawn 10/27/08 | |
| 9/3 | John Caldera | Veteran Affairs Commission | Complaint 10/14/08 | No action taken |
| 10/17 | Charles Pitts | Office of Criminal Justice | Task Force 11/25/08, 12/2/08 | No violation |
| 11/3 | Paul Horcher | Planning Dept. | Complaint 12/09/08, Task Force 01/06/09. Referred to Education, Outreach and Training Committee | |
| 11/13 | Alvin Xex | Arts Commission | Complaint 12/09/08, Task Force 01/06/09. Referred to Education, Outreach and Training Committee | No violation |
| 11/19 | Peter Witt | Taxi Commission | Complaint 01/13/09, Task Force 1/27/09 | No action taken |
| 12/2 | Anonymous Tenants | Building Inspection | Task Force 12/23/08, rescheduled 01/06/09, complaint 01/13/2009, Task Force 1/27/09 | No further action |
| 12/2 | Kimo Crossman | City Attorney, DTIS, SFGTV | Task Force 12/23/08, rescheduled 01/06/09. Referred to Compliance and Amendments Committee | 67.21 (1) |
| 12/4 | Anonymous | Police Department | Referred to Education, Outreach and Training Committee | 67.29 |
| 12/16 | Laborers' Union Local 261 | Labor Standards Enforcement | Task Force 01/27/09, 1st cont., Task Force 02/24/09, 2nd contd. Task Force 03/24/09 | No violation |
| 12/16 | Peter Warfield | Capital Planning Committee | Task Force 01/27/09, Withdrawn 1/20/09 | |

ORGANIZATION & COMMITTEE STRUCTURE

The Chair of the Task Force appoints committee chairs and its members. Each member of the Task Force must also be a member of a committee.

Ad Hoc Committees are appointed as needed. There have been several Ad Hoc Committee meetings to deal with suggested Sunshine Ordinance provisions for the City College Board, access to public meetings and public records at the San Francisco Community College District, and the San Francisco Unified School District's proposed Open Government Policy.

The Task Force has four Standing Committees:

Complaint Committee: The committee monitors the complaint process and makes recommendations to the Task Force regarding how the complaints should be handled. If the efforts of the Administrator and the Deputy City Attorney fail to obtain the information to which a complainant is legally entitled, the matter will be referred to the Complaint Committee for a hearing to determine whether the Task Force has jurisdiction over the complaint, and to clarify the complaint. If jurisdiction is found, a Task Force hearing will be held at which time the complainant and the respondent will present the merits of their respective cases. See § VII, Addendum # 2 for a copy of the complaint form.

Members of the Complaint Committee are Nick Goldman (Chair); Doyle Johnson and James Knoebber.

Compliance & Amendments Committee: This Committee was appointed in 2002. This Committee monitors compliance with the Orders of Determinations adopted by the Task Force and recommends to the Task Force amendments to the Sunshine Ordinance regarding enforcement of the Orders of Determination. The Committee also considers recommendations, amendments, and changes to the Sunshine Ordinance as provided by members of the Task Force, City departments, and the general public.

Members of the Compliance and Amendments Committee are Richard Knee (Chair), Erica Craven-Green and Doyle Johnson.

Education, Outreach, and Training Committee: The Education, Outreach and Training Committee may monitor compliance with the Orders of Determination adopted by the Task Force; shall make recommendations to the Task Force regarding outreach and publicity to the media and to the general public about the Sunshine Ordinance and the Task Force.

Members of the Education, Outreach, and Training Committee are Sue Cauthen (Chair); Marjorie Williams, Doyle Johnson, Allyson Washburn and Hanley Chan.

Rules Committee: This committee was established to review matters related to amendments to the Task Force by-laws and procedures so the Task Force's work could proceed in an orderly manner. The committee also helps to ensure that all annual objectives enumerated in the Sunshine Ordinance are met by the Task Force. As with all committees, recommendations for action are made to the full Task Force for final action.

Members of the Rules Committee are Doyle Johnson (Chair), Kristin Chu and Hanley Chan.

ADDENDA

- 1. Membership of Task Force
- 2. Complaint Form and Overview of Procedures
- 3. Sunshine Ordinance Task Force Web Page Contents

SUNSHINE ORDINANCE TASK FORCE MEMBERS DURING 2008

| Seat 1 | Submitted by the local chapter of the Society of Professional Journalists and be an attorney. Appt 8/25/04, reappointed 5/27/08. | Erica L. Craven-Green Term ends 4/10 District 8 |
|----------------|---|---|
| Seat 2 | Submitted by the local chapter of the Society of Professional Journalists and be a journalist. Appt 5/3/02, reappointed 5/27/08 | Richard Knee Term ends 4/10 District 3 |
| Seat 3 | Member of the press or electronic media with an interest in citizen access. Appt 5/3/02, reappointed 5/27/08 | Sue Cauthen Term ends 4/10 District 3 |
| Seat 4 | Appointed from names submitted by New California Media now know as New America Media; be a journalist from a racial/ethnic-minority-owned news organization. Pueng Vongs appt 4/1/06, resigned 2/13/07 Ketaki Gokhale appt 5/27/08, resigned 9/2/08 | Vacant |
| Seat 5 | Submitted by the League of Women Voters. Replaced Kristin Chu. Appt 5/27/08 | Allyson Washburn Term ends 4/10 District 2 |
| Seat 6 | Experienced in consumer advocacy. Replaced Doug Comstock. Appt 6/20/08: | James Knoebber Term ends 4/10 District 3 |
| Seat 7 | Experienced in consumer advocacy. Replaced David Pilpel. Appt 11/7/08 | Doyle Johnson Term ends 4/10 District 8 |
| Seat 8 | Demonstrated interest in or has experience in the issues of citizen access and participation in local government. Replaced Bruce Wolfe. Appt 5/27/08 | Kristin Chu Term ends 4/10 District 1 |
| Seat 9 | Demonstrated interest in or has experience in the issues of citizen access and participation in local government. Appt 4/1/06, reappointed 5/27/08 | Hanley Chan Term ends 4/10 District 3 |
| Seat 10 | Demonstrated interest in or has experience in the issues of citizen access and participation in local government. Appt 6/2/05. Reappointed 5/27/08 | Nick Goldman Term ends 4/10 District 8 |
| Seat 11 | Demonstrated interest in or has experience in the issues of citizen access and participation in local government. Appt 5/25/01; re-appointed 5/9/03; 6/2/05; 1/14/08 | Marjorie A. Williams Term ends 4/09 District 10 |
| Ex- Officio | Clerk of the Board or her designee (non-voting): Gloria Young served from 1/06 to 4/07, Angela Calvillo served from 7/07 to 2/09 | Tanene A. Allison Begins 3/09 |
| Ex- Officio | Mayor or his designee (non-voting) Richard Sklar (replaced Harrison Sheppard)7/30/08 - 1/27/09 | (Vacant) |



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

Thank you for your interest in the implementation of the San Francisco Sunshine Ordinance.

The Sunshine Ordinance adopted by the citizens of the City & County of San Francisco declares that:

- (a) Government's duty is to serve the public, reaching its decisions in full view of the public.
- (b) Commissions, boards, councils and other agencies of the City and County exist to conduct the people's business. This ordinance will assure that their deliberations are conducted before the people and that City operations are open to the people's review.

The role of the Sunshine Ordinance Task Force is to advise the Board of Supervisors and provide information to other City departments on appropriate ways in which to implement the Ordinance. The Task Force is responsible for developing appropriate goals to ensure the practical and timely implementation of the Ordinance and to report to the Board on practical or policy problems encountered in the administration of the Ordinance.

If you have encountered problems regarding compliance with the Ordinance, the Public Records Act or the Ralph M. Brown (Public Meetings) Act, we ask that you fill out the attached complaint form. Please deliver the form to Frank Darby, Administrator of the Sunshine Ordinance Task Force, City Hall, Room 244, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102-4683.

We attempt to resolve complaints informally where possible, through the affected departments and the City Attorney's office. Matters that cannot be adequately resolved, or matters that involve substantial policy considerations, may be set for hearing at a Task Force meeting. The Task Force meets the fourth Tuesday of each month at 4:00 p.m. at City Hall, Room 408.

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 e-mail address).



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 | · |
|---|------------------------------|
| Name of individual contacted at Department or Commission | |
| Alleged violation public records access Alleged violation of public meeting. Date of meeting | |
| Sunshine Ordinance Section | |
| (If known, please cite specific | provision(s) being violated) |
| Please describe alleged violation. Use additional paper if needed. Ple documentation supporting your complaint. | ease attach any relevant |
| | |
| | |
| | |
| Do you want a public hearing before the Sunshine Ordinance Task Force? Do you also want a pre-hearing conference before the Complaint Committee | |
| (Optional) ¹ Name Address | |
| Telephone No. E-Mail Address | |
| Date | |
| I request confidentiality of my personal information. | Signature ☐ 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 anonymous as long as the complainant provides a reliable means of contact with the SOTF (Phone number, fax number, or e-mail address).



Filing a Complaint with the Sunshine Ordinance Task Force

- You may fill out a Complaint Form, or you may send your own letter filing a formal complaint. The complaint is filed with the Sunshine Ordinance Task Force, 1 Dr. Carlton B. Goodlett Pl., Room 244, San Francisco CA 94102-4689. (Fax # 415 554 7854)
- 2. Once your complaint is received, the Complaint Committee of the Sunshine Ordinance Task Force reviews the complaint to determine if the Sunshine Ordinance Task Force has jurisdiction.
- Jurisdiction is defined as those items the Task Force may address as outlined in the Sunshine Ordinance
- 3. Once the Complaint Committee completes its consideration, the complainant is notified of the Committee's decision.
- 4. If the Complaint Committee finds no jurisdiction over the alleged violations in the complaint, the complainant could request reconsideration before the full Task Force at its next scheduled meeting. Should the full Task Force find jurisdiction, a full hearing on the merits would be scheduled.
- 5. If the Complaint Committee finds the Task Force has jurisdiction, the complainant, respondent, and the Task Force Members are notified in writing of the jurisdiction decision, and the specific matters, which the Complaint Committee has found jurisdiction.
- 6. The complaint is then scheduled for a hearing before the next meeting of the Sunshine Ordinance Task Force.
- 7. If additional information is to be submitted from the complainant or respondent, the additional material must be submitted to the Sunshine Ordinance Task Force Administrator at least seven days before the scheduled hearing before the Task Force.
- (a) If the complainant submits any additional material after the seven day deadline, the complainant will be informed that
- The Task Force may proceed without considering the new material, or
- The complainant may waive the 45-day time line set and continue the hearing to the next Task Force meeting (the question to be the matter on which the Complaint Committee has granted jurisdiction), or
- The complainant may withdraw the complaint and file a new complaint to be considered by the Complaint Committee, or
- The complainant may proceed to hearing with their current complaint and file a new complaint and use the new information to support the freestanding separate complaint.
- 8. After the Task Force completes its public hearing, the Task Force would make an Order of Determination regarding the complaint.
- 9. For further information, contact the Sunshine Ordinance Task Force Administrator at (415) 554 7724.

SUNSHINE ORDINANCE TASK FORCE WEB SITE INFORMATION

In 2008 the Sunshine Ordinance Task Force web page received 3,738,109 hits. The web page consists of:

- Current agendas and minutes
- Meeting notices
- Past years' agendas and minutes
- Public records listing and retention schedule
- By-laws of the Task Force
- Other related documents and information

Information on:

- The Sunshine Ordinance
- Membership of the Task Force
- Committee structure of the Task Force
- Non-profit requirements (Administrative Code, Chapter 12L)
- Duties and responsibilities of the Task Force
- Complaint Procedures and Form
- Frequently asked questions

Complaints 2009

| Date Received | Complainant | lant | Department/Respondent | Status |
|---------------|---------------------------------|--|--|--|
| 1/5/2009 | Ray Hartz | (09001) | CAO, Matt Dorsey | Complaint 2/10/09, Task Force 02/24/09, Contd, 03/24/09, Withdrawn |
| 1/6/2009 | Michael Petrelis (09002) | | Public Health STD Unit | Task Force 1/27/09, No violation |
| 1/19/2009 | Rita O'Flynn | (20060) | (09003) Dept of Technology | Task Force 02/24/09, continued, Complaint Committee 3/10/09, Task Force 3/24/09, Violated 67.21-1 and CPRA 6253.9, CAC 5/12/09, Contd 6/9/09 |
| 1/23/2009 | Ray Hartz | (09004) | City Attorney, Matt Dorsey | Task Force 2/24/09, No violation motion failed. No further action, petitioned 3/24/09, rejected. |
| 1/23/2009 | Steve Lawrence (09005) | erine de la companione de | Public Utilities Commission | Task Force 2/24/09 withdrawn 2/9/09 |
| 1/26/2009 | Joshua Arce & Brooks (09006) | Eric | Public Utilities Commission | Task Force 2/24/09, quorum loss, Task Force 3/24/09, violated 67.29-7, CAC 5/12/09, Task Force 5/26/09 |
| 1/30/2009 | David Larkin | (20060) | (09007) Public Works | Complaint 03/10/09, Task Force 3/24/09, 4/28/09, Violated 67.21, CAC 5/12/09, Task Force 5/26/09 |
| 2/4/2009 | Ray Hartz | (09008) | Police Commission | Task Force 2/24/09, violated 67.29 & 67.21(e). EOT 4/9/09 |
| 2/9/2009 | Charles Pitts | (60060) | (09009) Health Dept | Complaint 03/10/09, Task Force 3/24/09, No violation, faulted for non-presence |
| 2/20/2009 | Ray Hartz | (09010) | (09010) Arts Commission | Task Force 3/24/09, EOT 4/9/09 |
| 2/23/2009 | Ray Hartz | (09011) | (09011) CAO, Matt Dorsey | Task Force 3/24/09, W/thdrawn |
| 2/23/2009 | Ray Hartz | (09012) | Office of Citizen Complaints | Complaint 4/14/09, Withdrawn |
| 2/27/2009 | Steve Lawrence (09013) | i | Public Utilities Commission | Task Force 3/24/09, 4/28/09, violated 67.21 (b). EOT 5/14/09, 6/11/09 |
| 3/18/2009 | Ahimsa Porter Sumchai 09014) | Sumchai (| | Task Force 4/28/09, Contd 5/26/09 |
| 3/18/2009 | Raymond Bank (09015) | | SF HIV Health Services Planning Council | Complaint Committee 4/14/09, Task Force 4/28/09, violated 67.21 (b), EOT 5/14/09, 6/11/09 |
| 3/23/2009 | Peter Green | (09016) | | Task Force 4/28/09, Contd 5/26/09 |
| 23-Mar | SORE | (09017) | SFPUC | Task Force 4/28/09, violated 67.21 (b), EOT 5/14/09, 6/11/09 |
| | | | | |

Complaints 2009

| - | | | |
|-----------|-------------------------------------|--|---|
| | Anonymous Tenants | | Complaint Committee 4/14/09, Task Force 4/28/09, Violated 67.28, CAC 5/12/09, |
| 3/27/2009 | (09018) | Dept of Bldg Inspection | Contd 7/14/09 |
| 4/3/2009 | Christian Holmer (09019) COB & SOTF | COB & SOTE | Task Force 5/26/09, Withdrawn |
| 4/7/2009 | Anonymous (09020 | (09020) MTA | Task Force 5/26/09 |
| 4/23/2009 | SORE (09021 | (09021) SFPUC | Task Force 5/26/08 |
| 5/13/2009 | Raymond Banks (09022) | SF HIV Health Services Planning Council | Task Force 5/26/08 |
| 5/13/2009 | SORE (09023 | (09023) SFPUC | Task Force 5/26/08 |
| 5/15/2009 | Paul Weston (09024 | (09024) Dept. of Human Services | Complaint 6/9/09 |
| 5/15/2009 | Charles Pitts (09025) | Dept of Human Services | Task Force 6/23/09 |
| 5/18/2009 | Hanna Leung & Lydia Fong (09026) | Dept. of Human Services | Complaint 6/9/09 |
| 5/18/2009 | Alvin Xex (09027 | Office of Economic and (09027) Workforce Development | Complaint 6/9/09 |
| 5/18/2009 | Alin Xex (09028) | Dept. of Human Resources | Complaint 6/9/09 |

Page 1

| Date Received | Name | Concerns | Status |
|---------------|----------------------|---|-----------|
| 4/2/2009 | Michael Chen | Emergency Communications | Resolved |
| 4/14/2009 | Jim Flannery | Entertainment Commission | Resolved |
| 4/21/2009 | Stuart Blumstein | MTA | Resolved |
| 4/28/2009 | Carti Hawkins Okoria | Arts Commission (Bayview Opera House) | Resolved |
| 5/20/2009 | Paul Weston | Health Dept (St Vincent dePaul Society) | Mediating |

Potential Complaints 2009

COMMUNICATIONS RECEIVED LOG

April 22, 2009, through May 19, 2009

| | DATE | FROM | DESCRIPTION |
|----------|--------------------|------------------------------|--|
| 1 | 22-Apr | Dr Ahimsa Sumchai | Shipyard cleanup |
| 2 | 28-Apr | CFAC | Open govt news (2) |
| 3 | 29-Apr | Kimo Crossman | Electronic Frontier Foundation |
| 4 | 29-Apr | Christian Holmer | Mayor's Office calendars (6) |
| 5 | 29-Apr | Katie Hickox | Voting system |
| 6 | 29-Apr | Dr Ahimsa Sumchai | #09014 (7) |
| 7 | 29-Apr | Bruce Brugman | Propositions |
| 8 | 1-Apr | Dr Ahimsa Sumchai | Vexatious requestor |
| 9 | 1-May | Joe Lynn | SOTF-EC meeting 3 |
| 1 | 1-May | Kimo Crossman | SOTF-EC meeting 6 |
| 11 | 2-May | Larry Bush | SOTF-EC meeting |
| 12 | 2-May | Doug Comstock | SOTF-EC meeting |
| 13 | 2-May | Bruce Wolfe | SOTF-EC meeting 4 |
| 14 | 2-May | Eric Brooks | SOTF-EC meeting 2 |
| 15 | 3-May | Eric Brooks | SFGTV videos |
| 16 | 3-May | Kimo Crossman | SFGTV videos (2) |
| 17 | 3-May | Christian Holmer | SFGTV videos (2) |
| 18 | 3-May | Bruce Wolfe | SFGTV videos |
| 19 | 4-May | Melvin Banks | Planning Council (3) |
| 20 | 4-May | Kimo Crossman | Redactions |
| 21 | 4-May | Dominic Maionchi | Marina |
| 22 | 5-May | Frank Darby | #09014 (3) |
| 23 | 5-May | Mark Molnar | Planning Council (3) |
| 24 | 6-May | Amy Kniss | Safe Path of Travel Ordinance |
| 25 | 6- M ay | Kimo Crossman | Google groups |
| 26 | 6-May | Kimo Crossman | Editorial |
| 27 | 6-May | Mark Brennan | Liquor license |
| 28 | 7-May | Bruce Wolfe | Editorial |
| 29 | 7-May | Martin MacIntyre | Editorial |
| 30 | 7-May | Martin MacIntyre | Ethics Commission |
| 31 | 7-May | Kimo Crossman | Sunshine training |
| 32 | 7-May | Joe Lynn | Ethics Commission (3) |
| 33 | . 7-May | Bruce Wolfe | Ethics Commission (2) |
| 34 | 7-May | S-O-R-E | SFPUC |
| 35 | 7-May | Kimo Crossman | Sunshine response time |
| 36 | 8-May | Richard Knee | Ethics Commission (2) |
| 37 | 8-May | Bruce Wolfe | Sunshine in NY |
| 38 | 8-May | David Waggoner | Ethics Commission |
| 39 | 8-May | Christian Holmer | Ethics Commission (2) |
| 40 | 8-May | Eric Brooks | Ethics Commission |
| 41 42 | 8-May | Larry Bush | Ethics Commission |
| 42 43 | 8-May | Kimo Crossman | Meeting audio tapes email preservation |
| 43 44 | 11-May | Kimo Crossman Eric Brooks | email preservation (2) |
| 45 | 11-May | | email preservation |
| 45 | 11-May | Kimo Crossman Richard Knee | Electronic storage |
| 40 47 | 11-May 11-May | Kimo Crossman | - |
| 48 | 11-May | Eric Brooks | EC regulations (2) EC regulations |
| 40 19 | 11-May 11-May | Jeff Ente | Finding willful |
| | 11-May | Kimo Crossman | Finding willful |
| 50 51 | 11-iviay 12-May | Larry Chan | Complaint against Assessor |
| 51 52 | 12-May | District 5 | Report |
| 53 | 14-May | Frank Darby | COB calendar |
| J | (A_injerh | rain Dany | COD GUICHAU |

COMMUNICATIONS RECEIVED LOG

| 54 | 14-May | Bldg Insp | Anonymous (2) |
|----|--------|------------------|------------------------|
| 55 | 15-May | Kimo Crossman | Metadata |
| 56 | 17-May | Rita O'Flynn | Dept of Technology (2) |
| 57 | 18-May | Christian Holmer | Sunshine log |



City Hall
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco 94102-4689
Tel. No. (415) 554-7724
Fax No. 415) 554-7854
TDD/TTY No. (415) 554-5227

MEMORANDUM

Date:

May 14, 2009

To:

Supervisor Maxwell

From:

Sue Cauthen, Sunshine Task Force Education & Outreach Committee

Subject:

Request response time

Dear Supervisor Maxwell:

In the response to the Sumchai complaint against your office, your aide noted that there would be a response in 24 days. We assume that this was a typo, as the California Public Records Act permits a 14 day response to a complex document request.

Thank you for your anticipated attention to this matter.



City Hall
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco 94102-4689
Tel. No. (415) 554-7724
Fax No. 415) 554-7854
TDD/TTY No. (415) 554-5227

ORDER OF DETERMINATION April 17, 2009

DATE THE DECISION ISSUED March 24, 2009

JOSHUA ARCE AND ERIC BROOKS V PUC (09006)

FACTS OF THE CASE

Complainants represent environmental and social justice organizations that have spent the past several years seeking closure of the Potrero Power Plant in Southeast San Francisco without the construction of new power plants to replace it. Complainant Joshua Arce represents the Brightline Defense Project and Complainant Eric Brooks represents the San Francisco Green Party, Sustainability Working Group.

On May 14, 2008, Joshua Arce as Executive Director/Staff Attorney for the Brightline Defense Project made a Public Records Request for all communications between the San Francisco Public Utilities Commission ("SFPUC") staff and the California System Operator ("Cal-ISO") state regulatory body during the period of March 1, 2008 through May 13, 2008. To this request, the SFPUC provided 8 e-mails.

Joshua Arce and Eric Brooks believed that there should be more e-mails since what was provided alluded to other communications that were ongoing between the SFPUC and Cal-ISO. From May 16 through June 11, 2008, complainants communicated with the SFPUC in their effort to obtain other e-mails that the Complainants believed were being withheld by the SFPUC. The SFPUC responded that they did not have any further records.

The Complainants made an identical Public Records Request with Cal-ISO and received 20 e-mails.

COMPLAINT FILED

On January 26, 2009, Joshua Arce and Eric Brooks filed a complaint against the SFPUC for its alleged failure to disclose e-mails under Section 67.21 and/or its willful failure to maintain and preserve correspondence and records under Section 67.29-7.

The complainants further allege that the willful failure to maintain correspondence was official misconduct as defined in Section 67.34.

HEARING ON THE COMPLAINT

On March 24, 2009, complainant Joshua Arce and co-complainant Eric Brooks appeared before the Task Force and presented their claims. Respondent Agency was represented by Tony Winnicker, the Agency's director of communications.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Based on the testimony and evidence presented the Task Force finds that even though staff at the SFPUC have authorization to delete emails that they deem not important, the task should have been undertaken judiciously and from the viewpoint of the public. The Task Force also found that the department did not err on the side of openness and it failed to seek the City Attorney's advice on the issue.

DECISION AND ORDER OF DETERMINATION

The Task Force finds that the agency violated Section 67.29-7 of the Sunshine Ordinance for not maintaining and preserving in a professional and businesslike manner all documents and correspondence. The agency shall review their backup tapes for additional records and appear before the Compliance and Amendments Committee on May 12, 2009.

Further, the Task Force requests that the PUC search for additional email records in their email backup files and provide them to the complainants as soon as possible.

This Order of Determination was adopted by the Sunshine Ordinance Task Force on March 24, 2009, by the following vote: (Goldman / Johnson)
Ayes: Knee, Cauthen, Washburn, Knoebber, Johnson, Chan, Goldman, Chu Recused: Craven, Williams

The enforcement of this Order of Determination is referred to the Compliance and Amendments Committee to work with the PUC to provide all additional emails produced during the period in question.

Kristin Murphy Chu, Chair

Sunshine Ordinance Task Force

c: Rosa Sanchez, Deputy City Attorney Ernie Llorente, Deputy City Attorney Joshua Arce, complainant Eric Brooks, complainant Tony Winnicker, respondent

F.M. Ch



City Hall
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco 94102-4689
Tel. No. (415) 554-7724
Fax No. 415) 554-7854
TDD/TTY No. (415) 554-5227

ORDER OF DETERMINATION May 5, 2009

DATE THE DECISION ISSUEDApril 28, 2009

DAVID LARKIN v. DEPARTMENT OF PUBLIC WORKS (09007)

FACTS OF THE CASE

On January 7, 2009, Complainant David Larkin requested information about an investigation into the conduct of DPW surveyor Bruce Storrs following a complaint filed by David Larkin against Bruce Storrs. The investigation was conducted by Bureau manager Barbara Moy. Frank Lee of DPW disclosed some records but withheld others citing California Public Records Act section 6254 (c) and Article 1, Section of the California Constitution. The basis for the redaction or withholding of information cited by DPW is because the disclosure of the information would constitute an unwarranted invasion of personal privacy. Other correspondence from the agency indicated that draft documents were also withheld.

COMPLAINT FILED

On January 29, 2009, David Larkin filed a complaint against DPW nd Barbara Moy alleging violations of the Sunshine Ordinance and the Public Records Act.

HEARING ON THE COMPLAINT

On April 28, 2009, Complainant David Larkin appeared before the Task Force and presented his claim. Respondent Agency was not present but had earlier submitted a letter requesting a continuance. No motion was made to continue the matter, and the Task Force proceeded with the hearing.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Task Force found, as an initial matter, that preliminary drafts of documents must be released under the Sunshine Ordinance, section 67.24(a)(1). The Task Force also found that under controlling CPRA case law (e.g., Bakersfield City Sch. Dist. v. Superior Court (2004) 118 Cal. App. 4th 1041) where "complaints of a public employee's

wrongdoing and resulting disciplinary investigation reveal allegations of a substantial nature, as distinct from baseless or trivial, and there is reasonable cause to believe the complaint is well founded, public employee privacy must give way to the public's right to know" even if no misconduct was found to have occurred. Under this standard, which governs over the narrower standard in 67.24(c)(7), the Department was not, on the facts presented to the Task Force, justified in withholding records regarding the investigation of the complaint into Mr. Storrs' conduct. Finally, unless a specific employee had a good faith basis to fear retaliation or was a whistle-blower (neither of which apply to the case at hand) the names of the employees interviewed during the investigation could not be withheld under 67.24(c) and should be released.

DECISION AND ORDER OF DETERMINATION

The Task Force finds that the agency violated Section 67.21 of the Sunshine Ordinance for failure to produce responsive documents including witness statements, reports and drafts regarding well-founded allegations of employee misconduct as the documents are required to be produced under sections 67.24 (a) (1) and Sec 67.24 (c)(7), as supplemented by CPRA case law.

The agency shall release the records requested within 5 business days of the issuance of this Order and appear before the Compliance and Amendments Committee on May 12, 2009.

This Order of Determination was adopted by the Sunshine Ordinance Task Force on April 28, 2009, by the following vote: (Craven-Green / Goldman) Ayes: Craven-Green, Knee, Cauthen, Washburn, Knoebber, Goldman, Williams, Chu Excused: Johnson, Chan

Kristin Murphy Chu, Chair Sunshine Ordinance Task Force

Ku F.M. Ch

c: David Larkin, complainant Frank Lee, Dept of Public Works Ernie Llorente, Deputy City Attorney



City Hall
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco 94102-4689
Tel. No. (415) 554-7724
Fax No. 415) 554-7854
TDD/TTY No. (415) 554-5227

ORDER OF DETERMINATION May 6, 2009

DATE THE DECISION ISSUED April 28, 2009

STEVE LAWRENCE v. SAN FRANCISCO PUBLIC UTILITIES COMMISSION (09013)

FACTS OF THE CASE

On February 2, 2009, Steven Lawrence sent to the SFPUC records section a Sunshine request to review nine documents or categories. Later that day, Steven Lawrence received back from Public Records acknowledging his request. However, 15 days passed and Steven Lawrence did not receive the records. Steven Lawrence then contacted Tony Winnicker, director of communications at SFPUC. Tony Winnicker stated that he would look into the matter. Another 3 days passed and Steven Lawrence still did not receive the documents.

COMPLAINT FILED

On February 27, 2009, Steven Lawrence filed a complaint against the SFPUC alleging violations of Section 67.21 of the Sunshine Ordinance because of the agency's failure to timely respond to a Public Records request.

HEARING ON THE COMPLAINT

On April 28, 2009, Complainant Steven Lawrence was not present at the hearing. Suzanne Gautier of the SFPUC presented the Agency's defense.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Respondent Suzanne Gautier of the SFPUC admitted that the agency violated Sec. 67.21 (b) and had no plans to contest it. She noted that the Agency had already produced the records that were requested.

DECISION AND ORDER OF DETERMINATION

The Task Force finds that the agency violated Sec 67.21 (b) for failure to produce documents in a timely manner. The agency shall appear before the Education, Outreach and Training Committee on May 14, 2009.

This Order of Determination was adopted by the Sunshine Ordinance Task Force on

April 28, 2009, by the following vote: (Goldman / Cauthen) Ayes: Knee, Cauthen, Knoebber, Goldman, Williams, Chu

Recused: Craven-Green

Excused: Washburn, Johnson, Chan

Ku F.M. Ch

Kristin Murphy Chu, Chair

Sunshine Ordinance Task Force

Steve Lawrence, complainant C:

Suzanne Gautier, respondent

Ernie Llorente, Deputy City Attorney



City Hall
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco 94102-4689
Tel. No. (415) 554-7724
Fax No. 415) 554-7854
TDD/TTY No. (415) 554-5227

ORDER OF DETERMINATION May 5, 2009

DATE THE DECISION ISSUED April 28, 2009

RAYMOND BANKS v. SAN FRANCISCO HIV HEALTH SERVICES PLANNING COUNCIL (09015)

FACTS OF THE CASE

Complainant Raymond Banks is a member of the San Francisco HIV Health Services Planning Council. The Council is a federally mandated and supported program made up of volunteers who are appointed by the Mayor of San Francisco. The authority for the Council comes from Title I and II of the Ryan White CARE Act of 2006. From November 2008 up until the time that Raymond Banks filed his complaint with the SOTF, Raymond Banks requested information about the Council's contract with Veronica Neal of VAKN Consulting.

COMPLAINT FILED

On March 18, 2009, Raymond Banks filed a complaint against the Council alleging violations of the Sunshine Ordinance and the Public Records Act.

HEARING ON THE COMPLAINT

On April 28, 2009, Complainant Raymond Banks appeared before the Task Force and presented his claim. Respondent Agency was represented by Mark Molnar who presented the HIV Health Services Planning Council 's defense.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Based on the testimony and evidence presented the Task Force finds that the HIV Planning Council took about six months to respond to the request for a copy of the Neal/VAKN contract. The council was urged to improve its responsiveness and comply with the deadlines for production of public records as well as the other San Francisco open government laws in the future.

DECISION AND ORDER OF DETERMINATION

The Task Force finds that the agency violated section 67.21 (b) for failure to produce documents in a timely manner. The agency shall appear before the Education and Outreach and Training Committee on May 14, 2009, to discuss ways to improve its responsiveness to Sunshine requests.

This Order of Determination was adopted by the Sunshine Ordinance Task Force on April 28, 2009, by the following vote: (Cauthen / Goldman) Ayes: Craven-Green, Knee, Cauthen, Washburn, Knoebber, Goldman, Williams, Chu Excused: Johnson, Chan

Kristin Murphy Chu, Chair Sunshine Ordinance Task Force

Kn F.M. Ch

c: Raymond Banks, complainant
Mark Molnar, HIV Health Services Planning Council
Michelle Long, Health Department
Ernie Llorente, Deputy City Attorney



City Hall
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco 94102-4689
Tel. No. (415) 554-7724
Fax No. 415) 554-7854
TDD/TTY No. (415) 554-5227

ORDER OF DETERMINATION May 6, 2009

DATE THE DECISION ISSUED

April 28, 2009

SAVE OUR RICHMOND ENVIRONMENT v. SAN FRANCISCO PUBLIC UTILITIES COMMISSION (09017)

FACTS OF THE CASE

On February 13, 2009, a community group named Save Our Richmond Environment made a public records request to the San Francisco Public Utilities Commission.

COMPLAINT FILED

On March 27, 2009, Wing Fat who identified himself as Chair of the PUC Committee of the Save Our Richmond Environment group filed a complaint against the SFPUC alleging that the agency did not respond to the public records request that was filed on February 13, 2009.

HEARING ON THE COMPLAINT

On April 28, 2009, a hearing was held and Complainant Wing Fat was not present. Representatives of Save Our Richmond Environment were also not present. Suzanne Gautier of the SFPUC presented the agency's defense.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Suzanne Gautier admitted that the agency was late in its response to the public records requests and was working toward improving its response time. She noted that Save Our Richmond Environment's request was for answers and not for any particular document.

DECISION AND ORDER OF DETERMINATION

The Task Force finds that the agency violated Sec 67.21 (b) for failure to produce documents in a timely manner. The agency shall appear before the Education, Outreach and Training Committee on May 14, 2009.

This Order of Determination was adopted by the Sunshine Ordinance Task Force on

April 28, 2009, by the following vote: (Goldman / Cauthen) Ayes: Knee, Cauthen, Knoebber, Goldman, Williams, Chu

Recused: Craven-Green

Excused: Washburn, Johnson, Chan

Ku F.M. Ch

Kristin Murphy Chu, Chair Sunshine Ordinance Task Force

c: Wing Fat, complainant
Suzanne Gautier, respondent
Ernie Llorente, Deputy City Attorney



City Hall
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco 94102-4689
Tel. No. (415) 554-7724
Fax No. 415) 554-7854
TDD/TTY No. (415) 554-5227

ORDER OF DETERMINATION May 5, 2009

DATE THE DECISION ISSUED

April 28, 2009

ANONYMOUS TENANTS v. DEPARTMENT OF BUILDING INSPECTION (09018)

FACTS OF THE CASE

Anonymous Tenants filed a complaint with the Task Force regarding whether DBI could appropriately charge \$6.50 per page for copies of public records under the Sunshine Ordinance.

COMPLAINT FILED

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.

HEARING ON THE COMPLAINT

On April 28, 2009 Complainant Anonymous Tenants appeared before the Task Force and presented his claim. William Strawn, Communications Manager for the Department of Building Inspection, presented the Agency's defense.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Task Force members indicated they were concerned about imposing requirements on enterprise departments that attempt to cover their cost by fee structures. However, the Task Force found that the Department had failed to conduct or provide an "itemized cost analysis" justifying the \$6.50 per page cost as required by section 67.28 or the Ordinance.

DECISION AND ORDER OF DETERMINATION

The Task Force finds that the agency violated section 67.28 (d) of the Sunshine Ordinance by failing to prepare and post an itemized cost analysis justifying the \$6.50per page charged by the department. The agency shall appear before the Compliance and Amendments Committee on May 12, 2009, to discuss steps it will take to come into compliance with this Order of Determination.

This Order of Determination was adopted by the Sunshine Ordinance Task Force on

April 28, 2009, by the following vote: (Chu / Knee)

Ayes: Knee, Cauthen, Knoebber, Goldman, Williams, Chu

Recused: Craven-Green

Excused: Washburn, Johnson, Chan

Kn F.M. Ch

Kristin Murphy Chu, Chair

Sunshine Ordinance Task Force

c: Anonymous Tenants, complainant
William Strawn, Dept of Bldg Inspection
Ernie Llorente, Deputy City Attorney

*