

Date: June 22, 2010

Item No. 28

File No. _____

SUNSHINE ORDINANCE TASK FORCE

AGENDA PACKET CONTENTS LIST*

Administrators Report

Completed by: Chris Rustom

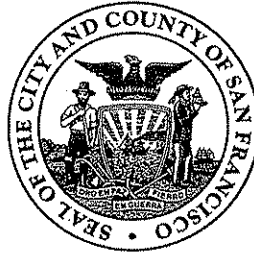
Date: June 17, 2010

***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.

**SUNSHINE ORDINANCE
TASK FORCE**



**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

TO: Sunshine Ordinance Task Force

DATE: June 16, 2010

SUBJECT: Administrator's Report

1. Requests from community persons:

From May 19, 2010, through June 15, 2010, the Task Force's office responded to approximately 329 calls/e-mails/office visits from persons requesting information regarding the Sunshine Ordinance, or to mediate request for records.

2. 2010 Complaint Log

3. Communications received

Letter from Delene Wolf, Executive Director of the Rent Board

4. Orders of Determination

#10012_Ellen Tsang v Planning Department
#10009_Majeid Crawford v City Attorney's Office
#10013_Nick Pasquariello v Bay Area Video Coalition
#10015_Ellen Tsang v Planning Department
#10016_Ray Hartz v Rent Board

Complaints 2010

Date Received	Complainant	Department/Respondent	Status
1/12/2010	Nick Pasquarello 10001	General Services Agency	Task Force 02/23/2010, No jurisdiction
1/22/2010	Nancy Cross 10002	Law Library	Task Force 02/23/2010, No jurisdiction
1/22/2010	Nancy Cross 10003	ECS Sanctuary	Task Force 02/23/2010, No violation
1/22/2010	Rita O'Flynn 10004	City Attorney's Office	Task Force 02/23/2010, Withdrawn
2/2/2010	Emil Lawrence 10005	MTA	Complaint 03/09/10, Task Force 3/23/2010, No violation
2/4/2010	Paula Datesh 10006	Arts Commission	Complaint 03/09/10, No jurisdiction
2/22/2010	Chris Daly 10007	Mayor's Office	Complaint 03/09/10, Task Force 3/23/2010, violated 67.21(b), 67.21(e), 67.25(b), Task Force 04/27/10, referred to EC and BOS
3/3/2010	Sandra Brotherton 10008	Dept. of Emergency Management	Complaint 04/27/10, Task Force 4/27/2010, No further action
3/10/2010	Majeid Crawford 10009	City Attorney's Office	Complaint 5/11/10, TF 5/25/2010, violated 67.26, 67.27, TF 6/22/10
3/26/2010	Paula Datesh 10010	Arts Commission	Complaint 5/11/10, TF 5/25/2010, TF 6/22/10
3/26/2010	Juan De Anda 10011	Public Health	Task Force 04/27/10, contid 05/25/10, tabled
3/29/2010	Ellen Tsang 10012	Planning Department	Task Force 04/27/10, violated 67.21(e), 67.25, TF 6/22/10
4/5/2010	Nick Pasquarello 10013	Dept. of Technology	Task Force 05/25/10, violated 67.21(b), TF 6/22/10
4/9/2010	Michael Robinson 10014	Rent Board	Complaint 5/11/10, no jurisdiction
4/14/2010	Ellen Tsang 10015	Planning Department	Task Force 05/25/10, violated 67.21, 67.25, 67.26 and 67.27, TF 6/22/10
4/10/2010	Ray Hartz 10016	Rent Board	Complaint 5/11/10, TF 5/25/2010, violated 67.24(c)(i) and (ii), TF 6/22/10
4/10/2010	Ray Hartz 10017	Rent Board	Complaint 5/11/10, TF 5/25/2010, No further action
5/18/2010	Svetlana Prashnaya 10018	Aging and Adult Services	Complaint TF 6/22/10
5/21/2010	Alvin Xex 10019	First 5 (San Francisco)	Complaint 6/22/10
4/26/2010	Kenneth Kinnard 10020	Human Rights Commission	Complaint 5/11/10, no jurisdiction
4/28/2010	Anonymous 10021	Recreation and Parks Department	Task Force 5/25/10, withdrawn 5/24/10
5/3/2010	Suzanne Dumont 10022	Recreation and Parks Department	Complaint TF 6/22/10
5/21/2010	Alvin Xex 10023	First 5 (San Francisco)	Complaint 07/13/10



June 17, 2010

Richard Knee, Chair
Sunshine Ordinance Task Force
1 Dr. Carlton B. Goodlett Place
City Hall, Room 244
San Francisco, CA 94102-4689

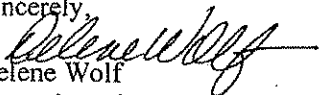
Re: Rent Board Compliance with Section 67.16

Dear Mr. Knee,

At the May 25, 2010 meeting of the SOTF, it was suggested that the Rent Board allow members of the public to submit a written summary of their comments to be appended to the Board's minutes even if the Board is not legally required to do so since it is not a Charter Commission subject to Section 67.16. This is to inform the SOTF the Rent Board has decided to voluntarily comply with Section 67.16 and has agreed to append such brief written summary in the Board's minutes.

It was also suggested that the Board record its meetings and post the recording on the Board's website even if the Board is not legally required to do so since it is not a Charter Commission subject to Section 67.14(b) and does not hold its meetings "in a City Hall hearing room that is equipped with audio or video recording facilities" under Section 67.14(c). This is to inform the SOTF that the Board has contacted the City Hall Media Services Manager about audio digital equipment and is looking into the budgetary and technological feasibility of voluntarily complying with Section 67.14. We appreciate the Task Force's interest in ensuring as much public access to Board meetings as possible.

Sincerely,


Delene Wolf
Executive Director

Cc: Kimo Crossman
Ray Hartz

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ORDER OF DETERMINATION
June 1, 2010

DATE THE DECISION ISSUED
April 27, 2010

ELLEN TSANG V PLANNING DEPARTMENT (10012)

FACTS OF THE CASE

Complainant Ellen Tsang alleges that the San Francisco Planning Department ("Planning") failed to disclose documents and records relating to the complaints listed as #5 in an email dated February 12, 2010, which pertained to a property at 769 North Point, San Francisco. Ms. Tsang further requested the dates of the complaints, where the complaints originated, a description of the complaint, etc. Ms. Tsang made this request on March 24, 2010, via email and addressed to Agnes Lau.

COMPLAINT FILED

On March 29, 2010, Ms. Tsang filed a Sunshine Complaint against Planning.

HEARING ON THE COMPLAINT

On April 27, 2010, Ms. Tsang appeared before the Task Force and presented her claim. The respondent agency was not represented and no one in the audience presented facts and evidence in support of the respondent.

Ms. Tsang said that an email from Ms. Lau to the Building Department on February 12, 2010, stated that the department had received a few complaints for violation of the building code. The email was in reference to a property at 769 North Point, which housed an illegal oversized storage shed in the rear yard. Ms. Lau's correspondence stated that a variance was denied by Planning as the shed was too large and required a reduction in size. Ms. Tsang stated that on March 24, 2010, she submitted an Immediate Disclosure Request to Ms. Lau, requesting receipt of the documents electronically via email. Neither Ms. Lau nor anyone else in Planning responded to her request. Ms. Tsang further stated that Planning did not respond to her Immediate Disclosure Request and did not respond within the required five business days of receiving a complaint.

ORDER OF DETERMINATION**FINDINGS OF FACT AND CONCLUSIONS OF LAW**

Based on the testimony and evidence presented, the Task Force finds that Planning clearly violated the Ordinance and that there was some dispute on whether all requested documents had been produced.

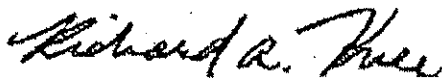
DECISION AND ORDER OF DETERMINATION

The Task Force finds that the Respondent violated Section(s) 67.21(e) and 67.25 of the Sunshine Ordinance for failure to respond to an Immediate Disclosure Request, for failure to produce the requested records within the required time, and for failure to send a knowledgeable representative to discuss the case with the Task Force. The Respondent shall release the records requested within 5 business days after receiving this Order and shall appear before the Task Force on June 22, 2010.

This Order of Determination was adopted by the Sunshine Ordinance Task Force on April 27, 2010, by the following vote: (Craven-Green / Goldman)

Ayes: Craven-Green, Washburn, Knoebber, Wolfe, Goldman, Williams, Knee

Excused: Cauthen, Manneh, Johnson, Chan



Richard A. Knee, Chair
Sunshine Ordinance Task Force

c: Jerry Threet, Deputy City Attorney
Ellen Tsang, Complainant
Brian Smith, Jonas Ionin, Respondents

**SUNSHINE ORDINANCE
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**ORDER OF DETERMINATION
May 14, 2010**

DATE THE DECISION ISSUED
May 25, 2010

MAJEID CRAWFORD V CITY ATTORNEY'S OFFICE (10009)

FACTS OF THE CASE

Complainant Majeid Crawford alleges that Jack Song of the City Attorney's Office (the "CAO") failed to respond adequately 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[.]"

COMPLAINT FILED

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

HEARING ON THE COMPLAINT

On May 25, 2010, Mr. Crawford presented his case before the Task Force. Mr. Song presented the Respondent agency's defense.

Mr. Crawford told the Task Force he wanted to know how much the CAO charges departments and agencies for work associated with RFPs, RFQs and IFBs; if the fee is on a case-by-case basis; if the fee is related to the size of the project; if departments are charged differently; and if the fee is based on time spent on the project. He also wanted to know the last 20 projects the CAO had completed and how much was charged. He said the CAO should have a database regarding his questions and all that was needed was a printout. The community needs to know which department is paying how much for what, he said. The CAO has not provided any information, he said.

Mr. Song said the CAO does not keep a list or log of the number of RFPs and RFQs it reviews. The office, he said, has a system in which the deputy city attorney bills a department on the time spent on a particular project. He said the Complainant said he felt the office was charging more than it ought to on the Fillmore Muni substation project. He said he contacted the deputy city attorney assigned to the project and was told work on it had not started and therefore there was no dollar figure associated with it. He added that information on how much a department was charged was considered attorney-client privilege and not disclosable.

ORDER OF DETERMINATION

Task Force members voted on multiple motions.

The first motion to find violation of Sec(s) 67.26 and 67.27 was made (Wolfe / Washburn)

Member Snyder said Section 67.21 was more relevant because the department was tardy in its incomplete response. The sections mentioned in the motion were inappropriate because Section 67.26 was about redaction and Section 67.27 was on justification, he said.

Member Snyder then presented a substitute motion.

Motion to find violation of Section 67.21. (Snyder / Cauthen)

Member Wolfe disagreed.

Amended motion to find violation of Sec(s) 67.21, 67.26 and 67.27 (Wolfe/Williams).

On motion to find violation of Sections 67.21, 67.26 and 67.27.

Ayes: Washburn, Wolfe, Williams, Knee

Noes: Snyder, Cauthen, Knoebber, Johnson

Motion fails

On motion to find violation of Section 67.21.

Ayes: Snyder Cauthen, Washburn, Wolfe, Williams

Noes: Knoebber, Johnson, Knee

Motion fails

Member Wolfe made a friendly motion to include Section 67.21 with Sections 67.26 and 67.27. Second agreed.

Member Knoebber proposed separating vote on Section 67.21 from vote on Sections 67.26 and 67.27.

Member Wolfe agreed.

Motion to separate vote on Section 67.21 from vote on Sections 67.26 and 67.27. Without objection.

Motion to find violation of Section 67.21.

Ayes: Snyder, Cauthen, Washburn, Williams

Noes: Knoebber, Wolfe, Johnson, Knee

Motion fails.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Based on the testimony and evidence presented, the Task Force finds that the Respondent violated the Ordinance.

ORDER OF DETERMINATION

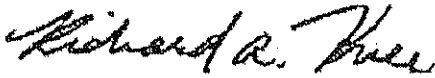
DECISION AND ORDER OF DETERMINATION

The Task Force finds that the agency violated Section(s) 67.26 and 67.27 of the Sunshine Ordinance by withholding disclosable public information and by failing to justify said withholding. The Respondent shall release the records requested within five business days of the issuance of this Order and appear before the Task Force on June 22, 2010.

This Order of Determination was adopted by the Sunshine Ordinance Task Force on May 25, 2010, by the following vote:

Ayes: Washburn, Knoebber, Wolfe, Johnson, Williams, Knee

Noes: Snyder, Cauthen



Richard A. Knee, Chair
Sunshine Ordinance Task Force

- c: Jerry Threet, Deputy City Attorney
- Majeid Crawford, Complainant
- Jack Song, Respondent

**SUNSHINE ORDINANCE
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ORDER OF DETERMINATION
June 14, 2010

DATE THE DECISION ISSUED
May 25, 2010

NICK PASQUARIELLO V BAY AREA VIDEO COALITION (10013)

FACTS OF THE CASE

Nick Pasquariello ("Complainant") alleges that he made an Immediate Disclosure Request ("IDR") to Ken Ikeda at the Bay Area Video Coalition (BAVC) for all contracts, grantee bids, responses to Requests for Proposals ("RFPs") and all other records of communication between the City and persons or entities seeking contracts, and that as of April 5, 2010, he had received no response.

COMPLAINT FILED

On April 5, 2010, Complainant filed this Sunshine Complaint against "the Department of Technology (Bay Area Video Coalition)"

HEARING ON THE COMPLAINT

On May 25, 2010, Mr. Pasquariello presented his case before the Task Force. BAVC was represented by Krisana Hodges. Barry Fraser, an analyst with the Department of Technology, also was present.

Mr. Pasquariello told the Task Force that he appeared before the Task Force three months ago because BAVC failed to respond to his letter asking it to explain its policy of scanning driver's licenses. BAVC, he said, receives public money and the residents of the City and County of San Francisco have the right to know how the organization is spending it. Steve Zeltzer said he also had requested documents from BAVC and had not received a response. BAVC should be subject to rules that other contractors with the City have to follow, he said. This is especially important when there is a decline in the number of users of the station. He said there were 130 producers before and now only 50 people make use of it. He wanted to know where the money was going if fewer people were making use of it. A member of the public claimed he saw numerous items being given away when the station closed in late 2009. The public has the right to know what was given away, he said. A female speaker said Mr. Pasquariello needs to ascertain for himself how the money was being spent and if the services are being provided in compliance with the contract it has

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signed with the City.

Ms. Hodges said the contract with the City stipulates that only the contract and its application documents are subject to disclosure under Section 67.24(e). There are no other provisions, she said. The document that Mr. Pasquariello wants was available online through the Department of Technology. Administrative Code 12L, she said, calls for open board meetings, which it holds, and that there are no complaints against BAVC for not holding open meetings as required. The other requirements mentioned in 12L have not been requested. She said tried to contact Mr. Pasquariello several times but that he has not responded.

Mr. Fraser said the department received one faxed request for documents on December 16, 2009, and the department responded to it the next day. Since then, he said, the department has not received anything from Mr. Pasquariello. He offered to help the Task Force resolve the issue and said he was also prepared to talk to Mr. Pasquariello to see what additional documents he wanted.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Based on the testimony and evidence presented, the Task Force finds that BAVC violated the Ordinance.


DECISION AND ORDER OF DETERMINATION

The Task Force finds that BAVC violated Section 67.21(b) for untimely response and Section 67.26 for withholding. BAVC shall release the records requested within five business days of the issuance of this Order and appear before the Task Force on June 22, 2010.

This Order of Determination was adopted by the Sunshine Ordinance Task Force on May 25, 2010, by the following vote: (Cauthen / Washburn)

Ayes: Cauthen, Washburn, Wolfe, Chan, Johnson, Williams

Noes: Snyder, Knoebber, Knee



Richard A. Knee, Chair
Sunshine Ordinance Task Force

c: Jerry Threet, Deputy City Attorney
Nick Pasquariello, Complainant
Krisana Hodges & Barry Fraser, Respondents

**SUNSHINE ORDINANCE
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ORDER OF DETERMINATION
June 14, 2010

DATE THE DECISION ISSUED
May 25, 2010

ELLEN TSANG V PLANNING DEPARTMENT (10015)

FACTS OF THE CASE

Complainant Ellen Tsang alleges that the San Francisco Planning Department ("Planning") failed to provide documents and records responsive to her request of March 11, 2010, for documents referred to as having been submitted to Planning in an internal email dated February 12, 2010, which pertained to a property at 2642-2644 Hyde Street, San Francisco.

COMPLAINT FILED

On April 14, 2010, Ms. Ellen Tsang filed a complaint against Planning.

HEARING ON THE COMPLAINT

On May 25, 2010, Ms. Tsang presented her case before the Task Force. Respondent agency was represented by Jonas Ionin, a Planning Department employee.

Ms. Tsang told the Task Force she requested five specific documents from Mr. Ionin on March 11 and filed the complaint when Planning refused. She said several Planning employees, including the department head, were made aware of the complaint on April 21 and were informed that they had to provide a response within five business days. The department, she said, failed to respond to the notification. She also said Planning was told that if it had any additional documents, the Task Force needed them by 4 p.m. on May 18. Again, she said, nothing was forthcoming. The existence of the documents was based on emails between Mr. Ionin and Robert Mittelstadt, the architect of the project, she said. The documents are required by Planning to approve the project and the permit was being appealed before the Board of Appeals. She said she needed the documents before June 30 in order to present her case. She added that she contacted Planning on May 24 and again did not get a response. Anonymous Tenants said this was a simple case that showed Planning does not want the public to have access to public records, especially if it involves another hearing. He said a similar case was brought before the Task Force earlier and it took more than nine months to resolve the issue, but unfortunately it was after the hearing had taken place. He said it seems that the planners have a separated file from what is available to the public. He also said that if members of the public cannot obtain the

ORDER OF DETERMINATION

necessary documents, they cannot present a watertight case at the hearing. If Planning does not have the records, it also means that Planning is not maintaining documents in a professional manner, he said.

Mr. Ionin said the department had responded to Ms. Tang's request about the project repeatedly over the course of many years. He then presented a history of the case but was not able to explain the department's refusal of the March 11 request because his five-minute allocation expired.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Based on the testimony and evidence presented, the Task Force finds that the department violated the Ordinance.

DECISION AND ORDER OF DETERMINATION

The Task Force finds that the agency violated Section(s) 67.21, 67.25, 67.26 and 67.27 of the Sunshine Ordinance. The agency shall release the records requested within five business days of the issuance of this Order and appear before the Task Force on June 22, 2010.

This Order of Determination was adopted by the Sunshine Ordinance Task Force on May 25, 2010, by the following vote: (Washburn / Wolfe)

Ayes: Snyder Cauthen, Washburn, Wolfe, Chan, Johnson, Williams, Knee

Noes: Cauthen, Knoebber



Richard A. Knee, Chair
Sunshine Ordinance Task Force

c: Jerry Threet, Deputy City Attorney
Ellen Tsang, Complainant
Jonas Ionin, Respondent

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ORDER OF DETERMINATION
June 1, 2010

DATE THE DECISION ISSUED
May 25, 2010

RAY HARTZ V. RENT BOARD (10016)

FACTS OF THE CASE

Complainant Ray Hartz alleges that the Rent Board violated the Sunshine Ordinance by failing to respond fully to his Immediate Disclosure Request of January 21, 2010. Mr. Hartz's complaint identifies Administrative Code Section 67.24 as being violated.

COMPLAINT FILED

On April 10, 2010, Mr. Hartz filed a complaint with the Task Force alleging a violation.

HEARING ON THE COMPLAINT

On May 25, 2010, Mr. Hartz presented his claim before the Task Force. Respondent agency was represented by Timothy Lee, a senior hearing officer with the Rent Board. Mr. Hartz said he filed an Immediate Disclosure Request on January 21 asking for information about a Rent Board employee. The questions, he said, were based on what Section 67.24 of the Ordinance enumerated. He said he received a response on January 22 that lacked some details he sought. He said he met with Delene Wolf, the Rent Board's executive director, on April 23 and told her which parts of the response were deficient. He said he wanted to know the exact gross salary and benefits of a certain deputy city attorney but was given a one-page chart that included the salaries of all deputy city attorneys. He also said he asked for professional information related to that individual under Section 67.24(c)(1)(i) & (ii) and received an inadequate response. He said he was later informed that the City Attorney's Office had advised the Rent Board that it had provided everything. He said Ms. Wolf and Mr. Lee stated at the May 11 Complaint Committee hearing that they wanted to help him but have yet to contact him.

Mr. Lee said the Rent Board responded in a timely manner to the IDR. He said the Rent Board was aware that Mr. Hartz had some objections to the responses and had been trying to find out what they were. He said Mr. Hartz's complaint also does not specify what the issues were. He said he inquired about the nature of the objections during the May 11 hearing and did not receive a response. Only today, he said, he was made aware that Mr. Hartz wanted to know the gross salary of a hearing officer. Mr. Lee said if Mr. Hartz had indicated what he wanted it would have been provided. Mr. Lee added that the Rent Board

ORDER OF DETERMINATION

has to disclose information to the public but must withhold personal and confidential information about its employees. The Rent Board does the best it can, he said.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Based on the testimony and evidence presented, the Task Force finds that the agency violated the Ordinance.


DECISION AND ORDER OF DETERMINATION

The Task Force finds that the agency violated Section 67.24(c)(1)(i) and (ii) of the Sunshine Ordinance for not releasing personnel information. The agency shall release the records requested within five business days of the issuance of this Order and appear before the Task Force on June 22, 2010.

This Order of Determination was adopted by the Sunshine Ordinance Task Force on May 25, 2010, by the following vote: (Knoebber / Wolfe)

Ayes: Washburn, Knoebber, Wolfe, Johnson, Williams, Knee

Noes: Snyder, Cauthen



Richard A. Knee, Chair
Sunshine Ordinance Task Force

c: Jerry Threet, Deputy City Attorney
Ray Hartz, Complainant
Delene Wolf, Timothy Lee, Respondents