

Date: June 28, 2011

Item No. 10 & 11

File No. 11037

SUNSHINE ORDINANCE TASK FORCE

AGENDA PACKET CONTENTS LIST*

- William Clark against the Arts Commission**
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Completed by: Chris Rustom

Date: June 24, 2011

***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.



<complaints@sfgov.org>

05/08/2011 10:45 AM

To <soft@sfgov.org>

cc

bcc

Subject Sunshine Complaint

To:soft@sfgov.orgEmail:complaints@sfgov.orgDEPARTMENT:San Francisco Arts Commission

CONTACTED:Howard Lazar

PUBLIC_RECORDS_VIOLATION:Yes

PUBLIC_MEETING_VIOLATION:No

MEETING_DATE:

SECTIONS_VIOLATED:Section 67.21 (a), Section 67.21(c) and Section 67.28(c)

DESCRIPTION:On March 17, 2011 I sent Mr. Lazar the following email requesting public information and documents: Mr. Lazar, I am requesting the following information and documents regarding Alyssa Licouris' employment by the Arts Commission as a Arts Program Assistant job code 3549: What is her job code step number? What is her exact gross salary? What is her exact gross benefits? When was she given this job code number? Did she have a different job code number prior to this job code number? If so, what was it? What was the date when she was first employed by the Arts Commission? I also request all documents that list her employment and educational background which qualify her to be hired as an Arts Program Assistant code number 3549 including her City and County of San Francisco Job Analysis Questionnaire. I am making this request pursuant to the provisions of the San Francisco Sunshine Ordinance. William J. Clark On March 18, 2011, I sent Mr. Lazar the following email requesting public information and documents: Mr. Lazar, I am requesting the following public information and records from you: What is your job code step number? When were you given the job code number 1842? I also request all records and/or documents that list your employment and educational background which qualify you to be hired as a Management Assistant, code number 1842, including your City and County of San Francisco Job Analysis Questionnaire. I am making this public information and records request pursuant to the provisions of the San Francisco Sunshine Ordinance. William J. Clark On March 30, 2011, I received the following 2 emails from Mr. Lazar: Dear Mr. Clark and Mr. Clark: Please find the enclosed letter in response to your March 18, 2011 request for information and public records on Howard Lazar: (See attached file: Clark Request031811.doc) Please submit a check or money order in the amount of \$ 2.10 to cover the Street Artists Program's cost of photocopying the twenty-one (21) pages of documents furnished for your request. You may claim these copies of documents at the Street Artists Program office tomorrow between 1:00 to 4:00 p.m. (the office will be closed between 8:00 a.m. to 1:00 p.m. due to staff's attendance at a screening of street artist applicants); or you may claim the documents on Friday, between 8:00 a.m. to 12:00 noon or between 1:00 - 4:00 p.m. Sincerely, Howard Lazar Street Artists Program Director San Francisco Arts Commission 415.252.2583 Dear Mr. Clark and Mr. Clark: Please find the enclosed letter in response to your March 17, 2011 request for "information and documents regarding Alyssa Licouris' employment by the Arts Commission as a[n] Arts Program Assistant job code 3549": (See attached file: Clark Request031711.doc) The Arts Commission in Resolution No. 1202-97-427 approved "a copying charge of 10 cents per page for any document requests over ten pages or any request for three or

more documents." The total number of pages of documents we are furnishing you is forty-nine (49) pages. Therefore, please submit a check or money order in the amount of \$4.90 to cover this copying charge. The documents are available for you to claim at the Street Artists Program office today until 4:00 p.m.; tomorrow from 1:00 to 4:00 (the office will be closed in the morning due to staff's attendance at a screening of street artist applicants); or Friday from 8:00 a.m. to 12:00 noon and from 1:00 to 4:00 p.m. Sincerely, Howard Lazar Street Artists Program Director San Francisco Arts Commission 415.252.2583

On April 26, 2011, I went to the Street Artist Program Office and paid \$7 for 70 documents Mr. Lazar claimed were in response to my public information and document request of March 18, 2011. On April 26, 2011, I went to the Street Artist Program office and paid \$7.00 for the documents Mr. Lazar claimed were the documents I requested. Upon examining the documents I discovered that only 3 of the 70 documents contained the information I requested. On both of my public information and document requests I asked Mr. Lazar several questions that required only an oral response and no documents. However, Mr. Lazar sent me many documents which I didn't request. On April 27, 2011, I sent the following email to Mr. Lazar requesting a refund of \$7.00: Mr. Lazar, Yesterday, April 26, 2011, I went to the Street Artist Program Office and paid \$2.10 for 21 documents you claim were in response to my public information and document request of March 18, 2011. In my March 18, 2011 public information and document request, I only requested public information in the form of a simple answer to the following two questions: "What is your job code step number? When were you given the job code number 1842?" I did not request any public documents or records relating to those two questions You provided me with eight documents you claim I requested in regards to my second question which I did not request. I also requested all records and/or documents that list your employment and educational background which qualified you to be hired as a Management Assistant, code number 1842, including your City and County of San Francisco Job Analysis Questionnaire. That public document request was in regards to your employment and educational background prior to you being hired as Management Assistant job code 1842. Only one document out of the remaining thirteen documents which you provided me gave me the information I requested. Therefore, you made me pay for twenty-one documents at 10 cents a copy in order to get one document that contained the information I requested. Since the Arts Commission in Resolution No. 1202-97-427 approved a copying charge of 10 cents per page for any document requests over ten pages or any request for three or more documents and only one of the documents you provided me with contained the information I requested, I am asking for a refund of \$2.10 for my March 18, 2011 public information and document request. In regards to my March 17, 2011 public information and document request regarding Alyssa Licouris, I only requested public information in the form of a simple answer to the following six questions: What is her job code step number? When was she given this job code number? Did she have a different job code number prior to this job code number? If so, what was it? What is her exact gross salary? What is her exact gross benefits? I did not request any public documents or records relating to those six questions. You provided me with forty-seven documents you claim I requested regarding the six questions I asked which I did not request. I also requested all documents that list her employment and educational background which qualify her to be hired as an Arts Program Assistant code number 3549 including her City and County of San Francisco Job Analysis Questionnaire. You provided me with two documents which gave me with the information I requested. Therefore, you made me pay for forty-nine documents at 10 cents a copy in order to get two documents that contained the information I requested. Since the Arts Commission in Resolution No. 1202-97-427 approved a

copying charge of 10 cents per page for any document requests over ten pages or any request for three or more documents and only one of the documents you provided me with contained the information I requested, I am asking for a refund of \$4.90 for my March 17, 2011 public information and document request. In total, I am asking for a refund of \$7.00 which you can send to me in the form of a check written out to William J. Clark and mail it to P.O.Box 882252, S.F., Ca. 94188. If I do not receive a refund from you within ten working days I will file a complaint against you with the Sunshine Ordinance Task Force for over charging me for public documents requested pursuant to the San Francisco Sunshine Ordinance. William J. Clark On May 6, 2011 I received the following email from Mr. Lazar: Dear Mr. Clark: We understand from your letter (below) that you are claiming that the Arts Commission overcharged you for copies of documents the Commission furnished you relative to your March 18, 2011 public documents request, and that you are requesting a refund. Please follow the directions in the attached link for filing a claim with the City: <http://www.sfcityattorney.org/index.aspx?page=3> Sincerely, Howard Lazar Street Artists Program Director San Francisco Arts Commission 415.252.2583 Mr. Lazar didn't inform me of the correct procedure for getting a refund of my money besides filing a claim against the City and County of San Francisco. I had to find out that correct procedure on my own by searching through the S.F. Administrative Code. The correct procedure is SF Administrative Code Chapter 10 ARTICLE VI Section 10.43:REFUND OF ERRONEOUSLY COLLECTED MONEY.

HEARING:Yes

PRE-HEARING:No

DATE:May 17, 2011

NAME:William J. Clark

ADDRESS:P.O. Box 882252

CITY:San Francisco

ZIP:94188

PHONE:415-822-5465

CONTACT_EMAIL:billandbobclark@access4less.net

ANONYMOUS:

CONFIDENTIALITY_REQUESTED:No



SAN FRANCISCO ARTS COMMISSION

EDWIN M. LEE
MAYOR

LUIS R. CANCEL
DIRECTOR OF
CULTURAL AFFAIRS

PROGRAMS

CIVIC ART COLLECTION
CIVIC DESIGN REVIEW
COMMUNITY ARTS
& EDUCATION
CULTURAL EQUITY GRANTS
PERFORMING ARTS
PUBLIC ART
STREET ARTISTS LICENSES

ARTS COMMISSION GALLERY
401 VAN NESS AVENUE
415.554.6080

WWW.SFARTSCOMMISSION.ORG

ARTSCOMMISSION@SFGOV.ORG

June 21, 2011

Honorable Members, Sunshine Ordinance Task Force
Complaint Committee
c/o Chris Rustom, Deputy Administrator
Office of the Clerk, Board of Supervisors
1 Dr. Carlton B. Goodlett Place
City Hall, Room 244
San Francisco, CA 94102-4689

RE: Sunshine Ordinance Task Force - #11037 William Clark v. Arts
Commission

Dear Committee Members:

The San Francisco Arts Commission (the "Commission") is submitting this response to Complaint #11037, William Clark v. Arts Commission, which was received by the Commission on June 16, 2011.

Mr. Clark's complaint that he was overcharged is without merit.

In his complaint, Mr. Clark claims that he was overcharged \$7.00 for copying costs of documents that he asserts were not relevant to two requests for information which he had submitted to the Arts Commission. On March 17 and 18, 2011, Mr. Clark asked for information regarding the employment, qualifications, salary and benefits for Arts Commission employees Alyssa Licouris (Street Artists Program Assistant) and Howard Lazar (Street Artists Program Director). We provided the Arts Commission's documents regarding the employment, qualifications, salary and benefits for the two employees. Accordingly, we complied with the Sunshine Ordinance and provided relevant records.

Specifically, we provided a total of 70 documents for both requests at a total copying charge of \$7.00. That Mr. Clark found some documents more relevant than others does not alter the Arts Commission 10 cents per page copying charge. (Please see the attached our response letters which list the documents furnished.) The Arts Commission should not be penalized for its good faith effort to provide full, comprehensive, document disclosure.



CITY AND COUNTY OF
SAN FRANCISCO

Mr. Clark's complaint that he received the wrong City claim form is without merit.

The head of the City Attorney Claims Division instructed the Arts Commission that the City's claim form is the official appropriate form for this particular type of claim. That is the form that we provided to Mr. Clark. (Please see the attached e-mail to Mr. Clark giving him the link to the City's claim form and instructions.)

Accordingly, his complaint regarding inaccurate or incomplete information is without merit.

Sincerely,

Howard Lazar
Street Artists Program Director

Attachments

Cc: The Honorable P. J. Johnston, President, Arts Commission
The Honorable Greg Chew, Chairman, and Commissioners John
Calloway, Amy Chuang, Sherene Melania, and Jessica Silverman
- Street Artists Committee
Mr. Luis R. Cancel, Director of Cultural Affairs
Mr. Kan Htun, Chief Financial Officer
Ms. Jill Manton, Director of Programs

City Arts



Request for refund on payment for public documents
Howard Lazar to: Bill and Bob Clark

05/06/2011 08:21 AM

Adine.Varah, Avalosstaff, Carmen.Chu, david.campos, David.Chiu,
Eric.L.Mar, Eric.Mar, Gerardo.Sandoval, Jane.Kim, John.avalos,
Cc: luis.cancel, Malia.Cohen, Mark.Farrell, Mayoredwinlee,
Ross.Mirkarimi, Sean.Eisbernd, Luis Cancel, Jill Manton, SanSan
Worg, Ken Hiun, pj, Alyssa Licouris
Bcc: gchew, newjazzflute, amychuang09, sherene.melania, info

From: Howard Lazar/ARTSCOM/SFGOV
To: Bill and Bob Clark <billandbobclark@access4less.net>
Cc: Adine.Varah@sfgov.org, Avalosstaff@sfgov.org, Carmen.Chu@sfgov.org,
david.campos@sfgov.org, David.Chiu@sfgov.org, Eric.L.Mar@sfgov.org, Eric.Mar@sfgov.org,
Gerardo.Sandoval@sfgov.org, Jane.Kim@sfgov.org, john.avalos@sfgov.org,
Bcc: gchew@dae.com, newjazzflute@gmail.com, amychuang09@gmail.com,
sherene.melania@mac.com, info@silverman-gallery.com

Mr. William J. Clark

Dear Mr. Clark:

We understand from your letter (below) that you are claiming that the Arts Commission overcharged you for copies of documents the Commission furnished you relative to your March 18, 2011 public documents request, and that you are requesting a refund.

Please follow the directions in the attached link for filing a claim with the City :

<http://www.sfcityattorney.org/index.aspx?page=3>

Sincerely,

Howard Lazar
Street Artists Program Director
San Francisco Arts Commission
415.252.2583

Website: http://www.sartscommission.org/street_artists_program/index.html

Bill and Bob Clark Mr. Lazar, Yesterday, April 26, 2011, I went to th...

04/27/2011 03:43:31 PM

From: Bill and Bob Clark <billandbobclark@access4less.net>
To: howard.lazar@sfgov.org, Howard.Lazar@sfgov.org
Cc: Adine.Varah@sfgov.org, john.avalos@sfgov.org, Avalosstaff@sfgov.org,
david.campos@sfgov.org, Carmen.Chu@sfgov.org, David.Chiu@sfgov.org, Eric.Mar@sfgov.org,
Eric.L.Mar@sfgov.org, Jane.Kim@sfgov.org, luis.cancel@sfgov.org, Malia.Cohen@sfgov.org,
Mark.Farrell@sfgov.org, Mayoredwinlee@sfgov.org, Gerardo.Sandoval@sfgov.org,
Sean.Eisbernd@sfgov.org, Ross.Mirkarimi@sfgov.org
Date: 04/27/2011 03:43 PM
Subject: Public Document request

Mr. Lazar,

Yesterday, April 26, 2011, I went to the Street Artist Program Office and paid \$2.10 for 21 documents you claim were in response to my public information and

document request of March 18, 2011.

In my March 18, 2011 public information and document request, I only requested public information in the form of a simple answer to the following two questions:

"What is your job code step number?"

When were you given the job code number 1842?"

I did not request any public documents or records relating to those two questions

You provided me with eight documents you claim I requested in regards to my second question which I did not request.

I also requested all records and/or documents that list your employment and educational background which qualified you to be hired as a Management Assistant, code number 1842, including your City and County of San Francisco Job Analysis Questionnaire.

That public document request was in regards to your employment and educational background prior to you being hired as Management Assistant job code 1842.

Only one document out of the remaining thirteen documents which you provided me gave me the information I requested.

Therefore, you made me pay for twenty-one documents at 10 cents a copy in order to get one document that contained the information I requested.

Since the Arts Commission in Resolution No. 1202-97-427 approved a copying charge of 10 cents per page for any document requests over ten pages or any request for three or more documents and only one of the documents you provided me with contained the information I requested, I am asking for a refund of \$2.10 for my March 18, 2011 public information and document request.

In regards to my March 17, 2011 public information and document request regarding Alyssa Licouris, I only requested public information in the form of a simple answer to the following six questions:

What is her job code step number?

When was she given this job code number?

Did she have a different job code number prior to this job code number?

If so, what was it?

What is her exact gross salary?

What is her exact gross benefits?

I did not request any public documents or records relating to those six questions.

You provided me with forty-seven documents you claim I requested regarding the six questions I asked which I did not request.

I also requested all documents that list her employment and educational background which qualify her to be hired as an Arts Program Assistant code number 3549 including her City and County of San Francisco Job Analysis

Questionnaire.

You provided me with two documents which gave me with the information I requested.

Therefore, you made me pay for forty-nine documents at 10 cents a copy in order to get two documents that contained the information I requested.

Since the Arts Commission in Resolution No. 1202-97-427 approved a copying charge of 10 cents per page for any document requests over ten pages or any request for three or more documents and only one of the documents you provided me with contained the information I requested, I am asking for a refund of \$4.90 for my March 17, 2011 public information and document request.

In total, I am asking for a refund of \$7.00 which you can send to me in the form of a check written out to William J. Clark and mail it to P.O.Box 882252, S.F., Ca. 94188.

If I do not receive a refund from you within ten working days I will file a complaint against you with the Sunshine Ordinance Task Force for over charging me for public documents requested pursuant to the San Francisco Sunshine Ordinance.

William J. Clark



SAN FRANCISCO ARTS COMMISSION

City Atty

EDWIN M. LEE
ASSISTANT

March 30, 2011

LUIS R. CANCI
DIRECTOR OF
CULTURAL AFFAIRS

Mr. William J. Clark
Mr. Robert J. Clark
P. O. Box 882252
San Francisco, CA 94188

PROGRAMS

CIVIC ART COLLECTION
CIVIC DESIGN REVIEW
COMMUNITY ARTS
& EDUCATION
CULTURAL EQUITY GRANTS
PERFORMING ARTS
PUBLIC ART
STREET ARTISTS LICENSES

Re: Public Records Request of March 17, 2011

ARTS COMMISSION GALLERY
401 VAN NESS AVENUE
415.554.6080

Dear Mr. William J. Clark and Mr. Robert J. Clark:

WWW.SFARTS.COMMISSION.ORG

We are writing in response to the request for documents you e-mailed to us on March 17, 2011.

ARTS.COMMISSION@SFGOV.ORG

On March 18, 2011, we wrote to you that we were invoking an extension of not more than 14 days from March 17, 2011 to respond to your request pursuant to the California Public Records Act which allows for such 14-day extension due to "the need to search for, collect and appropriately examine a voluminous amount of separate and distinct records which are demanded of a single request" and "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" (Cal. Gov't Code Sec. 6253(c)(2) and (3)). In the same letter, we informed you that the City was invoking the extension on both grounds because of the existence of a voluminous amount of records for Arts Commission staff to search through and examine to determine responsive records, and the need for Arts Commission staff to consult with the City Attorney's Office regarding your request.

In your request you state: *"I am requesting the following information and documents regarding Alyssa Licouris's employment by the Arts Commission as a[n] Arts Program Assistant job code 3549";* and you state the following questions to which we hereby respond with the enclosed copies of the following documents (some of which whose information was redacted for confidential and privacy reasons):



CITY AND COUNTY OF
SAN FRANCISCO

Your question: *"What is her job code step number?"* Our response: It is Step 1. Please see the enclosed copy of "09/28/10 PERSONNEL ACTION

**REQUEST, CITY AND COUNTY OF SAN FRANCISCO
Payroll/Personnel Services Division” for Alyssa Licouris.**

Your question: *“What is her exact gross salary?”* Our response: It is \$23.3875 hourly, \$1,871 bi-weekly, \$48,646 annually. Please see the enclosed copy of “SFGOV San Francisco Department of Human Resources, Classification, Compensation and Collective Bargaining Agreements, 3549 Arts Program Assistant”.

Your question: *“What is her exact gross benefits?”* Our response: Please see the enclosed copies of the following documents:

- 1) A chart which lists our calculations of Ms. Licouris’s benefits paid by the City as \$4,547.90 for the period of 12/11/10 – 3/4/11.
- 2) “NFAMIS LABOR DIST BY ORGANIZATION & INDEX” for pay periods 8/20/10 through 3/4/11.
- 3) “SEIU Local 1021 Article III PAY HOURS AND BENEFITS”, p. 59.

Your question *“When was she given this job code number?”* Our response: August 9, 2010. Please see the enclosed copies of the following documents:

- 1) “CITY AND COUNTY OF SAN FRANCISCO DEPARTMENT OF HUMAN RESOURCES APPOINTMENT PROCESSING” 8/9/10 for Alyssa Licouris.
- 2) “Department of Human Resources Notice to Exempt Employee”.

Your questions: *“Did she have a different job code number prior to this job code number?”* and *“If so, what was it?”* Our response: Yes, she did. Ms. Licouris’s job code number, prior to that of 3549, was 9922 Public Service Aide. Please see the enclosed copies of the following documents:

- 1) “CITY AND COUNTY OF SAN FRANCISCO DEPARTMENT OF HUMAN RESOURCES APPOINTMENT PROCESSING” 6/7/10, for Alyssa Licouris.

2) "CITY AND COUNTY OF SAN FRANCISCO
ACKNOWLEDGEMENT OF RECEIPT OF COPY OF CHARTER
SECTION 8.346" 6/23/10.

3) "OATH OF OFFICE"; and "Department of Human resources
Notice to Exempt Employee".

Your question: *"What was the date when she was first employed by
the Arts Commission?"* Our response: June 7, 2010. Please see the
enclosed copies of the following documents:

1) 06/17/2010 e-mail correspondence between Josephine Racelis
and Diane Zagorites of Department of Human Resources.

2) 06/22/2010 e-mail correspondence between Street Artists
Program Director Howard Lazar and Diane Zagorites.

3) 06/09/2010 e-mail correspondence between Diane Zagorites and
Rebekah Krell of Mayor's Office.

4) 06/09/2010 e-mail correspondence between Rebekah Krell,
Mabel Lew of Controller's Office, and Kan Htun of Arts Commission.

5) 06/02/10 e-mail correspondence between Diane Zagorites,
Rebecca Krell and Mabel Lew.

Your question: *"I also request all documents that list her
employment and educational background which qualify her to be hired as
an Arts Program Assistant code number 3549 including her City and
County of San Francisco Job Analysis Questionnaire."* Our response:
While the Arts Commission does not have a copy of any "Job Analysis
Questionnaire" for Ms. Licouris, please see the enclosed copies of the
following documents which attest to her eminent qualifications:

1) 05/21-24/2010 e-mail correspondence between Arts Commission
Gallery Director Meg Shiffler and Howard Lazar.

2) "Alyssa D. Licouris" resume.

We have redacted the personal address, telephone number, driver's
license, social security, ethnicity, age, and marital status information on

these documents in order to protect the individual's right to privacy under Article 1, Section 1, of the California Constitution.

With respect to personnel records other than those specifically required to be disclosed under section 67.24 (c) of the Sunshine Ordinance, the Public Records Act makes it clear that an agency is not required to disclose "personnel, medical, or other similar files, the disclosure of which would constitute an unwarranted invasion of personal privacy." (Gov't Code Sec. 6254 (c).) An agency may decline to disclose personnel record when the right to privacy outweighs the benefit to the public to the information contained in the records. (*Braun v. City of Taft* (1984) 154 Cal. App. 3d 332, 345-347.)

Some of the records you seek are confidential personnel records protected by the California Constitutional right of privacy. (See, Cal. Const. Art. I, Sec. 1; *Hill v. National Collegiate Athletic Assn.*, (1994) 7 Cal. 4th 1, 35 (identifying privacy interest in precluding dissemination of sensitive, confidential information); *Teamsters Local 856 v. Priceless, LLC*, (2003) 112 Cal. App. 4th 1500, 1512 (public employees have a right to privacy in their personnel files).) These records are also personal records the disclosure of which would constitute an unwarranted invasion of personal privacy under state law. Therefore, the Arts Commission declines to produce these records pursuant to your public records request. (See California Government Code Sec. 6254(c) (protecting "[p]ersonal, medical or similar files, the disclosure of which would constitute an unwarranted invasion of personal privacy"), and Sec. 6254(k) (protecting records which are "exempted or prohibited pursuant to provisions of federal or state law" from disclosure); see also S. F. Admin. Sec. 67.1(g).)

The Arts Commission in Resolution No. 1202-97-427 approved "a copying charge of 10 cents per page for any document requests over ten pages or any request for three or more documents." The total number of pages of documents we are furnishing is forty-nine (49) pages. Therefore, **please submit a check or money order in the amount of \$ 4.90 to cover this copying charge.**

Sincerely,

Howard Lazar
Street Artists Program Director

Enclosures

**Cc: Arts Commissioners Greg Chew, John Calloway, Amy Chuang,
Sherene Melania, Jessica Silverman – Street Artists Program
Committee**

Arts Commissioner P. J. Johnston, President

Director of Cultural Affairs Luis R. Cancel

Director of Programs Jill Manton

Chief Financial Officer Kan Htun

Director of Grants San San Wong

Arts Program Assistant Alyssa Licouris

Deputy City Attorney Adine K. Varah



SAN FRANCISCO ARTS COMMISSION

City Atty

EDWIN M. LEE
MANAGER

LUIS R. CANCEL
DIRECTOR OF
CULTURAL AFFAIRS

PROGRAMS

- CIVIC ART COLLECTION
- CIVIC DESIGN REVIEW
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- CULTURAL EQUITY GRANTS
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ARTS COMMISSION GALLERY
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WWW.SFARTSCOMMISSION.ORG

ARTSCOMMISSION@SFGOV.ORG

March 30, 2011

Mr. William J. Clark
Mr. Robert J. Clark
P. O. Box 882252
San Francisco, CA 94188

Re: Public Records Request of March 18, 2011

Dear Mr. William J. Clark and Mr. Robert J. Clark:

We are writing in response to the request for documents you e-mailed to us on March 18, 2011.

On March 18, 2011, we wrote to you that we were invoking an extension of not more than 14 days from March 18, 2011 to respond to your request pursuant to the California Public Records Act which allows for such 14-day extension due to "the need to search for, collect and appropriately examine a voluminous amount of separate and distinct records which are demanded of a single request" and "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" (Cal. Gov't Code Sec. 6253(c)(2) and (3)). In the same letter, we informed you that the City was invoking the extension on both grounds because of the existence of a voluminous amount of records for Arts Commission staff to search through and examine to determine responsive records, and the need for Arts Commission staff to consult with the City Attorney's Office regarding your request.

In your request which is directed specifically to Street Artists Program Director Howard Lazar you state: *"I am requesting the following public information and records from you"*; and you state the following questions to which we hereby respond with the enclosed copies of the following documents (some of which whose information was redacted for confidential and privacy reasons):

Your question: *"What is your [Howard Lazar] job code step number?"* Our response: It is Step 5.



CITY AND COUNTY OF
SAN FRANCISCO

Your question: *"When were you given the job code number 1842?"*
Our response: It was August 22, 1979. Please see the enclosed copies of the following documents of the San Francisco Civil Service Commission:

- 1) "City and County of San Francisco Civil Service Commission REQUEST FOR CERTIFICATION TO TEMPORARY POSITION", August 20, 1979.
- 2) "REQUEST FOR CERTIFICATION TO TEMPORARY POSITION", June 30, 1980.
- 3) "NOTICE OF NON-CIVIL SERVICE OR LIMITED TENURE APPOINTMENT", March 3, 1982.
- 4) May 12, 1983 letter by General Manager, Personnel, John J. Walsh to Art Commission Director Joan Ellison.
- 5) "REQUEST FOR CERTIFICATION TO TEMPORARY POSITION", June 30, 1983.
- 6) "STATEMENT JUSTIFYING A TEMPORARY PERSONNEL REQUISITION", June 30, 1983.
- 7) "NOTICE OF NON-CIVIL SERVICE OR LIMITED TENURE APPOINTMENT", December 31, 1986.
- 8) "APPOINTMENT PROCESSING", July 30, 1987.

Your question/statement: *"I also request all records and/or documents that list your employment and educational background which qualify you to be hired as a Management Assistant, code number 1842, including your City and County of San Francisco Job Analysis Questionnaire."* Our response: While the Arts Commission does not have a copy of any "Job Analysis Questionnaire" for Mr. Lazar, please see the enclosed copy of the following document which attests to his employment and educational background:

- 1) 1986 resume of Howard Lazar.

In addition, we have enclosed the following official government commendations and honors regarding Howard Lazar:

1) "Certificate of Appreciation presented to HOWARD LAZAR" by Art Agnos, Mayor, and accompanying October 31, 1988 letter by Mayor Agnos to Howard Lazar.

2) "BOARD OF SUPERVISORS Commendation - Howard Lazar", November 7, 1988.

3) "Proclamation - Street Artists Day in San Francisco" by Art Agnos, Mayor, November 1, 1991.

4) "Proclamation - HOWARD LAZAR DAY IN San Francisco" by Willie Lewis Brown, Jr., Mayor, September 20, 1997.

5) "BOARD OF SUPERVISORS" declaring September 20, 1997 as "Street Artists Day".

6) "BOARD OF SUPERVISORS Certificate of Honor - Howard Lazar, Director, Street Artists Program", September 20, 1997.

7) "Public Managerial Excellence Award CERTIFICATE OF MERIT presented to Howard Lazar" by Willie Brown, Jr., Mayor, and the Municipal Fiscal Advisory Committee to the Mayor, October 21, 1998.

8) "MFAC Municipal Fiscal Advisory Committee CERTIFICATE OF MERIT presented to Howard Lazar" by Gavin Newsom, Mayor, February 22, 2010.

We have redacted the personal address, telephone, driver's license, social security, ethnicity, age, and marital status information on these documents in order to protect the individual's right to privacy under Article 1, Section 1, of the California Constitution.

With respect to personnel records other than those specifically required to be disclosed under 67.24(c) of the Sunshine Ordinance, the Public Records Act makes clear that an agency is not required to disclose "personal, medical, or other similar files, the disclosure of which would constitute an unwarranted invasion of personal privacy." (Gov't Code Sec. 6254(c).) An agency may decline to disclose personnel record when the right to privacy outweighs the benefit to the public to the information contained in the records. (*Braun v. City of Taft* (1984) 154 Cal App. 3d 332, 345-347.).

Some of the records you seek are confidential personnel records protected by the California Constitutional right of privacy. (See, Cal. Const. Art.I Sec.1; *Hill v. National Collegiate Athletic Assn.*, (1994) 7 Cal. 4th 1, 35 (identifying privacy interest in precluding dissemination of sensitive, confidential information); *Teamsters Local 856 v. Priceless, LLC*, (2003) 112 Cal. App. 4th 1500, 1512 (public employees have a right to privacy in their personnel files).) These records are also personal records the disclosure of which would constitute an unwarranted invasion of personal privacy under state law. Therefore, the Arts Commission declines to produce these records pursuant to your public records request. (See California Government Code Sec. 6254(c) (protecting “[p]ersonnel, medical or similar files, the disclosure of which would constitute an unwarranted invasion of personal privacy”), and Sec. 6254(k) (protecting records which are “exempted or prohibited pursuant to provisions of federal or state Law” from disclosure); see also S.F. Admin. Sec. 67.1(g).)

The Arts Commission in Resolution No. 1202-97-427 approved “a copying charge of 10 cents per page for any document requests over ten pages or any request for three or more documents.” The total number of pages of documents we are furnishing is twenty-one (21) pages. Therefore, **please submit a check or money order in the amount of \$ 2.10** to cover this copying charge.

Sincerely,

Howard Lazar
Street Artists Program Director

Enclosures

Cc: Arts Commissioners Greg Chew, John Calloway, Amy Chuang,
Sherene Melania, Jessica Silverman – Street Artists Program
Committee

Arts Commissioner P. J. Johnston, President
Director of Cultural Affairs Luis R. Cancel
Director of Programs Jill Manton
Chief Financial Officer Kan Htun
Director of Grants San San Wong
Deputy City Attorney Adine K. Varah