

Date: July 26, 2011

Item No. 10

File No. 11043

SUNSHINE ORDINANCE TASK FORCE

AGENDA PACKET CONTENTS LIST*

- Alicia Gamez against the Department of Public Health**
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Completed by: Chris Rustom

Date: July 21, 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.



DENNIS J. HERRERA
City Attorney

JERRY THREET
Deputy City Attorney

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MEMORANDUM

TO: Sunshine Task Force
FROM: Jerry Threet
Deputy City Attorney
DATE: June 22, 2011
RE: *Complaint No. 11043, Alicia Gamez v. Department of Public Health*

COMPLAINT

THE COMPLAINANT ALLEGES THE FOLLOWING:

Alicia Gamez ("Complainant") alleges that, on multiple occasions between October 2010 and May 31, 2011, the Department of Public Health ("DPH") violated public records laws by failing to adequately respond to her requests for public documents. In addition, she alleges that DPH failed to follow public meetings laws for multiple meetings of the Noise Ordinance Task Force ("NOTF") from November, 2008 to present.

COMPLAINANT FILES COMPLAINT:

On May 31, 2011, Complainant filed this complaint against DPH, without specifying which specific provision(s) of the public meetings and public records laws were violated.

JURISDICTION

NOTF is a body created by DPH, as directed by section 2918 of the San Francisco Police Code. Section 67.3(d)(4) defines a "policy body" to include a "body [] created by the initiative of a policy body". Section 67.3(d)(3) defines a "policy body" to include a "body created by ordinance or resolution of the Board of Supervisors." Section 67.3(d)(6) defines a "policy body" to include an advisory committee consisting solely of employees of the City if it was established by ordinance. Because this advisory body was established pursuant to Police Code section 2918, it appears to be a policy body under the Ordinance. The Task Force therefore appears to have jurisdiction to adjudicate this complaint. DPH did not contest jurisdiction.

APPLICABLE STATUTORY SECTION(S):

Section 67 of the San Francisco Administrative Code:

- Section 67.6 governs the time and place for meetings of policy bodies
- Section 67.7 governs agenda requirements for regular meetings
- Section 67.7-1 governs public notice requirements for meetings
- Section 67.15 governs public testimony at meetings
- Section 67.16 governs minutes of meetings
- Section 67.21 governs the process for gaining access to public records.
- Section 67.22 governs the release of oral public information.
- Section 67.25 governs the immediacy of response.
- Section 67.26 governs the withholding of records.
- Section 67.27 governs written justifications for withholding of records

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Section 6250 et seq. of Cal. Gov't Code (PRA)

- Section 6253 governs time limits for responding to public records requests.

Section 54950 et seq. of the Cal. Gov't Code (BROWN ACT)

- Section 54953 governs the requirement that meetings be open and public.
- Section 54954 governs the time and place of regular meetings.
- Section 54954.2 governs posting of agendas.
- Section 54954.3 governs public testimony

ISSUES TO BE DETERMINED**Public Records/Public Information Complaint**

Complainant alleges that, on multiple occasions between October 2010 and May 31, 2011, DPH failed to adequately respond to her requests for public records. In support of these allegations, Complainant has offered a series of emails between herself and DPH staff that begin on April 19, 2011. She offers no evidence of any requests for public records prior to that time. Rather than a request for public records, the April 19, 2011 email from Complainant to Rajiv Bhatia and other DPH staff includes these questions, quoted below:

- Could you please let me know what your interpretation of the noise ordinance is?
- Could Mr. Rivard and Dr. Bhatia, please provide the origin or basis for finding a "mixed use" standard?
- But I would love to hear your and the department's basis for finding a "mixed use" category that gets the higher standard. Please do explain.
- Please explain your interpretation that allows the ambient to include other separate identifiable noise sources.
- In going over these prior emails, I noted that the Grub signed an agreement to take certain actions and to do so with proper permits. [] Can you please explain why the department has not enforced this agreement with Grub?
- Can you please confirm that my understanding of the Department's interpretation is correct?
- If my understanding of the Department's practice is not correct, could you please help me understand the Department's methods for measuring sound?
- Once you have explained the method and standards that the Department follows, could you please explain how the Department's practices observe (or enforce) the law?
- Finally, Can you please explain why the Department has not enforced the written agreement it received from Grub?

It appears that, in his April 21, 2011 email response to Complainant. Mr. Bhatia did not address most of all of these inquiries. On April 21, 2011, Complainant again wrote DPH by email, requesting no public records, but asking these questions, quoted below:

- explain your methods for arriving at the ambient level and how you treat separate identifiable sources of noise,

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- explain your methods for arriving at the noise level and how [] you ensure that the noise tested is the noise causing the problems,
- explain how the methods applied conform to the code,
- explain your basis for applying the commercial standard to a property that the noise ordinance defines as residential,
- explain why the department has not enforced the agreement it required for Grub to open.

On May 2, 2011, Complainant again wrote DPH by email, requesting no public records, but stating that she still awaited answer to her previous questions and asking the following additional question: "Can you please respond as to each part of your department's procedures and how they relate to or depart from the Noise Ordinance? For example, you acknowledge that you disregard the Noise Ordinance's definition of residential property; please explain on what authority you." That same day, Mr. Bhatia responded by email to Complainant, providing written answers to some of her questions, as quoted below:

- We have consulted with the Office of the city attorney and have confirmed that our approach is abiding by the terms of the noise ordinance.
- Question 1/2: Staff use the noise measurement methods as specified in the ordinance. The ordinance is clear about these methods.
- Question 3: Grub has met the performance standards specified by the ordinance with a viable and acceptable set of methods. The Department is not proscriptive with regards to the methods, only the performance standards.

On May 2, 2011, Complainant again wrote DPH by email, this time directly requesting public records and alleging that she had previously done so. She also stated that DPH had failed to answer any of her previous question, and asked additional questions. Complainant repeatedly asked in this email for DPH's protocols that justified its approach in enforcing the "Noise Ordinance," which approach Complainant opined was contrary to the plain language of that ordinance. In addition, Complainant requested the following: "Please do send me the permit number for that work that your Department has supervised." On May 4, 2011, Mr. Bhatia responded to this email with this statement: "Your comments are noted. I will have no further responses."

Finally, Complainant filed an additional statement in support of her complaint on June 22, 2011, in which she stated "Evidence of these continuing violations is [DPH's] production on June 20, 2011, of a document titled 'Restaurant Noise Procedures'. This document should have been produced when requested in May 2011, even if only in draft form." It is unclear from Complainant's allegations which requests she alleges DPH still had provided no responses to at the time she filed her complaint, on May 31, 2011, or which requests she alleges remain unanswered at this time.

In its June 21, 2011 response to the complaint, DPH states that Complainant's earlier communications to DPH consisted of her statement of disagreement with DPH's interpretation of the Noise Ordinance and that it was only in later communications that Complainant actually requested that DPH "explain our interpretation of the law and provide a 'guidance document' or equivalent document to justify our noise measurement procedures." DPH further notes that its response "response has consistently been that the ordinance itself provides adequate specificity

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regarding the measurement of noise by noise professionals and no additional Department document (or other media) specifying the methods or procedures for noise measurement exists. Furthermore, these documents never have existed." It is unclear how DPH responds to Complainant's allegation that it produced a responsive document on June 21, 2011.

Public Meeting Complaints

In addition, Complainant alleges that DPH failed to follow public meetings laws for multiple meetings of the NOTF from November, 2008 to present. No further evidence of these alleged violations is provided by Complainant, although she further describes the alleged violation in her June 22, 2011 statement as "having stifled public comment for more than 2 years."

In its June 21, 2011 response, DPH conceded that it had failed to provide the public notice of these meetings required by law, as it had erroneously believed they were not subject to public meetings requirements. DPH further alleges that it "did post the agenda and minutes on the DPH website [and] never denied public access and members of the general public have attended meetings." It is unclear from this response whether members of the public were afforded an opportunity to provide public testimony, whether meeting agenda's complied with legal requirements for a public meeting, or whether the meetings otherwise conformed to the requirements of law for meetings of a policy body.

QUESTIONS THAT MIGHT ASSIST IN DETERMINING FACTS:

- When did Complainant first request public information in documentary form?
- Did DPH have any documents responsive to Complainant's public records/information requests?
- If so, when were such responsive documents first provided?
- How long would it have taken DPH to respond to Complainant's public information requests for which no documents were responsive?
- Did DPH respond to Complainant's public information requests for which no documents were responsive?
- Did DPH allow public comment on agenda items during meetings of the NOTF?
- How were these meetings conducted?

LEGAL ISSUES/LEGAL DETERMINATIONS:

- Did DPH's responses to Complainant's email inquiries comply with the requirements of Ordinance with regard to providing public records?
- Did DPH's responses to Complainant's email inquiries comply with legal requirements regarding providing public information in a non-documentary form?
- Did the meetings of the NOTF comply with the requirements of the Ordinance for meetings of a policy body?
- Has the Commission complied with the requirements of the Ordinance, the PRA and the Brown Act?

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CONCLUSION

THE TASK FORCE FINDS THE FOLLOWING FACTS TO BE TRUE:

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

CHAPTER 67, SAN FRANCISCO ADMINISTRATIVE CODE (SUNSHINE ORDINANCE)**SEC. 67.7. AGENDA REQUIREMENTS; REGULAR MEETINGS.**

- (a) At least 72 hours before a regular meeting, a policy body shall post an agenda containing a meaningful description of each item of business to be transacted or discussed at the meeting. Agendas shall specify for each item of business the proposed action or a statement the item is for discussion only. In addition, a policy body shall post a current agenda on its Internet site at least 72 hours before a regular meeting.
- (b) A description is meaningful if it is sufficiently clear and specific to alert a person of average intelligence and education whose interests are affected by the item that he or she may have reason to attend the meeting or seek more information on the item. The description should be brief, concise and written in plain, easily understood English. It shall refer to any explanatory documents that have been provided to the policy body in connection with an agenda item, such as correspondence or reports, and such documents shall be posted adjacent to the agenda or, if such documents are of more than one page in length, made available for public inspection and copying at a location indicated on the agenda during normal office hours.
- (c) The agenda shall specify the time and location of the regular meeting and shall be posted in a location that is freely accessible to members of the public.
- (d) No action or discussion shall be undertaken on any item not appearing on the posted agenda, except that members of a policy body may respond to statements made or questions posed by persons exercising their public testimony rights, to the extent of asking a question for clarification, providing a reference to staff or other resources for factual information, or requesting staff to report back to the body at a subsequent meeting concerning the matter raised by such testimony.
- (e) Notwithstanding subdivision (d), the policy body may take action on items of business not appearing on the posted agenda under any of the following conditions:
- (1) Upon a determination by a majority vote of the body that an accident, natural disaster or work force disruption poses a threat to public health and safety.
 - (2) Upon a good faith, reasonable determination by a two-thirds vote of the body, or, if less than two-thirds of the members are present, a unanimous vote of those members present, that (A) the

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need to take immediate action on the item is so imperative as to threaten serious injury to the public interest if action were deferred to a subsequent special or regular meeting, or relates to a purely commendatory action, and (B) that the need for such action came to the attention of the body subsequent to the agenda being posted as specified in subdivision (a).

(3) The item was on an agenda posted pursuant to subdivision (a) for a prior meeting of the body occurring not more than five calendar days prior to the date action is taken on the item, and at the prior meeting the item was continued to the meeting at which action is being taken.

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

(a) Every person having custody of any public record or public information, as defined herein, (hereinafter referred to as a custodian of a public record) shall, at normal times and during normal and reasonable hours of operation, without unreasonable delay, and without requiring an appointment, permit the public record, or any segregable portion of a record, to be inspected and examined by any person and shall furnish one copy thereof upon payment of a reasonable copying charge, not to exceed the lesser of the actual cost or ten cents per page.

(b) A *custodian of a public record* shall, as soon as possible and within ten days following receipt of a request for inspection or copy of a public record, comply with such request. Such request may be delivered to the office of the custodian by the requester orally or in writing by fax, postal delivery, or e-mail. If the custodian believes the record or information requested is not a public record or is exempt, the custodian shall justify withholding any record by demonstrating, in writing as soon as possible and within ten days following receipt of a request, that the record in question is exempt under express provisions of this ordinance.

(c) A *custodian of a public record* shall assist a requester in identifying the existence, form, and nature of any records or information maintained by, available to, or in the custody of the custodian, whether or not the contents of those records are exempt from disclosure and shall, when requested to do so, provide in writing within seven days following receipt of a request, a statement as to the existence, quantity, form and nature of records relating to a particular subject or questions with enough specificity to enable a requester to identify records in order to make a request under (b). A custodian of any public record, when not in possession of the record requested, shall assist a requester in directing a request to the proper office or staff person.

(d) If the custodian refuses, fails to comply, or incompletely complies with a request described in (b), the person making the request may petition the *supervisor of records* for a determination whether the record requested is public. The supervisor of records shall inform the petitioner, as soon as possible and within 10 days, of its determination whether the record requested, or any part of the record requested, is public. Where requested by the petitioner, and where otherwise desirable, this determination shall be in writing. Upon the determination by the supervisor of records that the record is public, the supervisor of records shall immediately order the custodian of the public record to comply with the person's request. If the custodian refuses or fails to comply with any such order within 5 days, the supervisor of records shall notify the district attorney or the attorney general who shall take whatever measures she or he deems necessary and appropriate to insure compliance with the provisions of this ordinance.

(e) If the custodian refuses, fails to comply, or incompletely complies with a request described in (b) above or if a petition is denied or not acted on by the supervisor of public records, the person making the request may petition the Sunshine Task Force for a determination whether the record requested is public. The Sunshine Task Force shall inform the petitioner, as soon as possible and

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within 2 days after its next meeting but in no case later than 45 days from when a petition in writing is received, of its determination whether the record requested, or any part of the record requested, is public. Where requested by the petition, and where otherwise desirable, this determination shall be in writing. Upon the determination that the record is public, the Sunshine Task Force shall immediately order the custodian of the public record to comply with the person's request. If the custodian refuses or fails to comply with any such order within 5 days, the Sunshine Task Force shall notify the district attorney or the attorney general who may take whatever measures she or he deems necessary to insure compliance with the provisions of this ordinance. The Board of Supervisors and the City Attorney's office shall provide sufficient staff and resources to allow the Sunshine Task Force to fulfill its duties under this provision. Where requested by the petition, the Sunshine Task Force may conduct a public hearing concerning the records request denial. An authorized representative of the custodian of the public records requested shall attend any hearing and explain the basis for its decision to withhold the records requested.

(f) The administrative remedy provided under this article shall in no way limit the availability of other administrative remedies provided to any person with respect to any officer or employee of any agency, executive office, department or board; nor shall the administrative remedy provided by this section in any way limit the availability of judicial remedies otherwise available to any person requesting a public record. If a custodian of a public record refuses or fails to comply with the request of any person for inspection or copy of a public record or with an administrative order under this section, the *superior court* shall have jurisdiction to order compliance.

(g) In any court proceeding pursuant to this article there shall be a presumption that the record sought is public, and the burden shall be upon the custodian to prove with specificity the exemption which applies.

(h) On at least an annual basis, and as otherwise requested by the Sunshine Ordinance Task Force, the supervisor of public records shall prepare a tally and report of every petition brought before it for access to records since the time of its last tally and report. The report shall at least identify for each petition the record or records sought, the custodian of those records, the ruling of the supervisor of public records, whether any ruling was overturned by a court and whether orders given to custodians of public records were followed. The report shall also summarize any court actions during that period regarding petitions the Supervisor has decided. At the request of the Sunshine Ordinance Task Force, the report shall also include copies of all rulings made by the supervisor of public records and all opinions issued.

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

(j) Notwithstanding the provisions of this section, the City Attorney may defend the City or a City Employee in litigation under this ordinance that is actually filed in court to any extent required by the City Charter or California Law.

(k) Release of documentary public information, whether for inspection of the original or by providing a copy, shall be governed by the California Public Records Act (Government Code

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Section 6250 et seq.) in particulars not addressed by this ordinance and in accordance with the enhanced disclosure requirements provided in this ordinance.

(l) Inspection and copying of documentary public information stored in electronic form shall be made available to the person requesting the information in any form requested which is available to or easily generated by the department, its officers or employees, including disk, tape, printout or monitor at a charge no greater than the cost of the media on which it is duplicated. Inspection of documentary public information on a computer monitor need not be allowed where the information sought is necessarily and inseparably intertwined with information not subject to disclosure under this ordinance. Nothing in this section shall require a department to program or reprogram a computer to respond to a request for information or to release information where the release of that information would violate a licensing agreement or copyright law.

SEC. 67.22. RELEASE OF ORAL PUBLIC INFORMATION.

Release of oral public information shall be accomplished as follows:

(a) Every department head shall designate a person or persons knowledgeable about the affairs of the department, to provide information, including oral information, to the public about the department's operations, plans, policies and positions. The department head may designate himself or herself for this assignment, but in any event shall arrange that an alternate be available for this function during the absence of the person assigned primary responsibility. If a department has multiple bureaus or divisions, the department may designate a person or persons for each bureau or division to provide this information.

(b) The role of the person or persons so designated shall be to provide information on as timely and responsive a basis as possible to those members of the public who are not requesting information from a specific person. This section shall not be interpreted to curtail existing informal contacts between employees and members of the public when these contacts are occasional, acceptable to the employee and the department, not disruptive of his or her operational duties and confined to accurate information not confidential by law.

(c) No employee shall be required to respond to an inquiry or inquiries from an individual if it would take the employee more than fifteen minutes to obtain the information responsive to the inquiry or inquiries.

(d) Public employees shall not be discouraged from or disciplined for the expression of their personal opinions on any matter of public concern while not on duty, so long as the opinion (1) is not represented as that of the department and does not misrepresent the department position; and (2) does not disrupt coworker relations, impair discipline or control by superiors, erode a close working relationship premised on personal loyalty and confidentiality, interfere with the employee's performance of his or her duties or obstruct the routine operation of the office in a manner that outweighs the employee's interests in expressing that opinion. In adopting this subdivision, the Board of Supervisors intends merely to restate and affirm court decisions recognizing the First Amendment rights enjoyed by public employees. Nothing in this section shall be construed to provide rights to City employees beyond those recognized by courts, now or in the future, under the First Amendment, or to create any new private cause of action or defense to disciplinary action.

(e) Notwithstanding any other provisions of this ordinance, public employees shall not be discouraged from or disciplined for disclosing any information that is public information or a public record to any journalist or any member of the public. Any public employee who is

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disciplined for disclosing public information or a public record shall have a cause of action against the City and the supervisor imposing the discipline.

SEC. 67.25. IMMEDIACY OF RESPONSE.

(a) Notwithstanding the 10-day period for response to a request permitted in Government Code Section 6256 and in this Article, a written request for information described in any category of non-exempt public information shall be satisfied no later than the close of business on the day following the day of the request. This deadline shall apply only if the words "Immediate Disclosure Request" are placed across the top of the request and on the envelope, subject line, or cover sheet in which the request is transmitted. Maximum deadlines provided in this article are appropriate for more extensive or demanding requests, but shall not be used to delay fulfilling a simple, routine or otherwise readily answerable request.

(b) If the voluminous nature of the information requested, its location in a remote storage facility or the need to consult with another interested department warrants an extension of 10 days as provided in Government Code Section 6456.1, the requester shall be notified as required by the close of business on the business day following the request.

(c) The person seeking the information need not state his or her reason for making the request or the use to which the information will be put, and requesters shall not be routinely asked to make such a disclosure. Where a record being requested contains information most of which is exempt from disclosure under the California Public Records Act and this article, however, the City Attorney or custodian of the record may inform the requester of the nature and extent of the non-exempt information and inquire as to the requester's purpose for seeking it, in order to suggest alternative sources for the information which may involve less redaction or to otherwise prepare a response to the request.

(d) Notwithstanding any provisions of California Law or this ordinance, in response to a request for information describing any category of non-exempt public information, when so requested, the City and County shall produce any and all responsive public records as soon as reasonably possible on an incremental or "rolling" basis such that responsive records are produced as soon as possible by the end of the same business day that they are reviewed and collected. This section is intended to prohibit the withholding of public records that are responsive to a records request until all potentially responsive documents have been reviewed and collected. Failure to comply with this provision is a violation of this article.

SEC. 67.26. WITHHOLDING KEPT TO A MINIMUM.

No record shall be withheld from disclosure in its entirety unless all information contained in it is exempt from disclosure under express provisions of the California Public Records Act or of some other statute. Information that is exempt from disclosure shall be masked, deleted or otherwise segregated in order that the nonexempt portion of a requested record may be released, and keyed by footnote or other clear reference to the appropriate justification for withholding required by section 67.27 of this article. This work shall be done personally by the attorney or other staff member conducting the exemption review. The work of responding to a public-records request and preparing documents for disclosure shall be considered part of the regular work duties of any city employee, and no fee shall be charged to the requester to cover the personnel costs of responding to a records request.

SEC. 67.27. JUSTIFICATION OF WITHHOLDING.

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Any withholding of information shall be justified, in writing, as follows:

(a) A withholding under a specific permissive exemption in the California Public Records Act, or elsewhere, which permissive exemption is not forbidden to be asserted by this ordinance, shall cite that authority.

(b) A withholding on the basis that disclosure is prohibited by law shall cite the specific statutory authority in the Public Records Act or elsewhere.

(c) A withholding on the basis that disclosure would incur civil or criminal liability shall cite any specific statutory or case law, or any other public agency's litigation experience, supporting that position.

(d) When a record being requested contains information, most of which is exempt from disclosure under the California Public Records Act and this Article, the custodian shall inform the requester of the nature and extent of the nonexempt information and suggest alternative sources for the information requested, if available.

CAL. PUBLIC RECORDS ACT (GOVT. CODE §§ 6250, ET SEQ.)**SECTION 6253**

(a) Public records are open to inspection at all times during the office hours of the state or local agency and every person has a right to inspect any public record, except as hereafter provided. Any reasonably segregable portion of a record shall be available for inspection by any person requesting the record after deletion of the portions that are exempted by law.

(b) Except with respect to public records exempt from disclosure by express provisions of law, each state or local agency, upon a request for a copy of records that reasonably describes an identifiable record or records, shall make the records promptly available to any person upon payment of fees covering direct costs of duplication, or a statutory fee if applicable. Upon request, an exact copy shall be provided unless impracticable to do so.

(c) Each agency, upon a request for a copy of records, shall, within 10 days from receipt of the request, determine whether the request, in whole or in part, seeks copies of disclosable public records in the possession of the agency and shall promptly notify the person making the request of the determination and the reasons therefor. In unusual circumstances, the time limit prescribed in this section may be extended by written notice by the head of the agency or his or her designee to the person making the request, setting forth the reasons for the extension and the date on which a determination is expected to be dispatched. No notice shall specify a date that would result in an extension for more than 14 days. When the agency dispatches the determination, and if the agency determines that the request seeks disclosable public records, the agency shall state the estimated date and time when the records will be made available. As used in this section, "unusual circumstances" means the following, but only to the extent reasonably necessary to the proper processing of the particular request:

(1) The need to search for and collect the requested records from field facilities or other establishments that are separate from the office processing the request.

(2) The need to search for, collect, and appropriately examine a voluminous amount of separate and distinct records that are demanded in a single request.

(3) The need for consultation, which shall be conducted with all practicable speed, with another agency having substantial interest in the determination of the request or among two or more components of the agency having substantial subject matter interest therein.

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(4) The need to compile data, to write programming language or a computer program, or to construct a computer report to extract data.

BROWN ACT (GOVT. CODE §§ 54950, ET SEQ.)**SECTION 54954.2. AGENDA; POSTING; ACTION ON OTHER MATTERS**

(a) At least 72 hours before a regular meeting, the legislative body of the local agency, or its designee, shall post an agenda containing a brief general description of each item of business to be transacted or discussed at the meeting, including items to be discussed in closed session. A brief general description of an item generally need not exceed 20 words. The agenda shall specify the time and location of the regular meeting and shall be posted in a location that is freely accessible to members of the public. If requested, the agenda shall be made available in appropriate alternative formats to persons with a disability, as required by Section 202 of the Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12132), and the federal rules and regulations adopted in implementation thereof. The agenda shall include information regarding how, to whom, and when a request for disability-related modification or accommodation, including auxiliary aids or services may be made by a person with a disability who requires a modification or accommodation in order to participate in the public meeting.

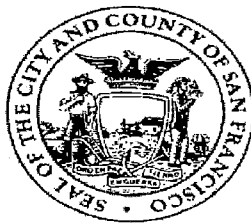
No action or discussion shall be undertaken on any item not appearing on the posted agenda, except that members of a legislative body or its staff may briefly respond to statements made or questions posed by persons exercising their public testimony rights under Section 54954.3. In addition, on their own initiative or in response to questions posed by the public, a member of a legislative body or its staff may ask a question for clarification, make a brief announcement, or make a brief report on his or her own activities. Furthermore, a member of a legislative body, or the body itself, subject to rules or procedures of the legislative body, may provide a reference to staff or other resources for factual information, request staff to report back to the body at a subsequent meeting concerning any matter, or take action to direct staff to place a matter of business on a future agenda.

(b) Notwithstanding subdivision (a), the legislative body may take action on items of business not appearing on the posted agenda under any of the conditions stated below. Prior to discussing any item pursuant to this subdivision, the legislative body shall publicly identify the item.

(1) Upon a determination by a majority vote of the legislative body that an emergency situation exists, as defined in Section 54956.5.

(2) Upon a determination by a two-thirds vote of the members of the legislative body present at the meeting, or, if less than two-thirds of the members are present, a unanimous vote of those members present, that there is a need to take immediate action and that the need for action came to the attention of the local agency subsequent to the agenda being posted as specified in subdivision (a).

(3) The item was posted pursuant to subdivision (a) for a prior meeting of the legislative body occurring not more than five calendar days prior to the date action is taken on the item, and at the prior meeting the item was continued to the meeting at which action is being taken.



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 Department of Public Health -Environmental Health

Name of individual contacted at Department or Commission Rajiv Bhatia; Tom Rivard

Alleged violation public records access 11/20/08; 2/19/09; 5/21/09; 10/21/09;
Alleged violation of public meeting. Date of meeting 2/18/10; 7/15/10

Sunshine Ordinance Section (If known, please cite specific provision(s) being violated)

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

see attached

Do you want a public hearing before the Sunshine Ordinance Task Force? [X] yes [] no
Do you also want a pre-hearing conference before the Complaint Committee? [X] yes [] no

(Optional)1

Name Alicia Gamez Address Lapidge Street, SF CA 94110

Telephone No. 415- E-Mail Address @yahoo.com

Date 5/31/2011 /Alicia Gamez/ Signature

I request confidentiality of my personal information. [X] yes [] 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).

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Support Documents Replacement Form

The document(s) this form replaces exceeds 75 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.

File #11043 **Alicia Gamez vs. Public Health**

FROM: **Alicia Gamez & Public Health**

 Supporting documents

This list reflects the explanatory documents provided.

Completed by: Chris Rustom

Date: June 24, 2011