

Date: August 24, 2010

Item No. 19+20  
File No. 10037

## SUNSHINE ORDINANCE TASK FORCE

### AGENDA PACKET CONTENTS LIST\*

- Suzanne Dumont v Department of Recreation and Park**
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Completed by: Chris Rustom

Date: August 19, 2010

**\*This list reflects the explanatory documents provided**

~ Late Agenda Items (documents received too late for distribution to the Task Force Members)

\*\* The document this form replaces exceeds 25 pages and will therefore not be copied for the packet. The original document is in the file kept by the Administrator, and may be viewed in its entirety by the Task Force, or any member of the public upon request at City Hall, Room 244.



DENNIS J. HERRERA  
City Attorney

JANA CLARK  
Deputy City Attorney

Direct Dial: (415) 554-3968  
Email: jana.clark@sfgov.org

**MEMORANDUM  
PRIVILEGED AND CONFIDENTIAL**

**TO:** Sunshine Ordinance Task Force  
**FROM:** Jana Clark  
Deputy City Attorney  
**DATE:** August 19, 2010  
**RE:** *Suzanne Dumont v. Recreation and Parks Department (10037)*

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**THE COMPLAINANT ALLEGES THE FOLLOWING:**

Complainant Suzanne Dumont alleges that the Recreation and Parks Department (the "Department") failed to adequately respond to her May 15, and May 26, 2010 Public Records Request for emails from the Department.

**COMPLAINANT FILES COMPLAINT:**

On July 7, 2010, the Complainant filed a complaint with the Task Force alleging a violation.

**JURISDICTION:**

Recreation and Parks is a department of the City; therefore the Task Force has jurisdiction to determine whether there was a violation.

**APPLICABLE STATUTORY SECTION(S):**

**Section 67.21 of the San Francisco Administrative Code:**

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

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

- Section 6253 governs public records requests and time of response.

**ISSUES TO BE DETERMINED:**

**Uncontested Facts:** Complainant alleges that she made an urgent request for emails from the Department on May 15, 2010. She alleges further that the Department first requested an extension and then told her that her request was too broad and, therefore, too burdensome. Complainant alleges that she narrowed her request to emails pertaining to Stow Lake Boathouse, but reinstated her original request when she realized that narrowing her request permitted the

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Department to pick and choose what to disclose. Complainant alleges that she has received only a few emails regarding Stow Lake and that, therefore, the Department's response is incomplete.

**Contested Facts:** None.

**LEGAL ISSUES/LEGAL DETERMINATIONS:**

- If the facts alleged by complainant are true, was there a violation of the state and/or local public records law?

**SUGGESTED ANALYSIS:****Under Section 67.21 of the Ordinance:**

- Determine whether the Department timely and fully responded to the request.

**CONCLUSION:**

THE TASK FORCE FINDS THE FOLLOWING FACTS TO BE TRUE:

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

**THE CALIFORNIA CONSTITUTION AS AMENDED BY PROPOSITION 59 IN 2004  
PROVIDES FOR OPENNESS IN GOVERNMENT.**

Article I Section 3 provides:

- a) The people have the right to instruct their representative, petition government for redress of grievances, and assemble freely to consult for the common good.
- b)(1) The people have the right of access to information concerning the conduct of the people's business, and therefore, the meetings of public bodies and the writings of public officials and agencies shall be open to public scrutiny.
- 2) A statute, court rule, or other authority, including those in effect on the effective date of this subdivision that limits the right of access shall be adopted with findings demonstrating the interest protect by the limitation and the need for protecting that interest.

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3) Nothing in this subdivision supersedes or modifies the right of privacy guaranteed by Section 1 or affects the construction of any statute, court rule, or other authority to the extent that it protects that right to privacy, including any statutory procedures governing discovery or disclosure of information concerning the official performance or professional qualifications of a peace officer.

4) Nothing in this subdivision supersedes or modifies any provision of this Constitution, including the guarantees that person may not be deprived of life, liberty, or property without due process of law, or denied equal protection of the laws, as provided by Section 7.

5) This subdivision does not repeal or nullify, expressly or by implication, any constitutional or statutory exception to the right of access to public records or meetings or public bodies that is in effect on the effective date of this subdivision, including, but not limited to, any statute protecting the confidentiality of law enforcement and prosecution records.

6) Nothing in this subdivision repeals, nullifies, supersedes, or modifies protections for the confidentiality of proceedings and records of the Legislature, the Members of the Legislature, and its employees, committee, and caucuses provided by Section 7 of Article IV, state law, or legislative rules adopted in furtherance of those provisions: nor does it affect the scope of permitted discovery in judicial or administrative proceedings regarding deliberations of the Legislature, the Members of the Legislature, and its employees, committees, and caucuses.

**Sunshine Ordinance section 67.21**

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

(l) Inspection and copying of documentary public information stored in electronic form shall be made available to the person requesting the information in any form requested which is available to or easily generated by the department, its officers or employees, including disk, tape, printout or monitor at a charge no greater than the cost of the media on which it is duplicated. Inspection 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.



<complaints@sfgov.org>  
07/07/2010 02:10 PM

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

To:sotf@sfgov.orgEmail:complaints@sfgov.orgDEPARTMENT:Recreation and Parks Dept.

CONTACTED:Olive Gong

PUBLIC\_RECORDS\_VIOLATION:Yes

PUBLIC\_MEETING\_VIOLATION:No

MEETING\_DATE:

SECTIONS\_VIOLATED:

DESCRIPTION:Urgent Sunshine request for emails was made to Olive Gong on 5/15/10. Olive invoked an extension. Then I was contacted by another RP secretary who asked me to narrow my selection as my request was too burdensome. At first I agreed and asked for emails pertaining to Stow Lake Boathouse, only to learn later that this would allow the department to choose emails instead of allowing for full discovery. I reinstated my 5/15/10 request on 5/26/10. Since then I have only received a few emails that pertain onl;y to Stow Lake and are incomplete in some cases. So the original request and my follow up request on 5/26/10 have not been answerede.

HEARING:Yes

PRE-HEARING:No

DATE:6/21/10

NAME:Suzanne Dumont

ADDRESS:841 Rockdale Drive

CITY:San Francisco

ZIP:94127

PHONE:999.5823

CONTACT\_EMAIL:zangsfl@gmail.com

ANONYMOUS:

CONFIDENTIALITY\_REQUESTED:No



Mayor Gavin Newsom  
Philip A. Ginsburg, General Manager

8/19/2010

Honorable Members  
Sunshine Ordinance Task Force  
c/o Frank Darby, Administrator  
1 Dr. Carlton B. Goodlett Place  
Room 244  
San Francisco, CA 94102-4689

**Re: Complaint #10037 Suzanne Dumont vs Recreation and Parks Department**

Dear Task Force Members:

This letter is in response to Complaint #10037, filed by Ms. Suzanne Dumont against the Recreation and Park Department, a copy of which was received by the Department on July 19, 2010. The complaint concerns Ms. Dumont's request for emails between RPD staff and other RPD staff and the Recreation and Park Commission, sent May 15, 2010. The Department deemed the request overly broad and asked for clarification by email on May 17, 2010 and May 27, 2010. On June 11, 2010, Ms. Dumont received 80 copies of responsive emails. On August 3, 2010, the Department responded with 27 more documents, which Ms. Dumont picked up on August 6, 2010. On August 16, 2010, the Department contacted Ms. Dumont that 1206 additional copies for the Item 2 of her request were ready for pick up. There were no documents responsive for Item 1 of her request, ie. "1) All emails between Phil Ginsburg and Mark Buell where either name is included in TO, FROM, CC, or BCC between January 1, 2010 to July 23, 2010."

See Exhibit A: Emails from RPD requesting clarification and indicating documents in response to Ms. Dumont's request.

If I can be of further assistance to the Task Force, please do not hesitate to contact me.

Sincerely,

A handwritten signature in cursive script that reads "Olive Gong".

Olive Gong  
Custodian of Records, SFRPD



Exhibit A

From: Olive Gong/RPD/SFGOV  
To: Suzanne Dumont <zangsf1@gmail.com>  
Cc: SOTF/SOTF/SFGOV@SFGOV  
Date: 08/16/2010 02:46 PM  
Subject: Complaint 10037: Suzanne Dumont & RPD--Response to Clarification of 5/15/10 Sunshine request

Hi Suzanne,

Staff has collected and copied 1206 additional hard copies for you in response to item #2. There are no documents in response to item #1.

Per Sunshine Ordinance Sec 67.28 (c), the Department may charge for documents. The cost of the copies is ten cents/copy, so the total cost is \$120.60.

You may come in any time during regular business hours to pick them up, however, if you let me know ahead of time when you plan to come by, I can be at my desk to assist you.

I hope these documents satisfy your request, let me know if you have any further questions or concerns and thank you for your interest in SF Recreation and Parks,  
Olive

.....  
Olive Gong  
San Francisco Recreation and Park Department  
McLaren Lodge  
501 Stanyan St., SF CA 94117  
415.831-2708 direct  
415.831-2096 fax  
olive.gong@sfgov.org email

*Reduce, Reuse, Recycle*

From: Olive Gong/RPD/SFGOV  
To: Suzanne Dumont <zangsf1@gmail.com>  
Date: 08/09/2010 08:33 AM  
Subject: Mark Buell emails

Hi Suzanne,

Our department has done a search for the emails for Item #1 and there were no responsive documents found.

Thanks,  
Olive

.....  
Olive Gong  
San Francisco Recreation and Park Department  
McLaren Lodge  
501 Stanyan St., SF CA 94117  
415.831-2708 direct  
415.831-2096 fax

olive.gong@sfgov.org email

*Reduce, Reuse, Recycle*

From: Suzanne Dumont <zangsf1@gmail.com>  
To: Olive Gong <olive.gong@sfgov.org>  
Cc: SOTF <sotf@sfgov.org>  
Date: 08/06/2010 08:03 PM  
Subject: Fwd: URGENT REQUEST & Clarification of 5/15/10 Sunshine request

Hi Olive,  
Thanks for the emails I picked up today. It is incomplete as there are no emails with Mark Buell as requested. So my complaint must stand.  
Thank you.  
Suzanne Dumont

From: Olive Gong/RPD/SFGOV  
To: Suzanne Dumont <zangsf1@gmail.com>  
Date: 08/03/2010 02:34 PM  
Subject: Sunshine request:Emails Rich Hillis

Hi Suzanne,

We have 27 copies in response to your request. Let me know when you would like to come pick them up?  
Have a lovely day,  
Olive

.....  
Olive Gong  
San Francisco Recreation and Park Department  
McLaren Lodge  
501 Stanyan St., SF CA 94117  
415.831-2708 direct  
415.831-2096 fax  
olive.gong@sfgov.org email

*Reduce, Reuse, Recycle*

**From:** Suzanne Dumont <[zangsf1@gmail.com](mailto:zangsf1@gmail.com)>  
**Date:** July 25, 2010 5:48:28 PM PDT  
**To:** [olive.gong@sfgov.org](mailto:olive.gong@sfgov.org)  
**Cc:** SOTF <[sotf@sfgov.org](mailto:sotf@sfgov.org)>, Sandy Weil <[SWeil46117@aol.com](mailto:SWeil46117@aol.com)>  
**Subject:** URGENT REQUEST & Clarification of 5/15/10 Sunshine request

Dear Olive,

Thanks for your help. Here is a subset to start with:

1) All emails between Phil Ginsburg and Mark Buell where either name is included in TO, FROM, CC, or BCC between January 1, 2010 to July 23, 2010.

2) All emails involving Rich Hillis included in TO, FROM, CC, or BCC with ANYONE in Recreation and Park Department and with Mark Buell between January 1, 2010 to July 23, 2010.

As always I understand I will pay for the copies. Please let me know as soon as possible when I can come pick them up.

Time is of the essence, hence this is an "URGENT REQUEST".

Thank you.  
Suzanne R. Dumont  
415.999.5823

On Jul 23, 2010, at 4:23 PM, [olive.gong@sfgov.org](mailto:olive.gong@sfgov.org) wrote:

Dear Suzanne,

We would like to help you find the records that you seek, but we must reiterate that your request is overly broad. A record request must specify an identifiable record or category of records sought, "all emails" is too vague. Please clarify your request?

Thanks,  
Olive

.....  
Olive Gong  
San Francisco Recreation and Park Department  
McLaren Lodge  
501 Stanyan St., SF CA 94117  
415.831-2708 direct  
415.831-2096 fax  
[olive.gong@sfgov.org](mailto:olive.gong@sfgov.org) email  
Reduce, Reuse, Recycle

From: Olive Gong/RPD/SFGOV  
To: Suzanne Dumont <zangsf1@gmail.com>  
Date: 06/09/2010 01:38 PM  
Subject: Re: Sunshine request for emails

Hi Suzanne,

The department has collected and copied 80 copies in response to your request for documents, and it is ready for your pickup or it can be mailed to you.

Per Admin. Code 67.28 (d), the department may charge 10 cents per page, thus the charge is \$8.00. (plus any postage.)

The Department may also receive payment in advance before producing the records (Govt. Code 6253 (b)).

Thanks,  
Olive

.....  
Olive Gong  
San Francisco Recreation and Park Department  
McLaren Lodge  
501 Stanyan St., SF CA 94117  
415.831-2708 direct  
415.831-2096 fax  
olive.gong@sfgov.org email

From: Olive Gong/RPD/SFGOV  
To: Suzanne Dumont <zangsf1@gmail.com>  
Date: 05/27/2010 08:41 AM  
Subject: Re: Urgent 24 hours Sunshine request for emails

Dear Suzanne,

We would like to help you find the records that you seek, but your request is overly broad. A record request must specify an identifiable record or category of records sought. Please clarify your request? Can you call me so that we can help get you the records that you are looking for? Or leave me your number and I will call you?

Thank you,  
Olive

.....  
Olive Gong  
San Francisco Recreation and Park Department  
McLaren Lodge  
501 Stanyan St., SF CA 94117  
415.831-2708 direct  
415.831-2096 fax  
olive.gong@sfgov.org email

*Reduce, Reuse, Recycle*

**From:** Olive Gong <[Olive.Gong@sfgov.org](mailto:Olive.Gong@sfgov.org)>  
**Date:** May 17, 2010 10:57:15 AM PDT  
**To:** Suzanne Dumont <[zangsf1@gmail.com](mailto:zangsf1@gmail.com)>  
**Subject:** Re: Sunshine request for emails

Dear Suzanne,

The department has received your request. Asking for all emails is overly

broad, please clarify, is there a particular subject that you are interested in?

Thank you,  
Olive Gong  
831-2708

From: Suzanne Dumont <[zangsf1@gmail.com](mailto:zangsf1@gmail.com)>  
To: Olive Gong <[olive.gong@sfgov.org](mailto:olive.gong@sfgov.org)>  
Cc: Sandy Weil <[SWeil46117@aol.com](mailto:SWeil46117@aol.com)>  
Date: 05/15/2010 07:13 PM

Subject: Sunshine request for emails

Dear Olive,

1. Please send me copies of any emails from January 1, 2009 to the present date which are from, CCd, Bcc' d or have in the address (or subject field or e-mail body) field "Mark Buell" and are either addressed to, CCd, CCd, Bcc' d or have in the address field Katharine Petrucione and/or <[Katharine.Petrucione@sfgov.org](mailto:Katharine.Petrucione@sfgov.org)>.
2. Please send me copies of any emails from January 1, 2009 to the present date which are from, CCd, Bcc' d or have in the address (or subject field or e-mail body) field "Meagan Levitan" and/or Address redacted and are either addressed to, CCd, CCd, Bcc' d or have in the address field Katharine Petrucione and/or <[Katharine.Petrucione@sfgov.org](mailto:Katharine.Petrucione@sfgov.org)>.
3. Please send me copies of any emails from January 1, 2009 to the present date which are from, CCd, Bcc' d or have in the address (or subject field or e-mail body) field "Mark Buell" and are either addressed to, CCd, CCd, Bcc' d or have in the address field Phil Ginburg and/or <[Phil.Ginsburg@sfgov.org](mailto:Phil.Ginsburg@sfgov.org)>.
4. Please send me copies of any emails from January 1, 2009 to the present date which are from, CCd, Bcc' d or have in the address (or subject field or e-mail body) field "Mark Buell" and are either addressed to, CCd, CCd,

Bcc' d or have in the address field Nicholas Kinsey and/or <[Nicholas.Kinsey@sfgov.org](mailto:Nicholas.Kinsey@sfgov.org)>.

5. Please send me copies of any emails from January 1, 2009 to the present date which are from, CCd, Bcc' d or have in the address (or subject field or e-mail body) field "Meagan Levitan" and are either addressed to, CCd, CCd, Bcc' d or have in the address field Nicholas Kinsey and/or <[Nicholas.Kinsey@sfgov.org](mailto:Nicholas.Kinsey@sfgov.org)>.

6. Please send me copies of any emails from January 1, 2009 to the present date which are from, CCd, Bcc' d or have in the address (or subject field or e-mail body) field "Meagan Levitan" and/or Address redacted and are either addressed to, CCd, CCd, Bcc' d or have in the address field Phil Ginburg and/or <[Phil.Ginsburg@sfgov.org](mailto:Phil.Ginsburg@sfgov.org)>.

7. Please send me copies of any emails from January 1, 2009 to the present date which are from, CCd, Bcc' d or have in the address (or subject field or e-mail body) field "Nicholas Kinsey" and/or Address redacted and are either addressed to, CCd, CCd, Bcc' d or have in the address field Phil Ginburg and/or <[Phil.Ginsburg@sfgov.org](mailto:Phil.Ginsburg@sfgov.org)>.

8. Please send me copies of any emails from January 1, 2009 to the present date which are from, CCd, Bcc' d or have in the address (or subject field or e-mail body) field "Rich Hillis" and/or Address redacted and are either addressed to, CCd, CCd, Bcc' d or have in the address field Phil Ginburg and/or <[Phil.Ginsburg@sfgov.org](mailto:Phil.Ginsburg@sfgov.org)>.

9. Please send me copies of any emails from January 1, 2009 to the present date which are from, CCd, Bcc' d or have in the address (or subject field or e-mail body) field "Nick Kinsey" and are either addressed to, CCd, CCd, Bcc' d or have in the address field Katharine Petrucione and/or <[Katharine.Petrucione@sfgov.org](mailto:Katharine.Petrucione@sfgov.org)>.

10. Please send me copies of any emails from January 1, 2009 to the present date which are from, CCd, Bcc' d or have in the address field "Rich Hillis" and are either addressed to, CCd, CCd, Bcc' d or have in the address field Katharine Petrucione and/or <[Katharine.Petrucione@sfgov.org](mailto:Katharine.Petrucione@sfgov.org)>.

11. Please send me copies of any emails from January 1, 2009 to the present

date which are from, CCd, Bcc' d or have in the address field (or subject field) , From:, "Rich Hillis" and are either addressed to, CCd, CCd, Bcc' d or have in the address field Nicholas Kinsey and/or <[Nicholas.Kinsey@sfgov.org](mailto:Nicholas.Kinsey@sfgov.org)>.

12. Please send me copies of any emails from January 1, 2009 to the present date which are from, CCd, Bcc' d or have in the address field (or subject field) , From:, "Nicholas Kinsey" and are either addressed to, CCd, CCd, Bcc' d or have in the address field Rich Hillis and/or <[Rich.Hillis@sfgov.org](mailto:Rich.Hillis@sfgov.org)>.

I apologize for the inconvenience.  
Thank you.

Suzanne R. Dumont