

Date: Sept. 28, 2010

Item No. 12 & 13

File No. 10040

SUNSHINE ORDINANCE TASK FORCE

AGENDA PACKET CONTENTS LIST*

- Ellen Tsang against the Planning Department**
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Completed by: Chris Rustom

Date: Sept, 23, 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: September 23, 2010
RE: 10040 *Ellen Tsang v. Planning Department*

COMPLAINT

THE COMPLAINANT ALLEGES THE FOLLOWING:

Complainant Ellen Tsang alleges that the San Francisco Planning Department ("Planning") failed to timely provide documents and records responsive to her public records request of May 4, 2010, in violation of sections 67.21(b) and 67.29-7 of the Ordinance, and did not assist her in indentifying public records in violation of section 67.21(c) of the Ordinance. The public records request included emails and correspondence amongst Panning staff and between Planning staff and the owner of 2642-44 Hyde, Planning staff appointment books, and a report regarding the impact of a balcony at 2642-44 Hyde Street, San Francisco, California.

COMPLAINANT FILES COMPLAINT:

On August 8, 2010, Ms. Tsang filed a complaint against Planning.

JURISDICTION

Planning is a charter department of the City; therefore the Task Force has jurisdiction.

APPLICABLE STATUTORY SECTION(S):

Section 67 of the San Francisco Administrative Code:

- Section 67.21 governs the process for gaining access to public records.
- Section 67.25 governs the immediacy of response.
- Section 67.29-7 governs correspondence and records that shall be maintained.
- Section 67.26 governs the withholding of records.
- Section 67.27 governs the written justifications for withholding of records.
- Section 67.29-5 governs maintenance of calendars by certain elected officials.

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

Section 6253 governs the timing of a response.

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APPLICABLE CASE LAW:

none.

ISSUES TO BE DETERMINED

Uncontested/Contested Facts: It is not clear what facts are or are not contested because Planning did not respond to the complaint.

Ms. Tsang alleges that Planning failed to provide documents and records responsive to her public records request of May 4, 2010. Ms. Tsang further alleges that Planning failed to maintain a record of a site visit to 2642-44 Hyde Street. In addition, she alleges that emails provided in response to her request are voluminous, numbering 1322, omit senders' names and dates, and are in multiple duplications. She also alleges that on July 29, 2010, she requested that Planning assist her in identifying the public records sought in her May 4, 2010 request, and that Planning did not assist her.

Attached as an exhibit to Ms. Tsang's complaint is what appears to be a July 30, 2010 email from Planning to Ms. Tsang stating that Planning has complied with Sunshine laws and provided complainant with all emails and correspondence requested.

QUESTIONS THAT MIGHT ASSIST IN DETERMINING FACTS:

- Did Planning fully respond to the records request?
- Did Planning provide responsive records in the format requested?
- Did Planning withhold any responsive records, including redacting any responsive records?
- If it withheld records, did it provide a written justification for such withholding?
- Were emails that were provided in response to her request voluminous, omit senders' names and dates, and in multiple duplications?
- Were emails provided appropriately voluminous given the scope of the request?
- Why do the emails provided omit senders' names and dates and include multiple duplications?
- Did Planning assist Ms. Tsang in identifying the public records sought?
- Does Planning have any record of a site visit to 2642-44 Hyde Street?

LEGAL ISSUES/LEGAL DETERMINATIONS:

- If Planning responded, did it do so "as soon as possible and within ten days following receipt of a request for inspection" as required by Section 67.21(b) of the Sunshine Ordinance?
- If Planning withheld records, or redacted portions of records to omit senders' names or dates, did it keep such withholding to a minimum, as required by Section 67.26?

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- If Planning withheld records, or redacted portions of records, was a written justification provided for such withholding or redaction that complied with the requirements of Section 67.27?
- Did Planning's response comply with the requirements of section 67.21?
- Does section 67.21(c) of the Ordinance require Planning to cull through responsive records collected to eliminate duplicates?
- If senders' names and dates were absent in the original emails, versus being redacted, does section 67.21(c) require Planning to insert names and dates where known?
- Were sections of the Sunshine Ordinance, Public Records Act, and/or California Constitution Article I, Section three violated?

CONCLUSION

THE TASK FORCE FINDS THE FOLLOWING FACTS TO BE TRUE:

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

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ATTACHED STATUTORY SECTION FROM CHAPTER 67 OF THE SAN FRANCISCO ADMINISTRATIVE CODE UNLESS OTHERWISE SPECIFIED

**Section 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 petition, 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

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requested is public. The Sunshine Task Force shall inform the petitioner, as soon as possible and 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.

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(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 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 unseparably 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. 67.25. - 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)

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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.

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.

SEC. 67.29-7. - CORRESPONDENCE AND RECORDS SHALL BE MAINTAINED.

(a)

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DATE: September 23, 2010
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The Mayor and all Department Heads shall maintain and preserve in a professional and businesslike manner all documents and correspondence, including but not limited to letters, e-mails, drafts, memorandum, invoices, reports and proposals and shall disclose all such records in accordance with this ordinance.

(b)

The Department of Elections shall keep and preserve all records and invoices relating to the design and printing of ballots and other election materials and shall keep and preserve records documenting who had custody of ballots from the time ballots are cast until ballots are received and certified by the Department of Elections.

(c)

In any contract, agreement or permit between the City and any outside entity that authorizes that entity to demand any funds or fees from citizens, the City shall ensure that accurate records of each transaction are maintained in a professional and businesslike manner and are available to the public as public records under the provisions of this ordinance. Failure of an entity to comply with these provisions shall be grounds for terminating the contract or for imposing a financial penalty equal to one-half of the fees derived under the agreement or permit during the period of time when the failure was in effect. Failure of any Department Head under this provision shall be a violation of this ordinance. This paragraph shall apply to any agreement allowing an entity to tow or impound vehicles in the City and shall apply to any agreement allowing an entity to collect any fee from any persons in any pretrial diversion program.

SEC. 67.29-5. - CALENDARS OF CERTAIN OFFICIALS.

The Mayor, The City Attorney, and every Department Head shall keep or cause to be kept a daily calendar wherein is recorded the time and place of each meeting or event attended by that official, with the exclusion of purely personal or social events at which no City business is discussed and that do not take place at City Offices or at the offices or residences of people who do substantial business with or are otherwise substantially financially affected by actions of the City. For meetings not otherwise publicly recorded, the calendar shall include a general statement of issues discussed. Such calendars shall be public records and shall be available to any requester three business days subsequent to the calendar entry date.

SEC. 67.29-7. - CORRESPONDENCE AND RECORDS SHALL BE MAINTAINED.

(a)

The Mayor and all Department Heads shall maintain and preserve in a professional and businesslike manner all documents and correspondence, including but not limited to letters, e-mails, drafts, memorandum, invoices, reports and proposals and shall disclose all such records in accordance with this ordinance.

(b)

The Department of Elections shall keep and preserve all records and invoices relating to the design and printing of ballots and other election materials and shall keep and preserve records documenting who had custody of ballots from the time ballots are cast until ballots are received and certified by the Department of Elections.

(c)

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In any contract, agreement or permit between the City and any outside entity that authorizes that entity to demand any funds or fees from citizens, the City shall ensure that accurate records of each transaction are maintained in a professional and businesslike manner and are available to the public as public records under the provisions of this ordinance. Failure of an entity to comply with these provisions shall be grounds for terminating the contract or for imposing a financial penalty equal to one-half of the fees derived under the agreement or permit during the period of time when the failure was in effect. Failure of any Department Head under this provision shall be a violation of this ordinance. This paragraph shall apply to any agreement allowing an entity to tow or impound vehicles in the City and shall apply to any agreement allowing an entity to collect any fee from any persons in any pretrial diversion program.

CAL. PUBLIC RECORDS ACT (GOVT. CODE §§ 6250, ET SEQ.)**§ 6253.9.**

(a) Unless otherwise prohibited by law, any agency that has information that constitutes an identifiable public record not exempt from disclosure pursuant to this chapter that is in an electronic format shall make that information available in an electronic format when requested by any person and, when applicable, shall comply with the following:

(1) The agency shall make the information available in any electronic format in which it holds the information.

(2) Each agency shall provide a copy of an electronic record in the format requested if the requested format is one that has been used by the agency to create copies for its own use or for provision to other agencies. The cost of duplication shall be limited to the direct cost of producing a copy of a record in an electronic format.

Section 6254

(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

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



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 Planning Department

Name of individual contacted at Department or Commission Sr. Planner JONAS IONIN & MR. BRIAN SMITH, Director IT

Alleged violation public records access
 Alleged violation of public meeting. Date of meeting _____

Sunshine Ordinance Section 67.21(b), 67.29-7, 67.21(c), etc.
 (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 statement of facts and Exh.s Attached.

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

(Optional)¹
 Name Ellen Tsang Address _____

Telephone No. _____ E-Mail Address tsangt123@yahoo.com

Date 8/8/10 _____

[Signature]
 Signature

I request confidentiality of my personal information. 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).

STATEMENT OF FACTS

A. On May 4, 2010 I made a Sunshine Immediate Disclosure Request (Exh. A)

1) Sr. Planner Jonas Ionin and Mr. Brian Smith, Director IT of Planning Department did not provide the public documents requested timely as the law required in violation of section 67.21 (b).

2) Not until May 24, 2010 Planner Jonas Ionin emailed his response to my request #5 and #6. In response to #5, Mr. Ionin stated "My appointment book has no record of the time and date of the site visit." (Exh. B)

City employee visited private home without keeping a record of the time and date of such visit is in violation of Sunshine Ordinance section 67.29-7

3) I repeatedly requested Planner Ionin and Mr. Smith when they email me the public records please make sure to indicate their responses in reference to my requests as #1, #2, #3 and #4.

(Exh. C1, C2, C3 and C4)

First they provided the documents not in PDF as requested but in FTP which I was not able to open. I finally went to Planning Department and received a CD. The CD contains 1322 emails. Many of these 1322 emails are copies of duplicate, triplicate, some of them are 10 times duplications and many have no sender's names and dates.

B. On July 29, 2010 I made my second Sunshine Immediate Request requesting them to comply with the Sunshine Law by assist me to identify the public records in responding to my requests as #1, #2, #3 and #4. (Exh. D)

4) Mr. Smith refused to comply. (Exh. E)

5) On August 2, 2010, I requested Mr. Smith and Sr. Planner Jonas again to comply with the Sunshine Laws including sec. 67.21 (c): they "Shall" assist me in identifying the public records requested as #1, #2, #3 and #4. They failed to respond therefore in violating section 67.21 (c)



Re: Sunshine Immediate Request for public record, 2642-44 Hyde Street Tuesday, May 4, 2010 12:04 PM

From: "Ellen Tsang" <tsangt123@yahoo.com>

To: Jonas.Ionin@sfgov.org, "Brian Smith" <Brian.Smith@sfgov.org>

Cc: Tsangt123@yahoo.com, "Kimo Crossman" <kimo@webnetic.net>

Sunshine Request
Immediate Disclosure Request

Dear Mr. Ionin:

Please email me the public records as following:

- 1) **All E-mails between Staff of Planning Department** which should include but not limited to Director John Rahaim, Mr. Lawrence Badiner, Mr. Dean Macris, Mr. Jonas Ionin, Mr. David Lindsay, Mr. Scott Sanchez, Ms. Planner Sara Vellve.
- 2) **All correspondences between Staff of Planning Department** which should include but not limited to Director John Rahaim, Mr. Lawrence Badiner, Mr. Dean Macris, Mr. Jonas Ionin, Mr. David Lindsay, Mr. Scott Sanchez, Ms. Sara Vellve.
- 3) **All email between the staff of Planning Dept. and owner of 2642-44 Hyde Street, the owner's agent including but not limited to Mr. Jeremy Paul, Mr. Robert Mittelstadt.**
- 4) **All correspondences between staff of Planning Dept. and owner of 2642-44 Hyde Street, St, the owner's agent including but not limited to Mr. Jeremy Paul, Mr. Robert Mittelstadt.**
- 5) **Your appointment book/lot** stating the time and date that you made a site visit to 2642-44 Hyde Street.
- 6) **Your report of your determination** of "the balcony's impact to neighboring properties" after you made your site visit to 2642-44 Hyde Street.

Please indicate your responses in reference to #1, #2, #3, #4, #5, #6 as captioned above.

Thank you.

Ellen Tsang
Trustee of Arza Trust
769 North Point Street

Exh. A



Re: Sunshine Request for public record on May 4, 2010

Monday, May 24, 2010 11:42 AM

From: "Jonas Ionin" <Jonas.Ionin@sfgov.org>

To: "Ellen Tsang" <tsangt123@yahoo.com>

Cc: grossman356@mac.com, "kimo" <kimo@webnetic.net>, tsangt123@yahoo.com, "Brian Smith" <Brian.Smith@sfgov.org>

Responses to Items 5 & 6:

- ➔ Item 5, My appointment book has no record of the time and date of the site visit.
- Item 6, No report was submitted.

The emails you requested will be sent to you shortly. The .pdf file(s) was too large to be sent by conventional means.

Jonas P. Ionin
 Senior Planner, SF Planning Department
 1650 Mission Street, Suite 400
 San Francisco, CA 94103
 415.558.6309 phone
 415.558.6409 facsimile

<http://www.sf-planning.org>

Tip of the Week:

The safest response to an earthquake is to Drop, Cover and Hold on. It's safer than getting in a doorway - doorways may not be stronger than the rest of the building and won't protect you from falling debris.

Ellen Tsang
 <tsangt123@yahoo.com>

To

Jonas Ionin <Jonas.Ionin@sfgov.org>

05/21/2010 05:01

cc

PM

kimo <kimo@webnetic.net>,
grossman356@mac.com,
tsangt123@yahoo.com

Subject

Re: Sunshine Request for public record on May 4, 2010

Exh. B



Re: Sunshine Request for public record on May 4, 2010

Friday, May 21, 2010 5:01 PM

From: "Ellen Tsang" <tsangt123@yahoo.com>
To: "Jonas Ionin" <Jonas.Ionin@sfgov.org>
Cc: "kimo" <kimo@webnetic.net>, grossman356@mac.com, tsangt123@yahoo.com

Dear Sr. Planner Ionin:

Thank you for letting me know that you agreed to email me the public record requested.
Please make sure to indicate your responses in reference to my requests as #1, #2, #3, #4, #5, #6.
Below is my Sunshine Request of May 4, 2010:

Dear Mr. Ionin:

Please email me the public records as following:
1) All E-mails between Staff of Planning Department which should include but not limited to Director John Rahaim, Mr. Lawrence Badiner, Mr. Dean Macris, Mr. Jonas Ionin, Mr. David Lindsay, Mr. Scott Sanchez, Ms. Planner Sara Velve.

2) All correspondences between Staff of Planning Department which should include but not limited to Director John Rahaim, Mr. Lawrence Badiner, Mr. Dean Macris, Mr. Jonas Ionin, Mr. David Lindsay, Mr. Scott Sanchez, Ms. Sara Velve.

3) All email between the staff of Planning Dept. and owner of 2642-44 Hyde Street, the owner's agent including but not limited to Mr. Jeremy Paul, Mr. Robert Mittelstadt.

4) All correspondences between staff of Planning Dept. and owner of 2642-44 Hyde Street, St, the owner's agent including but not limited to Mr. Jeremy Paul, Mr. Robert Mittelstadt.

5) Your appointment book/lot stating the time and date that you made a site visit to 2642-44 Hyde Street.

6) Your report of your determination of "the balcony's impact to neighboring properties" after you made your site visit to 2642-44 Hyde Street

Please indicate your responses in reference to #1, #2, #3, #4, #5, #6 as captioned above.

Thank you.
Ellen Tsang
Trustee of Arza Trust
769 North Point Street

EXH. C1



Re: Sunshine Request for public record on May 4, 2010

Monday, May 24, 2010 3:48 PM

From: "Ellen Tsang" <tsangt123@yahoo.com>
To: "Brian Smith" <Brian.Smith@sfgov.org>
Cc: tsangt123@yahoo.com, "kimo" <kimo@webnetic.net>, grossman356@mac.com, "Jonas Ionin" <Jonas.Ionin@sfgov.org>

Dear Ms. Smith:

Please refer to my request #1, #2, #3, #4, when you email the documents requested.

Today (May 24, 2010) Sr. Planner Jonas informed me that he did not have documents in reference to my request #5 and #6. #5) is "Your appointment book/lot stating the time and date that you made a site visit to 2642-44 Hyde Street."

#6 is: "Your report of your determination of "the balcony's impact to neighboring properties" after you made your site visit to 2642-44 Hyde Street."

Thank you.

Ellen Tsang

— On Mon, 5/24/10, Brian Smith <Brian.Smith@sfgov.org> wrote:

From: Brian Smith <Brian.Smith@sfgov.org>
Subject: Re: Sunshine Request for public record on May 4, 2010
To: "Ellen Tsang" <tsangt123@yahoo.com>
Cc: grossman356@mac.com, "kimo" <kimo@webnetic.net>, "Jonas Ionin" <Jonas.Ionin@sfgov.org>
Date: Monday, May 24, 2010, 11:48 AM

Ms Tsang, the Email correspondence for this record request is available by FTP because the file is to large to Email, please follow the steps attached. The FTP folder is called 2642-2644 Hyde St

Sincerely, Brian Smith

(See attached file: FTP_Access_for_Consultants.pdf)

Brian Smith
Director IT / Operations
San Francisco Planning Department
1650 Mission St Suite 400
415-575-6835
Brian.Smith@SFGov.org

From: Jonas Ionin/CTYPLN/SFGOV
To: Ellen Tsang <tsangt123@yahoo.com>

EXH. C2



Re: Sunshine Request for public record on May 4, 2010

Monday, May 24, 2010 5:28 PM

From: "Ellen Tsang" <tsangt123@yahoo.com>
To: "Brian Smith" <Brian.Smith@sfgov.org>
Cc: tsangt123@yahoo.com, "kimo" <kimo@webnetic.net>

Dear Mr. Smith:

Following your instructions, I'm still not able to open the FTP files. You did not produce documents in pdf as requested.

1) Can you please email the documents by pdf to my requests #1, #2, #3 and #4, one at a time?

Planner Jonas informed me today his appointment book has no record of the time and date of the site visit to 2642-44 Hyde Street as to my request #5 and he submitted No report as to my request #6. I will ask him for public information then.

2) Did you convert the correspondences (my requests #2 and #4) from hard paper to pdf format and email them to me?

Thank you.

Ellen Tsang

--- On Mon, 5/24/10, Brian Smith <Brian.Smith@sfgov.org> wrote:

From: Brian Smith <Brian.Smith@sfgov.org>
Subject: Re: Sunshine Request for public record on May 4, 2010
To: "Ellen Tsang" <tsangt123@yahoo.com>
Cc: grossman356@mac.com, "kimo" <kimo@webnetic.net>, "Jonas Ionin" <Jonas.Ionin@sfgov.org>
Date: Monday, May 24, 2010, 11:48 AM

Ms Tsang, the Email correspondence for this record request is available by FTP because the file is to large to Email, please follow the steps attached. The FTP folder is called 2642-2644 Hyde St

Sincerely, Brian Smith

(See attached file: FTP_Access_for_Consultants.pdf)

Brian Smith
Director IT / Operations
San Francisco Planning Department
1650 Mission St Suite 400
415-575-6835
Brian.Smith@SFgov.org

Exh. C3



Re: Sunshine Request for public record on May 4, 2010

Wednesday, May 26, 2010 8:44 AM

From: "Ellen Tsang" <tsangt123@yahoo.com>
To: "Brian Smith" <Brian.Smith@sfgov.org>
Cc: "kimo" <kimo@webnetic.net>, "Ray Hartz Jr" <rwhartzjr@sbcglobal.net>, "Allen Grossman" <grossman356@mac.com>, tsangt123@yahoo.com

Dear Mr. Smith:

As I informed you I am not able to open the FTP file. My Sunshine Request on May 4, 2010 requested that Sr. Planner Jonas Ionin, Planning Dept. email me the public records.

Please comply with my request by providing the public records in the format as requested. Please make sure to refer the documents produced to my request #1, #2, #3.....

Can I expect that you will email the documents with reference to my request #1, #2....immediately? Please note that my sunshine request was made on May 4, 2010.

Thank you.

Ellen Tsang

-- On Mon, 5/24/10, Brian Smith <Brian.Smith@sfgov.org> wrote:

From: Brian Smith <Brian.Smith@sfgov.org>
Subject: Re: Sunshine Request for public record on May 4, 2010
To: "Ellen Tsang" <tsangt123@yahoo.com>
Cc: grossman356@mac.com, "kimo" <kimo@webnetic.net>, "Jonas Ionin" <Jonas.Ionin@sfgov.org>
Date: Monday, May 24, 2010, 11:48 AM

Ms Tsang, the Email correspondence for this record request is available by FTP because the file is too large to Email, please follow the steps attached. The FTP folder is called 2642-2644 Hyde St

Sincerely, Brian Smith

(See attached file: FTP_Access_for_Consultants.pdf)

Brian Smith
Director IT / Operations
San Francisco Planning Department
1650 Mission St Suite 400
415-575-6835
Brian.Smith@SFGov.org

From: Jonas Ionin/CTYPLN/SFGOV

Exh. C4



Re: Public records requests

Thursday, July 29, 2010 8:45 AM

From: "Ellen Tsang" <tsangt123@yahoo.com>
To: "Brian Smith" <Brian.Smith@sfgov.org>
Cc: "SOTF" <sotf@sfgov.org>, "kimo" <kimo@webnetic.net>, tenants769np@yahoo.com,
"Ray Hartz Jr" <rwhartzjr@sbcglobal.net>, tsangt123@yahoo.com

Sunshine Request
Immediate Disclosure Request

Mr. Smith:

I requested public record in May as following:

- 1) All E-mails between Staff of Planning Department which should include but not limited to Director John Rahaim, Mr. Lawrence Badiner, Mr. Dean Macris, Mr. Jonas Ionin, Mr. David Lindsay, Mr. Scott Sanchez, Ms. Planner Sara Vellve.
- 2) All correspondences between Staff of Planning Department which should include but not limited to Director John Rahaim, Mr. Lawrence Badiner, Mr. Dean Macris, Mr. Jonas Ionin, Mr. David Lindsay, Mr. Scott Sanchez, Ms. Sara Vellve.
- 3) All email between the staff of Planning Dept. and owner of 2642-44 Hyde Street, the owner's agent including but not limited to Mr. Jeremy Paul, Mr. Robert Mittelstadt.
- 4) All correspondences between staff of Planning Dept. and owner of 2642-44 Hyde Street, St, the owner's agent including but not limited to Mr. Jeremy Paul, Mr. Robert Mittelstadt.

You provided me with a CD which contains thousands copy of duplicated, triplicated, some of them are 10 times duplications, many have no sender's name and dates.

Please comply with the Sunshine Law by assist me to identify the public records in responding to my requests as #1, #2, #3 and #4 stated above.

Or you can provide me with 4 separate CD's, one for each request as #1, #2, #3 and #4 stated above.

I only need one copy for one document. Please do not give me a bunch of duplicated copies.

Thank you.

Ellen Tsang

Exh. D.



Re: Public records requests

Friday, July 30, 2010 11:10 AM

From: "Brian.Smith@sfgov.org" <Brian.Smith@sfgov.org>
To: "Ellen Tsang" <tsangt123@yahoo.com>
Cc: sotf@sfgov.org, Jonas.Ionin@sfgov.org

Ms Tsang, we have complied with Sunshine Laws and provided you with all correspondence and Emails requested.

Sincerely, Brian Smith

Brian Smith
Director IT / Operations
San Francisco Planning Department
1650 Mission St Suite 400
415-575-6835
Brian.Smith@SFgov.org

From: Ellen Tsang <tsangt123@yahoo.com>
To: Brian Smith <Brian.Smith@sfgov.org>
Cc: SOTF <sotf@sfgov.org>, kimo <kimo@webnetic.net>, tenants769np@yahoo.com, Ray Hartz Jr <rwhartzjr@sbcglobal.net>, tsangt123@yahoo.com
Date: 07/29/2010 08:45 AM
Subject: Re: Public records requests

Sunshine Request

EXH. E

Re: Public records requests

Monday, August 2, 2010 7:18 AM

From:

"Ellen Tsang" <tsangt123@yahoo.com>

To:

Brian.Smith@sfgov.org, Jonas.Ionin@sfgov.org

Cc:

sotf@sfgov.org, "kimo" <kimo@webnetic.net>, "Allen Grossman" <grossman356@me.com>, tenants769np@yahoo.com, "Ray Hartz Jr" <rwhartzjr@sbcglobal.net>, tsangt123@yahoo.com

Mr. Smith and Sr. Planner Ionin:

Please comply with Sunshine laws including

"SEC. 67.21. PROCESS FOR GAINING ACCESS TO PUBLIC RECORDS

(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,....."*

Please assist me to identify the public records in responding to my requests as #1, #2, #3 and #4 (see below my Sunshine Request of July 29, 2010)

If you both refuse to comply with the Sunshine Law, I will be forced to file a Sunshine Complaint immediately.

Thank you.

Ellen Tsang

Exh. F

SUNSHINE ORDINANCE TASK FORCE

Support Documents Replacement Form

The documents 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 #10040 – Ellen Tsang vs. Planning Department

FROM: Brian Smith

- 1322 pages of emails

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This list reflects the explanatory documents provided.

Completed by: CHRIS RUSTON Date: Sept. 23, 2010