

**SUNSHINE ORDINANCE
TASK FORCE**



City Hall
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco 94102-4689
Tel. No. (415) 554-7724
Fax No. (415) 554-7854
TDD/TTY No. (415) 554-5227

ORDER OF DETERMINATION

August 31, 2009

DATE THE DECISION ISSUED

August 25, 2009

KENNETH KINNARD v. HUMAN RIGHTS COMMISSION (09031)

FACTS OF THE CASE

Complainant Kenneth Kinnard alleges that on March 4, 2009, he made an Immediate Disclosure Request of all records of certification and decertification for Westbay Trucking, reference number 47101. To this request, Mr. Kinnard alleges that the Human Rights Commission responded and stated that they were ordering the documents from the warehouse. As of the date of the filing of the complaint, Mr. Kinnard alleges that he has not received the requested records.

COMPLAINT FILED

On June 3, 2009, Mr. Kinnard filed a complaint against the HRC alleging violations of the Sunshine Ordinance and the Public Records Act.

HEARING ON THE COMPLAINT

On August 25, 2009, Complainant Kenneth Kinnard did not appear before the Task Force to present his claim. There was no one in the audience to present facts and evidence in support of the complainant. Respondent Agency was represented by Melinda Kanios, Manager of the Certification Unit at the Human Rights Commission.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Ms. Kanios told the Task Force that she received Mr. Kinnard's Immediate Disclosure Request on March 4, 2009, and did not respond before the end of the next day of business as the Ordinance requires. The Task Force was also told that the Commission was able to respond only on April 7, 2009, because Mr. Kinnard's request was unclear and clarifications were required. Ms. Kanios admitted that on April 7, 2009 Mr. Kinnard was provided only with a data log sheet and not the application or other supporting materials for the certification, which were in storage and would take three weeks to retrieve.

ORDER OF DETERMINATION

Ms. Kanios admitted that, despite Mr. Kinnard's request, no effort had been made to retrieve the responsive documents from remote storage in order to respond to Mr. Kinnard's request.

DECISION AND ORDER OF DETERMINATION

The Task Force finds that the agency violated Section 67.21 for failure to produce the requested documents in a timely fashion and Sec 67.25 for failure to respond to the Immediate Disclosure Request by immediately seeking clarification and/or explaining why the agency would need additional time to respond to the request. The agency shall retrieve the responsive documents from storage and appear before the Compliance and Amendments Committee on September 8, 2009 to discuss the status

This Order of Determination was adopted by the Sunshine Ordinance Task Force on August 25, 2009, by the following vote: (Craven-Green / Goldman)

Ayes: Craven-Green, Cauthen, Washburn, Knoebber, Johnson, Goldman, Williams

Excused: Chan, Chu



Richard A. Knee, Chair
Sunshine Ordinance Task Force

c: Ernie Llorente, Deputy City Attorney
Kenneth Kinnard, Complainant
Melinda Kanios, respondent
Rosa Sanchez, Deputy City Attorney