

**SUNSHINE ORDINANCE
TASK FORCE**



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ORDER OF DETERMINATION

August 5, 2009

DATE THE DECISION ISSUED

July 28, 2009

BRIAN TOMINA v. DEPARTMENT OF BUILDING INSPECTION (09034)

FACTS OF THE CASE

On June 9, 2009, Brian Tomina made an Immediate Disclosure Request ("IDR") for certain records from the Department of Building Inspection ("DBI"). Brian Tomina claims that he did not receive the records until June 17, 2009 and upon review discovered that certain emails for particular dates were not included. As a result, Brian Tomina filed a supplemental IDR for those records. As of the date of the filing of the complaint with the Task Force, Brian Tomina claims that he has not received a response from DBI. In an email dated July 2, 2009, William Strawn, the Communications Manager of DBI responded to Brian Tomina's complaint and stated that the DBI did respond in a timely fashion and did release documents as they became available. Particularly, DBI stated that it could not release certain documents until the contracts in which they were tied to are approved and then it becomes a public record.

COMPLAINT FILED

Brian Tomina filed a complaint against the department alleging violations of the Sunshine Ordinance on June 25, 2009.

HEARING ON THE COMPLAINT

On July 28, 2009, Complainant Brian Tomina did not appear before the Task Force to present his claim. There was no one at the meeting who wanted to present facts and evidence on behalf of the complainant. Respondent Agency was represented by William Strawn.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

William Strawn stated that DBI tried to contact Brian Tomina to tell him that his request would take additional time because of the number of documents requested but that was not possible because the telephone number Brian Tomina had provided was not

working. Contact was made when Brian Tomina called two days later. Willam Strawn further stated that the department had provided Brian Tomina with some of the documents and will produce more as they become available to the public.

DECISION AND ORDER OF DETERMINATION

The Task Force finds that the agency did not violate the Sunshine Ordinance.

This Order of Determination was adopted by the Sunshine Ordinance Task Force on July 28, 2009, by the following vote: (Goldman / Washburn)

Ayes: Cauthen, Washburn, Knoebber, Goldman, Williams, Knee

Excused: Craven-Green, Johnson, Chan, Chu

A handwritten signature in black ink, reading "Richard A. Knee". The signature is written in a cursive, flowing style.

Richard Knee, Chair
Sunshine Ordinance Task Force

c: Ernie Llorente, Deputy City Attorney
Brian Tomina, complainant
William Strawn, respondent