

**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

September 1, 2009

DATE THE DECISION ISSUED

August 25, 2009

ANMARIE MABBUTT v. RECREATION AND PARKS DEPARTMENT (09038)

FACTS OF THE CASE

Complainant Anmarie Mabbutt alleges that she submitted in the course of the past four weeks a number of Immediate Disclosure Requests ("IDR") with the Recreation and Park Department ("Rec & Park"). To those requests, Ms. Mabbutt states that Rec & Park provided full documentation on some, partial responses on some, "tampering" on others, and a few with no responses.

COMPLAINT FILED

On July 17, 2009, Ms. Mabbutt filed a complaint against Rec & Park alleging violations of Sections 67.21 and 67.25 of the Sunshine Ordinance.

HEARING ON THE COMPLAINT

On August 25, 2009, Complainant Anmarie Mabbutt appeared before the Task Force and presented her claim. Respondent Agency was represented by Olive Gong, the Custodian of Records for Rec & Park.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Ms. Mabbutt told the Task Force that she has submitted numerous IRDs to which some have been responded to, some have been ignored and some have generated partial responses. There are no laws, she said, that restrict the number of requests a person can make. The department, she said, has not said that the documents she wants are confidential; it has simply slowed down their response to a trickle. She also listed several documents that she wanted released first, and explained that she was attempting to work with the Department to prioritize the items in her requests. Respondent Olive Gong said in the last two months she has received 124 requests and 81 emails from the complainant. The Department has responded diligently and has sent the complainant 88 emails, 147 email documents and 337 hardcopy documents, she said. Ms. Gong alleged that all but

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a few of the complainant's requests for documents were labeled "Immediate Disclosure Request" and required extensive staff time. The Department, she added, has asked the complainant to prioritize her requests so that staff could respond in an orderly fashion and also take care of requests from other members of the public. Complicating the process, she said, was that the complainant reprioritizes her top requests several times over.

The Task Force sympathizes with the Department for the burden of responding to the pending requests, which are numerous, but noted that the law requires strict compliance and that Departments are required to do their best to provide accurate, timely responses. The Task Force also wanted to make sure that Ms. Mabbutt would really work with the Department to prioritize her many requests and would refrain from reprioritizing her requests, as that only added to the Department's already heavy burden. The Task Force asked both sides to work together and directed Ms. Mabbutt to send Ms. Gong a "final" list of priorities for the Department to respond to before turning to Ms. Mabbutt's other pending requests. Both sides agreed to that process.

DECISION AND ORDER OF DETERMINATION

The Task Force finds that the agency violated Section(s) 67.21 of the Sunshine Ordinance. Both parties were asked to work with each other and are to appear before the Compliance and Amendments Committee on September 8, 2009 to update the Committee on the status of the responses.

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

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

Noes: Cauthen

Excused: Chan, Chu



Richard Knee, Chair

Sunshine Ordinance Task Force

c: Ernie Llorente, Deputy City Attorney
Anmarie Mabbutt, complainant
Olive Gong, respondent
Rosa Sanchez, Deputy City Attorney