

Date: January 3, 2012

Item No. 8

File No. 11008

SUNSHINE ORDINANCE TASK FORCE

AGENDA PACKET CONTENTS LIST*



Continued hearing: William Clark v Arts Commission



Completed by: Chris Rustom

Date: Dec. 22, 2011

***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.



<complaints@sfgov.org>

02/28/2011 07:02 PM

To <soft@sfgov.org>

cc

bcc

Subject Sunshine Complaint

To:soft@sfgov.orgEmail:complaints@sfgov.orgDEPARTMENT:San Francisco Arts
Commission Street Artist Program

CONTACTED:Howard Lazar, Director of the Street Artist Program

PUBLIC_RECORDS_VIOLATION:Yes

PUBLIC_MEETING_VIOLATION:No

MEETING_DATE:

SECTIONS_VIOLATED:Section 67.21(b)

DESCRIPTION:On February 4, 2011 I sent Howard Lazar an email requesting an audio cassette copy of the January 12, 2011 Street Artist Program Committee meeting. As of today, February 28, 2011, I have not any response or an audio cassette copy of the January 28, 2011 Street Artist Program Committee Meeting from Mr. Lazar.

HEARING:Yes

PRE-HEARING:No

DATE:February 28, 2011

NAME:William J. Clark

ADDRESS:P.O. Box 882252

CITY:San Francisco

ZIP:94188

PHONE:415-822-5465

CONTACT_EMAIL:billandbobclark@access4less.net

ANONYMOUS:

CONFIDENTIALITY_REQUESTED:No

**SUNSHINE ORDINANCE
TASK FORCE**



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ORDER OF DETERMINATION

April 26, 2011

DATE THE DECISION ISSUED

April 26, 2011

WILLIAM CLARK v ARTS COMMISSION (CASE NO. 11008)

FACTS OF THE CASE

Complainant William Clark alleges that the San Francisco Arts Commission (the "Commission") violated the Ordinance by failing to adequately respond to his February 4, 2011, public records request for a copy of the audio cassette tape of the January 12, 2011, Street Artists Program Committee meeting.

COMPLAINT FILED

On February 28, 2011, Mr. Clark filed a complaint with the Task Force alleging a violation of section 67.21(b).

HEARING ON THE COMPLAINT

On April 26, 2011, Mr. Clark presented his case to the Task Force. Julio Mattos of the Arts Commission provided the response.

Mr. Clark told the Task Force that his brother, Robert, made a statement during Public Comment at the Arts Commission's Street Artists Program meeting on January 12. He said Louis Cancel, the director of cultural Affairs, then told his brother that questions cannot be asked during Public Comment session. His brother objected and an argument ensued, he said. He also said Mr. Cancel pointed his finger at his brother and yelled at him. He said the minutes of the meeting did not reflect that this exchange took place. He said he asked for a copy of the audio recording and noticed that the quality was very poor. The recording, he said, did not include the verbal exchange and subsequent conversation. He then asked to listen to the recording kept by the commission and noticed the same deficiencies.. He said he filed this complaint because he does not accept the audio recording as an official record of the day because certain parts were edited.

Mr. Mattos said the commission has submitted a copy of the recording during the Task Force hearing on March 22. He said the two audio tapes were transferred to a computer. and the digital file was sent to the Clark brothers The recording lasts about 2 hours and 18 minutes and is the same time as noted in the minutes.

The only loss in recording was at the end of Side A when one of the brothers was talking about a proposed lottery procedure. He said the conversation continued even though an indication was made that the tape leader for Side A had started and the cassette needed to be flipped over to Side B. The end of Side B has Michael Addario providing public comment and continues at the start of the second tape. There is no evidence of tampering, he said.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Judging from the evidence presented, the Task Force finds that the Arts Commission had ample time to respond but did not, and that the representative was not knowledgeable on the facts of the complaint.

DECISION AND ORDER OF DETERMINATION

The Task Force finds that the Arts Commission violated Sunshine Ordinance Section(s) 67.21(b) by not responding to the request in a timely manner and 67.21(e) by not sending a person knowledgeable on the complaint. The Compliance and Amendments Committee is to review the tape and check on its authenticity.

This Order of Determination was adopted by the Sunshine Ordinance Task Force on April 26, 2011, by the following vote: (Cauthen / Manneh)

Ayes: Costa, Wolfe, Johnson, Cauthen, Manneh, Washburn, Knee

Excused: Snyder, Knoebber, Chan, West

Richard A. Knee, Chair
Sunshine Ordinance Task Force

David Snyder, Member, Seat #1*
Sunshine Ordinance Task Force

c: William Clark, Complainant
Howard Lazar, Respondent
Jerry Threet, Deputy City Attorney

*Sunshine Ordinance Task Force Seat #1 is a voting seat held by an attorney specializing in sunshine law.