

SUNSHINE ORDINANCE TASK FORCE
AGENDA PACKET CONTENTS LIST

Complaint Committee Date: January 24, 2017

- Memorandum - Deputy City Attorney
- Complaint and Supporting documents
- Respondent's Response
- Order of Determination
- Minutes
- Correspondence
- Committee Recommendation/Referral
-
-
-
-
- No Attachments

OTHER

- Administrator's Report
- _____
- _____
- Public Correspondence
- _____

Completed by: V. Young Date 01/19/17

*An asterisked item represents the cover sheet to a document that exceeds 25 pages.
The complete document is in the file.

Young, Victor

From: treboux2@aol.com
Sent: Wednesday, August 31, 2016 3:17 PM
To: SOTF, (BOS)
Cc: Calvillo, Angela (BOS)
Subject: Please open a file and schedule a hearing
Attachments: 2016-03-07 Ltr. to A. Treboux.pdf; ATT00001.htm

Follow Up Flag: Follow up
Flag Status: Flagged

I made a specific request for documents. The respondent didn't identify which documents were in their possession and which they were not going to give over. No reason was given. I request a file be opened and a hearing as soon as you are able.

Begin forwarded message:

From: "Patterson, Kate (ART)" <kate.patterson@sfgov.org>
Date: August 31, 2016 at 2:53:33 PM PDT
To: "treboux2@aol.com" <treboux2@aol.com>, "RecordsRequest, SFAC (ART)" <SFAC.RecordsRequest@sfgov.org>
Cc: "SOTF, (BOS)" <sotf@sfgov.org>, "Lazar, Howard (ART)" <howard.lazar@sfgov.org>, "Ventre, Alyssa (ART)" <alyssa.ventre@sfgov.org>
Subject: RE: Immediate Disclosure Request

Dear Ms. Treboux:

In response to your request for, " all documents; police reports; Inter office emails and photographic evidence concerning a statement made by Kate Patterson in a letter dated August 31, 2016 to the SOTF: " I have a history of contacting commissioners via personal emails; showing up at their residences and workplaces unannounced', please note that on numerous occasions you have requested similar documents, which have been denied. Please refer to a response we issued to an almost identical request on July 29, 2015. In my response to your request, I stated the following:

The Arts Commission takes harassment of its staff and commissioners very seriously. As the subject of this request and the central figure in a number of complaints involving harassment on file, which include the recent three-year restraining order obtained by Commissioner Sklar, we feel that we must protect the identities of the complainants by withholding the requested records.

Please refer to the following excerpts from the April 20, 2015 memo issued by the City Attorney's Office to the Ethics Commission in response to Ethics Commission Complaint No. 03-150127. As you will recall, this complaint centered around the Arts Commission's withholding the identity of an individual who had written a complaint against you and who had requested anonymity.

The Public Records Act protects from disclosure "[r]ecords the disclosure of which is exempted of prohibited pursuant to federal or state law, including but not limited to, provisions of the Evidence Code relating to privilege." (Cal. Gov. Code 6254(k).) Two such provisions are the identity of informer privilege (Cal. Evid. Code 1041) and the official information privilege (Cal. Evid. Code 1040). The Act cross-references these Evidence Code sections in its listing of more than 500 California statutes that protect records from disclosure. (Cal. Gov. Code 6276.32.)...

The Sunshine Ordinance does not specifically preclude the City from relying on the identity of informer and official information privileges as grounds to disclose a record in response to a public records request. The City Attorney's Good Government Guide, which explains open government rules that City officials and employees must follow, and which is available on the City Attorney's website, states, at page: 102:

In some circumstances, departments may shield from disclosure the identity of persons complaining to the City about violations of law. Cal. Evidence Code 1041. Privacy or other grounds may also authorize or require nondisclosure, even where the complaint does not allege a violation of law. Cal. Govt. Code 6254(c). Substantial public interests often warrant withholding the identity of complainants. When, for example, a tenant complains about a landlord, a neighbor complains about a neighbor, an employee complains about an employer, or a citizen complains about a person making public disturbance, disclosure of the identity of the complainant, the complainant, and/or the investigation could lead to retaliation against or harassment of the complainant and could also compromise the investigation. Under those circumstances the City may be able to withhold or redact the complaint and record of the investigation. See generally Cal. Evidence Code 1040.

The "Identity of Informer Privilege" protects individuals within its ambit from hassle, harassment, threats, retaliation and potentially even violence. The examples in the Good Government Guide of common situations outside of the criminal law context that are fraught with these possibilities illustrate the principle that persons who, in a non-public way, report suspected violations of law to responsible City officials should not thereby be subject to possible abuse, or worse, at the hands of those who may be violating the law....

...The City must take seriously the protection of the personal interests of the informer...In some cases, possible wrongdoing would never be uncovered, in other cases investigations of wrongdoing would be hindered because people would be reluctant to come forward and initiate a complaint, or cooperate with an investigation.

Under the identity of informer privilege, an entire record may be withheld if disclosure of the contents of the record would effectively enable the object of the complaint to identify the source of the information (People v. Galland (2008) 45 Cal. 4th 354, 364)...

Please also find attached a letter from City Attorney Brad Russi denying a similar request based on the same arguments cited above. In keeping with our original finding and that of the City Attorney, we have no records responsive to this request. As for the police records, you already have in your possession the restraining order obtained by Commissioner Sklar.

Sincerely,

Kate Patterson-Murphy
Director of Communications

San Francisco Arts Commission
401 Van Ness Avenue, Suite 325
San Francisco, CA 94102
T: 415-252-2229
sfartscommission.org

e-Newsletter | Twitter | Facebook | YouTube | Flickr

-----Original Message-----

From: treboux2@aol.com [mailto:treboux2@aol.com]
Sent: Wednesday, August 31, 2016 11:50 AM
To: RecordsRequest, SFAC (ART) <SFAC.RecordsRequest@sfgov.org>
Cc: SOTF, (BOS) <sotf@sfgov.org>
Subject: Immediate Disclosure Request

Request all documents; police reports;
Inter office emails and photographic
evidence concerning a statement made
by Kate Patterson in a letter dated August 31, 2016 to the SOTF:

" I have a history of contacting comissioners via personal emails; showing up at their residences and workplaces unannounced".

I am making this request pursuant to the Sunshine Ordinance.



DENNIS J. HERRERA
City Attorney

NICHOLAS COLLA
Deputy City Attorney

Direct Dial: (415) 554-3819
Email: nicholas.colla@sfgov.org

MEMORANDUM

TO: Sunshine Ordinance Task Force
FROM: Nicholas Colla
Deputy City Attorney
DATE: January 18, 2017
RE: Complaint No. 16083 – Treboux v. Kate Patterson-Murphy, San Francisco Arts Commission

COMPLAINT

Complainant Ann Treboux (“Complainant”) alleges that Kate Patterson-Murphy (“Ms. Patterson”) of the San Francisco Arts Commission (“the Commission”) violated provisions of the Sunshine Ordinance by failing to timely respond to her August 31, 2016 Immediate Disclosure Request (“IDR”).

COMPLAINANT FILES THIS COMPLAINT

On August 31, 2016, Complainant filed this complainant with the Task Force regarding the Commission’s alleged failure to timely respond to Complainant’s IDR.

JURISDICTION

The Commission is a department under the Ordinance. The Task Force therefore generally has jurisdiction to hear a complaint of a violation of the Ordinance against the Commission. The Commission has not contested jurisdiction.

APPLICABLE STATUTORY SECTION(S)

Section 67 of the San Francisco Administrative Code:

- Section 67.21 governs responses to public records requests.
- Section 67.25 governs immediacy of response.

Section 6250 et seq. of the Cal. Gov’t Code (“CPRA”)

- Section 6253 governs the release of public records and the timing of responses.

APPLICABLE CASE LAW

- none

BACKGROUND

On August 31, 2016, Complainant sent an email IDR to the Commission at sfac.recordsrequest@sfgov.org in which she requested the following:

MEMORANDUM

TO: Sunshine Ordinance Task Force
DATE: January 18, 2017
PAGE: 2
RE: Complaint No. 16083 – Treboux v. Kate Patterson-Murphy, San Francisco Arts Commission

Request all documents; police reports; Inter office emails and photographic evidence concerning a statement made by Kate Patterson in a letter dated August 31, 2016 to the SOTF:

"I have a history of contacting commissioners via personal emails; showing up at their residences and workplaces unannounced".

On the same date, Ms. Patterson sent a response email to Complainant in which she explained that the Commission would be withholding responsive records, as it had done in the past when Complainant made similar requests. Ms. Patterson's email also quoted an earlier response letter to Complainant regarding the basis for a similar denial in which she stated in part as follows:

The Public Records Act protects from disclosure "[r]ecords the disclosure of which is exempted or prohibited pursuant to federal or state law, including but not limited to, provisions of the Evidence Code relating to privilege." (Cal. Gov. Code 6254(k).) Two such provisions are the identity of informer privilege (Cal. Evid. Code 1041) and the official information privilege (Cal. Evid. Code 1040). The Act cross-references these Evidence Code sections in its listing of more than 500 California statutes that protect records from disclosure. (Cal. Gov. Code 6276.32.)...

On the same date, Complainant filed this complaint with the Task Force.

On September 27, 2016, in response to the filing of this Complaint, Ms. Patterson wrote a letter to the Task Force which reads in part as follows:

Regarding Ms. Treboux's aforementioned records request for "all documents; police reports; inter office emails and photographic evidence," on July 29, 2015 we provided a thorough response and justification for withholding these records in response to an almost identical request. On July 28, 2015, Ms. Treboux requested "all inter office emails; emails between the SFAC Commissioners and the SFAC concerning so called harassment of a SFAC employee." Rather than repeat our response to this request verbatim, I'll direct you to the original email correspondence attached. I'm also including a letter to Ms. Treboux from the City Attorney's office denying her request for these records as well as a letter from the Ethics Commission, which supported our withholding records that included complaints of harassment by Ms. Treboux.

To summarize, the Arts Commission's decision to withhold these documents, which protect the identities of individuals who have experienced harassment by Ms. Treboux, is justified under California Evidence Code 1040, 1041. See the aforementioned documents for a more complete argument.

QUESTIONS THAT MIGHT ASSIST IN DETERMINING FACTS

- What is the basis of Complainant's Complaint?

MEMORANDUM

TO: Sunshine Ordinance Task Force
DATE: January 18, 2017
PAGE: 3
RE: Complaint No. 16083 – Treboux v. Kate Patterson-Murphy, San Francisco Arts Commission

- Does Complainant contend that the response was untimely, or that there's a wrongful withholding?

LEGAL ISSUES/LEGAL DETERMINATIONS

- Did the Commission violate Administrative Code Sections 67.21 and/or 67.25 by failing to timely respond to Complainant's IDR?
- Did the Commission violate CPRA 6253(c) by allegedly failing to comply with Complainant's requests for records?
- Was the Commission within its right under CPRA Section 6254(k) to withhold documents responsive to the request at issue?

MEMORANDUM

TO: Sunshine Ordinance Task Force
DATE: January 18, 2017
PAGE: 4
RE: Complaint No. 16083 – Treboux v. Kate Patterson-Murphy, San Francisco Arts
Commission

CONCLUSION

THE TASK FORCE FINDS THE FOLLOWING FACTS TO BE TRUE:

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

MEMORANDUM

TO: Sunshine Ordinance Task Force
DATE: January 18, 2017
PAGE: 5
RE: Complaint No. 16083 – Treboux v. Kate Patterson-Murphy, San Francisco Arts Commission

* * *

CHAPTER 67, SAN FRANCISCO ADMINISTRATIVE CODE (SUNSHINE ORDINANCE)**SEC. 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 petitioner, 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

MEMORANDUM

TO: Sunshine Ordinance Task Force
DATE: January 18, 2017
PAGE: 6
RE: Complaint No. 16083 – Treboux v. Kate Patterson-Murphy, San Francisco Arts Commission

person making the request may petition the Sunshine Task Force for a determination whether the record 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.

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) 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

MEMORANDUM

TO: Sunshine Ordinance Task Force
 DATE: January 18, 2017
 PAGE: 7
 RE: Complaint No. 16083 – Treboux v. Kate Patterson-Murphy, San Francisco Arts Commission

until all potentially responsive documents have been reviewed and collected. Failure to comply with this provision is a violation of this Article.

CAL. PUBLIC RECORDS ACT (GOVT. CODE §§ 6250, ET SEQ.)**SEC. 6253**

(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 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.

SEC. 6254

Except as provided in Sections 6254.7 and 6254.13, nothing in this chapter shall be construed to require disclosure of records that are any of the following:

- (k) Records, the disclosure of which is exempted or prohibited pursuant to federal or state law, including, but not limited to, provisions of the Evidence Code relating to privilege.

CALIFORNIA EVIDENCE CODE**SEC. 1040**

(a) As used in this section, “official information” means information acquired in confidence by a public employee in the course of his or her duty and not open, or officially disclosed, to the public prior to the time the claim of privilege is made.

(b) A public entity has a privilege to refuse to disclose official information, and to prevent another from disclosing official information, if the privilege is claimed by a person authorized by the public entity to do so and either of the following apply:

- (1) Disclosure is forbidden by an act of the Congress of the United States or a statute of this state.

MEMORANDUM

TO: Sunshine Ordinance Task Force
DATE: January 18, 2017
PAGE: 8
RE: Complaint No. 16083 – Treboux v. Kate Patterson-Murphy, San Francisco Arts Commission

(2) Disclosure of the information is against the public interest because there is a necessity for preserving the confidentiality of the information that outweighs the necessity for disclosure in the interest of justice; but no privilege may be claimed under this paragraph if any person authorized to do so has consented that the information be disclosed in the proceeding. In determining whether disclosure of the information is against the public interest, the interest of the public entity as a party in the outcome of the proceeding may not be considered.

(c) Notwithstanding any other law, the Employment Development Department shall disclose to law enforcement agencies, in accordance with subdivision (i) of Section 1095 of the Unemployment Insurance Code, information in its possession relating to any person if an arrest warrant has been issued for the person for commission of a felony.

SEC. 1041

(a) Except as provided in this section, a public entity has a privilege to refuse to disclose the identity of a person who has furnished information as provided in subdivision (b) purporting to disclose a violation of a law of the United States or of this state or of a public entity in this state, and to prevent another from disclosing the person's identity, if the privilege is claimed by a person authorized by the public entity to do so and either of the following apply:

(1) Disclosure is forbidden by an act of the Congress of the United States or a statute of this state.

(2) Disclosure of the identity of the informer is against the public interest because the necessity for preserving the confidentiality of his or her identity outweighs the necessity for disclosure in the interest of justice. The privilege shall not be claimed under this paragraph if a person authorized to do so has consented that the identity of the informer be disclosed in the proceeding. In determining whether disclosure of the identity of the informer is against the public interest, the interest of the public entity as a party in the outcome of the proceeding shall not be considered.

(b) The privilege described in this section applies only if the information is furnished in confidence by the informer to any of the following:

(1) A law enforcement officer.

(2) A representative of an administrative agency charged with the administration or enforcement of the law alleged to be violated.

(3) Any person for the purpose of transmittal to a person listed in paragraph (1) or (2). As used in this paragraph, "person" includes a volunteer or employee of a crime stopper organization.

(c) The privilege described in this section shall not be construed to prevent the informer from disclosing his or her identity.

(d) As used in this section, "crime stopper organization" means a private, nonprofit organization that accepts and expends donations used to reward persons who report to the organization information concerning alleged criminal activity, and forwards the information to the appropriate law enforcement agency.

**Sunshine Ordinance Task Force
Complaint Summary**

File No. 16083

Ann Treboux V. Kate Patterson and the Arts Commission

Date filed with SOTF: 8/31/16

Contacts information (Complainant information listed first):

Treboux2@aol.com (Complainant)

Kate Patterson, Arts Commission (Respondent)

File No. 16083: Complaint filed by Ann Treboux against Kate Patterson and the Arts Commission, for allegedly violating Administrative Code (Sunshine Ordinance), Section 67.25, by failing to respond to an Immediate Disclosure Request in a complete manner.

Date of public records request: August 31, 2016,

Date of Respondents initial response: August 31, 2016

Administrative Summary if applicable:

The Complainant requested all documents; police reports; Inter office emails and photographic evidence concerning a statement made by Kate Patterson in a letter dated August 31, 2016 to the SOTF:

"I have a history of contacting commissioners via personal emails; showing up at their residences and workplaces unannounced".

Complainant and/or Respondent: Please provide a copy of the August 31, 2016, letter in question.

The complaints appears to be associated with previous complaint File No. 15154 regarding policy/efforts in preventing Complainant from attending an Arts Commission meeting held in the War Memorial building.

The Complainant does not believe the response satisfies the request.

Complaint Attached.

Young, Victor

From: treboux2@aol.com
Sent: Tuesday, September 27, 2016 11:57 AM
To: SOTF, (BOS)
Subject: Please schedule a hearing

Follow Up Flag: Follow up
Flag Status: Flagged

. Respondant did not identify the documents relative to this request. Respondant did not cite a section of the Ordinance and instead sent the usual irrelevant verbiage and slander. Please schedule a hearing as this request was late and not satisfied.

On Sep 27, 2016, at 11:40 AM, Patterson, Kate (ART) <kate.patterson@sfgov.org> wrote:

Hi Victor,

Please see our response attached. See you later today!

Kate Patterson-Murphy
Director of Communications

San Francisco Arts Commission
401 Van Ness Avenue, Suite 325
San Francisco, CA 94102
T: 415-252-2229
sfartscommission.org

[e-Newsletter](#) | [Twitter](#) | [Facebook](#) | [YouTube](#) | [Flickr](#)

From: SOTF, (BOS)
Sent: Wednesday, September 21, 2016 3:34 PM
To: Patterson, Kate (ART) <kate.patterson@sfgov.org>
Cc: Colla, Nicholas (CAT) <nicholas.colla@sfgov.org>; treboux2@aol.com; Calvillo, Angela (BOS) <angela.calvillo@sfgov.org>
Subject: SOTF - Complaint Filed with the Sunshine Ordinance Task Force - Complaint No. 16083

Good Afternoon,

You have been named as a Respondent in the attached complaint filed with the Sunshine Ordinance Task Force. In an attempt to mediate and avoid a hearing before the Sunshine Ordinance Task Force, please respond to the following complaint/request within five business days.

The Respondent is required to submit a written response to the allegations including any and all supporting documents, recordings, electronic media, etc., to the Task Force within

five (5) business days of receipt of this notice. This is your opportunity to provide a full explanation to allow the Task Force to be fully informed in considering your response prior its meeting.

Please include the following information in your response if applicable:

1. List all relevant records with descriptions that have been provided pursuant to the Complainant request.
2. Date the relevant records were provided to the Complainant.
3. Description of the method used, along with any relevant search terms used, to search for the relevant records.
4. Statement/declaration that all relevant documents have been provided, does not exist, or has been excluded.
5. Copy of the original request for records (if applicable).

Please refer to the File Number when submitting any new information and/or supporting documents pertaining to this complaint.

The Complainant alleges:

File No. 16083: Complaint filed by Ann Treboux against Kate Patterson and the Arts Commission, for allegedly violating Administrative Code (Sunshine Ordinance), Section 67.25, by failing to respond to an Immediate Disclosure Request in a complete manner.
Complaint Attached.

Both parties (Complainant and Respondent) **will be contacted once a hearing date is determined.**

Complainants: Your attendance is required at this meeting/hearing.

Respondents/Departments: Pursuant to Section 67.21 (e) of the Ordinance, attendance by the custodian of records or a representative of your department, who can speak to the matter, is required at the meeting/hearing.

Also, attached is the Sunshine Ordinance Task Force's complaint procedures.

Pursuant to Section 67.21(b), If the custodian of public records 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 the Sunshine Ordinance.

Thank you.

Victor Young
Administrator

Sunshine Ordinance Task Force
1 Dr. Carlton B. Goodlett Place, City Hall., Room 244
San Francisco CA 94102
phone 415-554-7724 | fax 415-554-5163
victor.young@sfgov.org | www.sfbos.org

<image001.png> Click [here](#) to complete a Board of Supervisors Customer Service Satisfaction form.

The [Legislative Research Center](#) provides 24-hour access to Board of Supervisors legislation, and archived matters since August 1998.

Disclosures: Personal information that is provided in communications to the Board of Supervisors is subject to disclosure under the California Public Records Act and the San Francisco Sunshine Ordinance. Personal information provided will not be redacted. Members of the public are not required to provide personal identifying information when they communicate with the Board of Supervisors and its committees. All written or oral communications that members of the public submit to the Clerk's Office regarding pending legislation or hearings will be made available to all members of the public for inspection and copying. The Clerk's Office does not redact any information from these submissions. This means that personal information—including names, phone numbers, addresses and similar information that a member of the public elects to submit to the Board and its committees—may appear on the Board of Supervisors website or in other public documents that members of the public may inspect or copy.

<2016-03-07 Ltr. to A. Treboux.pdf>

<ART_Ethics_Response_4.20.15.pdf>

<Closure.Letter.Respondent.0315.pdf>

<July 29 2015 Email to PD.pdf>

<SOTF_Response_16083.pdf>

**SAN FRANCISCO BOARD OF SUPERVISORS
SUNSHINE TASK FORCE**

January 13, 2017

FILE # 16083

Ann Treboux v Kate Patterson-San Francisco Arts Commission

Timeline:

August 31, 2016 @ 11:49am sent IDR to SFAC.RecordsRequest@SFGOV.ORG.

August 31, 2016 @ 2:53pm kate.patterson@sfgov.org initial response.

Patterson does not identify the documents she has relative to this request; does not identify which documents are being withheld and/or the reason for the withholding.

Patterson cites SF Ethics Case 03-150127. The San Francisco Arts Commission (SFAC) was found in violation of Sunshine violation -Justification of Withholding. Patterson spends 7 paragraphs in a rant/ rambling diatribes on nothing related to the document request.

Paragraph 8 of Patterson's response cites a letter from DCA Russi. She states, "As for the police records, you already have in your possession the restraining order obtained by Commissioner Sklar". While this is not a complete sentence, it is confusing.

I did not have police records in my possession and do not have police records. I asked for them in the IDR.

The March 7, 2016 letter from DCA Brad Russi is in error for the following reasons:

1. The SFAC never identified which documents they had (police reports, phone logs, evidence, name of inspector). The SF City Attorney's Office can not determine if records were withheld when there are none. **As of Jan. 11, 2017 SFPD Records has no police reports under my name.**
2. Emails between the SFAC and Allegra Fortuniti, were received but Patterson called Fortuniti to ask her which documents she wanted with held. This is bad form and illegal.

3. "All inter office emails; emails between the SFAC Commissioners and the SFAC concerning so called harassment of a SFAC employee". This did not happen and there can be not documents relative to this request. See California Court of Appeal case: A 145905.

4. Page 2 paragraph 5 , "indeed when understand that you have contacted staff and commissioners on the home phone numbers on multiple occasions, even though such numbers were not provided to you by these staff members or Commissioners".

Under public comment at various full SFAC meetings, I noted that not only has Kate Patterson been found in violation of various sections of the Sunshine Ordinance, she continues to send confidential information about Commissioners (cell phone numbers, private emails and did so with-out their permission).

Barbara Sklar's affidavit of May 1, 2015 was struck down on appeal (case A145905). The remitter was never placed on file with the War Memorial management and Barbara Sklar was never told of the outcome. (CA Rule of Court 8.

5 DCA Russi's histrionics is incorrect and irective to the document request.

6. At a previous February 2016 SOFT meeting, Patterson's response to a document request was that, "I follow commissioners, make phone calls in the middle of the night, walk into staff offices and follow staff on trolleys".

These events did not happen. There are no documents relative to the request.

7. Patterson's written response to a document request was, "I have many assumed names in my career." This is not true and not relevant to a document request.

8. At a Feb. 2016 SOFT hearing, Patterson said, "There is a huge file on her. I have seen it". I asked for a copy of this, "file" though a previous request. Patterson's response was that, "there is no file".

9. At the Feb. 2016 SOFT meeting, Patterson's response to a document request was that, "The Director of Cultural Affairs is afraid of me". I asked for documents relative to this statement. Patterson said, "There are none."

10. The attorney-client privilege dies not apply in almost all of the above. Patterson has not bothered to consult with DCA Baumgartner; Rosenstein or Curry. She admitted on the public record at various SOFT meetings.

Summary:

Sunshine violation

Justification of Withholding

William Clark was the subject of Patterson's abuse for three years. Each time he file a Sunshine Complaint, Patterson slandered him in her responses and at SOFT hearings. At various times, Patterson claimed she was afraid of him and upon exiting SF City Hall, SFPD was waiting for him to, "speak to him". At other times, Patterson asked for SFSD escort out of the building. This has been a patteredon of behavior on the part of Patterson to slander and otherwise, "invent" situations as a response to Sunshine requests.

I have been the object of her form of abuse and bullying for over three years. It needs to stop!


Ann Treboux

From: treboux2 <treboux2@aol.com>
To: SFAC.RecordsRequest <SFAC.RecordsRequest@SFGOV.ORG>
Cc: Sotf, <sotf@sfgov.org>
Bcc: angela.calvillo <angela.calvillo@sfgov.org>
Subject: Immediate Disclosure Request
Date: Wed, Aug 31, 2016 11:49 am

Request all documents; police reports;
Inter office emails and photographic
evidence concerning a statement made
by Kate Patterson in a letter dated August
31, 2016 to the SOTF:

" I have a history of contacting comissioners
via personal emails; showing up at their
residences and workplaces unannounced".

I am making this request pursuant to the
Sunshine Ordinance.

From: Ann Treboux <treboux2@aol.com>

To: brad.russi <brad.russi@sfgov.org>

Cc: diana.rosenstein <diana.rosenstein@sfgov.org>; nick.gregaratos <nick.gregaratos@sfgov.org>

Bcc: soft <soft@sfgov.org>; nick_pls <nick_pls@hotmail.com>

Subject: Fwd: Immediate Disclosure Request

Date: Fri, Sep 2, 2016 9:03 am

Attachments: 2016-03-07 Ltr. to A. Treboux.pdf (98K)

You are wrong in almost all aspects of your account of the history of restraining orders issued against me in the attached letter. It might be a good idea to do some research before writing. Just to let you know, not only has Kate Patterson written another letter making allegations that, "I go to commissioners homes and workplaces..." each time I ask for proof of these on going allegations, there is none.

Please note that in June 2016, while waiting to take a ferry, and in a waiting room-Howard lazar came out of a bathroom. He immediately began ranting about how, "He wants me arrested as I am trespassing". I said nothing and taped him. I contacted Margaret Baumgartner. I explained that I filed a police report and had a tape of him. She said she didn't care.

Of further note, each time Patterson appears before SOFT, she either slanders me as a response to a document request, or invents another situation. She has been reprimanded for the past 3 years by SOFT.

Ann Treboux
treboux2@aol.com

-----Original Message-----

From: Patterson, Kate (ART) (ART) <kate.patterson@sfgov.org>

To: treboux2 <treboux2@aol.com>; RecordsRequest, SFAC (ART) (ART) <SFAC.RecordsRequest@sfgov.org>

Cc: SOTF, (BOS) <soft@sfgov.org>; Lazar, Howard (ART) (ART) <howard.lazar@sfgov.org>; Ventre, Alyssa (ART) (ART) <alyssa.ventre@sfgov.org>

Sent: Wed, Aug 31, 2016 2:53 pm

Subject: RE: Immediate Disclosure Request

Dear Ms. Treboux:

In response to your request for, " all documents; police reports; Inter office emails and photographic evidence concerning a statement made by Kate Patterson in a letter dated August 31, 2016 to the SOTF: " I have a history of contacting commissioners via personal emails; showing up at their residences and workplaces unannounced', please note that on numerous occasions you have requested similar documents, which have been denied. Please refer to a response we issued to an almost identical request on July 29, 2015. In my response to your request, I stated the following:

The Arts Commission takes harassment of its staff and commissioners very seriously. As the subject of this request and the central figure in a number of complaints involving harassment on file, which include the recent three-year restraining order obtained by Commissioner Sklar, we feel that we must protect the identities of the complainants by withholding the requested records.

Please refer to the following excerpts from the April 20, 2015 memo issued by the City Attorney's Office

to the Ethics Commission in response to Ethics Commission Complaint No. 03-150127. As you will recall, this complaint centered around the Arts Commission's withholding the identity of an individual who had written a complaint against you and who had requested anonymity.

The Public Records Act protects from disclosure "[r]ecords the disclosure of which is exempted of prohibited pursuant to federal or state law, including but not limited to, provisions of the Evidence Code relating to privilege." (Cal. Gov. Code 6254(k).) Two such provisions are the identity of informer privilege (Cal. Evid. Code 1041) and the official information privilege (Cal. Evid. Code 1040). The Act cross-references these Evidence Code sections in its listing of more than 500 California statutes that protect records from disclosure. (Cal. Gov. Code 6276.32.)...

The Sunshine Ordinance does not specifically preclude the City from relying on the identity of informer and official information privileges as grounds to disclose a record in response to a public records request. The City Attorney's Good Government Guide, which explains open government rules that City officials and employees must follow, and which is available on the City Attorney's website, states, at page: 102:

In some circumstances, departments may shield from disclosure the identity of persons complaining to the City about violations of law. Cal. Evidence Code 1041. Privacy or other grounds may also authorize or require nondisclosure, even where the complaint does not allege a violation of law. Cal. Govt. Code 6254(c). Substantial public interests often warrant withholding the identity of complainants. When, for example, a tenant complains about a landlord, a neighbor complains about a neighbor, an employee complains about an employer, or a citizen complains about a person making public disturbance, disclosure of the identity of the complainant, the complainant, and/or the investigation could lead to retaliation against or harassment of the complainant and could also compromise the investigation. Under those circumstances the City may be able to withhold or redact the complaint and record of the investigation. See generally Cal. Evidence Code 1040.

The "Identity of Informer Privilege" protects individuals within its ambit from hassle, harassment, threats, retaliation and potentially even violence. The examples in the Good Government Guide of common situations outside of the criminal law context that are fraught with these possibilities illustrate the principle that persons who, in a non-public way, report suspected violations of law to responsible City officials should not thereby be subject to possible abuse, or worse, at the hands of those who may be violating the law....

...The City must take seriously the protection of the personal interests of the informer...In some cases, possible wrongdoing would never be uncovered, in other cases investigations of wrongdoing would be hindered because people would be reluctant to come forward and initiate a complaint, or cooperate with an investigation.

Under the identity of informer privilege, an entire record may be withheld if disclosure of the contents of the record would effectively enable the object of the complaint to identify the sources of the information (People v. Galland (2008) 45 Cal. 4th 354, 364)...

Please also find attached a letter from City Attorney Brad Russi denying a similar request based on the same arguments cited above. In keeping with our original finding and that of the City Attorney, we have no records responsive to this request. As for the police records, you already have in your possession the restraining order obtained by Commissioner Sklar.

Sincerely,

Kate Patterson-Murphy
Director of Communications

San Francisco Arts Commission
401 Van Ness Avenue, Suite 325
San Francisco, CA 94102
T: 415-252-2229
sfartscommission.org

e-Newsletter | Twitter | Facebook | YouTube | Flickr

-----Original Message-----

From: treboux2@aol.com [<mailto:treboux2@aol.com>]
Sent: Wednesday, August 31, 2016 11:50 AM
To: RecordsRequest, SFAC (ART) <SFAC.RecordsRequest@sfgov.org>
Cc: SOTF, (BOS) <sotf@sfgov.org>
Subject: Immediate Disclosure Request

Request all documents; police reports;
Inter office emails and photographic
evidence concerning a statement made
by Kate Patterson in a letter dated August 31, 2016 to the SOTF:

" I have a history of contacting comissioners via personal emails; showing up at their residences and workplaces unannounced".

I am making this request pursuant to the Sunshine Ordinance.

San Francisco Arts Commission September 27, 2016

Edwin M. Lee
Mayor

Tom DeCaigny
Director of Cultural Affairs

401 Van Ness Avenue, Suite 325
San Francisco, CA 94102

SFAC Galleries
401 Van Ness Avenue, Suite 126
San Francisco, CA 94102

Street Artists Licensing
401 Van Ness Avenue, Suite 124B
San Francisco, CA 94102

tel 415-252-2100
fax 415-934-1022
sfartscommission.org
facebook.com/sfartscommission
twitter.com/SFAC



City and County of San Francisco

Mr. Victor Young, Administrator
Sunshine Ordinance Task Force
1 Dr. Carlton B. Goodlett Place
City Hall Room 244
San Francisco, CA 94102

Re: Sunshine Ordinance Task Force Complaint 16083 Ann Treboux v Kate Patterson, San Francisco Arts Commission

Dear Mr. Young:

We are writing in response to the above-named complaint filed by Ann Treboux against Kate Patterson and the San Francisco Arts Commission for allegedly violating Administrative Code (Sunshine Ordinance), Section 67.25, for failure to respond to an Immediate Disclosure Request in a timely and/or complete manner.

On Wednesday, August 31, Ms. Treboux requested:

**Request all documents; police reports;
Inter office emails and photographic
evidence concerning a statement made
by Kate Patterson in a letter dated August 31, 2016 to the SOTF:**

" I have a history of contacting commissioners via personal emails; showing up at their residences and workplaces unannounced".

The letter in question was our response to complaint 16078, see attached, in which I clarified the Arts Commission's justification for cautiously redacting Commissioners' personal contact information. Given recent changes to Commissioners' preferred public emails, we "played it safe" and redacted all of the contact information so that we did not accidentally share anything deemed private. It is a fact that Ms. Treboux has a history of inappropriately contacting commissioners, as evidenced by the restraining order currently in place to protect Commissioner Sklar from further harassment by Ms. Treboux. I have provided a copy of the restraining order to Ms. Treboux and the Sunshine Task Force on numerous occasions. For this reason, we are extra cautious when it comes to redacting personal information.

Regarding Ms. Treboux's aforementioned records request for "all documents; police reports; inter office emails and photographic evidence," on July 29, 2015 we provided a thorough response and justification for withholding these records in response to an almost identical

September 27, 2016

Page 2

request. On July 28, 2015, Ms. Treboux requested “all inter office emails; emails between the SFAC Commissioners and the SFAC concerning so called harassment of a SFAC employee.” Rather than repeat our response to this request verbatim, I’ll direct you to the original email correspondence attached. I’m also including a letter to Ms. Treboux from the City Attorney’s office denying her request for these records as well as a letter from the Ethics Commission, which supported our withholding records that included complaints of harassment by Ms. Treboux.

To summarize, the Arts Commission’s decision to withhold these documents, which protect the identities of individuals who have experienced harassment by Ms. Treboux, is justified under California Evidence Code 1040, 1041. See the aforementioned documents for a more complete argument.

We hope the Sunshine Task Force will support the Arts Commission in upholding the law and protecting the identities of those who have expressed distress and fear over Ms. Treboux’s behavior by dismissing this case.

Sincerely,

Kate Patterson
Director of Communications

Patterson, Kate (ART)

From: Patterson, Kate (ART)
Sent: Wednesday, July 29, 2015 11:45 AM
To: atreboux@aol.com
Cc: SOTF, (BOS); Lazar, Howard (howard.lazar@sfgov.org); Licouris, Alyssa (ART); Trickey, Anne (anne.trickey@sfgov.org); Krell, Rebekah (ART)
Subject: RE: Immediate Disclosure Request

Dear Ms. Treboux:

I am writing in response to your request for "all inter office emails; emails between the SFAC Comissioners and the SFAC concerning so called harassment of a SFAC employee."

The Arts Commission takes harassment of its staff and commissioners very seriously. As the subject of this request and the central figure in a number of complaints involving harassment on file, which include the recent three-year restraining order obtained by Commissioner Sklar, we feel that we must protect the identities of the complainants by withholding the requested records.

Please refer to the following excerpts from the April 20, 2015 memo issued by the City Attorney's Office to the Ethics Commission in response to Ethics Commission Complaint No. 03-150127. As you will recall, this complaint centered around the Arts Commission's withholding the identity of an individual who had written a complaint against you and who had requested anonymity.

The Public Records Act protects from disclosure "[r]ecords the disclosure of which is exempted of prohibited pursuant to federal or state law, including but not limited to, provisions of the Evidence Code relating to privilege." (Cal. Gov. Code 6254(k).) Two such provisions are the identity of informer privilege (Cal. Evid. Code 1041) and the official information privilege (Cal. Evid. Code 1040). The Act cross-references these Evidence Code sections in its listing of more than 500 California statues that protect records from disclosure. (Cal. Gov. Code 6276.32.)...

The Sunshine Ordinance does not specifically preclude the City from relying on the identity of informer and official information privileges as grounds to disclose a record in response to a public records request. The City Attorney's Good Government Guide, which explains open government rules that City officials and employees must follow, and which is available on the City Attorney's website, states, at page: 102:

In some circumstances, departments may shield form disclosure the identity of persons complaining to the City about violations of law. Cal. Evidence Code 1041. Privacy or other grounds may also authorize or require nondisclosure, even where the complaint does not allege a violation of law. Cal. Govt. Code 6254(c). Substantial public interests often warrant withholding the identity of complainants. When, for example, a tenant complains about a landlord, a neighbor complains about a neighbor, an employee complains about an employer, or a citizen complaints about a person making public disturbance, disclosure of the identity of the complainant, the complainant, and/or the investigation could lead to retaliation against or harassment of the complainant and could also compromise the investigation. Under those circumstances the City may be able to withhold or redact the complaint and record of the investigation. See generally Cal. Evidence Code 1040.

The "Identity of Informer Privilege" protects individuals within its ambit from hassle, harassment, threats, retaliation and potentially even violence. The examples in the Good Government Guide of common situations outside of the criminal law context that are fraught with these possibilities illustrate the principle that persons

who, in a non-public way, report suspected violations of law to responsible City officials should not thereby be subject to possible abuse, or worse, at the hands of those who may be violating the law....

...The City must take seriously the protection of the personal interests of the informer...In some cases, possible wrongdoing would never be uncovered, in other cases investigations of wrongdoing would be hindered because people would be reluctant to come forward and initiate a complaint, or cooperate with an investigation.

Under the identity of informer privilege, an entire record may be withheld if disclosure of the contents of the record would effectively enable the object of the complaint to identify the source of the information (People v. Galland (2008) 45 Cal. 4th 354, 364)...

Ms. Treboux, you'll recall that the Ethics Commission found in favor of the Arts Commission, and in their final finding stated that "the Arts Commission properly withheld a requested public record under California Evidence Code, sections 1040 and 1041." Since then, Ms. Treboux, you have also benefited from the protection afforded by the Evidence code as evidenced in your May 1, 2015 email complaint against Manuel Loli in which you request that your identity be protected.

In summation, for all of the reasons cited above and based on the Ethics Commission's finding, we are withholding the records responsive to your request.

Sincerely,

Kate Patterson-Murphy
Director of Communications

San Francisco Arts Commission
25 Van Ness Avenue, Suite 345
San Francisco, CA 94102
T: 415-252-4638 F: 415-252-2595
sfartscommission.org

[e-Newsletter](#) | [Twitter](#) | [Facebook](#) | [YouTube](#) | [Flickr](#)

From: atreboux@aol.com [mailto:atreboux@aol.com]
Sent: Tuesday, July 28, 2015 11:30 AM
To: Patterson, Kate (ART)
Cc: SOTF, (BOS)
Subject: Re: Immediate Disclosure Request

Ms. Patterson:

I requested all inter office emails;
emails between the SFAC and the SFCA's
Office concerning so called harassment
of SFAC employees.

I requested all inter office emails; emails between the SFAC Commissioners and
the SFAC concerning so called harassment
of a SFAC employee.

I requested all police reports; phone tapes and dates and times when these so called
events occurred.

You have not satisfied the request.

Mr. Young, I again request you open a file on this IDR and schedule a hearing.

On Jul 28, 2015, at 11:13 AM, Patterson, Kate (ART) <kate.patterson@sfgov.org> wrote:

Ms. Treboux:

Please send me the email in question in which I mention "inter office emails regarding the documented alleged harassment."

In the email I provided you earlier, Ms. Krell referred to your court-ordered restraining order, based on your "repeated harassment of an Arts Commissioner, all of which is also extensively documented." You should already have a copy of that documentation because it was part of your court case.

We have satisfied your request based on the initial criteria.

Sincerely,

Kate Patterson-Murphy
Director of Communications

San Francisco Arts Commission
25 Van Ness Avenue, Suite 345
San Francisco, CA 94102
T: 415-252-4638 F: 415-252-2595
sfartscommission.org

[e-Newsletter](#) | [Twitter](#) | [Facebook](#) | [YouTube](#) | [Flickr](#)

From: atreboux@aol.com [<mailto:atreboux@aol.com>]
Sent: Tuesday, July 28, 2015 10:47 AM
To: Patterson, Kate (ART)
Cc: SOTF, (BOS)
Subject: Re: Immediate Disclosure Request

Please refer you your lest email in which you claim to have inter office emails regarding the documented alleged harassment.
Are you going to send them?

Mr. Young, again I would like to open a complaint as this is a clear violation of the Sunshine Ordinance-justification of withholding. An Ethics violation already issued to the SFAC for this.

On Jul 28, 2015, at 10:36 AM, Patterson, Kate (ART) <kate.patterson@sfgov.org> wrote:

Ms. Treboux:

Please refer to the Ethics Commission Meeting Minutes for June 24, 2013 regarding redaction of personal email addresses.

<http://www.sfethics.org/ethics/2013/07/minutes-june-24-2013.html>

Motion 13-06-24-05 (Hur/Studley): Moved, seconded, and passed (5-0) that Respondent Kate Patterson/San Francisco Arts Commission met the burden of establishing that the redacted records need not be publicly disclosed in an unredacted fashion.

Sincerely,

Kate Patterson-Murphy
Director of Communications

San Francisco Arts Commission
25 Van Ness Avenue, Suite 345
San Francisco, CA 94102
T: 415-252-4638 F: 415-252-2595
sfartscommission.org

[e-Newsletter](#) | [Twitter](#) | [Facebook](#) | [YouTube](#) | [Flickr](#)

From: atreboux@aol.com [<mailto:atreboux@aol.com>]

Sent: Tuesday, July 28, 2015 10:20 AM

To: Patterson, Kate (ART)

Cc: SOTF, (BOS)

Subject: Re: Immediate Disclosure Request

Personal emails are documents and disclosable under the Sunshine Ordinance

Mr. Young, this IDR was not satisfied and I would like to open a file and request a hearing before SOFT.

On Jul 28, 2015, at 10:17 AM, Patterson, Kate (ART) <kate.patterson@sfgov.org> wrote:

Ms. Treboux:

Please find the documents responsive to this request. Please note, that I've redacted personal emails to protect individuals' right to privacy under Article 1, Section 1 of the California Constitution.

Sincerely,

Kate Patterson-Murphy
Director of Communications

San Francisco Arts Commission

25 Van Ness Avenue, Suite 345
San Francisco, CA 94102
T: 415-252-4638 F: 415-252-2595
sfartscommission.org

[e-Newsletter](#) | [Twitter](#) | [Facebook](#) | [YouTube](#) | [Flickr](#)

From: Krell, Rebekah (ART)
Sent: Tuesday, July 28, 2015 9:00 AM
To: Patterson, Kate (ART)
Cc: Lazar, Howard (ART); Licouris, Alyssa (ART)
Subject: Fwd: Immediate Disclosure Request

Begin forwarded message:

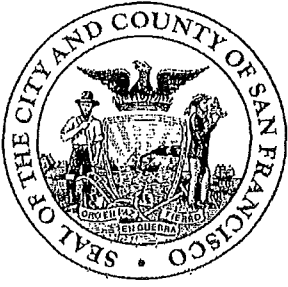
From: atreboux@aol.com
Date: July 27, 2015 at 7:18:35 PM PDT
To: Rebekah Krell <rebekah.krell@sfgov.org>
Subject: Immediate Disclosure Request

Request all documentation concerning a statement made by Rebekah Krell in an email, " I harassed SFAC staff and it is documented"; "I harassed SFAC Comissioners and it is documentaries":
"I am prevented from entering 25 Van Ness Ave"

Request all documentation concerning these statements. I am making this request pursuant to the Sunshine Ordinance.

<Ltr_Allegra_Fortunati_email_Redacted.pdf>

<Building_Banishment_Email.pdf>



ETHICS COMMISSION CITY AND COUNTY OF SAN FRANCISCO

PAUL A. RENNE
CHAIRPERSON

BRETT ANDREWS
VICE-CHAIRPERSON

BEVERLY HAYON
COMMISSIONER

BENEDICT Y. HUR
COMMISSIONER

PETER KEANE
COMMISSIONER

JOHN ST. CROIX
EXECUTIVE DIRECTOR

Via Electronic Mail

Rebekah Krell
Deputy Director and CFO
San Francisco Arts Commission
25 Van Ness Avenue, Suite 345
San Francisco, CA 94102

June 1, 2015


Re: Ethics Complaint No. 13-150127

Dear Ms. Krell:

On April 27 and May 27, 2015, the Ethics Commission held a hearing on the above-referenced matter. The Ethics Commission determined that the Arts Commission committed one non-willful violation of San Francisco Sunshine Ordinance, section 67.27(a), for failing to justify a withholding of a public record. The Ethics Commission also determined that the Arts Commission properly withheld a requested public record under California Evidence Code, sections 1040 and 1041.

This matter is now closed and the Ethics Commission will take no further action.

Sincerely,


John St. Croix
Executive Director

CITY AND COUNTY OF SAN FRANCISCO



DENNIS J. HERRERA
City Attorney

OFFICE OF THE CITY ATTORNEY

BRADLEY A. RUSSI
DEPUTY CITY ATTORNEY

Direct Dial: (415) 554-4645
Email: brad.russi@sfgov.org

March 7, 2016

Sent via email

Ann Treboux (treboux2@aol.com)

Re: Petitions to Supervisor of Records

Dear Ms. Treboux:

This letter responds to two petitions to the Supervisor of Records sent via email: (1) a petition received by the Supervisor of Records on February 8, 2016 (the "February 8 Petition"), and (2) a petition received by the Supervisor of Records on February 16, 2016 (the "February 16 Petition"). Both petitions relate to public records requests you submitted to the San Francisco Arts Commission ("SFAC").

February 8, 2016 Petition

The February 8 Petition arises out of a public records request to SFAC in July 2015. You state that there are "5 aspects to this Immediate Disclosure Request. One was satisfied. I would like to see the other documents." Attached to the petition is the Sunshine Ordinance Task Force file for Complaint No. 15114, which appears to be the file related to a complaint you filed with the Task Force regarding the same public records request that is the subject of this petition. According to that file, you requested the following documents from SFAC:

1. Documents related to case CCH-15-576914 (Police reports, phone logs, evidence, name of inspector).
2. All inter office emails; emails between the SFAC and the [San Francisco City Attorney's] Office concerning so called harassment of SFAC employees.
3. All emails between the SFAC and Allegra Fortuniti from 2014-2015.
4. All inter office emails; emails between the SFAC Commissioners and the SFAC concerning so called harassment of an SFAC employee.
5. All police reports; phone tapes and dates and times when these so called events occurred.

In response to Request 1 above, SFAC produced court documents in its possession regarding San Francisco Superior Court Case No. CCH-15-576914. SFAC indicated that it has no other responsive documents. There is no issue here for the Supervisor of Records to resolve.

CITY HALL • 1 DR. CARLTON B. GOODLET PLACE, CITY HALL ROOM 234 • SAN FRANCISCO, CALIFORNIA 94102-4682
RECEPTION: (415) 554-4700 • FACSIMILE: (415) 554-4699

n:\govern\as2014\0100505\00945474.doc

Letter to Anne Treboux
Page 2
March 7, 2016

The Sunshine Ordinance (S.F. Admin. Code, Ch. 67) requires the Supervisor of Records to hear petitions from members of the public claiming that a City department is improperly withholding or redacting a record in response to a public records request. Under Section 67.21(d), the Supervisor of Records is responsible for determining whether a City department has withheld a record, or any part of a record, without a lawful basis for doing so – for determining “whether the record requested, or any part of the record requested, is public.” In contrast, the Sunshine Ordinance does not empower the Supervisor of Records to evaluate the adequacy of a department’s search for records, which is the only issue that Request 1 may present.

In Request 2, you sought all emails between SFAC and the City Attorney’s Office¹ “concerning so called harassment of an SFAC employee.” We interpret this request to seek documents concerning alleged harassment by you² of SFAC staff and Commissioners. SFAC lawfully withheld records responsive to this request. Section 6254(k) of the California Government Code provides an exemption from disclosure for records protected by “provisions of the Evidence Code relating to privilege.” Section 954 of the California Evidence Code recognizes that confidential communications between a lawyer and a client are protected by the attorney-client privilege, and a client has a privilege to refuse to disclose such communications. *See also* Section 6276.04 of the Government Code (expressly cross-referencing the attorney-client privilege in the Public Records Act). Because Request 2 plainly seeks attorney-client privileged communications, SFAC’s decision to withhold such records was lawful.

In Request 3, you sought emails between SFAC and Allegra Fortuniti. You indicate in the petition that this is the one request of yours that SFAC satisfied.

In Request 4, you sought “[a]ll inter office emails; emails between the SFAC Commissioners and the SFAC concerning so called harassment of a SFAC employee.” Again, we interpret this request to call for documents regarding alleged harassment by you of SFAC staff and Commissioners. SFAC withheld internal communications that document your alleged harassment of a number of SFAC staff members and Commissioners through telephone calls, voicemails, and by following and engaging staff in public. SFAC lawfully declined to produce these documents. Section 6254(c) of the Government Code provides an exemption from disclosure for “[p]ersonnel, medical, or similar files, the disclosure of which would constitute an unwarranted invasion of personal privacy.” “One does not lose his [or her] right to privacy upon accepting public employment . . .” *Versaci v. Superior Court* (2005) 127 Cal. App. 4th 805, 818 (citation and internal quotation marks omitted).

Over the years, SFAC staff and Commissioners have had concern for their safety and peace of mind in the workplace due to your conduct. Indeed, we understand that you have contacted staff and Commissioners on their home phone numbers on multiple occasions, even though such numbers were not provided to you by these staff members or Commissioners. In July 2015, the City Attorney’s Office obtained a workplace violence restraining order against you on behalf of Commissioner Barbara Sklar. Commissioner Sklar stated in her declaration supporting that restraining order that you had called her at home nearly every day, multiple times

¹ You also sought “[a]ll inter-office emails.” Because this portion of the request is identical to Request 4, it is evaluated in the discussion of Request 4.

² We understand that you sometimes go by the name Paula Datesh, Paula St. Claire, Paula Grundman, or Ann Datesh, as well as Ann Treboux, and that you have legally changed your name several times in recent years. (*See* San Francisco Superior Court Case Nos. CNC-12-548833, CNC-12-549154.)

Letter to Anne Treboux
Page 3
March 7, 2016

per day. This was not the first time that the City sought to obtain a restraining order against you to prevent you from harassing staff or Commissioners. (*See e.g.*, San Francisco Superior Court Case Nos. CCH-13-574399, CCH-05-563478).

The withheld documents reflect harassment and intimidation directed at staff, and staffs' personal concerns for their safety in the workplace. Staff created these documents to report your actions to superiors and to document events that occurred, and for purposes of possible future legal proceedings. Some of the documents are similar communications from Commissioners expressing their concern about your harassment or intimidation of them. We conclude that records related to workplace safety issues and harassment of City personnel constitute "personnel . . . or similar files" under Section 6254(c).

We further conclude that the disclosure of these records would constitute an unwarranted invasion of personal privacy. Internal records pertaining to harassment of specific employees are generally not made public for privacy reasons. Public disclosure of such records, potentially to the entire world, would be humiliating or embarrassing to employees, and not because of anything wrong they have done. Further, release of such documents could serve to continue or intensify the harassment, and would likely discourage future internal communications recording harassment or intimidation, which is an important part of protecting employees from enduring such workplace conditions. Accordingly, SFAC lawfully declined to produce records responsive to this request.

Regarding Request 5 seeking "[a]ll police reports; phone tapes and dates and times when these so called events occurred," SFAC indicates that it has no responsive documents. As with Request 1, there is no issue here for the Supervisor of Records to decide.

For the reasons stated above, the Supervisor of Records denies your February 8 Petition.

February 16, 2016 Petition

The February 16 Petition relates to a public records request to SFAC dated February 13, 2016. In that request, you asked for the following documents:

1. Request all documents regarding a statement made by Patterson at the Feb. 2016 Sunshine Task Force meeting that, "I follow commissioners, make phone calls in the middle of the night, walk into staff offices and follow staff on trolleys".
2. Request all documents concerning a statement made by Patterson in a written response to file that I have "many assumed names in my career".
3. Request a copy of the, file" that Patterson alluded to at the Feb. 2016 SOFT meeting. This file concerns me.
4. Request all documents concerning a statement made by Patterson at the same meeting that, "the director of cultural affairs is afraid of me"

Letter to Anne Treboux
Page 4
March 7, 2016

Regarding Request 1, SFAC properly declined to disclose the documents for the reasons discussed above with respect to Request 4 of the February 8 Petition.

Regarding Request 2, we understand that SFAC produced documents responsive to this request.

Regarding Request 3, you seek a "file" referred to by Ms. Patterson at the February 2016 meeting of the Sunshine Ordinance Task Force that "concerns" you. SFAC has already produced to you some documents contained in the file (i.e. documents responsive to Request 3 of the February 8 Petition, documents responsive to Request 2 of the February 16 Petition). The remainder of the documents were lawfully withheld by SFAC. Some documents are attorney-client privileged communications, as discussed above with respect to Request 1 of the February 8 Petition. Some documents are protected by privacy interests, as discussed above with respect to Request 4 of the February 8 Petition. Finally, some documents were properly withheld under Section 6254(k) of the Government Code as protected by the identity of informer privilege of Section 1041 of the Evidence Code. These documents consist of reports made by members of the public regarding potential violations of the law. Under the identity of informer privilege, an entire record may be withheld if disclosure of the contents of the record would effectively enable the object of the complaint to identify the sources of the information. *People v. Galland* (2008) 45 Cal. 4th 354, 364.

Finally, regarding Request 4, SFAC indicates there are no responsive documents. As with Requests 1 and 5 of your February 8 petition, there is no issue here for the Supervisor of Records to decide.

For the reasons stated above, the Supervisor of Records denies your February 16 Petition.

Very truly yours,

DENNIS J. HERRERA
City Attorney



Bradley A. Russi
Deputy City Attorney

Young, Victor

From: treboux2@aol.com
Sent: Tuesday, September 27, 2016 11:57 AM
To: SOTF, (BOS)
Subject: Please schedule a hearing

Follow Up Flag: Follow up
Flag Status: Flagged

. Respondant did not identify the documents relative to this request. Respondant did not cite a section of the Ordinance and instead sent the usual irrelevant verbiage and slander. Please schedule a hearing as this request was late and not satisfied.

On Sep 27, 2016, at 11:40 AM, Patterson, Kate (ART) <kate.patterson@sfgov.org> wrote:

Hi Victor,

Please see our response attached. See you later today!

Kate Patterson-Murphy
Director of Communications

San Francisco Arts Commission
401 Van Ness Avenue, Suite 325
San Francisco, CA 94102
T: 415-252-2229
sfartscommission.org

[e-Newsletter](#) | [Twitter](#) | [Facebook](#) | [YouTube](#) | [Flickr](#)

From: SOTF, (BOS)
Sent: Wednesday, September 21, 2016 3:34 PM
To: Patterson, Kate (ART) <kate.patterson@sfgov.org>
Cc: Colla, Nicholas (CAT) <nicholas.colla@sfgov.org>; treboux2@aol.com; Calvillo, Angela (BOS) <angela.calvillo@sfgov.org>
Subject: SOTF - Complaint Filed with the Sunshine Ordinance Task Force - Complaint No. 16083

Good Afternoon,

You have been named as a Respondent in the attached complaint filed with the Sunshine Ordinance Task Force. In an attempt to mediate and avoid a hearing before the Sunshine Ordinance Task Force, please respond to the following complaint/request within five business days.

The Respondent is required to submit a written response to the allegations including any and all supporting documents, recordings, electronic media, etc., to the Task Force within

five (5) business days of receipt of this notice. This is your opportunity to provide a full explanation to allow the Task Force to be fully informed in considering your response prior its meeting.

Please include the following information in your response if applicable:

1. List all relevant records with descriptions that have been provided pursuant to the Complainant request.
2. Date the relevant records were provided to the Complainant.
3. Description of the method used, along with any relevant search terms used, to search for the relevant records.
4. Statement/declaration that all relevant documents have been provided, does not exist, or has been excluded.
5. Copy of the original request for records (if applicable).

Please refer to the File Number when submitting any new information and/or supporting documents pertaining to this complaint.

The Complainant alleges:

File No. 16083: Complaint filed by Ann Treboux against Kate Patterson and the Arts Commission, for allegedly violating Administrative Code (Sunshine Ordinance), Section 67.25, by failing to respond to an Immediate Disclosure Request in a complete manner.

Complaint Attached.

Both parties (Complainant and Respondent) **will be contacted once a hearing date is determined.**

Complainants: Your attendance is required at this meeting/hearing.

Respondents/Departments: Pursuant to Section 67.21 (e) of the Ordinance, attendance by the custodian of records or a representative of your department, who can speak to the matter, is required at the meeting/hearing.

Also, attached is the Sunshine Ordinance Task Force's complaint procedures.

Pursuant to Section 67.21(b), If the custodian of public records 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 the Sunshine Ordinance.

Thank you.

Victor Young
Administrator

Sunshine Ordinance Task Force
1 Dr. Carlton B. Goodlett Place, City Hall., Room 244
San Francisco CA 94102
phone 415-554-7724 | fax 415-554-5163
victor.young@sfgov.org | www.sfbos.org

<image001.png> Click [here](#) to complete a Board of Supervisors Customer Service Satisfaction form.

The [Legislative Research Center](#) provides 24-hour access to Board of Supervisors legislation, and archived matters since August 1998.

Disclosures: Personal information that is provided in communications to the Board of Supervisors is subject to disclosure under the California Public Records Act and the San Francisco Sunshine Ordinance. Personal information provided will not be redacted. Members of the public are not required to provide personal identifying information when they communicate with the Board of Supervisors and its committees. All written or oral communications that members of the public submit to the Clerk's Office regarding pending legislation or hearings will be made available to all members of the public for inspection and copying. The Clerk's Office does not redact any information from these submissions. This means that personal information—including names, phone numbers, addresses and similar information that a member of the public elects to submit to the Board and its committees—may appear on the Board of Supervisors website or in other public documents that members of the public may inspect or copy.

<2016-03-07 Ltr. to A. Treboux.pdf>

<ART_Ethics_Response_4.20.15.pdf>

<Closure.Letter.Respondent.0315.pdf>

<July 29 2015 Email to PD.pdf>

<SOTF_Response_16083.pdf>

CITY AND COUNTY OF SAN FRANCISCO



DENNIS J. HERRERA
City Attorney

OFFICE OF THE CITY ATTORNEY

BRADLEY A. RUSSI
DEPUTY CITY ATTORNEY

Direct Dial: (415) 554-4645
Email: brad.russi@sfgov.org

March 7, 2016

Sent via email

Ann Treboux (treboux2@aol.com)

Re: Petitions to Supervisor of Records

Dear Ms. Treboux:

This letter responds to two petitions to the Supervisor of Records sent via email: (1) a petition received by the Supervisor of Records on February 8, 2016 (the "February 8 Petition"), and (2) a petition received by the Supervisor of Records on February 16, 2016 (the "February 16 Petition"). Both petitions relate to public records requests you submitted to the San Francisco Arts Commission ("SFAC").

February 8, 2016 Petition

The February 8 Petition arises out of a public records request to SFAC in July 2015. You state that there are "5 aspects to this Immediate Disclosure Request. One was satisfied. I would like to see the other documents." Attached to the petition is the Sunshine Ordinance Task Force file for Complaint No. 15114, which appears to be the file related to a complaint you filed with the Task Force regarding the same public records request that is the subject of this petition. According to that file, you requested the following documents from SFAC:

1. Documents related to case CCH-15-576914 (Police reports, phone logs, evidence, name of inspector).
2. All inter office emails; emails between the SFAC and the [San Francisco City Attorney's] Office concerning so called harassment of SFAC employees.
3. All emails between the SFAC and Allegra Fortuniti from 2014-2015.
4. All inter office emails; emails between the SFAC Commissioners and the SFAC concerning so called harassment of an SFAC employee.
5. All police reports; phone tapes and dates and times when these so called events occurred.

In response to Request 1 above, SFAC produced court documents in its possession regarding San Francisco Superior Court Case No. CCH-15-576914. SFAC indicated that it has no other responsive documents. There is no issue here for the Supervisor of Records to resolve.

CITY HALL • 1 DR. CARLTON B. GOODLETT PLACE, CITY HALL ROOM 234 • SAN FRANCISCO, CALIFORNIA 94102-4682

RECEPTION: (415) 554-4700 • FACSIMILE: (415) 554-4699

n:\govern\as2014\0100505\00945474.doc

Letter to Anne Treboux
Page 2
March 7, 2016

The Sunshine Ordinance (S.F. Admin. Code, Ch. 67) requires the Supervisor of Records to hear petitions from members of the public claiming that a City department is improperly withholding or redacting a record in response to a public records request. Under Section 67.21(d), the Supervisor of Records is responsible for determining whether a City department has withheld a record, or any part of a record, without a lawful basis for doing so – for determining “whether the record requested, or any part of the record requested, is public.” In contrast, the Sunshine Ordinance does not empower the Supervisor of Records to evaluate the adequacy of a department’s search for records, which is the only issue that Request 1 may present.

In Request 2, you sought all emails between SFAC and the City Attorney’s Office¹ “concerning so called harassment of an SFAC employee.” We interpret this request to seek documents concerning alleged harassment by you² of SFAC staff and Commissioners. SFAC lawfully withheld records responsive to this request. Section 6254(k) of the California Government Code provides an exemption from disclosure for records protected by “provisions of the Evidence Code relating to privilege.” Section 954 of the California Evidence Code recognizes that confidential communications between a lawyer and a client are protected by the attorney-client privilege, and a client has a privilege to refuse to disclose such communications. *See also* Section 6276.04 of the Government Code (expressly cross-referencing the attorney-client privilege in the Public Records Act). Because Request 2 plainly seeks attorney-client privileged communications, SFAC’s decision to withhold such records was lawful.

In Request 3, you sought emails between SFAC and Allegra Fortuniti. You indicate in the petition that this is the one request of yours that SFAC satisfied.

In Request 4, you sought “[a]ll inter office emails; emails between the SFAC Commissioners and the SFAC concerning so called harassment of a SFAC employee.” Again, we interpret this request to call for documents regarding alleged harassment by you of SFAC staff and Commissioners. SFAC withheld internal communications that document your alleged harassment of a number of SFAC staff members and Commissioners through telephone calls, voicemails, and by following and engaging staff in public. SFAC lawfully declined to produce these documents. Section 6254(c) of the Government Code provides an exemption from disclosure for “[p]ersonnel, medical, or similar files, the disclosure of which would constitute an unwarranted invasion of personal privacy.” “One does not lose his [or her] right to privacy upon accepting public employment . . .” *Versaci v. Superior Court* (2005) 127 Cal. App. 4th 805, 818 (citation and internal quotation marks omitted).

Over the years, SFAC staff and Commissioners have had concern for their safety and peace of mind in the workplace due to your conduct. Indeed, we understand that you have contacted staff and Commissioners on their home phone numbers on multiple occasions, even though such numbers were not provided to you by these staff members or Commissioners. In July 2015, the City Attorney’s Office obtained a workplace violence restraining order against you on behalf of Commissioner Barbara Sklar. Commissioner Sklar stated in her declaration supporting that restraining order that you had called her at home nearly every day, multiple times

¹ You also sought “[a]ll inter-office emails.” Because this portion of the request is identical to Request 4, it is evaluated in the discussion of Request 4.

² We understand that you sometimes go by the name Paula Datesh, Paula St. Claire, Paula Grundman, or Ann Datesh, as well as Ann Treboux, and that you have legally changed your name several times in recent years. (*See* San Francisco Superior Court Case Nos. CNC-12-548833, CNC-12-549154.)

Letter to Anne Treboux
Page 3
March 7, 2016

per day. This was not the first time that the City sought to obtain a restraining order against you to prevent you from harassing staff or Commissioners. (*See e.g.*, San Francisco Superior Court Case Nos. CCH-13-574399, CCH-05-563478).

The withheld documents reflect harassment and intimidation directed at staff, and staffs' personal concerns for their safety in the workplace. Staff created these documents to report your actions to superiors and to document events that occurred, and for purposes of possible future legal proceedings. Some of the documents are similar communications from Commissioners expressing their concern about your harassment or intimidation of them. We conclude that records related to workplace safety issues and harassment of City personnel constitute "personnel . . . or similar files . . ." under Section 6254(c).

We further conclude that the disclosure of these records would constitute an unwarranted invasion of personal privacy. Internal records pertaining to harassment of specific employees are generally not made public for privacy reasons. Public disclosure of such records, potentially to the entire world, would be humiliating or embarrassing to employees, and not because of anything wrong they have done. Further, release of such documents could serve to continue or intensify the harassment, and would likely discourage future internal communications recording harassment or intimidation, which is an important part of protecting employees from enduring such workplace conditions. Accordingly, SFAC lawfully declined to produce records responsive to this request.

Regarding Request 5 seeking "[a]ll police reports; phone tapes and dates and times when these so called events occurred," SFAC indicates that it has no responsive documents. As with Request 1, there is no issue here for the Supervisor of Records to decide.

For the reasons stated above, the Supervisor of Records denies your February 8 Petition.

February 16, 2016 Petition

The February 16 Petition relates to a public records request to SFAC dated February 13, 2016. In that request, you asked for the following documents:

1. Request all documents regarding a statement made by Patterson at the Feb. 2016 Sunshine Task Force meeting that, "I follow commissioners, make phone calls in the middle of the night, walk into staff offices and follow staff on trolleys".
2. Request all documents concerning a statement made by Patterson in a written response to file that I have "many assumed names in my career".
3. Request a copy of the, file" that Patterson alluded to at the Feb. 2016 SOFT meeting. This file concerns me.
4. Request all documents concerning a statement made by Patterson at the same meeting that, " the director of cultural affairs is afraid of me'

Letter to Anne Treboux
Page 4
March 7, 2016

Regarding Request 1, SFAC properly declined to disclose the documents for the reasons discussed above with respect to Request 4 of the February 8 Petition.

Regarding Request 2, we understand that SFAC produced documents responsive to this request.

Regarding Request 3, you seek a "file" referred to by Ms. Patterson at the February 2016 meeting of the Sunshine Ordinance Task Force that "concerns" you. SFAC has already produced to you some documents contained in the file (i.e. documents responsive to Request 3 of the February 8 Petition, documents responsive to Request 2 of the February 16 Petition). The remainder of the documents were lawfully withheld by SFAC. Some documents are attorney-client privileged communications, as discussed above with respect to Request 1 of the February 8 Petition. Some documents are protected by privacy interests, as discussed above with respect to Request 4 of the February 8 Petition. Finally, some documents were properly withheld under Section 6254(k) of the Government Code as protected by the identity of informer privilege of Section 1041 of the Evidence Code. These documents consist of reports made by members of the public regarding potential violations of the law. Under the identity of informer privilege, an entire record may be withheld if disclosure of the contents of the record would effectively enable the object of the complaint to identify the sources of the information. *People v. Galland* (2008) 45 Cal. 4th 354, 364.

Finally, regarding Request 4, SFAC indicates there are no responsive documents. As with Requests 1 and 5 of your February 8 petition, there is no issue here for the Supervisor of Records to decide.

For the reasons stated above, the Supervisor of Records denies your February 16 Petition.

Very truly yours,

DENNIS J. HERRERA
City Attorney



Bradley A. Russi
Deputy City Attorney



**San Francisco
Arts Commission**

Edwin M. Lee
Mayor

Tom DeCaigny
Director of
Cultural Affairs

Programs:
Civic Art Collection
Civic Design Review
Community Arts & Education
Cultural Equity Grants
Public Art
SFAC Galleries
Street Artist Licensing

25 Van Ness Avenue, Ste. 345
San Francisco, CA 94102
tel 415-252-2590
fax 415-252-2595
sfartscommission.org
facebook.com/sfartscommission
twitter.com/SFAC



City and County of
San Francisco

April 20, 2015

John St. Croix, Executive Director
Ethics Commission, City & County of San Francisco
25 Van Ness Avenue, Suite 220
San Francisco, CA 94102

Re: Complaint 03-150127

Dear Mr. St. Croix:

In response to the complaint referenced above, I am writing to put into context the Arts Commission's decision to withhold the document at issue in this matter, disclosure of which would have identified a person who brought to the Commission's attention a rule violation by another artist. I will outline the structure of the Street Artists program, provide a brief context of the document at issue, and close with an explanation the reasons we withheld the document.

Program Structure

The San Francisco Arts Commission's Street Artist program is staffed by two full-time City employees, who are supervised by the agency's Deputy Director. Mayoral appointed commissioners serve on the Street Artists committee and provide oversight of the program, while an advisory committee, also comprised of Mayoral appointees, screens artists and assists with enforcement. The program is governed by the Street Artists ordinance, (Section 24 of the San Francisco Police Code), which was passed by the voters on November 4, 1975, as Proposition L.

The Program Director and advisory committee members are in the field every day inspecting artists' wares and ensuring compliance with program regulations. When they observe that Artists are out of compliance, the Director first issues verbal and written warnings and may hold a hearing before the Street Artists committee. The hearing includes testimony from witnesses. The Commission may then choose to suspend or revoke a license, and its decision may be appealed at the Permit Appeals Board.

History of Acrimony and Hostility

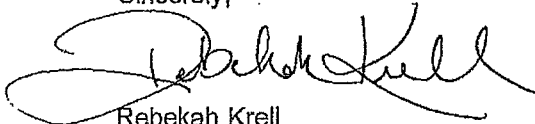
Because of a few participants in the Street Artists Program, there is a long history of acrimony and a culture of hostility with some of the Artists, including harassment by artists of other artists, staff, and commissioners. The Program Director frequently investigates complaints, mediates conflicts, and resolves disputes that arise between and among artists and other vendors, City staff, and members of the public. Competition for limited profitable spaces, as well as working in very close proximity on busy sidewalks and in active public areas create an environment rife with potential disruption and disagreement. The artists, most of whom are extremely low-income, and many of whom are recent immigrants with limited to no English language proficiency, are a vulnerable population.

Withholding Complainant Identity

Within this context, it is of paramount importance that Arts Commission staff retain the authority to use their judgment and discretion in protecting the identity of a complainant, both during an investigation, and in managing day-to-day operations, in order to ensure a peaceful working environment, and the well being of program participants and their property. In this particular instance, as already noted in your report, the document in question (an email conversation between a street artist and the Program Director) could not be partially redacted without disclosing the identity of the author. In addition, the complainant expressed fear of retaliation and requested in writing the document not be shared, after experiencing harassment by the requestor.

When deciding whether to disclose the document at issue, we considered the real concern both that we have and that the complainant expressed. If the Arts Commission cannot withhold the identity of complainants, a primary source of information necessary for the Program Director's enforcement proceedings will disappear due to the complainant's fear of retaliation. And, given the history of this Program, such fear is real. We therefore believe that we should be able to continue to consider these factors in making a determination of whether to disclose a document pursuant to a public records request.

Sincerely,



Rebekah Krell
Deputy Director & CFO

cc: Tom DeCaigny, Director of Cultural Affairs
Margaret Baumgartner, Deputy City Attorney

Young, Victor

From: SOTF, (BOS)
Sent: Thursday, October 06, 2016 9:33 AM
To: 'treboux2@aol.com'
Cc: Patterson, Kate (ART); Calvillo, Angela (BOS)
Subject: SOTF - Postponement of Complaints Scheduled for October 18, 2016

Dear Ms. Treboux:

Your request to reschedule your complaints scheduled before the Complaint Committee on October 18, 2016, has been approved pursuant to the Task Force Complaint Procedures.

Please note that all of your complaints will be rescheduled to be heard at the next Complaint Committee anticipated to be on **November 22, 2016, at 5:30 p.m.**

Victor Young 415-554-7724
Administrator, Sunshine Ordinance Task Force

From: treboux2@aol.com [mailto:treboux2@aol.com]
Sent: Tuesday, October 04, 2016 5:55 PM
To: SOTF, (BOS) <sotf@sfgov.org>
Subject: Re: SOTF - Notice of Hearing - Compliant Committee: October 18, 2016, 5:30 p.m.

I will be in the hospital on that day. I asked for 2 weeks notice. You did not give that.
Please reschedule.

On Oct 4, 2016, at 5:45 PM, SOTF, (BOS) <sotf@sfgov.org> wrote:

Good Afternoon:

Notice is hereby given that the Complaint Committee of the Sunshine Ordinance Task Force has scheduled hearings on the following titled complaints, 1) to issue a determination of jurisdiction; 2) to review the merits of the complaint to focus the complaint or otherwise assist the parties to the complaint; 3) to issue a report and/or recommendation to the Sunshine Ordinance Task Force and/or 4) to review the status of and ascertain compliance with the Task Force's Order of Determination.

Date: October 18, 2016

Location: City Hall, Room 408

Time: 5:30 p.m.

Complaints:

1. **File No. 16057:** Complaint filed by Ann Treboux against Howard Lazar and the Arts Commission for allegedly violating Administrative Code (Sunshine Ordinance), Section

67.25, by failing to respond to an Immediate Disclosure Request in a timely and/or complete manner.

2. **File No. 16068:** Complaint filed by Ann Treboux against Kate Patterson and the Arts Commission, for allegedly violating Administrative Code (Sunshine Ordinance), Section 67.25, by failing to respond to an Immediate Disclosure Request in a timely and/or complete manner.
3. **File No. 16070:** Complaint filed by Ann Treboux against Kate Patterson and the Arts Commission, for allegedly violating Administrative Code (Sunshine Ordinance), Section 67.25, by failing to respond to an Immediate Disclosure Request in a timely and/or complete manner.
4. **File No. 16072:** Complaint filed by Ann Treboux against Kate Patterson and the Arts Commission, for allegedly violating Administrative Code (Sunshine Ordinance), Section 67.25, by failing to respond to an Immediate Disclosure Request in a timely and/or complete manner.
5. **File No. 16078:** Complaint filed by Ann Treboux against Kate Patterson and the Arts Commission, for allegedly violating Administrative Code (Sunshine Ordinance), Section 67.25, by failing to respond to an Immediate Disclosure Request in a timely and/or complete manner.
6. **File No. 16083:** Complaint filed by Ann Treboux against Kate Patterson and the Arts Commission, for allegedly violating Administrative Code (Sunshine Ordinance), Section 67.25, by failing to respond to an Immediate Disclosure Request in a complete manner.

Attached are copies of the complaint files with all departmental responses.

Documentation (evidence supporting/disputing complaint)

For a document to be considered, it must be received at least five (5) working days before the hearing (see attached Public Complaint Procedure).

For inclusion into the agenda packet, supplemental/supporting documents must be received by 5:00 pm, **October 12, 2016**.

Victor Young
Administrator

Sunshine Ordinance Task Force

1 Dr. Carlton B. Goodlett Place, City Hall., Room 244

San Francisco CA 94102

phone 415-554-7724 | fax 415-554-5163

victor.young@sfgov.org | www.sfbos.org

<image001.png> Click [here](#) to complete a Board of Supervisors Customer Service Satisfaction form.

The [Legislative Research Center](#) provides 24-hour access to Board of Supervisors legislation, and archived matters since August 1998.

Disclosures: Personal information that is provided in communications to the Board of Supervisors is subject to disclosure under the California Public Records Act and the San Francisco Sunshine Ordinance. Personal information provided will not be redacted. Members of the public are not required to provide personal identifying information when they communicate with the Board of Supervisors and its committees. All written or oral communications that members of the public submit to the Clerk's Office regarding pending legislation or hearings will be made available to all members of the public for inspection and copying. The Clerk's Office does not redact any information from these submissions. This means that personal information—including names, phone numbers, addresses and similar information that a member of the public elects to submit to the Board and its committees—may appear on the Board of Supervisors website or in other public documents that members of the public may inspect or copy.

<SOTF Complaint 10_05_16 - File 16083.pdf>

<SOTF Complaint 10_05_16 - File 16070.pdf>

<SOTF Complaint 10_05_16 - File 16072.pdf>

<SOTF Complaint 10_05_16 - File 16068.pdf>

<SOTF Complaint 10_05_16 - File 16057.pdf>

<SOTF Complaint 10_05_16 - File 16078.pdf>

Young, Victor

From: SOTF, (BOS)
Sent: Wednesday, January 11, 2017 10:22 AM
To: 'Ken Reggio'; 'CHARLES PITTS'; Dodge, Sam (HOM); 'ktreggiari@ecs-sf.org'; 'secker@ecs-sf.org'; Chiang, Vivian (HSA) (DSS); Braun, Matthew [HSA]; 'lc1484@aol.com'; Walton, Briseida(POL); Waaland, Kathryn (POL); 'Ellen Tsang'; Silva, Christine (CPC); Ionin, Jonas (CPC); Rahaim, John (CPC); Velve, Sara (CPC); Perry, Andrew (CPC); 'atreboux7@aol.com'; Patterson, Kate (ART); Lee, Edwin (Mayor); Southey, Kirsten (PRT); MayorSunshineRequests (MYR)
Cc: Calvillo, Angela (BOS)
Subject: SOTF - Notice of Hearing - Complaint Committee: January 24, 2017, 5:30 p.m.

Good Morning:

Notice is hereby given that the Complaint Committee (Committee) of the Sunshine Ordinance Task Force (Task Force) shall hold hearings on complaints listed below to: 1) determine if the Task Force has jurisdiction; 2) review the merits of the complaints; and/or 3) issue a report and/or recommendation to the Task Force. The Complainant and Respondent may attend to provide clarification, evidence and related testimony. However, attendance by the Complainant and Respondent is **not required** at the January 24, 2017, Complaint Committee meeting.

Date: January 24, 2017

Location: City Hall, Room 408

Time: 5:30 p.m. - 7:30 p.m.

Complaints:

File No. 16027: Complaint filed by Charles Pitts against Kenneth Reggio and Episcopal Community Services (non-profit agency) for allegedly violating Administrative Code (Sunshine Ordinance), Sections 12L.5 and 67.25, by failing to respond to an Immediate Disclosure Request in a timely and/or complete manner. (See Administrator's Summary below)

File No. 16028: Complaint filed by Charles Pitts against Sam Dodge and the Human Services Agency for allegedly violating Administrative Code (Sunshine Ordinance), Section 67.25, by failing to respond to an Immediate Disclosure Request in a timely and/or complete manner.

File No. 16113: Complaint filed by Larry Chan against Lieutenant Kathryn Waaland and the San Francisco Police Department for allegedly violating Administrative Code (Sunshine Ordinance), Sections 67.21, by failing to respond to a public records request in a timely and/or complete manner.

File No. 16119: Complaint filed by Ellen Tsang against Director John Rahaim and the Planning Department, for allegedly violating Administrative Code (Sunshine Ordinance), Sections 67.21, 67.24, 67.25, and 67.26, by failing to respond to an Immediate Disclosure Request in a timely and/or complete manner.

File No. 16084: Complaint filed by Ann Treboux against Mayor Edwin Lee and the Office of the Mayor, for allegedly violating Administrative Code (Sunshine Ordinance), Section 67.25, by failing to respond to an Immediate Disclosure Request in a timely and/or complete manner.

File No. 16083: Complaint filed by Ann Treboux against Kate Patterson and the Arts Commission, for allegedly violating Administrative Code (Sunshine Ordinance), Section 67.25, by failing to respond to an Immediate Disclosure Request in a complete manner.

File No. 17001: Complaint filed by Ann Treboux against Kate Patterson and the Arts Commission, for allegedly violating Administrative Code (Sunshine Ordinance), Sections 67.21 and 67.25, by failing to respond to an Immediate Disclosure Request in a timely and/or complete manner.

The Task Force, upon receipt of the report and/or recommendation from the Committee, shall schedule and conduct a hearing on the merits of the complaint. The Complaint and Respondent will be required to attend the Task Force meeting to review the merits of the complaint(s). The Task Force has tentatively scheduled a hearing on March 1, 2017, at 4:00 p.m. to review the recommendations of the Committee for the above listed complaints. Notice of hearing will be provided once the hearing date has been confirm.

Documentation (evidence supporting/disputing complaint)

For a document to be considered, it must be received at least five (5) working days before the hearing. For inclusion into the agenda packet, supplemental/supporting documents must be received by **5:00 pm, January 18, 2017.**

Victor Young
Administrator

Sunshine Ordinance Task Force
1 Dr. Carlton B. Goodlett Place, City Hall., Room 244
San Francisco CA 94102
phone 415-554-7724 | fax 415-554-5163
victor.young@sfgov.org | www.sfbos.org

 Click [here](#) to complete a Board of Supervisors Customer Service Satisfaction form.

The [Legislative Research Center](#) provides 24-hour access to Board of Supervisors legislation, and archived matters since August 1998.

Disclosures: Personal information that is provided in communications to the Board of Supervisors is subject to disclosure under the California Public Records Act and the San Francisco Sunshine Ordinance. Personal information provided will not be redacted. Members of the public are not required to provide personal identifying information when they communicate with the Board of Supervisors and its committees. All written or oral communications that members of the public submit to the Clerk's Office regarding pending legislation or hearings will be made available to all members of the public for inspection and copying. The Clerk's Office does not redact any information from these submissions. This means that personal information—including names, phone numbers, addresses and similar information that a member of the public elects to submit to the Board and its committees—may appear on the Board of Supervisors website or in other public documents that members of the public may inspect or copy.

