

**SUNSHINE ORDINANCE
TASK FORCE**



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ORDER OF DETERMINATION

February 24, 2009

DATE THE DECISION ISSUED

January 29, 2009

ANONYMOUS TENANTS v. DEPARTMENT OF BUILDING INSPECTION (08054)

FACTS OF THE CASE

Anonymous Tenants state that on November 13, 2008, they made an Immediate Disclosure Request on the Department of Building Inspection ("DBI") through Anita Lee at the Central Permit section of DBI for a copy of the permit application for permit # 200810305471 in PDF form and that it be sent to the Tenants as an e-mail attachment. On November 13, 2008, Alan E. Whiteside, Custodian of Records of the Customer Service Division of DBI responded and stated that DBI could not scan and e-mail the requested permit application and that in the alternative, Mr. Whiteside prepared a record request for the Tenants. The procedure required the Tenants to pick up the hardcopy of the application at DBI and pay a records charge of \$6.50.

The Tenants objected to the procedure as stated by Mr. Whiteside and cited an earlier request in which the secretary of the Director of DBI was able to scan and send as an e-mail attachment a requested document.

COMPLAINT FILED

On November 25, 2008, the tenants filed a complaint against DBI and alleged that DBI allegedly violated the Sunshine Ordinance, sections 67.29-2, 67.21(l), 67.21-1 and 67.21 generally.

HEARING ON THE COMPLAINT

On January 27, 2009, Complainant Anonymous Tenants appeared before the Task Force and presented his claim. Respondent Agency was represented by Communications Manager William Strawn and Alan Whiteside, the custodian of records, who presented the Agency's defense.

The issue in the case is whether the Agency violated Sections 67.21, 67.25, 67.21-1 and 67.29-2 of the Ordinance and Sections 6253 and 6255 of the California Public Records Act.

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DECISION AND ORDER OF DETERMINATION

A Motion to find the department in violation of Sec.67.21-1 (b) (l) (ii) (iii) for failure to utilize computer technology in order to reduce the cost of public records management, including the costs of collecting, maintaining, and disclosing records failed for lack of a majority.

The Motion to find the department in violation presented by Knee/ Cauthen failed on the following vote:

Ayes: Knee, Cauthen, Johnson, Chan, Craven

Noes: Knoebber, Goldman, Chu

Excused: Washburn, Williams

A Motion to reopen the case was forwarded by Cauthen / Chan.

That motion also failed by the following vote

Ayes: Cauthen, Johnson, Chan

Noes, Craven, Knee, Knoebber, Goldman, Chu

Excused: Washburn, Williams



Kristin Murphy Chu, Chair

Sunshine Ordinance Task Force

- c: Ernie Llorente, Deputy City Attorney
- Rosa Sanchez, Deputy City Attorney
- Anonymous Tenants, Complainant
- William Strawn, Communications Manager
- Alan Whiteside, Custodian of Records