

**SUNSHINE ORDINANCE
TASK FORCE**



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ORDER OF DETERMINATION

January 29, 2009

DATE THE DECISION ISSUED

January 6, 2009

ALVIN XEX v. ARTS COMMISSION (08052)

FACTS OF THE CASE

On November 3, 2008, Alvin Xex made a public records request to the Arts Commission and requested the numbers of Black men employed at the Arts Commission and arts groups funded by the Commission during the past five years (2003 -2008). Mr. Xex claims that he did not receive the requested documents. Mr. Xex also claimed that he asked for the formula for giving away tax money to groups and individuals. To this request, Mr. Xex claims that he did not receive the requested formula.

COMPLAINT FILED

On November 13, 2008, Mr. Xex filed a complaint against the Arts Commission alleging violations of Sec. 67.20 and Sec. 67.22 of the Sunshine Ordinance.

HEARING ON THE COMPLAINT

On January 6, 2009, Complainant Mr Xex appeared before the Task Force and presented his case. Respondent Agency was represented by Arts Commission Deputy Director Nancy Gonchar.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Based on the testimony and evidence presented, the Task Force believed there might be a way to help Mr. Xex get some of the information he wants. For example, Ms Gonchar explained to the Task Force that there was an optional section in the city's employment application form that dealt with race and ethnicity but that information may not be retained by the Commission. Any such information in the possession of the Commission, however, would be releasable pursuant to Sec. 67.24(c)(1)(i) [requiring disclosure of ethnic group as to successful applicants].

DECISION AND ORDER OF DETERMINATION

A Task Force motion to find the commission in violation of the Sunshine Ordinance failed

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for lack of a majority. A second motion to find the Commission not in violation of the Sunshine Ordinance passed. As such, the Chair forwarded the issue to the Compliance and Amendments Committee to help determine whether the Commission had any responsive information that could be released.

The Motion to find the Commission in violation failed on the following vote:

Ayes: Knee, Washburn, Johnson, Chan

Noes: Craven, Cauthen, Knoebber, Chu, Goldman

Excused: Williams

The Motion to find the Commission not in violation passed on the following vote:

Ayes: Craven, Knee, Cauthen, Washburn, Knoebber, Johnson, Chu, Chan, Goldman

Excused: Williams



Kristin Murphy Chu, Chair
Sunshine Ordinance Task Force

c: Ernie Llorente, Deputy City Attorney
Alvin Xex
Nancy Gonchar, Arts Commission Deputy Director