File No. 12012

SOTF Item No. 11
CAC Item No. _____

SUNSHINE ORDINANCE TASK FORCE

AGENDA PACKET CONTENTS LIST

Sunshine Ordinance Task Force — Date: May 2, 2012

Compliance and Amendments Committee — Date: _____

CAC/SOTF

- [ ] [X] Memo
- [ ] [X] Complaint
- [ ] [X] Response
- [ ] [ ]
- [ ] [ ]
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OTHER

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Completed by: Andrea Ausberry **Date** April 25, 2012
Completed by: _____ **Date** _____

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

CITY AND COUNTY OF SAN FRANCISCO

DENNIS J. HERRERA
City Attorney

OFFICE OF THE CITY ATTORNEY

JERRY THREET
Deputy City Attorney

Direct Dial: (415) 554-3914
Email: jerry.threet@sfgov.org

MEMORANDUM

April 24, 2012:

LARS NYMAN VS. DEPARTMENT OF PUBLIC WORKS (12012)

COMPLAINT

THE COMPLAINANT ALLEGES THE FOLLOWING:

Complainant Lars Nyman ("Complainant") alleges that the Department of Public Works ("DPW") has not adequately responded to his January 4, 2012 Immediate Disclosure Request ("IDR") for "any and all public records... with respect to... any mentioning of [his] 4/12/2011 request for answers."

COMPLAINANT FILES COMPLAINT:

On February 16, 2012, Complainant filed this complaint against Frank Lee and DPW.

JURISDICTION:

DPW is a City department subject to the provisions of the Sunshine Ordinance. The Department does not contest jurisdiction.

APPLICABLE STATUTORY SECTION(S):

- Section 67.21 governs the process for gaining access to public records.
- Section 67.25 governs the immediacy of response.
- Section 67.26 governs the withholding of records.
- Section 67.27 governs the written justifications for withholding of records.

APPLICABLE CASE LAW:

None

ISSUES TO BE DETERMINED

Uncontested/Contested Facts: On 01/04/2012, Complainant filed an IDR with the DPW and Frank Lee requesting "copies of any and all public records... with respect to... any mentioning of [his] 4/12/2011 request for answers."

On 01/05/2012, Frank Lee acknowledged the request via email and stated:

> I am going to skip the formal language that I send to acknowledge receipt; however, I am informing you that your request is number RR005 and that I am responding to your Immediate Disclosure Request within the time period specified in the San Francisco Sunshine Ordinance. (I am

instituting a numbering system for all public records requests received for 2012.)

Since I was not part of the project team, I do not know whom Dadisi may have asked for help with your 4/12/11 request. Therefore, I asked her again. And, instead of just documents showing her asking for advice on how to handle your request, I am asking her to include any documents that showed her asking for and receiving answers to your questions. (You already have the documents that showed her seeking my, Gloria Chan, and James Devinny's advice and our responses to her.)

Today, Dadisi informed me that there are no other responsive documents to your request. (See attached.) Therefore, I have asked her for the reason why there are no documents, but I have not received her response yet.

However, I do know that in Dadisi's 6/14/11 reply to you, she mentioned Chris Buck, Edmund Lee, and Ramon Kong. Therefore, I will ask these three individuals to see if they have responsive documents to your request. But, I suspect that these three individuals will need some time to research and respond. (Technically, I am invoking an extension of up to 14 additional days to respond.)

Other than what I have done and will do, I do not know of any other method to find the documents that you want. Therefore, if you know of any individual that would or could possess such documents, please let me know and I will inquire with that person.

Regarding my response to you on 6/27/11, I also included a sentence that says _If I misinterpreted your request, please let me know immediately after the sentence where I listed what we thought you were requesting. My records show that I did not receive any response or correction from you. To avoid any further misinterpretations, I strongly suggest that you accept our invitation to meet and discuss.

On 01/05/2012, Complainant responded stating that he was exercising his rights under the Sunshine Ordinance and would not trade those rights for a meeting. Complainant also requested that DPW produce the responsive records on an incremental or rolling basis.

On 01/06/2012, Frank Lee stated via email "We are not suggesting that you trade your rights for a meeting. We are simply offering to meet and discuss your concerns."

On 01/07/2012, Complainant responded via email that his concerns would be addressed by producing the records requested and a meeting would not help produce such records, and further suggested that email communication should be sufficient for clarification if Mr. Lee did not understand the request.

On 01/27/2012, having not heard from DPW or Frank Lee, Complainant emailed Mr. Lee and asked if DPW was intending to provide him with the requested records. Complainant received no response. On 02/03/2012, Complainant again emailed Mr. Lee and asked if they were intending to provide the requested records. On 02/03/2012, Mr. Lee replied via email, stating "Yes, we intend to respond." However, as of 02/10/2012, DPW had not responded.

MEMORANDUM

TO: Sunshine Task Force
DATE: April 24, 2012
PAGE: 3
RE: Complaint 12012: Nyman v. DPW

Complainant argues that DPW does not have proper mechanisms and procedures in place for maintenance and retrieval of public records. In support of this, Complainant states that, in his 01/05/2012, Frank Lee states that he has asked certain individuals in the department if they know of or have any documents. Complainant argues that using such a document retrieval method, it would be easy to "miss" documents that should be included. Complainant argues that a department should have better mechanisms and procedures in place to do a proper record search than to simply "ask some individuals" if they have or know of any documents.

DPW has not further responded to the Complaint, nor has it provided any additional information to the Task Force to explain its actions in responding to this request.

QUESTIONS THAT MIGHT ASSIST IN DETERMINING FACTS:

- Does DPW have further responsive records that it has not provided?
- What evidence does Complainant have that DPW may have such records?
- Did DPW redact records provided to Complainant?
- What is the basis for the redactions, if any?

LEGAL ISSUES/LEGAL DETERMINATIONS:

- Did DPW timely respond to the request?
- Has DPW justified any withholding of records or information in accordance with the requirements of the Ordinance?
- Are DPW's justifications for any withholding within the exemptions allowed by the Ordinance and the PRA?

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 Task Force
DATE: April 24, 2012
PAGE: 4
RE: Complaint 12012: Nyman v. DPW

CHAPTER 67, SAN FRANCISCO ADMINISTRATIVE CODE (SUNSHINE ORDINANCE)

SEC. 67.21. PROCESS FOR GAINING ACCESS TO PUBLIC RECORDS; ADMINISTRATIVE APPEALS.
(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.

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

SEC. 67.26. WITHHOLDING KEPT TO A MINIMUM.
No record shall be withheld from disclosure in its entirety unless all information contained in it is exempt from disclosure under express provisions of the California Public Records Act or of some other statute. Information that is exempt from disclosure shall be masked, deleted or

otherwise segregated in order that the nonexempt portion of a requested record may be released, and keyed by footnote or other clear reference to the appropriate justification for withholding required by section 67.27 of this article. This work shall be done personally by the attorney or other staff member conducting the exemption review. The work of responding to a public-records request and preparing documents for disclosure shall be considered part of the regular work duties of any city employee, and no fee shall be charged to the requester to cover the personnel costs of responding to a records request.

SEC. 67.27. JUSTIFICATION OF WITHHOLDING.
Any withholding of information shall be justified, in writing, as follows:
(a) A withholding under a specific permissive exemption in the California Public Records Act, or elsewhere, which permissive exemption is not forbidden to be asserted by this ordinance, shall cite that authority.
(b) A withholding on the basis that disclosure is prohibited by law shall cite the specific statutory authority in the Public Records Act or elsewhere.
(c) A withholding on the basis that disclosure would incur civil or criminal liability shall cite any specific statutory or case law, or any other public agency's litigation experience, supporting that position.
(d) When a record being requested contains information, most of which is exempt from disclosure under the California Public Records Act and this Article, the custodian shall inform the requester of the nature and extent of the nonexempt information and suggest alternative sources for the information requested, if available.

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

SECTION 6253
(a) Public records are open to inspection at all times during the office hours of the state or local agency and every person has a right to inspect any public record, except as hereafter provided. Any reasonably segregable portion of a record shall be available for inspection by any person requesting the record after deletion of the portions that are exempted by law.
(b) Except with respect to public records exempt from disclosure by express provisions of law, each state or local agency, upon a request for a copy of records that reasonably describes an identifiable record or records, shall make the records promptly available to any person upon payment of fees covering direct costs of duplication, or a statutory fee if applicable. Upon request, an exact copy shall be provided unless impracticable to do so.
(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:

MEMORANDUM

TO: Sunshine Task Force
DATE: April 24, 2012
PAGE: 6
RE: Complaint 12012: Nyman v. DPW

(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.

Sunshine Complaint
complaints
to:
sotf
02/16/2012 04:55 PM
Show Details

To:sotf@sfgov.org
Email:complaints@sfgov.org
DEPARTMENT:Department of Public Works
CONTACTED:Frank Lee
PUBLIC_RECORDS_VIOLATION:Yes
PUBLIC_MEETING_VIOLATION:No
MEETING_DATE:
SECTIONS_VIOLATED:
DESCRIPTION:[Since this online Complaint Form does not allow for submission of additional documents, I have emailed sotf@sfgov.org with 7 additional documents I would like to be considered part of this complaint.] On 01/04/2012, I filed "IMMEDIATE DISCLOSURE REQUEST - Sunshine Ordinance request" by email with Frank Lee and the Department of Public Works for public records. As of this date, I have not received any records in response to my request. Department of Public Works is violating the San Francisco Sunshine Ordinance by not providing the request records and by not providing the records in a timely manner. Please, see the 7 additional documents submitted separately to sotf@sfgov.org. Below follows a summary of the email exchange. On 01/04/2012, I filed my request with the Department of Public Works and Frank Lee requesting "copies of any and all public records... with respect to... any mentioning of my 4/12/2011 request for answers." On 01/05/2012, Frank Lee acknowledged the request and "Technically, I am invoking an extension of up to 14 additional days to respond." Frank Lee suggested "to meet and discuss". On 01/05/2012, I responded stating that I was exercising my rights under the San Francisco Sunshine Ordinance and would not trade those rights for a meeting. I also requested that he/DPW would produce the records to me on an incremental or rolling basis. On 01/06/2012, Frank Lee stated that a meeting would be to "discuss your concerns". On 01/07/2012, I responded stating my concerns will be addressed by producing the records requested and, that I don't think a meeting will help produce such records, and suggested email communication should be sufficient for clarification if Frank Lee did not understand my request. On 01/27/2012, having not heard from DPW or Frank Lee, I emailed Frank Lee and asked if they were intending to provide me with the records I requested. I received no response. On 02/03/2012, I again emailed Frank Lee and asked if they were intending to provide me with the records I requested. On 02/03/2012, Frank Lee replied stating "Yes, we intend to respond." However, as of 02/10/2012, they have not responded. I am also concerned that the Department of Public Works does not have proper mechanisms and procedures in place for maintenance and retrieval of public records. In his 01/05/2012, Frank Lee states that he has asked certain individuals in the department if they know of or have any documents. Using such a document retrieval method, it seems like it would be easy to "miss" documents that should be included. What if Frank Lee doesn't ask a staff member that has documents - then those documents would not be included. Was the director asked? Was the former director asked? He writes: "Other than what I have done and will do, I do not know of any other method to find the documents that you want. Therefore, if you know of any individual that would or could possess such documents, please let me know and I will inquire with that person. And, if you know of a better method for our research, please share it with me." This is alarming and it seems a department should have better mechanisms and procedures in place to do a proper record search than to simply "ask some individuals" if they have or know of any documents. How can one otherwise trust that the department is not withholding records, accidentally or deliberately.
Lars Nyman
HEARING:Yes

PRE-HEARING:No
DATE:02/10/2012
NAME:Lars Nyman
ADDRESS:
CITY:
ZIP:
PHONE:
CONTACT_EMAIL:upwardfacingdog@hotmail.com
ANONYMOUS:
CONFIDENTIALITY_REQUESTED:No

Up Dog

From: "Up Dog" <upwardfacingdog@hotmail.com>
Date: Wednesday, January 04, 2012 4:02 PM
To: <frank.w.lee@sfdpw.org>
Cc: "Up Dog" <upwardfacingdog@hotmail.com>
Subject: IMMEDIATE DISCLOSURE REQUEST - Sunshine Ordinance request

Mr. Lee,

--- Background

On June 9, 2011, I made a request for documents from Department of Public Works under the Sunshine Ordinance of San Francisco. You responded with some documents on June 27, 2011 and some additional documents on July 6, 2011.

However, it was brought to my attention that in your response you had "redefined" my request for documents and narrowed the scope of the documents I requested.

My request stated:
"I am hereby requesting the following documents from you and the Department of Public Works:
- any email communication, documents and/or letters discussing handling of my 4/12/2011 request for answers"

Your response stated:
"Therefore, let me also restate what I think that you are requesting today. I believe that you are asking for
- Any emails, documents, or letters to and from Ms. Najib that shows her seeking or receiving advice on how to handle your April 12, 2011 email, consisting of a list of 17 questions."

Note, my request was for ANY documents/records discussing handling of my 4/12/2011 request for answers. ANY documents. In your response you had narrowed that to documents to and from Ms. Najib. However I asked for ANY documents, regardless of author, sender, receiver etc.

Since you had erroneously changed my request and narrowed the scope of my request, I am therefore now forced to re-issue my request for documents to ensure I will get access to ANY and ALL such documents as originally requested.

--- IMMEDIATE DISCLOSURE REQUEST

This is a public records request pursuant to the provisions of California Public Records Act and the San Francisco Sunshine Ordinance for copies of any and all public records, in any form of media, in the custody or control of or maintained by the Department of Public Works or any staff member in connection with or with respect to the following:

- any mentioning of my 4/12/2011 request for answers

Please note, under California Public Records Act and the San Francisco Sunshine Ordinance

If the requested records are kept electronically or in PDF format, please send them in their original format by email to the above email address. If the records are kept in some other format, please scan them to PDF format and send them by email to the above email address.

Sincerely,
Lars Nyman
upwardfacingdog@hotmail.com

Up Dog

From: "Lee, Frank W" <Frank.W.Lee@sfdpw.org>
Date: Thursday, January 05, 2012 7:01 PM
To: "'Up Dog'" <upwardfacingdog@hotmail.com>
Cc: "Najib, Dadisi" <Dadisi.Najib@sfdpw.org>
Attach: 1-5-12 email from Dadisi Najib.pdf
Subject: RE: IMMEDIATE DISCLOSURE REQUEST - Sunshine Ordinance request?

Mr. Nyman:

I am going to skip the formal language that I send to acknowledge receipt; however, I am informing you that your request is number RR005 and that I am responding to your Immediate Disclosure Request within the time period specified in the San Francisco Sunshine Ordinance. (I am instituting a numbering system for all public records requests received for 2012.)

Since I was not part of the project team, I do not know whom Dadisi may have asked for help with your 4/12/11 request. Therefore, I asked her again. And, instead of just documents showing her asking for advice on how to handle your request, I am asking her to include any documents that showed her asking for and receiving answers to your questions. (You already have the documents that showed her seeking my, Gloria Chan, and James Devinny's advice and our responses to her.)

Today, Dadisi informed me that there are no other responsive documents to your request. (See attached.) Therefore, I have asked her for the reason why there are no documents, but I have not received her response yet.

However, I do know that in Dadisi's 6/14/11 reply to you, she mentioned Chris Buck, Edmund Lee, and Ramon Kong. Therefore, I will ask these three individuals to see if they have responsive documents to your request. But, I suspect that these three individuals will need some time to research and respond. (Technically, I am invoking an extension of up to 14 additional days to respond.)

Other than what I have done and will do, I do not know of any other method to find the documents that you want. Therefore, if you know of any individual that would or could possess such documents, please let me know and I will inquire with that person.

And, if you know of a better method for our research, please share it with me.

Regarding my response to you on 6/27/11, I also included a sentence that says "If I misinterpreted your request, please let me know immediately" after the sentence where I listed what we thought you were requesting. My records show that I did not receive any response or correction from you. To avoid any further misinterpretations, I strongly suggest that you accept our invitation to meet and discuss.

Sincerely,

Frank W. Lee
Executive Assistant to the Director
Department of Public Works
Tel: (415) 554-6993
Fax: (415) 522-7727
Email: Frank.W.Lee@sfdpw.org

From: Up Dog [mailto:upwardfacingdog@hotmail.com]
Sent: Wednesday, January 04, 2012 4:03 PM
To: Lee, Frank W
Cc: Up Dog
Subject: IMMEDIATE DISCLOSURE REQUEST - Sunshine Ordinance request?

Mr. Lee,

--- Background

On June 9, 2011, I made a request for documents from Department of Public Works under the Sunshine Ordinance of San Francisco. You responded with some documents on June 27, 2011 and some additional documents on July 6, 2011.

However, it was brought to my attention that in your response you had "redefined" my request for documents and narrowed the scope of the documents I requested.

My request stated:
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- any email communication, documents and/or letters discussing handling of my 4/12/2011 request for answers"

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Note, my request was for ANY documents/records discussing handling of my 4/12/2011 request for answers. ANY documents. In your response you had narrowed that to documents to and from Ms. Najib. However I asked for ANY documents, regardless of author, sender, receiver etc.

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Please note, under California Public Records Act and the San Francisco Sunshine Ordinance

If the requested records are kept electronically or in PDF format, please send them in their original format by email to the above email address. If the records are kept in some other format, please scan them to PDF format and send them by email to the above email address.

Sincerely,
Lars Nyman
upwardfacingdog@hotmail.com

Up Dog

From: "Up Dog" <upwardfacingdog@hotmail.com>
Date: Thursday, January 05, 2012 8:21 PM
To: "Lee, Frank W" <Frank.W.Lee@sfdpw.org>
Cc: <Dadisi.Najib@sfdpw.org>; <upwardfacingdog@hotmail.com>
Subject: Re: IMMEDIATE DISCLOSURE REQUEST - Sunshine Ordinance request

Mr. Lee,

It seems like you are suggesting that the Department Of Public Works does not have a system to maintain public records and your comments are alarming.

As was abundantly clear from my request, I am requesting "...copies of any and all public records, in any form of media, in the custody or control of or maintained by the Department of Public Works or any staff member..." Not just from or by the "project team", from or to or by ANY ONE, including the Director of the Department Of Public Works.

I understand that you are invoking an extension to fulfill the request. I hereby request that per San Francisco Sunshine Ordinance sec. 67.25 you produce the discovered record as soon as reasonably possible on an incremental or "rolling" basis.

I will exercise my full rights under the San Francisco Sunshine Ordinance and will not trade those rights for a meeting.

Sincerely,
Lars Nyman

PS: Note, I have edited and removed the trailing question mark in the subject line of this email, since my email to you had the subject "IMMEDIATE DISCLOSURE REQUEST - Sunshine Ordinance request" without a trailing question mark.

From: Lee, Frank W
Sent: Thursday, January 05, 2012 7:01 PM
To: 'Up Dog'
Cc: Najib, Dadisi
Subject: RE: IMMEDIATE DISCLOSURE REQUEST - Sunshine Ordinance request?

Mr. Nyman:

I am going to skip the formal language that I send to acknowledge receipt; however, I am informing you that your request is number RR005 and that I am responding to your Immediate Disclosure Request within the time period specified in the San Francisco Sunshine Ordinance. (I am instituting a numbering system for all public records requests received for 2012.)

Since I was not part of the project team, I do not know whom Dadisi may have asked for help with your 4/12/11 request. Therefore, I asked her again. And, instead of just documents showing her asking for advice on how to handle your request, I am asking her to include any documents that showed her asking for and receiving answers to your questions. (You already have the documents that showed her seeking my, Gloria Chan, and James Devinny's advice and our responses to her.)

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And, if you know of a better method for our research, please share it with me.

Regarding my response to you on 6/27/11, I also included a sentence that says "If I misinterpreted your request, please let me know immediately" after the sentence where I listed what we thought you were requesting. My records show that I did not receive any response or correction from you. To avoid any further misinterpretations, I strongly suggest that you accept our invitation to meet and discuss.

Sincerely,

Frank W. Lee
Executive Assistant to the Director
Department of Public Works
Tel: (415) 554-6993
Fax: (415) 522-7727
Email: Frank.W.Lee@sfdpw.org

From: Up Dog [mailto:upwardfacingdog@hotmail.com]
Sent: Wednesday, January 04, 2012 4:03 PM
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Cc: Up Dog
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Sincerely,
Lars Nyman
upwardfacingdog@hotmail.com

Up Dog

From: "Up Dog" <upwardfacingdog@hotmail.com>
Date: Saturday, January 07, 2012 10:29 AM
To: "Lee, Frank W" <Frank.W.Lee@sfdpw.org>
Cc: "Najib, Dadisi" <Dadisi.Najib@sfdpw.org>; <upwardfacingdog@hotmail.com>
Subject: Re: IMMEDIATE DISCLOSURE REQUEST - Sunshine Ordinance request

Mr. Lee,

My concerns will be addressed by producing the records I have requested – I don't see how a meeting will help you produce such records.

You have suggested a meeting several times. The same reasoning applies in those instances – my concerns will be, or would have been, addressed by producing the requested records and I don't see how a meeting would help you, or would have helped you, produce such records. If you do not understand my request or what records I am requesting, I suggest that you ask me to clarify and email correspondence seems to be both sufficient and efficient manner for that.

Lars Nyman

From: Lee, Frank W
Sent: Friday, January 06, 2012 5:57 PM
To: 'Up Dog'
Cc: Najib, Dadisi
Subject: RE: IMMEDIATE DISCLOSURE REQUEST - Sunshine Ordinance request

Mr. Nyman:

We are not suggesting that you "trade your rights" for a meeting. We are simply offering to meet and discuss your concerns.

Frank W. Lee
Executive Assistant to the Director
Department of Public Works
Tel: (415) 554-6993
Fax: (415) 522-7727
Email: Frank.W.Lee@sfdpw.org

From: Up Dog [mailto:upwardfacingdog@hotmail.com]
Sent: Thursday, January 05, 2012 8:22 PM
To: Lee, Frank W
Cc: Najib, Dadisi; upwardfacingdog@hotmail.com
Subject: Re: IMMEDIATE DISCLOSURE REQUEST - Sunshine Ordinance request

Mr. Lee,

It seems like you are suggesting that the Department Of Public Works does not have a system to

maintain public records and your comments are alarming.

As was abundantly clear from my request, I am requesting "...copies of any and all public records, in any form of media, in the custody or control of or maintained by the Department of Public Works or any staff member..." Not just from or by the "project team", from or to or by ANY ONE, including the Director of the Department Of Public Works.

I understand that you are invoking an extension to fulfill the request. I hereby request that per San Francisco Sunshine Ordinance sec. 67.25 you produce the discovered record as soon as reasonably possible on an incremental or "rolling" basis.

I will exercise my full rights under the San Francisco Sunshine Ordinance and will not trade those rights for a meeting.

Sincerely,
Lars Nyman

PS: Note, I have edited and removed the trailing question mark in the subject line of this email, since my email to you had the subject "IMMEDIATE DISCLOSURE REQUEST - Sunshine Ordinance request" without a trailing question mark.

From: Lee, Frank W
Sent: Thursday, January 05, 2012 7:01 PM
To: 'Up Dog'
Cc: Najib, Dadisi
Subject: RE: IMMEDIATE DISCLOSURE REQUEST - Sunshine Ordinance request?

Mr. Nyman:

I am going to skip the formal language that I send to acknowledge receipt; however, I am informing you that your request is number RR005 and that I am responding to your Immediate Disclosure Request within the time period specified in the San Francisco Sunshine Ordinance. (I am instituting a numbering system for all public records requests received for 2012.)

Since I was not part of the project team, I do not know whom Dadisi may have asked for help with your 4/12/11 request. Therefore, I asked her again. And, instead of just documents showing her asking for advice on how to handle your request, I am asking her to include any documents that showed her asking for and receiving answers to your questions. (You already have the documents that showed her seeking my, Gloria Chan, and James Devinny's advice and our responses to her.)

Today, Dadisi informed me that there are no other responsive documents to your request. (See attached.) Therefore, I have asked her for the reason why there are no documents, but I have not received her response yet.

However, I do know that in Dadisi's 6/14/11 reply to you, she mentioned Chris Buck, Edmund Lee, and Ramon Kong. Therefore, I will ask these three individuals to see if they have responsive documents to your request. But, I suspect that these three individuals will need some time to research and respond. (Technically, I am invoking an extension of up to 14 additional days to respond.)

Other than what I have done and will do, I do not know of any other method to find the documents that you want. Therefore, if you know of any individual that would or could possess such documents, please let me know and I will inquire with that person.

And, if you know of a better method for our research, please share it with me.

Regarding my response to you on 6/27/11, I also included a sentence that says "If I misinterpreted your request, please let me know immediately" after the sentence where I listed what we thought you were requesting. My records show that I did not receive any response or correction from you. To avoid any further misinterpretations, I strongly suggest that you accept our invitation to meet and discuss.

Sincerely,

Frank W. Lee
Executive Assistant to the Director
Department of Public Works
Tel: (415) 554-6993
Fax: (415) 522-7727
Email: Frank.W.Lee@sfdpw.org

From: Up Dog [mailto:upwardfacingdog@hotmail.com]
Sent: Wednesday, January 04, 2012 4:03 PM
To: Lee, Frank W
Cc: Up Dog
Subject: IMMEDIATE DISCLOSURE REQUEST - Sunshine Ordinance request?

Mr. Lee,

--- Background

On June 9, 2011, I made a request for documents from Department of Public Works under the Sunshine Ordinance of San Francisco. You responded with some documents on June 27, 2011 and some additional documents on July 6, 2011.

However, it was brought to my attention that in your response you had "redefined" my request for documents and narrowed the scope of the documents I requested.

My request stated:
"I am hereby requesting the following documents from you and the Department of Public Works:
- any email communication, documents and/or letters discussing handling of my 4/12/2011 request for answers"

Your response stated:
"Therefore, let me also restate what I think that you are requesting today. I believe that you are asking for
- Any emails, documents, or letters to and from Ms. Najib that shows her seeking or receiving advice on how to handle your April 12, 2011 email, consisting of a list of 17 questions."

Note, my request was for ANY documents/records discussing handling of my 4/12/2011 request for answers. ANY documents. In your response you had narrowed that to documents to and from Ms. Najib. However I asked for ANY documents, regardless of author, sender, receiver etc.

Since you had erroneously changed my request and narrowed the scope of my request, I am therefore now

forced to re-issue my request for documents to ensure I will get access to ANY and ALL such documents as originally requested.

--- IMMEDIATE DISCLOSURE REQUEST

This is a public records request pursuant to the provisions of California Public Records Act and the San Francisco Sunshine Ordinance for copies of any and all public records, in any form of media, in the custody or control of or maintained by the Department of Public Works or any staff member in connection with or with respect to the following:

- any mentioning of my 4/12/2011 request for answers

Please note, under California Public Records Act and the San Francisco Sunshine Ordinance

If the requested records are kept electronically or in PDF format, please send them in their original format by email to the above email address. If the records are kept in some other format, please scan them to PDF format and send them by email to the above email address.

Sincerely,
Lars Nyman
upwardfacingdog@hotmail.com

Up Dog

From: "Up Dog" <upwardfacingdog@hotmail.com>
Date: Friday, January 27, 2012 12:51 PM
To: "Lee, Frank W" <Frank.W.Lee@sfdpw.org>
Cc: <upwardfacingdog@hotmail.com>
Subject: Re: IMMEDIATE DISCLOSURE REQUEST - Sunshine Ordinance request?

Mr. Lee,

On January 4, 2012, I issued a public records request for "any mentioning of my 4/12/2011 request for answers". On January 5, 2012, you invoked "an extension of up to 14 additional days to respond".

I have not received ANY records from you in response to my January 4 request.
I have not received ANY response from you since January 5 from you with regards to my January 4 request.

I believe you and the Department of Public Works are now in violation of the Sunshine Ordinance of San Francisco.

Are you intending to provide me with the records I requested or not?

Sincerely,
Lars Nyman

From: Lee, Frank W
Sent: Thursday, January 05, 2012 7:01 PM
To: 'Up Dog'
Cc: Najib, Dadisi
Subject: RE: IMMEDIATE DISCLOSURE REQUEST - Sunshine Ordinance request?

Mr. Nyman:

I am going to skip the formal language that I send to acknowledge receipt; however, I am informing you that your request is number RR005 and that I am responding to your Immediate Disclosure Request within the time period specified in the San Francisco Sunshine Ordinance. (I am instituting a numbering system for all public records requests received for 2012.)

Since I was not part of the project team, I do not know whom Dadisi may have asked for help with your 4/12/11 request. Therefore, I asked her again. And, instead of just documents showing her asking for advice on how to handle your request, I am asking her to include any documents that showed her asking for and receiving answers to your questions. (You already have the documents that showed her seeking my, Gloria Chan, and James Devinny's advice and our responses to her.)

Today, Dadisi informed me that there are no other responsive documents to your request. (See attached.) Therefore, I have asked her for the reason why there are no documents, but I have not received her response yet.

However, I do know that in Dadisi's 6/14/11 reply to you, she mentioned Chris Buck, Edmund Lee, and Ramon Kong. Therefore, I will ask these three individuals to see if they have responsive documents to your request. But, I suspect that these three individuals will need some time to research and respond. (Technically, I am

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Other than what I have done and will do, I do not know of any other method to find the documents that you want. Therefore, if you know of any individual that would or could possess such documents, please let me know and I will inquire with that person.

And, if you know of a better method for our research, please share it with me.

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Sincerely,

Frank W. Lee
Executive Assistant to the Director
Department of Public Works
Tel: (415) 554-6993
Fax: (415) 522-7727
Email: Frank.W.Lee@sfdpw.org

From: Up Dog [mailto:upwardfacingdog@hotmail.com]
Sent: Wednesday, January 04, 2012 4:03 PM
To: Lee, Frank W
Cc: Up Dog
Subject: IMMEDIATE DISCLOSURE REQUEST - Sunshine Ordinance request?

Mr. Lee,

--- Background

On June 9, 2011, I made a request for documents from Department of Public Works under the Sunshine Ordinance of San Francisco. You responded with some documents on June 27, 2011 and some additional documents on July 6, 2011.

However, it was brought to my attention that in your response you had "redefined" my request for documents and narrowed the scope of the documents I requested.

My request stated:
"I am hereby requesting the following documents from you and the Department of Public Works:
- any email communication, documents and/or letters discussing handling of my 4/12/2011 request for answers"

Your response stated:
"Therefore, let me also restate what I think that you are requesting today. I believe that you are asking for
- Any emails, documents, or letters to and from Ms. Najib that shows her seeking or receiving advice on how to handle your April 12, 2011 email, consisting of a list of 17 questions."

Note, my request was for ANY documents/records discussing handling of my 4/12/2011 request for answers. ANY documents. In your response you had narrowed that to documents to and from Ms. Najib. However I asked for ANY documents, regardless of author, sender, receiver etc.

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--- IMMEDIATE DISCLOSURE REQUEST

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- any mentioning of my 4/12/2011 request for answers

Please note, under California Public Records Act and the San Francisco Sunshine Ordinance

If the requested records are kept electronically or in PDF format, please send them in their original format by email to the above email address. If the records are kept in some other format, please scan them to PDF format and send them by email to the above email address.

Sincerely,
Lars Nyman
upwardfacingdog@hotmail.com

Up Dog

From: "Up Dog" <upwardfacingdog@hotmail.com>
Date: Friday, February 03, 2012 7:40 AM
To: "Lee, Frank W" <Frank.W.Lee@sfdpw.org>
Cc: <upwardfacingdog@hotmail.com>
Subject: Re: IMMEDIATE DISCLOSURE REQUEST - Sunshine Ordinance request?

Mr. Lee,

On January 4, 2012, I issued a public records request for "any mentioning of my 4/12/2011 request for answers". On January 5, 2012, you invoked "an extension of up to 14 additional days to respond".

I have not received ANY records from you in response to my January 4 request.
I have not received ANY response from you since January 5 from you with regards to my January 4 request.

You and the Department of Public Works are violating the Sunshine Ordinance of San Francisco by not responding to my request. Are you intending to respond with the records I requested?

Sincerely,
Lars Nyman

From: Up Dog
Sent: Friday, January 27, 2012 12:51 PM
To: Lee, Frank W
Cc: upwardfacingdog@hotmail.com
Subject: Re: IMMEDIATE DISCLOSURE REQUEST - Sunshine Ordinance request?

Mr. Lee,

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I believe you and the Department of Public Works are now in violation of the Sunshine Ordinance of San Francisco.

Are you intending to provide me with the records I requested or not?

Sincerely,
Lars Nyman

From: Lee, Frank W
Sent: Thursday, January 05, 2012 7:01 PM
To: 'Up Dog'
Cc: Najib, Dadisi

Subject: RE: IMMEDIATE DISCLOSURE REQUEST - Sunshine Ordinance request?

Mr. Nyman:

I am going to skip the formal language that I send to acknowledge receipt; however, I am informing you that your request is number RR005 and that I am responding to your Immediate Disclosure Request within the time period specified in the San Francisco Sunshine Ordinance. (I am instituting a numbering system for all public records requests received for 2012.)

Since I was not part of the project team, I do not know whom Dadisi may have asked for help with your 4/12/11 request. Therefore, I asked her again. And, instead of just documents showing her asking for advice on how to handle your request, I am asking her to include any documents that showed her asking for and receiving answers to your questions. (You already have the documents that showed her seeking my, Gloria Chan, and James Devinny's advice and our responses to her.)

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Tel: (415) 554-6993
Fax: (415) 522-7727
Email: Frank.W.Lee@sfdpw.org

From: Up Dog [mailto:upwardfacingdog@hotmail.com]
Sent: Wednesday, January 04, 2012 4:03 PM
To: Lee, Frank W
Cc: Up Dog
Subject: IMMEDIATE DISCLOSURE REQUEST - Sunshine Ordinance request?

Mr. Lee,

--- Background

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Sincerely,
Lars Nyman
upwardfacingdog@hotmail.com

Up Dog

From: "Lee, Frank W" <Frank.W.Lee@sfdpw.org>
Date: Friday, February 03, 2012 6:30 PM
To: "'Up Dog'" <upwardfacingdog@hotmail.com>
Subject: RE: IMMEDIATE DISCLOSURE REQUEST - Sunshine Ordinance request?

Mr. Nyman:

Yes, we intend to respond.

Sincerely,

Frank W. Lee
Executive Assistant to the Director
Department of Public Works
Tel: (415) 554-6993
Fax: (415) 522-7727
Email: Frank.W.Lee@sfdpw.org

From: Up Dog [mailto:upwardfacingdog@hotmail.com]
Sent: Friday, February 03, 2012 7:40 AM
To: Lee, Frank W
Cc: upwardfacingdog@hotmail.com
Subject: Re: IMMEDIATE DISCLOSURE REQUEST - Sunshine Ordinance request?

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To: Lee, Frank W
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