Date: January 8, 2008

Item No. 6
File No. 07094

SUNSHINE ORDINANCE TASK FORCE

AGENDA PACKET CONTENTS LIST*

- ☒ **Complaint by: Kimo Crossman v. City Attorney's Ofc.**
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Completed by: Frank Darby **Date:** January 2, 2008

***This list reflects the explanatory documents provided**

~ Late Agenda Items (documents received too late for distribution to the Task Force Members)

** The document this form replaces exceeds 25 pages and will therefore not be copied for the packet. The original document is in the file kept by the Administrator, and may be viewed in its entirety by the Task Force, or any member of the public upon request at City Hall, Room 244.

CITY AND COUNTY OF SAN FRANCISCO

DENNIS J. HERRERA
City Attorney

OFFICE OF THE CITY ATTORNEY

ERNEST H. LLORENTE
Deputy City Attorney

DIRECT DIAL: (415) 554-4236
E-MAIL: ernest.llorente@sfgov.org

December 28, 2007

Sue Cauthen, Chair
Members of the Complaint Committee

Re: Kimo Crossman v. City Attorney's Office (07094)

Dear Chair Cauthen and Members of the Complaint Committee:

This letter addresses the issue of whether the Sunshine Ordinance Task Force ("Task Force") has jurisdiction over the complaint of Kimo Crossman against the San Francisco City Attorney's Office.

BACKGROUND

On November 21, 2007, Kimo Crossman made a public records request with Matt Dorsey of the City Attorney's Office for City Attorney Herrera's calendar for December 2007. On November 23, 2007, Kimo Crossman renewed his request and asked that the calendar be posted on the City website. On November 28, 2007, Kimo Crossman stated that compliance on his request is overdue. As of November 29, 2007, Kimo Crossman stated that he did not receive a response from the City Attorney's Office.

COMPLAINT

On November 29, 2007 Complainant Kimo Crossman filed a complaint against the City Attorney's Office alleging violations of the Sunshine Ordinance.

SHORT ANSWER

Based on Complainant's allegation and the applicable sections of the Sunshine Ordinance and the California Public Records Act, which are cited below, the Sunshine Ordinance Task Force ***does*** have jurisdiction over the allegation. The allegations are covered under 67.21 and 67.29-5 of the Ordinance.

DISCUSSION AND ANALYSIS

Article I Section 3 of the California Constitution as amended by Proposition 59 in 2004, the State Public Records Act, the State Brown Act, and the Sunshine Ordinance as amended by Proposition G in 1999 generally covers the area of Public Records and Public Meeting laws that the Sunshine Ordinance Task Force uses in its work.

The Sunshine Ordinance is located in the San Francisco Administrative Code Chapter 67. All statutory references, unless stated otherwise, are to the Administrative Code.

Section 67.21 generally covers requests for documents and Section 67.29-5 covers the responsibility of every Department Head to keep a daily calendar.

In this case Kimo Crossman alleges that he made several requests for the calendar of City Attorney Dennis Herrera and did not receive a response to his requests. The Task Force has subject matter jurisdiction over this complaint and will have to determine if the City Attorney's Office violated the Ordinance.

"Kimo Crossman"
<kimo@webnetic.net>
11/29/2007 09:40 PM

To "'SOTF'" <sotf@sfgov.org>
cc "'Matt Dorsey'" <Matt.Dorsey@sfgov.org>, "'Alexis Thompson'" <Alexis.Thompson@sfgov.org>, <home@prosf.org>, "'Allen Grossman'"
bcc
Subject Sunshine Complaint - City Attorney Herrera Calendar

Submitted on: 11/29/07

Department: City Attorney,
Contacted: Robin Reitzes (City Attorney) & Dennis Herrera (City Attorney), SFMTA board (please list all members), Caroline Celaya (SFMTA employee)

Public_Records_Violation: Yes

Public_Meeting_Violation: No

Meeting_Date: n/A

Section(s)_Violated:, 67.21 b, 67.21 l, 67.21-1, 6254?

Description: I requested Mr. Herrera's December 2007 calendar and his office has not responded to my request even after multiple reminders. So failure to respond to a request, and failure to produce public records. I asked for the Calendars to be posted on the city website

Please note, I am asking for ALL CALENDARS not just the one stored in Lotus Notes

Please include attached email in the records for this complaint.

Hearing: Yes

Date: 11/29/07

Name: Kimo Crossman

Address:

City:

Zip:

Phone:

Email: kimo@webnetic.net

Anonymous:

----- Message from "Kimo Crossman" <kimo@webnetic.net> on Wed, 28 Nov 2007 04:25:33 -0800 -----

To: "'Matt Dorsey'" <Matt.Dorsey@sfgov.org>, "'Cityattorney'" <CityAttorney@sfgov.org>, "'Alexis Thompson'" <Alexis.Thompson@sfgov.org>

cc: <home@prosf.org>, "'Allen Grossman'" <grossman356@mac.com>, "'Wayne Lanier'" <w_lanier@pacbell.net>, "'Amanda Witherell'" <amanda@sfbg.com>

Subject: OVERDUE: Immediate Disclosure Request City Attorney December 2007

From: Kimo Crossman [mailto:kimo@webnetic.net]
Sent: Friday, November 23, 2007 6:01 AM

To: 'Matt Dorsey'; 'Cityattorney ; 'Alexis Thompson'
Cc: 'home@prosf.org'; 'Allen Grossman'; 'Wayne Lanier'; 'Amanda Witherell'
Subject: RE: Immediate Disclosure Request City Attorney December 2007

Rather than emailing me this information, Per 67.21 (l) & 67.21-1 please post this information on the city website..

(l) Inspection and copying of documentary public information stored in electronic form shall be made available to the person requesting the information in any form requested which is available to or easily generated by the department, its officers or employees, including disk, tape, printout or monitor at a charge no greater than the cost of the media on which it is duplicated. Inspection of documentary public information on a computer monitor need not be allowed where the information sought is necessarily and unseparably intertwined with information not subject to disclosure under this ordinance. Nothing in this section shall require a department to program or reprogram a computer to respond to a request for information or to release information where the release of that information would violate a licensing agreement or copyright law.

SEC. 67.21-1. POLICY REGARDING USE AND PURCHASE OF COMPUTER SYSTEMS.

(a) It is the policy of the City and County of San Francisco to utilize computer technology in order to reduce the cost of public records management, including the costs of collecting, maintaining, and disclosing records subject to disclosure to members of the public under this section. To the extent that it is technologically and economically feasible, departments that use computer systems to collect and store public records shall program and design these systems to ensure convenient, efficient, and economical public access to records and shall make public records easily accessible over public networks such as the Internet.

(b) Departments purchasing new computer systems shall attempt to reach the following goals as a means to achieve lower costs to the public in connection with the public disclosure of records:

(1) Implementing a computer system in which exempt information is segregated or filed separately from otherwise disclosable information.

(2) Implementing a system that permits reproduction of electronic copies of records in a format that is generally recognized as an industry standard format.

(3) Implementing a system that permits making records available through the largest non-profit, non-proprietary public computer network, consistent with the requirement for security of information.

From: Kimo Crossman [mailto:kimo@webnetic.net]
Sent: Wednesday, November 21, 2007 5:04 PM
To: 'Matt Dorsey'; 'Cityattorney'; 'Alexis Thompson'
Cc: 'home@prosf.org'; 'Allen Grossman'; 'Wayne Lanier'
Subject: Immediate Disclosure Request City Attorney December 2007

Immediate Disclosure Request

Under Sunshine, CPRA and Prop 59, I am requesting all calendars maintained by and for Mr. Herrera for December 2007. This includes personal calendars which contain city business.

Please provide these calendars in their original electronic format or as scanned PDF if only exists in paper format. Please keep redactions to what are minimally legally permitted including a footnote and legal basis for each Redaction.

Please provide calendars in their most detailed hourly, meeting level rather that weekly or

monthly.

Please email this information to me on a daily incremental basis

"Kimo Crossman" <kimo@webnetic.net>
12/13/2007 08:07 PM

To "'SOTF'" <sotf@sfgov.org>
cc
bcc
Subject RE: Respondents re: #07094_Kimo Crossman v. City Attorney

I corrected the names in the email reply - but they should be Matt Dorsey, Alexis Thompson and Dennis Herrera only.

-----Original Message-----
From: SOTF [mailto:sotf@sfgov.org]
Sent: Thursday, December 13, 2007 4:38 PM
To: Kimo Crossman
Subject: Respondents re: #07094_Kimo Crossman v. City Attorney

Mr. Crossman,

Please identify the name of the parties(s) of the Department that this complaint relate to so that I can notify the right individuals.

Frank Darby, Administrator
Sunshine Ordinance Task Force
1 Dr. Carlton B. Goodlett Place
City Hall, Room 244
San Francisco, CA 94102-4689
SOTF@SFGov.org
OFC: (415) 554-7724
FAX: (415) 554-7854

Complete a SOTF Customer Satisfaction Survey by clicking the link below.
http://www.sfgov.org/site/sunshine_form.asp?id=34307

"Kimo Crossman" <kimo@webnetic.net>
12/13/2007 12:52 PM

To "'SOTF'" <sotf@sfgov.org>, "'Robin M Reitzes'" <Robin.Reitzes@sfgov.org>, <Murray.Bond@sfmta.com>, "'John Kennedy'" <John.Kennedy@sfgov.org>
cc "'Matt Dorsey'" <Matt.Dorsey@sfgov.org>, "'Alexis Thompson'" <Alexis.Thompson@sfgov.org>, "'Cityattorney'" <CityAttorney@sfgov.org>
Subject RE: Sunshine Complaint Received: #07094_Kimo Crossman v. City Attorney (Dennis Herrera)

I apologize some of the names like Robin Reitzes and SFMTA should not be part of this complaint - I have edited it below

Mariam Morley/CTYATT@CTYATT 12/20/2007 05:00 PM	To	Frank Darby/BOS/SFGOV@SFGOV
	cc	
	bcc	
	Subject	Complaint # 07094

Dear Mr. Darby:

The above-referenced complaint lacks merit. The Office of the City Attorney reserves its right to respond further to the merits of the complaint prior to any hearing on the merits.

Sincerely,
Mariam Morleyl

Mariam M. Morley
Deputy City Attorney
Office of the City Attorney
City Hall, Room 234
San Francisco, CA 94102
Tel: 415-554-4633
Fax: 415-554-4747

CITY AND COUNTY OF SAN FRANCISCO

DENNIS J. HERRERA
City Attorney

OFFICE OF THE CITY ATTORNEY

MARIAM MORLEY
Deputy City Attorney

DIRECT DIAL: (415) 554-4633
E-MAIL: mariam.morley@sfgov.org

December 31, 2007

Honorable Members, Sunshine Ordinance Task Force
c/o Frank Darby, Jr., Administrator
Office of the Clerk, Board of Supervisors
Room 244, City Hall
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102-4689

Re: Complaint No. 07094
Kimo Crossman v. City Attorney's Office

Dear Task Force Members:

This letter addresses the jurisdiction of the Task Force over the subject complaint. We acknowledge that the Task Force has jurisdiction. However, in our view, this complaint should be dismissed on the merits. We will supplement this letter with a subsequent letter addressing the merits of the complaint.

Very truly yours,

DENNIS J. HERRERA
City Attorney

Mariam Morley
Deputy City Attorney