

# **CITY OF OAKLAND**

## **Public Ethics Commission**



Marc Pilotin, Chair  
Krisida Nishioka, Vice-Chair  
Lisa Crowfoot  
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Gail Kong  
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Heather Zona

Whitney Barazoto, Executive Director

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TO: Public Ethics Commission  
FROM: Milad Dalju, Deputy Director  
DATE: March 22, 2017  
RE: Case No. 13-05; *In the Matter of the Office of Mayor Jean Quan*

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### **I. INTRODUCTION**

On July 23, 2013, the Commission received a complaint alleging that the Office of Mayor Jean Quan (Mayor's Office) failed to timely disclose records in response to a public records request. On July 24, 2013, Commission Staff initiated mediation pursuant to the Sunshine Ordinance. On September 3, 2013, the Mayor's Office provided records responsive to Complainant's public records request.

Because the records have been provided to Complainant, Commission Staff recommends that the Commission close this matter without further action.

### **II. SUMMARY OF LAW**

One of the primary purposes of the Sunshine Ordinance is to clarify and supplement the California Public Records Act (CPRA), which requires that all government records are open to inspection by the public unless there is a specific reason not to allow inspection.<sup>1</sup> The CPRA requires each agency to make public records promptly available to any person upon request.<sup>2</sup>

Any person whose request to inspect or copy public records has been denied by any local body, agency, or department, may demand mediation of his or her request by Commission Staff.<sup>3</sup> A person may not file a complaint with the Commission alleging the failure to permit the timely inspection or copying of a public record unless he or she has requested and participated in the Commission's mediation program.<sup>4</sup>

Once the Commission's mediation program has been concluded, Commission Staff is required to report the matter to the Commission by submitting a written summary of the issues presented,

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<sup>1</sup> Oakland Municipal Code § 2.20.010(C); Government Code § 6250 et seq.

<sup>2</sup> Government Code § 6253(b).

<sup>3</sup> O.M.C. § 2.20.270(C)(1).

<sup>4</sup> O.M.C. § 2.20.270(F).

what efforts were made towards resolution, and how the dispute was resolved or what further efforts Commission Staff would recommend to resolve the dispute.<sup>5</sup>

### **III. ISSUES PRESENTED**

On June 14, 2013, Complainant sent an email to the Mayor's Office, which included the following request:

Please produce all records including all proposed, contemplated, approved proposals; all correspondence including emails, correspondence and letter, and telephone logs; all reports, presentation materials; all meeting notes, agendas, and meeting minutes; all maps and/or documents showing or indicating locations or proposed locations; all financial materials including revenue and expense projections, actual costs or anticipated costs, anticipated income to the City of Oakland; proposed or actual timelines including introductions at Council committees and/or the full City Council, project start dates, project completion dates. If there are different dates for separate billboards, please provide the separated timelines.

On June 28, 2013, Complainant followed up on his records request by sending the Mayor's Office another email and leaving a voicemail at the Mayor's Office. The Mayor's Office responded on the same day, explaining that they had missed Complainant's June 14, 2013, email, and apologized for the delay in responding to his email.

On July 12, 2013, Complainant sent another email to the Mayor's Office in which he asked when the records would be made available to him. On the same day, the Mayor's Office responded to Complainant's email, in which they assured him that the Mayor's Office would respond to his public records request by middle of the following week, which was approximately July 17, 2013.

On July 23, 2013, Complainant submitted a complaint to the Commission which he alleged that the Mayor's Office failed to timely respond to his June 14, 2013, public records request.

On July 24, 2013, Commission Staff initiated the mediation process by sending a letter to the Mayor's Office regarding Complainant's allegation.

On July 25, 2013, the Mayor's Office sent Complainant an email update regarding his request, stating that the IT Department was searching for emails related to his request and that it would take the IT Department a couple of weeks to provide the search results to the Mayor's Office.

On the same day, Complainant sent a response to the Mayor's Office, in which he requested that the Mayor's Office provide all the records that the Mayor's Office had gathered so far.

On July 27, 2013, Complainant amended his complaint, alleging that the Mayor's Office failed to respond to his July 25, 2013, request to provide him with all records gathered so far.

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<sup>5</sup> Complaint Procedures § IV (C)(5).

On August 1, 2013, the Mayor's Office notified Complainant that the Mayor's Office did not have any records responsive to his July 25 request, that they were still waiting for the IT Department to complete the email search, and that they would contact Complainant once they received the responsive documents from the IT Department.

On August 23, 2013, Complainant sent an email to the Mayor's Office requesting an update to his June 14 request, included the following new public records request:

Please provide the names and position titles of the individuals, and the names of the separate sections, departments, etc., under your purview as the California records request liaison for the Mayor's Office, that were queried in response to my request regarding billboards. That is, who received my request in order [sic] search for records in response to the request?

On September 4, 2013, Complainant amended his complaint, alleging that the Mayor's Office failed to respond to his August 23, 2013, public records request.

On September 6, 2013, Commission Staff informed the Mayor's Office of the September 4, 2013, amendment to Complainant's allegations against the Mayor's Office.

#### **IV. EFFORTS TOWARD RESOLUTION**

On July 24, 2013, Commission Staff sent the Mayor's Office a copy of Complainant's allegations. Between July 24 and September 6, 2013, Commission Staff discussed Complainant's allegations with Complainant and the Mayor's Office on several occasions.

#### **V. RESOLUTION**

On September 6, 2013, the Mayor's Office notified Complainant that his public records request had been completed and that they would contact him when it was ready for pick-up. They also stated that Mayor Quan would like to meet with him to hear his concerns about the billboards.

Since September 6, 2013, Complainant has not communicated with Commission Staff regarding this matter. On January 26, 2017, Commission Staff asked Complainant if he had any outstanding concerns regarding his public records request. To date, Commission Staff has not received a response from Complainant.

#### **VI. RECOMMENDATION**

Because the Mayor's Office informed Complainant that the responsive records were available to him, and Complainant has not communicated any outstanding concerns regarding this matter to Commission Staff, Commission Staff recommends that this matter be closed without further action.