

ATTACHMENT 6



Jodie Smith, Chair
James E.T. Jackson, Vice-Chair
Jill Butler
Gail Kong
Nayeli Maxson
Joseph Tuman
Jerett Yan

Whitney Barazoto, Executive Director

TO: Public Ethics Commission
FROM: Kellie Johnson, Enforcement Chief
DATE: November 7, 2019
RE: *In the Matter of Oakland Department of Housing & Community Development*
(Case No. M2019-06); Mediation Summary

I. INTRODUCTION

On April 26, 2019, Staff received a request for mediation from the Requester alleging that on March 27, 2019, the Requester submitted a public records request (19-1568) through NextRequest to the City of Oakland Housing and Community Development Department. On April 11, 2019, the department extended the due date to April 25, 2019. Again, on April 25, the department extended the due date to May 9, 2019.

On April 20, Staff initiated mediation pursuant to the Oakland Sunshine Act.

On May 3, 2019 the Housing and Community Development Department released some responsive documents.

On May 24, 2019, Staff received correspondence from the Requester that they received a fourth request to extend the due date for the documents. On May 28th Staff contacted the Planning and Building Department to inquire when the responsive documents would be released to the Requester. On June 11, 2019, the Housing and Community Development Department released all responsive documents and closed the request. Staff contacted the Requester on August 13, 2019, to confirm that all responsive documents were provided. As of the date of this memorandum, staff has not received a response. Staff recommends that the Commission close the mediation without further action because the responsive documents have been received and the request is closed.

II. SUMMARY OF LAW

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

¹ Oakland Municipal Code § 2.20.010(C); California Government Code § 6250 et seq.

² Government Code § 6253(b).

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Any person whose request to inspect or copy public records has been denied by any City of Oakland body, agency, or department, may demand mediation of his or her request by Commission Staff.³ 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 they have requested and participated in the Commission's mediation program.⁴

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

III. SUMMARY OF FACTS

Request 19-1568

On March 27, 2019, the City of Oakland's Housing and Community Development received, via NextRequest, the following public records request (No. 19-1568):

"All documents, photos, emails, text, videos, data and other records related to 2451 Ivy Dr, Oakland, CA 94606. Please include all comments, photos. Call logs, emails, letters, etc. that have been made in reference to the property by any city employee in the past 5 years. Please include copies of all actual documents, including permit applications and permits issued. Please ensure that the documents, and not just a link to an external website, are included. Thank you."

On March 28, 2019, Sylvia Shannon added the Planning and Building Department and on March 29, 2019 removed Planning and Building. On April 25, 2019 Ms. Shannon uploaded the following note to NextRequest:

"04/25/2019 (was 04/08/2019) Staff has identified tow case files for this property. Staff will work to copy and redact the necessary information. Please allow two weeks for release or update."

On May 3, 2019, Ms. Shannon uploaded several responsive documents. On May 10, 2019 she uploaded an eviction notice on the property from 2013.

On May 10th, Ms. Shannon also changed the due date of the request to May 24, 2019. On May 24, 2019 she changed the date to again.

On June 11, 2019, Ms. Shannon closed the request uploaded the following note to NextRequest:

"Staff has completed the search for documents with this address. All documents held by the department have been provided."

³ O.M.C. § 2.20.270(C)(1).

⁴ O.M.C. § 2.20.270(F).

⁵ Complaint Procedures § IV (C)(5).

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On August 13, 2019, Staff contacted the Requester by email to inquire if they received all of the documents and were satisfied with the request being closed. As of the date of this memorandum, the Requester did not respond to the Staff's inquiry.

IV. RECOMMENDATION

Staff recommends that the Commission close the mediation without further action, because the Requester has received responsive documents.