

Item #10b - M2020-12; Mediation Summary



Michael B. MacDonald, Chair
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Whitney Barazoto, Executive Director

TO: Whitney Barazoto, Executive Director
FROM: Jelani Killings, Ethics Analyst
DATE: June 22, 2021
RE: *In the Matter of the Planning and Building Department (Case No. M2020-12); Mediation Summary*

I. INTRODUCTION

On August 28, 2020, the Commission received a request for mediation alleging that the Oakland Planning and Building Department failed to disclose records in response to five public records requests made by the Requester on December 16, 2019, May 18, 2020, June 3, 2020, June 12, 2020, and June 26, 2020, respectively. On September 2, 2020, Staff initiated its mediation program pursuant to the Oakland Sunshine Ordinance.

Because the responding department has provided all responsive documents per the requests, Staff closed the mediation without further action.

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

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

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

² Government Code § 6253(b).

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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III. SUMMARY OF FACTS

On December 16, 2019, the City received, via NextRequest, the following public records request (No. 19-6003):

Please provide me the PDF maps, KMZ (Google Earth) map and Excel spreadsheet referenced in email to Aubrey Rose and Scott Miller from Matt Yergovich on August 18, 2015 at 10:27AM regarding 78 downtown wireless facilities.

In same email, CEQA implications were mentioned and ATT Overlapping Deployment for the downtown area. Please provide me with any subsequent communications and attachments between the City and Matt Yergovich or any other ExteNet Systems agent doing business in Oakland.

In this email, Matt mentions evaluating both "ATT and Verizon's proposals as a whole." Please provide any subsequent communications, records and documents relevant to this discussion between the any City employee and any employee or agent of ATT and Verizon.

On May 18, 2020, the City received, via NextRequest, an additional public records request from the Requester (20-2601):

Please provide all documents, reports, plans/drawings and communications between residents, City or telecom regarding the cell antenna projects located at 6387 Fairlane and 6391 Fairlane. Also, include planning commission documents that were made available to the public and to the commissioners. If any RF Emission reports are available created at the time of installation or since then, please include them.

Please include all documentation related to inactive, expired or issued applications in planning and building department related to these addresses as well.

Thank you.

On June 3, 2020, the City received, via NextRequest, a third public records request from the Requester (20-3004):

Please provide all information related to Record ID FDV19-22181 for APN 029A133003000.

Please provide all EME or RF reports (part of application and prior to building permit sign-off) for DS180340 and B1803917

Please include the approval or decision letters and related communications/attachments between applicant and the City for DS180340 and B1803917

On June 4, 2020, the Planning and Building Department released seven responsive documents to the requester for request 20-3004.

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On June 12, 2020, the City received, via NextRequest, a fourth public records request from the Requester (20-3268):

Please provide all documents and communications (including emails and attachments) regarding the Appeal APL19009.

Thank you.

On June 18, 2020, the Planning and Building Department released an additional three documents to the requester in response to public records request 20-3004.

On June 26, 2020, the City received, via NextRequest, a fifth public records request from the Requester (20-3688):

I am interested in knowing what telecommunications companies currently have Master License Agreements with the City of Oakland.

Can you please provide me a copy of these agreements as well letting me know when they became effective and if they have an expiration date?

On, July 8, 2020, the Planning and Building Department released three responsive documents to the requester for request 20-3268.

On, July 14, 2020, the Planning and Building Department released seven responsive documents to the requester for request 20-2601.

On August 28, 2020, the Commission received a mediation request seeking the following:

Not fulfilling public records requests in a timely manner. Some of these have been partially completed.

On September 2, 2020, Staff initiated its mediation program and notified the Planning and Building Department (PBD) of the mediation request.

On, September 27, 2020, the Planning and Building Department released an additional three documents to the requester for request 20-3268. Subsequently, the Planning and Building Department closed the request stating:

We have redacted personal information, including but not limited to, telephone numbers, social security numbers, credit card numbers and other personal identifying information pursuant to the constitutional rights of privacy and to protect against identity theft pursuant to Government Code Section 6254(c).

On, September 28, 2020, the Planning and Building Department released an additional document to the requester for request 20-3268.

On, September 29, 2020, the Planning and Building Department released an additional two documents to the requester for request 20-3268.

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On, October 7, 2020, the Planning and Building Department released an additional document to the requester for request 20-3004.

On, October 27, 2020, the Planning and Building Department released ten responsive documents to the requester for request 19-6003.

On, November 3, 2020, the Planning and Building Department released an additional 18 documents to the requester for request 20-2601. Subsequently, the Planning and Building Department closed the request stating:

We have redacted personal information, including but not limited to, telephone numbers, social security numbers, credit card numbers and other personal identifying information pursuant to the constitutional rights of privacy and to protect against identity theft pursuant to Government Code Section 6254(c).

On, November 4, 2020, the Planning and Building Department released an additional 117 documents to the requester for request 19-6003.

On, November 6, 2020, the Planning and Building Department released an additional 11 documents to the requester for request 19-6003.

On, January 7, 2021, the Planning and Building Department released an additional four documents to the requester for request 20-3688. Subsequently, the Planning and Building Department closed the request stating:

We released all of the requested documents.

On, January 7, 2021, the Planning and Building Department released an additional seven documents to the requester for 19-6003.

On, January 8, 2021, the Planning and Building Department released an additional 23 documents to the requester for 19-6003.

On, January 11, 2021, the Planning and Building Department released an additional 47 documents to the requester for 19-6003. Subsequently, the Planning and Building Department closed the request stating:

We have redacted personal information, including but not limited to, telephone numbers, social security numbers, credit card numbers and other personal identifying information pursuant to the constitutional rights of privacy and to protect against identity theft pursuant to Government Code Section 6254(c).

On, January 29, 2021, the Planning and Building Department released an additional document to the requester for 20-3004. Subsequently, the Planning and Building Department closed the request stating:

We released all of the requested documents.

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On April 16, 2021, Staff followed up with the Requester and inquired if she had received all the responsive documents to her public record requests and, if so, notified her that the PEC would be closing the mediation. The Requester responded:

Yes, you can close M2020-12.

IV. RECOMMENDATION

Because the Planning and Building Department provided the responsive records for the public records requests, and because the Requester indicated that she had received all of the responsive documents, Staff closed the mediation without further action.