

# Item 11c - Mediation Summary M2020-13, M2021-08



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Whitney Barazoto, Executive Director

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TO: Whitney Barazoto, Executive Director  
FROM: Jelani Killings, Ethics Analyst  
DATE: May 14, 2021  
RE: *In the Matter of the Planning and Building Department (Case Nos. M2020-13 and M2021-08); Mediation Summary*

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## I. INTRODUCTION

On September 10, 2020, and September 11, 2020, the Commission received requests for mediation alleging that the Oakland Planning and Building Department failed to disclose records in response to a public records request made by the Requester on August 22, 2020. On September 14, 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.<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 City of Oakland 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 they have 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, 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>

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<sup>1</sup> Oakland Municipal Code § 2.20.010(C); California 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).

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

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## III. SUMMARY OF FACTS

On August 22, 2020, the City received, via web, the following public records request (No. 20-5567):

Please provide me with a full and color PDF document in its original form of the Site Safe Report (compliance) submitted with the application DS190327 (Site ID: 815199 for 1720 MacArthur Blvd). Thank you.

On September 1, 2020 the Planning and Building Department extended the due date for the public records request by seven days from 9/1/2020 to 9/8/2020 stating:

Requester information is still being researched.

On September 8, 2020, the Requester sent a message to the Planning and Building Department via NextRequest stating:

This record was NOT fulfilled by new deadline. Please let me know status. Thank You!

On September 10, 2020, the Commission received a complaint alleging that the Planning and Building Department had failed to respond to a public records request in a timely manner (20-5567).

On September 11, 2020, the Planning and Building Department released the Site Safe Report in response to public records request 20-5567. Subsequently, the Planning and Building Department closed the public records request stating:

We released all of the requested documents.

On September 11, 2020, the Commission received an additional complaint from the Requester regarding the same public records request (20-5567) stating:

I asked for a color copy of the document and instead received a black and white copy which I already had... The public records request was not completed as requested.

On September 14, 2020, Staff initiated its mediation program and notified the Planning and Building Department of the mediation request.

On January 25, 2021, the Planning and Building Department reopened the public records request.

On February 16, 2021, the Planning and Building Department closed the public records request stating:

Hello,

We received the original file for DS190327. You requested for a color copy of the EME/RF report, however all of the documents submitted by the applicant are in black-and-white.

Thank you

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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 records request and, if so, notified her that the PEC would be closing the mediation. The Requester responded:

Yes, you can close M2020-13.

Yes, you can close M2021-08.

#### **IV. RECOMMENDATION**

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