

Item 11g - M2021-12 Mediation Summary



Ryan Micik, Chair
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TO: Public Ethics Commission
FROM: Chris Nardi, Law Clerk
Jelani Killings, Ethics Analyst
DATE: May 19, 2023
RE: *In the Matter of the Housing & Community Development Department (Case No. M2021-12); Mediation Summary*

I. INTRODUCTION

On June 7, 2021, the Commission received a request for mediation alleging the Housing & Community Development Department had unlawfully failed to respond to a public records request made by the Requester on April 29, 2021. Staff initiated its mediation program on June 7, 2021, pursuant to the Oakland Sunshine Ordinance.

Because the Housing & Community Development Department provided the Requester with two records on June 7, 2021, and the Requester is satisfied with that response, this mediation was closed with no 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 their 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 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); Government Code § 7920.000 et seq.

² Government Code § 7922.530(a).

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 April 29, 2021, the City received the following records request via NextRequest (21-3889):

Inspections reports reviewing habitability criteria for occupants at 1720 MacArthur Boulevard that are part of the compliance requirement to receiving financial assistance (*) from the City of Oakland. Please provide reports starting from 2015 to current. Thank you.

(*) HOME Investment Partnership Program

The request was originally assigned to the Housing & Community Development Department. Later that day, the Housing & Community Development Department unassigned itself from the request and assigned the Planning & Building Department. The next day, the Planning & Building Department reassigned the Housing & Community Development Department to the request. On May 3, 2021, the Planning & Building Department unassigned itself from the request.

On May 4, 2021, the Housing & Community Development Department closed the request without explanation. A few hours later, the Requester stated via NextRequest:

Please advise why this public record request was closed with no explanation. Thank you.

On June 7, 2021, the Commission received a mediation request from the Requester alleging that the Housing & Community Development Department had unlawfully failed to respond to their public records request. Staff initiated its mediation program that same day and notified the Housing & Community Development Department of the mediation request.

Two hours later, the Housing & Community Development Department reopened the request and released two records to the Requester. It then closed the request, stating: "Documents pertaining to this request from Housing & Community Development Department (HCD) are attached. Thank you."

On April 26, 2023, Staff reached out to the Requester to determine whether they were satisfied with these responses to their requests. Staff followed up with the Requester on May 3, 2023, May 10, 2023, and May 18, 2023. On May 19, 2023, the Requester notified Staff that they wished to close this mediation. Staff subsequently notified the Requester that their mediation was closed.

IV. RECOMMENDATION

Because the Housing & Community Development Department provided the Requester with two additional records, satisfying the Requester's mediation request, the mediation has been closed with no further action.