

Item 12 - M2019-15b Mediation Summary



Michael B. MacDonald, Chair
Jerett Yan, Vice-Chair
Avi Klein
Jessica Leavitt
Ryan Micik
Arvon Perteet
Joe Tuman

Whitney Barazoto, Executive Director

TO: Whitney Barazoto, Executive Director
FROM: Jelani Killings, Ethics Analyst
DATE: December 27, 2021
RE: *In the Matter of the City Administrator's Office (Case No. M2019-15(b));* Mediation Summary

I. INTRODUCTION

On September 24, 2019, the Commission received a request for mediation alleging that the Office of the City Administrator failed to disclose records in response to a public records request made by the Requester on August 8, 2019. On October 2, 2019, Staff initiated its mediation program pursuant to the Oakland Sunshine Ordinance.

Because the responding department provided the 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).

Item 12 - M2019-15b Mediation Summary

III. SUMMARY OF FACTS

On August 8, 2019, the City Administrator's Office received, via the web, a public records request (No. 19-3996) stating:

Any emails, letters, or other forms of communications with officials of California Department of Transportation's Departments Right of Way Airspace Development and the city administrator's office of the City of Oakland, California regarding the lease of airspace at 04-ALA-580-38 & 39--aka airspace between Mandela Parkway and Beach Street in Oakland, California

Officials of that office, including, but not limited to:

Jim Bozionelos
Juliew McDaniel
John D. Kluge
Brenda McKenzie
Eva Marie Figlietti
Kimberly Ellis Erickson

The dates requested are: 5/01/2018 to 08/08/2019

On August 22, 2019, the Requester sent a message via NextRequest stating:

The legal 10 day period for response has elapsed.

On August 26, 2019, the City Administrator's Office requested additional time for the public records request stating:

Request extended: Additional time is required to answer your public records request. We need to search for, collect, or examine a large number of records (Government Code Section 6253(c)(2)). We anticipate providing a response in the next week.

On September 24, 2019, the Commission received a complaint alleging that the City Administrator's Office had failed to respond to public records request 19-3996.

On October 2, 2019, Staff initiated its mediation program and notified the City Administrator's Office of the mediation request.

On December 6, 2019, the City Administrator's Office released 13 responsive documents related to PRR 19-3996.

On December 9, 2019, the City Administrator's Office closed the PRR stating:

We released all of the requested documents.

The City has redacted documents covered by the attorney-client privilege pursuant to Section 6254(k) of the Public Records Act which states that "Records, the disclosure of which is exempted or prohibited pursuant to federal or state law, including, but not limited to, provisions of the Evidence Code relating to privilege."

Item 12 - M2019-15b Mediation Summary

On October 26, 2021, Staff followed up with the Requester regarding their public records request and informed them that the mediation would be closed. The Requester had no further inquiries and acknowledged closure of the request.

IV. RECOMMENDATION

Because the City Administrator's Office provided the responsive documents, and because the Requester had no further inquiry for responsive documents, Staff closed the mediation without further action.