

Item 12 - M2019-15c Mediation Summary



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Whitney Barazoto, Executive Director

TO: Whitney Barazoto, Executive Director
FROM: Jelani Killings, Ethics Analyst
DATE: December 27, 2021
RE: *In the Matter of the Public Works Department (Case No. M2019-15(c)); Mediation Summary*

I. INTRODUCTION

On September 24, 2019, the Commission received a request for mediation alleging that the Public Works Department failed to disclose records in response to a public records request made by the Requester on August 27, 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 request, 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 - M2019-15c Mediation Summary

III. SUMMARY OF FACTS

On August 27, 2019, the Public Works Department received, via the web, a public records request (No. 19-4286) stating:

All activity records, including schedules and any other records listing date, time and location and type of work done by people contracted by the City of Oakland through the SWAP, Alameda County Sheriff Work Alternative Program, from 1/1/2019 to 8/27/2019.

If possible please include cumulative number of participants, or ongoing numerical sets of participants by date, time or other criteria.

On September 24, 2019, the Commission received a complaint alleging that the Public Works Department had failed to respond to public records requests 19-4286.

On October 2, 2019, Staff initiated its mediation program and notified the Public Works Department of the mediation request.

On October 7, 2019, the Public Works Department released one responsive document related to PRR 19-4286 stating:

OPW did not start receiving SWAP Participants until 5-4-19. Attached are redacted rosters from 5-4-19 thru 8-30-19.

OPW is continuing to research records to determine if there are any additional responsive documents.

On October 16, 2019, the Public Works Department released an additional responsive document related to PRR 19-4286 stating.

SWAP Program from 6-5-19 thru 8-30-19 (the attachment contains the location in which the participants worked and the number of participants that were on the crew).

SWAP Roster from 5-4-19 thru 8-30-19 (this attachments contains the participants names which has been redacted, the date and their schedule).

The May correspondence did not contain the cumulative number of participants or the locations where they worked. However, there was improvement in this area in June and July and a significant increase in August when almost all of the information is captured.

All the emails pertained to the participants removing vegetation, and removing illegal dumping and abating litter.

The participants also worked the Bulky Block Parties the last Saturday of each month:

- 5-25-19;
- 6-29-19;
- 7-27-19; and
- 8-31-19.

Subsequently, the Public Works Department closed the PRR stating:

Item 12 - M2019-15c Mediation Summary

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 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 Public Works Department provided the responsive documents, and because the Requester had no further inquiry for responsive documents, Staff closed the mediation without further action.