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TO: Public Ethics Commission
FROM: Kellie Johnson, Enforcement Chief
Kyle McLean, Mediation Coordinator
DATE: May 20, 2019
RE: *In the Matter of the City Clerk (Case No. M2019-03); Mediation Summary*

I. INTRODUCTION

On May 8, 2019, the Commission received a request for mediation alleging that the Human Resources Department failed to disclose records in response to a public records request made by the Requester on November 19, 2018. On May 16, 2019, Staff initiated its mediation program pursuant to the Oakland Sunshine Ordinance. In response, the City produced thirteen responsive records.

Because the City provided all of the originally requested records, Staff recommends that the Commission close 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).

III. SUMMARY OF FACTS

On November 19, 2018, the City received, via NextRequest, the following public records request (No. 18-4048): “All personnel records of Parking Citation Bureau, including the director in charge.”

On November 27, 2018, Denise Aaron (records request liaison for the Human Resources Department) changed the due date of the request from November 29, 2018, to December 28, 2018, and stated the following via NextRequest: “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)).”

On December 26, 2018, Denise Aaron changed the due date of the request from December 28, 2018 to January 11, 2019, and stated the following via NextRequest: “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)).”

On May 8, 2019, the Commission received a verbal request for mediation alleging that the Human Resources Department had failed to disclose records in response to public records request No. 18-4048. At the time that the Commission received the Complaint, no responsive records had been produced by the City.

On May 16, 2019, Staff commenced mediation proceedings and contacted Denise Aaron to determine why no responsive records had been posted. The same day, Aaron stated that the records had been awaiting review by the City Attorney’s Office for redaction but that she would release the properly redacted records shortly. A few hours later, Aaron posted thirteen records, closed the request, and stated the following via NextRequest: “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 May 17, 2019, Staff contacted the Requester to confirm that they were satisfied with the records produced in response but received no response.

IV. RECOMMENDATION

Because the Requester received the requested records, Staff recommends that the Commission close the mediation without further action.