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TO: Public Ethics Commission
FROM: Kellie Johnson, Enforcement Chief
DATE: April 2, 2020
RE: *In the Matter of the Oakland Finance Dept. (Case No. M2020-05); Mediation Summary*

I. INTRODUCTION

On February 20, 2020, the Commission received a request for mediation from the requestor alleging that an employee from the City's Economic and Workforce Development department failed to provide responsive documents to a public records request. Three months had passed since the request was filed and the requester did not get a response.

Staff initiated the Mediation process on March 2, 2020. On March 3, 2020 Rebecca Perry ("Perry") with the Economic and Workforce Development Department released some responsive documents to the requester and the request was closed. In response to that mediation, the requester confirmed receipt of some documents but believed there were additional documents that should be released. On March 3, 2020, the department representative confirmed that all responsive documents were released. 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

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).

were made towards resolution, and how the dispute was resolved or what further efforts Commission Staff would recommend to resolve the dispute.⁵

III. SUMMARY OF FACTS

In September 19, 2019 the Requester made a public records requests for the following:

“All documents, communications, emails, contracts, etc., from, to or mentioning Sterling Heatley, and/or representatives of 2327 San Pablo LLC, Urban Value Investments LLC, S & G Capital Advisors LLC, from May 1, 2017 to September 17, 2019:

From or to the following offices and individuals:
Department of Housing and Community Development
Economic and Workforce Development
The Office of Mayor, Libby Schaaf”

The records request was assigned to the Economic and Workforce Development Department on September 19, 2019. Perry was assigned as the point of contact.

On October 7, 2019, Perry wrote a note to NextRequest that informed the Requester of the following:

“We have received your request. We are in the process of compiling the records and need the additional time.”

On October 15, 2019, a note was uploaded to the NextRequest system that informed the Requester of the following:

“10/29/2019 (was 10/14/2019). Staff requires more time for review of a large amount of records, to either release the requested records or to declare that no responsive records exist in our department.”

On November 15, 2019, a note was uploaded to the NextRequest system that informed the Requester of the following:

“11/29/2019 (was 10/29/2019). Staff continues to search manually through records for possible documents. Please allow two weeks for a release or an update.”

Once Staff received the request for mediation on February 20, 2020, Staff contacted the requester to seek additional information about the public records request and what specific documents he believed were missing and suggested he inform the department of the missing documents. Staff contacted the Economic and Workforce Development Department to request a search for any additional records. The department executive assistant did not locate any additional responsive documents and informed the respondent and Staff that all records had been provided.

IV. RECOMMENDATION

⁵ Complaint Procedures § IV (C)(5).

The requester received all responsive documents, Staff recommends that the Commission close the mediation without further action.