

Item #11b - Mediation Summary M2020-07



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

Whitney Barazoto, Executive Director

TO: Whitney Barazoto, Executive Director
FROM: Jelani Killings, Ethics Analyst
DATE: April 20, 2021
RE: *In the Matter of the Planning and Building Department (Case No. M2020-07)*; Mediation Summary

I. INTRODUCTION

On March 5, 2020, the Commission received a request for mediation alleging that the Oakland Planning and Building Department failed to disclose records in response to three public records requests made by the Requester on January 9, 2020, January 24, 2020, and February 13, 2020, respectively. On March 5, 2020, Staff initiated its mediation program pursuant to the Oakland Sunshine Ordinance.

Because the responding department has provided all 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 #11b - Mediation Summary M2020-07

III. SUMMARY OF FACTS

On January 9, 2020, the City received, via NextRequest, the following public records request (No. 20-142):

All documents related to the application DRX 200056 for 4511 Lincoln Avenue.

Including complete application, communications (between city and applicants or others) and all submitted attachments and reports.

On January 24, the City received, via NextRequest, an additional public records request from the Requester (20-411):

Please provide by February 17, 2020 the following documents from the Planning and Building Department.

For all the Verizon, AT&T AND T-Mobile cell antenna projects at 5650 Balmoral.

All file contents including planning department application documents, RF emission report, written communications between applicant and the City, and planning commission approval letter.

All file contents including building department application, documents, attachments, RF emission reports, written communications between applicant and the City, final building permit sign-off.

These files include but are limited to:

PLN19244 - Verizon (application documents and to-date written communications only)

DS190341 - T Mobile

B1903761 - T Mobile

DS180223 - ATT

B1803798 - ATT

DS170351 - Verizon

B1704009 - Verizon

DS160109

B1602185

DS150412

B1504583

CMDV10257

B1400614 - ATT

E1102562 - ATT

B1100941 - ATT

B1003670 - T Mobile

E1100467 - T Mobile

Thank you. Please remit documents as they become available.

Item #11b - Mediation Summary M2020-07

On February 13, 2020, the City received, via NextRequest, a third public records request from the Requester (20-801):

Please provide all planning and building documents, RF Emission reports and communications between interested parties regarding the roof-top cell antenna installations at 1425 Leimert Blvd. Thank you.

On March 5, 2020, the Commission received a mediation request seeking the following:

My public records requests 20-142, 20-411, 20-801 have gone unfulfilled and missed their deadlines.

Subsequently, on March 5, 2020, Staff initiated its mediation program and notified the Planning and Building Department (PBD) of the mediation request.

On March 24, 2020, the Planning and Building Department released responsive documents to the requester for request 20-142. Subsequently, the PBD closed the request stating:

We released all of the requested documents.

On April 20, 2020, the Planning and Building Department released responsive documents to the requester for request 20-411. Subsequently, the PBD closed the request stating:

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 April 20, the Planning and Building Department closed request 20-801 stating that:

The requested documents do not exist.

On April 16, 2021, Staff followed up with the Requester and inquired if she had received all the responsive documents to her public record requests and, if so, notified her that the PEC would be closing the mediation. The Requester responded:

Yes, you can close M2020-07.

IV. RECOMMENDATION

Because the Planning and Building Department provided the responsive records for the public records requests, and because the Requester indicated that she had received all of the responsive documents, Staff closed the mediation without further action.