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TO: Public Ethics Commission
FROM: Kellie Johnson, Enforcement Chief
DATE: August 14, 2019
RE: *In the Matter of Katano Kasaine, Director of the Department of Finance*
(Case No. M2019-004); Mediation Summary

I. INTRODUCTION

On March 14, 2019, the Commission received a request for mediation alleging that the City of Oakland Finance Department, the Planning and Building Department, and the Mayor's office, failed to disclose records in response to a public records request made by the Requester. On July 29, 2018, the requester submitted a public records request through NextRequest to the Finance Department. On January 13, 2019 the requester submitted a public records request through NextRequest to the Planning and Building Department and the IT Department. On February 9, 2019 the requester made two public records requests to the Planning and Building Department and the Mayor's office. Each request was past due at the time Staff initiated its mediation program on March 28, 2019, pursuant to the Oakland Sunshine Ordinance.

On August 13, 2019, Staff contacted the requester to confirm that the requestor received all responsive documents. The requestor affirmed that, although late, multiple documents were provided, and that the mediation can be closed. 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

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).

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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

III. SUMMARY OF FACTS

Request 18-2182

On July 29, 2018, the City received, via NextRequest, the following public records request (No. 18-2182):

“I am interested in all documentation related to the Sinking Fund as mandated by Ordinance 17.128.030. Establishment documentation, current financial information, decision regarding its use and application, who has contributed to it, what its disbursements, where it is on the City's budget/financials/Balance Sheet. Please direct my request department if I misidentified the department who can handle this request. thanks. Timeframe: From beginning of the sinking fund to current.”

On August 22, 2018, Brittany Hines uploaded a note to the NextRequest stating, “Need additional time to research this request.”

On September 18, 2018, Brittany Hines uploaded responsive emails and closed the request and stated the following: “We released all of the requested documents.”

On September 19, 2018. the request was assigned to Planning and Building and the request was reopened.

On March 25, 2019, Building and Planning were removed from the request and the Finance Department was added.

On March 28, 2019, Staff commenced mediation proceedings.

On March 29, 2019, responsive documents were uploaded to NextRequest and the request was closed.

On August 13, 2019, Staff contacted the Requester to confirm whether they received responsive documents and the requester confirmed that the City eventually produced all responsive records but stated they were not satisfied with the lack of timeliness of the response.

Request 19-216

On January 13, 2019, the City received, via NextRequest, the following public records request (No. 19-216):

⁵ Complaint Procedures § IV (C)(5).

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“This request is to acquire all documentations from meeting minutes, written communications, file notes or other sources between the City and its applicants in which include the topics of:

1. applications by telecom companies which were appealed
2. the "design guidelines" used by the planning department and planning commissioners for telecom applications
3. operations of the telecom equipment specifically time of use, compliance to safety standards, test results (before and after installation), maintenance records
4. requests for use of the sinking fund to remove telecom equipment

Communications or documentation should include those from the Planning Department, Planning Commissioners, Building Department, Public Works, City Council and the Mayor. Time frame should be from 2010 to current.”

On January 13, 2019, Building and Planning was assigned to the request.

On January 22, 2019, Public works was added to the request.

On January 23, 2019, Public Works was removed, and Department of information technology was added to the request.

On March 28, 2019, Staff commenced mediation proceedings.

On April 29, 2019, David Guillory uploaded a copy of the zoning appeals.

On May 15, 2019, David Guillory uploaded all responsive documents and closed the request, noting that:

“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).”

Request 19-719

On February 9, 2019, the City received, via NextRequest, the following public records request (#19-719):

“A list of all lobbyists working on behalf of any telecom company and acting/communicating with any City representative with their affiliation, project they lobbied for and the amount of their consideration received. I have attached your 2018 list. Please include Verizon Wireless lobbyist in this list and include those to date currently in 2019 or scheduled for 2019. Please provide for the year 2017 as well. Documentation, communications and any other correspondence between lobbyist and telecom companies and/or City officials, planners, commissioners, city council members as it pertains to telecommunications applications from November 2017 to current.”

On February 9, 2019, Building and Planning was assigned to the request. On February 13, 2019, the City Attorney and City Administrator were added to the request.

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On February 17, 2019, the City Administrator was removed from the request and on February 22, 2019 Office of the Mayor, Economic and Workforce Development were added.

On February 22, 2019, the City Attorney was removed from the request.

On March 28, 2019, Staff commenced mediation. On April 22, 2019 Planning and Building was removed from the request.

On April 23, 2019, Ana Lara with the Public Ethics Commission provided the requestor the following information via NextRequest:

“Please forgive our delay in responding. Our Commission staff just learned that we should be a recipient of this request last Thursday and have added ourselves to this request so we can respond. Here are your requested records:

-For 2017, you can view registered lobbyists, their clients and their filings here <https://www.oaklandca.gov/resources/lobbying-activity-2017>

-For 2018, view registered lobbyists and their clients here : <https://www.oaklandca.gov/resources/2018-registered-lobbyists-and-clients-2-22-19>

and for the total consideration received visit <https://www.oaklandca.gov/resources/2018-total-economic-consideration-received>

-For 2019, 1st quarter totals are due April 30th, but you can view registered lobbyists and their clients -for 2019 here <https://www.oaklandca.gov/topics/lobbying-activity-2019>

If you would like to view the filings submitted by the lobbyist for 2018 and 2019, you can search for it here by typing in the name of the lobbyist. <https://public.netfile.com/pub2/Default.aspx?aid=COAK&AspxAutoDetectCookieSupport=1>

Thank you for your patience. If you have further questions about how to access this information, or if ever you need lobbyist registration or reporting information in the future, please feel free to call us directly at 510-238-3593 so we can respond expeditiously.”

On April 23, 2019, additional records regarding the 2017 Lobbyist Registration Overview was uploaded to NextRequest. This public records request was closed on August 30, 2019.

Request 19-718

On February 9, 2019, the City received the following request for public records, via next request (#19-718):

“Please provide me with copies of all communications (including phone call notes) and documents between the City, On-Air/Verizon Wireless and the public regarding application PLN 18232 from July 1, 2018 to February 16, 2019. This documentation would include planning commissioner notes, building department applications/communications etc.”

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On March 25, 2019, the Planning and Building Department released one set of redacted records. And closed the request with the following message:

“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 March 28, 2019, Staff commenced mediation. On April 2, 2019 the request was reopened.

On July 5, 2019, redacted records were uploaded to NextRequest by Planning and Building. On that same day the request was closed with the following note:

“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).”

IV. RECOMMENDATION

Because the Requester received all the requested records that were in the custody and control of the City, Staff recommends that the Commission close the mediation without further action.