

1 JOHN ST. CROIX  
Executive Director  
2 SAN FRANCISCO ETHICS COMMISSION  
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4

5 BEFORE THE SAN FRANCISCO  
ETHICS COMMISSION

6 In the Matter of ) Ethics Complaint No. 02-140228  
7 )  
8 John Rahaim, Director, )  
Planning Department ) **DECISION & ORDER**  
9 Respondent. )  
10 )  
11 )  
12 )

13 This is the written decision and order of the San Francisco Ethics Commission  
14 (“Commission”) in this matter, which is required pursuant to Sections III.B.3 and III.C.2 of Chapter  
15 Three of the Ethics Commission Regulations for Handling Violations of the Sunshine Ordinance  
16 (“Regulations”).

17 **INTRODUCTION**

18 This matter concerns a referral from the Sunshine Ordinance Task Force finding that  
19 Respondent John Rahaim, who is the Director of the Planning Department, willfully violated  
20 Chapter 67 of the San Francisco Administrative Code (“Sunshine Ordinance”) sections 67.21(a)  
21 and 67.29-7.

22 On July 28, 2014, the Commission held a public hearing, at which complainant Mica Ringel  
23 represented himself and Jonas Ionin, Secretary to the Planning Commission, appeared on behalf of  
24 Mr. Rahaim. The Commission received oral and documentary evidence at the hearing.

25 **FACTUAL FINDINGS**

1. In 2013, Mr. Ringel made a series of requests to staff of the Planning Department for  
public records related to a proposed development at 480 Potrero Avenue. The Planning Department

1 staff members contacted by Mr. Ringel included Ben Fu, Don Lewis, and Lulu Hwang  
2 (“Department Staff”).

3 2. Department Staff produced certain public records to Mr. Ringel over 10 days  
4 following receipt of his request for those records.

5 3. Mr. Rahaim was not directly responsible for responding to Mr. Ringel’s requests for  
6 public records. However, the Department Staff who failed to timely produce records in response to  
7 Mr. Ringel’s requests were supervised by Mr. Rahaim’s own direct report.

### 8 LEGAL CONCLUSIONS

9 1. For the Commission to find a willful violation of the Ordinance, it must conclude  
10 that, based upon a preponderance of the evidence, a respondent acted or failed to act with the  
11 knowledge of such at or failure to act was a violation of the Sunshine Ordinance. (Regulations, Ch.  
12 One, § II.U; and Ch. Three, § III.B.2.)

13 2. Sunshine Ordinance section 67.21(a) states that a custodian of a public record shall,  
14 without unreasonable delay, permit a public record or any segregable portion of a record) to be  
15 inspected and examined by any person and copied.

16 3. Sunshine Ordinance section 67.21(b) further explains that a custodian of a public  
17 record must comply with a request for inspection or copy of a public record within ten days  
18 following receipt of the request, although some exceptions apply.

19 4. Sunshine Ordinance section 67.29-7(a) states that “[t]he Mayor and all Department  
20 Heads shall maintain and preserve in a professional and businesslike manner all documents and  
21 correspondence, including but not limited to letters, e-mails, drafts, memorandum, invoices, reports  
22 and proposals and shall disclose all such records in accordance with this ordinance.”

23 5. The production of certain public records to Mr. Ringel over 10 days following  
24 receipt of his request for those records constituted an unreasonable delay and thus is a violation of  
25 Sunshine Ordinance section 67.21(a).

6. By virtue of the nature of his supervisory role over Department Staff in this  
instance, Mr. Rahaim was responsible for the Planning Department’s response to the records  
request and thus Mr. Rahaim violated Sunshine Ordinance section 67.21(a).

7. There is not sufficient evidence to indicate that Mr. Rahaim knew that Department  
staff was failing to produce records without unreasonable delay and thus Mr. Rahaim’s violation of  
Sunshine Ordinance section 67.21(a) was non-willful.

