

**Sunshine Ordinance Task Force  
Complaint History**

File No. 14108

Complainant: Folasade Kammen  
Date filed with SOTF: 11/17/2014

Contacts information (Complainant information listed first):  
[sadekamm@gmail.com](mailto:sadekamm@gmail.com)  
Jonas Ionin; Christine Lamorena;

Status: Pending - Complaint Committee

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Complaint filed by the Folsade Kammen against the Planning Commission for allegedly violating Administrative Code (Sunshine Ordinance), Section 67.15 and California Government Code, Sections 54954.3(a)(b) for failure to provide adequate opportunity for the public to directly address a policy body on items on interest.

Date public record was requested by Complainant:  
Or  
Date of alleged violation: ongoing

Date of Respondent response to Complainant original request:

Administrative Summary if applicable:

Jurisdiction:

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History of Complaint:

Date - Complaint Received: 11/17/14  
Date - Referred to Respondent for response and/or mediation: 11/18/14  
Date - Response received from Respondent: \_\_\_\_\_  
Date - Notice of hearing send to all parties for \_\_\_\_\_ hearing: \_\_\_\_\_

**SEC. 67.15. PUBLIC TESTIMONY.**

(a) Every agenda for regular meetings shall provide an opportunity for members of the public to directly address a policy body on items of interest to the public that are within policy body's subject matter jurisdiction, provided that no action shall be taken on any item not appearing on the agenda unless the action is otherwise authorized by Section 67.7(e) of this article. However, in the case of a meeting of the Board of Supervisors, the agenda need not provide an opportunity for members of the public to address the Board on any item that has already been considered by a committee, composed exclusively of members of the Board, at a public meeting wherein all interested members of the public were afforded the opportunity to address the committee on the item, before or during the committee's consideration of the item, unless the item has been substantially changed since the committee heard the item, as determined by the Board.

(b) Every agenda for special meetings at which action is proposed to be taken on an item shall provide an opportunity for each member of the public to directly address the body concerning that item prior to action thereupon.

(c) A policy body may adopt reasonable regulations to ensure that the intent of subdivisions (a) and (b) are carried out, including, but not limited to, regulations limiting the total amount of time allocated for public testimony on particular issues and for each individual speaker. Each policy body shall adopt a rule providing that each person wishing to speak on an item before the body at a regular or special meeting shall be permitted to be heard once for up to three minutes. Time limits shall be applied uniformly to members of the public wishing to testify.

(d) A policy body shall not abridge or prohibit public criticism of the policy, procedures, programs or services of the City, or of any other aspect of its proposals or activities, or of the acts or omissions of the body, on the basis that the performance of one or more public employees is implicated, or on any basis other than reasonable time constraints adopted in regulations pursuant to subdivision (c) of this section.

(e) To facilitate public input, any agenda changes or continuances shall be announced by the presiding officer of a policy body at the beginning of a meeting, or as soon thereafter as the change or continuance becomes known to such presiding officer. (Added by Ord. 265-93, App. 8/18/93; amended by Proposition G, 11/2/99)



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BOARD OF SUPERVISORS  
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2014 NOV 17 PM 2:52

*R2*

### SUNSHINE ORDINANCE TASK FORCE

1 Dr. Carlton B. Goodlett Place, Room 244, San Francisco CA 94102

Tel. (415) 554-7724; Fax (415) 554-7854

<http://www.sfgov.org/sunshine>

## SUNSHINE ORDINANCE COMPLAINT FORM

Please identify the City Official(s) and/or Employee(s) against whom the complaint is being made:

Please identify the Officials' and/or Employees' Board, Commission, Task Force, Department or other type of agency.

Planning Commission

Name of the Custodian of Records tasked with providing the requested information:

- ☐ Alleged violation of public records access  
☐ Alleged failure to provide information in a timely manner in accordance with the provisions of the Sunshine Ordinance  
☒ Alleged violation of a public meeting  
☐ Please indicate date of meeting if known

Sunshine Ordinance Section(s)

54954.3(a) & (b)

(If known, please cite specific provision(s) being violated)

Please describe the alleged violation. Use additional paper if needed. Please attach any relevant documentation which supports your complaint.

See Attached.

Do you want a public hearing before the Sunshine Ordinance Task Force?

☒ yes ☐ no

(Optional)<sup>1</sup>

Name

Folasade Kammen

Address

1618 12<sup>th</sup> st. Oakland CA 94607

Telephone No.

E-Mail Address

sadekamm@gmail.com

Date

Nov 12, 2014

Complainant Signature

I request confidentiality of my personal information.  
I request to remain anonymous

☐ yes  
☐ yes

☒ no  
☒ no

<sup>1</sup> NOTICE: PERSONAL INFORMATION THAT YOU PROVIDE IS SUBJECT TO DISCLOSURE UNDER THE CALIFORNIA PUBLIC RECORDS ACT AND THE SUNSHINE ORDINANCE, EXCEPT WHEN CONFIDENTIALITY IS SPECIFICALLY REQUESTED. COMPLAINANTS MAY BE ANONYMOUS AS LONG AS THEY PROVIDE A RELIABLE MEANS OF CONTACT WITH THE SOTF (PHONE NUMBER, FAX NUMBER, OR E-MAIL ADDRESS).

# SF BAY AREA RENTERS FEDERATION

1618 12<sup>th</sup> Street • Oakland, CA 94607 • Phone: 215.900.1457  
E-Mail: SFBArentersfed@googlegroups.com Web: www.sfbarf.org

Date: November 12, 2014

Administrator  
Sunshine Ordinance Task Force  
City Hall, Room 244  
1 Dr. Carlton B. Goodlett Place  
San Francisco, CA 94102-4683

## APPLICABLE STATUTORY SECTIONS:

**CA Government Code Sections 54950-54963, "The Ralph M. Brown Act"**  
54954.3(a) and (b) concern the opportunity for public comment.

## SUMMARY OF COMPLAINT:

The format of the Planning Commission hearings constructively violates Government Code Section 54954.3(a) "Every agenda for regular meetings shall provide an opportunity for members of the public to directly address the legislative body on any item of interest to the public," by making it impossible to know within a reasonable window<sup>1</sup> when the item of interest will be called.

## BACKGROUND:

According to our research, members of the public typically<sup>2</sup> must wait almost 2 hours to take advantage of their opportunity to address the commission for 3 minutes.

It is difficult to measure the number of people who would be commenting if commenting took only 20-30 minutes, instead of 2 hours. However, 16% of the members of public we interviewed at planning commission hearings who were there intending to testify *leave before they have an opportunity to comment.*

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<sup>1</sup> 20-30 minute window would be reasonable

<sup>2</sup> We found median wait time to be 112.5 minutes. See Appendix.

A recent study on wait times and pro-social behavior<sup>3</sup> found that every 20-minute increase in wait time resulted in a 14% decrease in participation. Extrapolating backwards suggests that the commission sees only half of the interested public for each item.

Moreover, the public that is able to comment is not a representative sample of the interested public. Based on interviews and survey data, the burden of long wait times falls heaviest on people who work for themselves, and people who can take off work but do not have paid personal time.

Long wait times are expensive. Out of eighteen people surveyed at the Planning Department's hearing on the sixteenth of October, eight had to give up wages to attend the hearing, a total of \$400, or an average of \$50 per person, in sacrificed wages; this does not include the people who were billing clients to attend the hearing. The total time spent by the 18 people we interviewed was 33 hours and 51 minutes.

Other sections of the Government Code recognize and bar indirect methods of impeding public comment. Section 54954(b) states meetings must be "held within the boundaries of the territory over which the local agency exercises jurisdiction." The Government Code recognizes that a public meeting requiring a 100 minute commute, for example, will be inaccessible to members of the public who can't spend that much time or money commuting. A 100-minute wait time excludes those same members of the public.

#### REMEDY:

Section 54954.3(b) "The legislative body of a local agency may adopt reasonable regulations to ensure that the intent of subdivision (a) is carried out," authorizes the planning commission to adopt a format that will reduce uncertainty and reduce wait times, restoring the public opportunity to comment.

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<sup>3</sup> Craig, Ashley Cooper and Garbarino, Ellen and Heger, Stephanie and Slonim, Robert, *Waiting to Give*. IZA Discussion Paper No. 8491. Available at SSRN: <http://ssrn.com/abstract=2505353>

We suggest each agenda *item* be scheduled. The commission's meetings may have to start earlier in the day; items that take more than their allotted times will have to be continued to another day or the following week. Items that take less than their allotted time will result in a recess between the end of the item's hearing and the beginning of the next scheduled item.

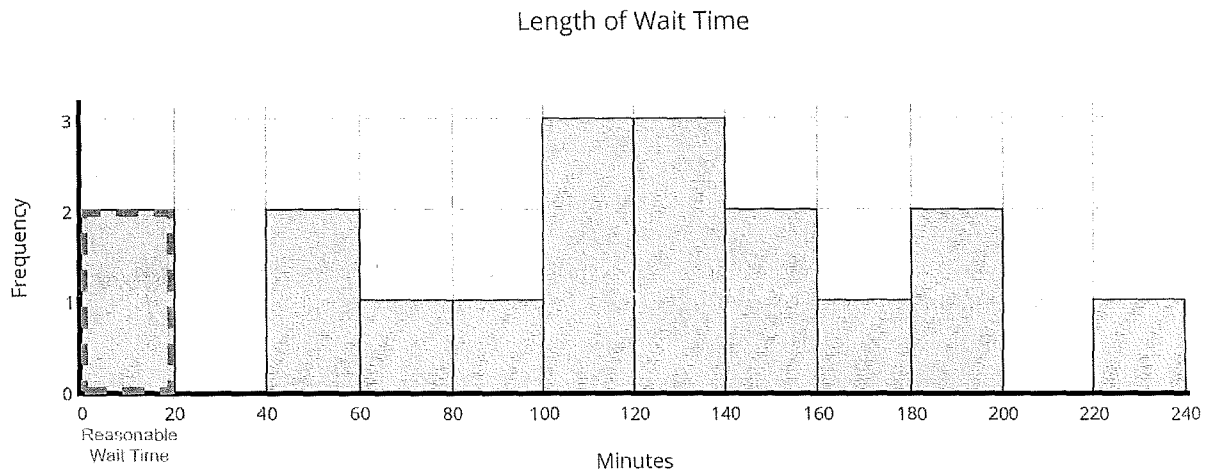
To achieve this goal, we propose the planning commission engage in a comprehensive study on the lengths each type of item takes over a three-month period, and schedule appropriately.

Sincerely,

Sade Kammen  
SF Bay Area Renters' Federation

## APPENDIX:

Figure 1



### Total Time Spent:

	Minutes
	0
	15
	44
	48
	75
	94
	104
	104
	105
	120
	121
	134
	150
	151
	164
	184
	194
	224
Total:	2031

### People Who Left:

Minutes spent:	Left before item was half way through:	Left before item was over:
75	Yes	
105	Yes	
120	Yes	
194	Yes	
134		Yes
164		Yes
<b>Total: 792</b>	<b>4</b>	<b>2</b>

The total time spent by the 18 people was **33 hours and 51 minutes.**