
City Attorney

City of Oakland
Public Ethics Commission
February 7, 2005

In the Matter of)
) Complaint No. 04-07
)

Denise Davila initially filed Complaint No. 04-07 on December 9, 2004. She filed a revised complaint on December 14, 2004.

I. STAFF INVESTIGATION TEMPORARILY SUSPENDED AT REQUEST OF PARTIES

Ms. Davila filed Complaint No. 04-07 alleging, among other things, that the Oakland Planning Commission and various City staff members violated the Oakland Sunshine Ordinance by providing insufficient notice for a December 1, 2004, Planning Commission meeting and by failing to timely file and provide all relevant agenda-related material with the Office of the City Clerk.

On or about January 5, 2005, Ms. Davila entered an agreement with the City of Oakland in which she agreed to "stay" (i.e., postpone) her complaint until January 27, 2005, to permit time for her and the City to resolve the underlying policy disputes that were the subject of the Planning Commission's meetings. Ms. Davila also agreed to "formally withdraw" Complaint No. 04-07 if the parties are able to settle those disputes. **Attachment 1.** Ms. Davila told Commission staff that the parties may also agree to extend the negotiating period beyond January 27, 2005, if it appears they are making progress towards a settlement.

In light of the above agreement, Commission staff intends to suspend its preliminary investigation on the complaint for as long as Ms. Davila and City representatives are in negotiations. There should not be any prejudice to the investigation since the alleged violations are already part of the public record pertaining to the notice and conduct of the Planning Commission's December 1 and December 15, 2004, meetings. If the parties advise Commission staff that they were unable to resolve their dispute, Commission staff will immediately proceed with its preliminary investigation and agendize the matter for subsequent Commission consideration. If the parties settle their differences, Commission staff will present the Commission with Ms. Davila's request for withdrawal and dismissal pursuant to the terms of her January 5, 2005, agreement.

The sole issue before the Commission is whether to approve the temporary suspension of action on Complaint No. 04-07. No action or discussion on the merits of the complaint is requested or contemplated. Commission staff recommends that the Commission approve the temporary suspension of action on Complaint No. 04-07.

Respectfully submitted,

Daniel D. Purnell
Executive Director

*** City Attorney approval as to form and legality elates specifically to the legal issues raised in the staff report. The City Attorney's approval is not an endorsement of any policy issues expressed or of the conclusions reached by staff on the merits of the underlying complaint.*