

City of Oakland  
Public Ethics Commission

*For Official Use Only*

Stamp Date/Time Received: *2006 FEB 02 P 2:11*

Complaint Number: *06-01*

# COMPLAINT FORM

Please Type or Print in Ink and Complete Both Sides of this Form.

This complaint concerns a possible violation of: (please check all that apply)

- The Oakland Sunshine Ordinance, California Public Records Act or Brown Act (Access to public meetings or documents.)
- Oakland Campaign Reform Act
- Oakland City Council's Rules of Procedure/Code of Ethics
- Oakland Limited Public Financing Act
- Oakland Conflict of Interest regulations
- Oakland Lobbyist Registration Act
- Oakland False Endorsement In Campaign Literature Act
- I am/We are not sure which specific law, ordinance or regulations apply. However I am/We are requesting that the Ethics Commission determine if my/our complaint is within its jurisdiction.

The alleged violation occurred on or about the following date(s):

*JANUARY 12, 2006*

The alleged violation occurred at the following place: *???*

*CALTRANS REGIONAL OFFICE, DIST 4  
111 GRAND AVE  
OAKLAND, CA,*

Please provide specific facts describing your complaint. (Or attach additional pages as necessary.)

*SEE ATTACHED SHEET*

(Continued on Reverse Side)

ATTACHMENT *1*

Item *E-1*  
Date *3-6-06*  
Page *4* of *10*

Please provide specific facts describing your complaint. (If additional space is needed.)

See attached sheet.

The persons you allege to be responsible for the violation(s) are:

Shelly GARZA, ASST. TO CITY ADMINISTRATOR 238-3301  
Cookie Robles Wong, Coordinator, ADOPT-A-SPOT 434-5126  
Deborah Edgerly, City Administrator (authorized the meeting)  
283-3301

Any witnesses who were involved and/or who can provide additional information are: (Please indicate names and phone numbers, if available.)

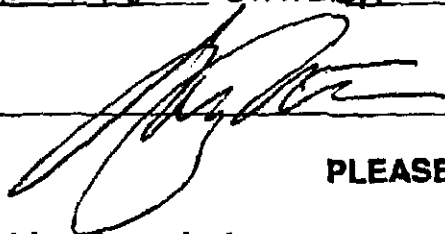
ARNOLD JOE (CALTRANS) Adopt-a-Highway Coordinator 286-4421  
DAVID W. ENG (CALTRANS) LANDSCAPE ARCHITECT 286-5918

PLEASE NOTE:

There may be other laws that apply to the violation(s) you are alleging. The time limit to commence a legal proceeding to enforce those laws may not be extended by filing this complaint. You should contact an attorney immediately to protect any rights available to you under the law.

By filing this complaint with the Public Ethics Commission it, and all other materials submitted with it, becomes a public record available for inspection and copying by the public.

NAME: Robert G. PATTEN  
ADDRESS: 3233 RANBOLPH AVE  
CITY: OAKLAND STATE: CA ZIP: 94602  
PHONE NO. (Day) (510) 575-8358  
PHONE NO. (Eve) (510) 261-3037  
FAX NO. (510) 436-7120  
E-MAIL italica@msn.com

 2/2/06

PLEASE RETURN THIS FORM TO:

Public Ethics Commission  
One Frank Ogawa Plaza, 4th Floor  
Oakland, CA 946121

Phone: (510) 238-3593  
FAX: (510) 238-3315

ATTACHMENT 1

Item E-1  
Date 3-6-06  
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## Description of Complaint

### Background Information

In September 2005, Carol Vee, et al, installed a 100' foot mural on a publicly owned retaining wall located on the north side of E. 33<sup>rd</sup> Street between Beaumont and 14<sup>th</sup> Avenues. Carol Vee et al had no permit whatsoever to install this massive mural.

I repeated contacted Deborah Edgerly, City Administrator, and asked that this graffiti be removed. Shelly Garza called my home on behalf of the City Administrator to discuss my request for city graffiti abatement services. Ms. Garza indicated that she liked the mural and called me a "mean man" for insisting that the graffiti be abated.

In January 2006, I spoke to Cookie Robles Wong, Coordinator of the Adopt-a-Spot program. This program solicits volunteer to pick up litter and plant plants on city right of ways. The program has nothing, whatsoever, to do with installing art projects on public property. Ms. Wong admitted that she had been involved in this matter and fully supported the graffiti.

The city's failure to provide me with requested city services affected the quality of life in my neighborhood. Since my neighbors and I have lived there for decades and are all homeowners. My neighbors and I feel that this graffiti mural is offensive, illegal, should be removed that clearly establishes us as strongly, interested parties in the actions and decisions by public officials and employees regarding this issue.

### The Meeting

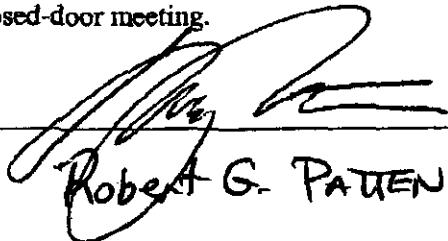
I complained to CalTrans in January 2006 about this graffiti and requested that they remove it since it is State of California property. They claimed a former agreement with the City of Oakland prevents them from abating the graffiti.

I have learned that Shelly Garza and Cookie Wong met behind closed doors on January 12, 2006 with members of CalTrans staff to engage in a material discussion over the issue of the future of this graffiti mural. I later learned that important decisions affecting my neighbors and myself were made and agreements were reached regarding this graffiti mural. I do not know the factual outcome of the meeting at this time. Mr. Eng from CalTrans told me that these City of Oakland employees are going to continue to seek to retain this mural, but I do not have any details.

As the complainant and as someone who is profoundly affected by the outcome of this closed-door meeting, it is my opinion, perception, and observation that I, and other interested parties, should have been advised of this meeting, should have been invited to this meeting and should have received minutes of this meeting.

I believe that the Brown Act and/or the Sunshine Ordinance has been violated by the Office of the City Administrator, Deborah Edgerly, Shelly Garza, and Cookie Robles Wong at the January 12, 2006 closed-door meeting.

X



Robert G. PATTEN

DATE

2/2/06

ATTACHMENT

1

Item E-1

Date 3-6-06

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**Garza, Shelly**

**From:** Robert Patten [italica@msn.com]  
**Sent:** Thursday, November 03, 2005 8:12 PM  
**To:** sgarza@oaklandnet.com  
**Cc:** Deborah Edgerly; idelafuente@oaklandnet.com  
**Subject:** Lowering of Standard in Oakland

Ms. Garza;

In response to my message, you called my home this evening at a late business hour.

I detailed the blighted city property to you and you informed me that the City of Oakland had given consent and approval for a 70-100' mural, 3 scarecrows, and a picket fence, all on public property under the "Adopt-a-Space" program. I expressed my disapproval of this mural and the City of Oakland's total lack of oversight and lack of regulation of this "carnival" like mess in my neighborhood. I informed you that it was my personal opinion as a property owner and my professional opinion as a real estate professional that the City of Oakland has devalued my property and the value of the entire neighborhood by giving carte blanche to the residents of 1541 East 33rd Street to change my neighborhood by lowering the standards.

The issue of lower of standards is a pivotal issue for the City of Oakland. Over the years, the slow descent of Oakland into the abyss of mediocrity was predicated by the lowering of standards. The Oakland Unified School District is but one of dozens of example of this insidious process. It is regrettable that you, in my opinion, by your siding with the authors of this mediocrity, significantly devalued the quality of my life and the lives of other residents, who have worked very hard and very long to upgrade their homes in this neighborhood.

It is truly tragic that our efforts have been undermined by civil servants in our city's government.

Robert G. Patten, Esq.

ATTACHMENT 2

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MEETING: TRANSPORTATION ART – Policy and Procedure Review

Project: Non-permitted Mural 33<sup>rd</sup> Ave/14<sup>th</sup> St., Oakland

Project EA: N/A

DATE: 01/12/06

LOCATION: Caltrans District 4 Offices  
111 Grand Avenue, 15<sup>th</sup> Floor Central Executive Conference Room

**MEETING PARTICIPANTS**

NAME	FIRM	TELEPHONE
DAVID ENL TRANS ART COORDINATOR	CALTRANS - DISTRICT 4	510-286-5418
YADEK A. BERNARDEZ	MTCF DEPUTY CALTRANS - DIST 4	510-286-5893
Jean Finney	Caltrans Transit & Community Plug	510-286-6196
MIKE MARCUM	CALTRANS EAST BAY REGION	510-614-5942
Cookie Robles-Wong	CITY OF OAKLAND Keep Oakland Beautiful	510-434-5126
Shelly Garza	CITY OF OAKLAND City administrator office	510-238-4756
Sean Nozzari	Caltrans - Permits	510-286-4435
GREG BAYDL	Caltrans Safety	510-286-5861
Kim Le	Maint	510-286-4506
Arnold de	MAINT ADOPT-A-HIGHWAY	510 286-4421

19. Not restrict sight distance.
20. Not include any form of advertising that would be in conflict with the outdoor advertising act.
21. Not display text, flags, or religious, political or commercial symbols.
22. Not include commercial symbols, except as allowed in "Artist and Sponsor Recognition."
23. Be designed to minimize ongoing maintenance needs. Department-approved protective graffiti coatings may be required by the Department.
24. Be consistent with Structures maintenance and inspection requirements, including:
  - Paint used on structures should not fill or obscure cracks. Latex or other flexible type paints may not be used on concrete structures.
  - Painting of steel structures may be prohibited.
  - Painted art on concrete structures should avoid load-carrying, stress-bearing structural members such as bridge girders, soffits, columns and piers. Wing walls and abutments are preferred locations for painted art.
  - Artwork shall not impair the necessary inspection of bridges, retaining walls and other structures.
  - To facilitate the Department's inspection access to structures, mural art may be placed on removable panels.

### Submittal of Artwork Proposals

A transportation art proposal must be supported by the local agency that has jurisdiction in the area where the artwork will be placed.

The local agency shall ensure that the proposal is developed in cooperation with the community immediately impacted by the artwork. The local agency shall provide an opportunity for public comment on the proposed artwork.

The responsible city or county shall secure and document acceptance from the community immediately impacted by the artwork. Such acceptance may vary, but the community must ensure that those most affected have an opportunity to express support or opposition to the proposal.

The method of community review will be determined by the responsible local agency, with guidance provided by the District Transportation Art Coordinator. The appropriate method for

community review will depend on the nature of the artwork, and may range from developing a signed petition to conducting a public meeting,

The local agency shall provide the Department an adopted resolution that describes:

- 1) The local agency's jurisdiction over the area of the project site.
- 2) The date of public consideration and comment of the proposed art.
- 3) *The local agency's approval of the artwork content.*
- 4) The project's projected life span.
- 5) The local agency's commitment to ensure maintenance of the artwork, including timely graffiti removal/repair, and removal (or restoration) of the artwork at the end of its life span.
- 6) A schedule for commencing and completing project installation.

The artist and local agency must agree to abide by the Department safety rules and regulations and any additional restrictions the Department may apply to the project.

*The name, address and telephone number of each person working within the right-of-way to construct, maintain, rehabilitate or remove art shall be provided to the Department initially, and thereafter as changes occur.*

### **Procedures for Processing Transportation Art Proposals**

The proposed site for installation of transportation art shall be reviewed and approved by the Department for safety and environmental considerations prior to approval of an encroachment permit. Safety determinations, such as highway operation, maintenance or tort liability, may be documented in a Permit Engineering Evaluation Report (PEER), or by other means. The Department shall have sole responsibility for approval of transportation art sites. The local agency and the Department shall review and approve the proposed transportation art prior to issuance of an encroachment permit.

Additional criteria, and permit conditions, may be applied to the project as determined appropriate by the District.

Transportation art proposals shall be reviewed for compliance with this policy.

*The approval of a transportation art proposal shall be made with due consideration to safety (location, potential for motorist distraction, accessibility for maintenance, etc.), aesthetics, community support and maintainability.*

As a courtesy, the Department may suggest alternative locations when it is necessary to deny the issuance of an encroachment permit due to site conditions.