

**BEFORE THE OPEN GOVERNMENT COMMISSION
OF THE CITY OF ALAMEDA**

In Re Complaint of Shelby Sheehan,

Complainant;

City of Alameda,

Respondent

DECISION OF THE

OPEN GOVERNMENT COMMISSION

OF THE CITY OF ALAMEDA

On November 6, 2023, the City of Alameda’s Open Government Commission heard this matter under the City’s Sunshine Ordinance. Alameda Municipal Code (“AMC”) § 2-93.2(b). After deliberating at the hearing, the Commission dismissed the complaint as time-barred. This written decision now follows.

Background

On September 19, 2023, the Alameda City Council introduced an ordinance authorizing the City Manager to execute a 59-month lease with All Good Living Foundation, a local non-profit, for the property at 1900 Thau Way in Alameda. At the hearing, City staff presented on the lease and answered various questions. Two weeks later, on October 3, the Alameda City Council approved the ordinance by a vote of 4-1.

Ms. Sheehan submitted her Sunshine Ordinance complaint on October 11, 22 days after the September 19 hearing.

Procedure

Under the Sunshine Ordinance, once a timely complaint is filed, the Commission will hear the complaint and render a formal written decision. AMC § 2-93.2. The parties may file written materials and present evidence. *Id.* The parties also may argue and answer the Commission’s

questions at a hearing. *Id.* The Commission considers the parties' evidence and arguments at the hearing before making its decision. *Id.*

Here, after receiving the complaint, City staff concluded that it was untimely because the complaint chiefly focused on September 19 hearing. Nevertheless, after internal deliberation, City staff scheduled the matter for a hearing so the Commission would have the final say on the complaint's timeliness and merits.

The City filed a position statement against the complaint. In addition to filing the complaint, Ms. Sheehan filed a reply to the City's position statement. Both parties appeared at the Commission's November 6 hearing. Ms. Sheehan represented herself, and Strategic Advisor Andrew Thomas represented the City. All Commissioners except Klinton Miyao were present.

Discussion

After considering the arguments and evidence presented, the Commission concludes that the complaint is untimely. Under the Sunshine Ordinance, a complaint must be filed no more than 15 days from the alleged violation. AMC § 2-93.2(a). The crux of Ms. Sheehan's complaint is about the September 19 hearing, but she did not file the complaint until October 11—a week past the 15-day deadline. In her complaint, she repeatedly alleges that at the September 19 hearing, City personnel misstated or failed to disclose various facts or materials about the site and proposed lease. In fact, as part of her complaint, she includes a version of the comments that she submitted for the October 3 hearing, which discusses the alleged improprieties at the September 19 hearing at length. Because the heart of the complaint is about the September 19 hearing, Ms. Sheehan needed to file within 15 days of that hearing, which she did not do.

The complaint does raise a claim about the October 3 hearing. Although that claim would be timely, it does not constitute a violation because contrary to Ms. Sheehan's arguments

otherwise, AMC § 2-91.17 does not prohibit a Council member from making a comment that purportedly reveals her support for the ordinance being considered.

The Commission has considered Ms. Sheehan's remaining arguments and concludes they are without merit or fall outside of the Commission's jurisdiction.

DECISION

For the foregoing reasons, the Commission dismisses Ms. Sheehan's complaint as time-barred.

Dated:

Commissioners Voting to Dismiss on Jurisdictional or Procedural Grounds

DocuSigned by:
Serena Chen, Chair

DocuSigned by:
Chris Miley, Vice Chair

DocuSigned by:
Brendan Sullivan, Commissioner

DocuSigned by:
Ruben Tilo, Commissioner