

Member, Board of Supervisors
District 4



City and County of San Francisco

ED JEW
趙悅明

May 22, 2007

Dennis Herrera
San Francisco City Attorney
#1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102

Mr. Herrera:

I write to request an official inquiry by your office into the apparent willful public disclosure of confidential personal information by an employee or employees of the Public Utilities Commission.

As reported in this morning's Chronicle, an undisclosed source at the Water Department made public water bills from my father's house located on 28th Avenue in my district, where I reside.


Unlike other utilities, the Water Department is owned by the City & County, and the Department's employees are City employees. Section 3.228 of the San Francisco Campaign and Governmental Conduct Code states:

No current or former officer or employee of the City and County shall: (a) willfully or knowingly disclose any confidential or privileged information, unless authorized or required by law to do so; or (b) use any confidential or privileged information to advance the financial or other private interest of himself or herself or others. Confidential or privileged information is information that at the time of use or disclosure was not subject to disclosure under the Sunshine Ordinance or California Public Records Act.

I would completely understand a disclosure of private information if a prior official determination had been made that it served the public interest. But in this case, a Water Dept. employee violated my father's privacy for the sole purpose of attempting to cast doubt on my official place of residence. Additionally, the information given to the reporter(s) was partial information, i.e., selectively culled to influence the intended conclusion.

My attorneys believe that asking for an investigation into this incident by your office is the first step that I should take to ensure that our municipally owned Water Department is not abusing its authority and the public trust. Toward that end, I look forward to your early reply.

Sincerely,


Supervisor Ed Jew

EJ/brm

SFGate.com

S.F. supervisor is investigated over question of city residency Law required him to live in District 4 for at least 30 days by the time he filed for his board seat

Wyatt Buchanan, Robert Selna, Cecilia M. Vega, Chronicle Staff Writers
Tuesday, May 22, 2007



The San Francisco city attorney opened an investigation Monday into whether Supervisor Ed Jew meets the residency requirements to hold his west-side board seat, as new information emerged raising questions about the rookie lawmaker's claim to reside at a house on 28th Avenue in the city's Sunset District.

Jew filed to run for District 4 supervisor on Aug. 11, 2006, and won a surprise victory three months later for the Board of Supervisors post, besting candidates backed by the mayor and other elected officials in the contest for the open seat.

To qualify to run, Jew, a Chinatown flower shop operator and real estate investor, was required to have been a domiciled resident of District 4, which encompasses the Sunset District, for at least 30 days by the time he filed to become a candidate.

But city officials familiar with utility service at the 28th Avenue house that Jew claims as his primary residence say water to the home had been shut off since March 2006 and the service wasn't started in Jew's name until Sept. 11, 2006 -- 60 days after he would have been required to live there.

Moreover, water usage figures for the property since then are at odds with what would be expected if Jew had been using the home -- in the 2400 block of 28th Avenue -- as his permanent residence.

Jew has been under intense scrutiny since Friday, when FBI agents carrying out a criminal investigation unrelated to the residency questions searched his City Hall office, his flower shop, the home at 2450 28th Ave. and another residential property in Burlingame where his wife and daughter reside.

Neighbors told Chronicle reporters seeking information on the FBI investigation that the house on 28th Avenue had been vacant for an extended period and that they rarely saw Jew coming and going there.

Jew, his City Hall legislative aides and a lawyer representing him in connection with the criminal investigation did not return messages seeking comment for this story.

defined as "that place in which his or her habitation is fixed, wherein the person has the intention of remaining, and to which, whenever he or she is absent, the person has the intention of returning."

Election laws allow for more than one residence but only one domicile, and maintaining a domicile requires a physical presence in the home, the spokesman, Matt Dorsey, said.

Jew said he believes the businessmen from whom he accepted the \$40,000, owners of Quickly tapioca drink shops, erroneously told the FBI that the supervisor pressured them to employ a certain consultant to help them resolve problems related to permits.

Jew acknowledged recommending a consultant, Robert Chan of Bridge Consulting, whom he has known for several years, but insisted he did nothing inappropriate. He said he accepted the money from the men because they told him they owed it to Chan but preferred to make the payment through him.

On Monday, Jew's office announced that defense lawyer Steven F. Gruel has been hired to represent Jew in connection with the federal criminal investigation.

Gruel is a former federal prosecutor and worked with the FBI for 16 years. Gruel has agreed to represent the supervisor only if Jew limits his comments to the media and to law enforcement, according to a news release from Jew's office.

Gruel, who was in court in Los Angeles Monday, said no one should draw conclusions of guilt or innocence from a search warrant alone.

"My client is cooperating fully to clear up this apparent misunderstanding," Gruel said in the written statement.

E-mail the writers at wbuchanan@sfgchronicle.com, rselna@sfgchronicle.com and cvega@sfgchronicle.com.

<http://sfgate.com/cgi-bin/article.cgi?f=/c/a/2007/05/22/MNG7QPV65J1.DTL>

This article appeared on page **A - 1** of the San Francisco Chronicle



DENNIS J. HERRERA
City Attorney

May 23, 2007

The Honorable Ed Jew
San Francisco Board of Supervisors
City Hall, Room 244
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102.

Re: Request for Official Inquiry

Dear Supervisor Jew:

I write in response to your May 22, 2007 letter requesting an official inquiry into whether an employee or employees of the Public Utilities Commission (the "PUC") violated section 3.228 of the San Francisco Campaign and Governmental Conduct Code by releasing data related to water usage at your father's home located on 28th Avenue. I do not believe such an inquiry is warranted based on my understanding of the facts as described below.

Section 3.228 prohibits City officers and employees from willfully or knowingly disclosing any confidential or privileged information unless authorized or required by law to do so. For the purposes of this section, the phrase "confidential or privileged information" is defined to include "information that at the time of use or disclosure was not subject to disclosure under the Sunshine Ordinance or Public Records Act." S.F. Campaign and Governmental Conduct Code § 3.2228. Therefore, the disclosure of public records is clearly outside the scope of section 3.228. Because you stated in your letter and in comments to the public that your father's home is also your residence, the Public Records Act specifically permits disclosure of this information. *See* California Government Code section 6254.16, a copy of which is attached. As a result, the PUC lawfully released the information relating to water usage at your residence on 28th Avenue.

Very truly yours,

A handwritten signature in black ink, appearing to read "D.J. Herrera".

DENNIS J. HERRERA
City Attorney

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6254.16. Nothing in this chapter shall be construed to require the disclosure of the name, credit history, utility usage data, home address, or telephone number of utility customers of local agencies, except that disclosure of name, utility usage data, and the home address of utility customers of local agencies shall be made available upon request as follows:

(a) To an agent or authorized family member of the person to whom the information pertains.

(b) To an officer or employee of another governmental agency when necessary for the performance of its official duties.

(c) Upon court order or the request of a law enforcement agency relative to an ongoing investigation.

(d) Upon determination by the local agency that the utility customer who is the subject of the request has used utility services in a manner inconsistent with applicable local utility usage policies.

(e) Upon determination by the local agency that the utility customer who is the subject of the request is an elected or appointed official with authority to determine the utility usage policies of the local agency, provided that the home address of an appointed official shall not be disclosed without his or her consent.

(f) Upon determination by the local agency that the public interest in disclosure of the information clearly outweighs the public interest in nondisclosure.



DENNIS J. HERRERA
City Attorney

CHAD A. JACOBS
Deputy City Attorney

DIRECT DIAL: (415) 554-4677
E-MAIL: chad.jacobs@sfgov.org

May 23, 2007

The Honorable Ed Jew
San Francisco Board of Supervisors
City Hall, Room 244
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102

Re: Request for Documents

Dear Supervisor Jew:

As you know, significant questions have arisen regarding whether you have remained a resident of District Four during your incumbency. Charter section 13.110(e) states, "[e]ach member of the board of supervisors, commencing with the general municipal election in November, 2000, shall be elected by the electors within a supervisorial district, and must have resided in the district in which he or she is elected for a period of not less than 30 days immediately preceding the date he or she files a declaration of candidacy for the office of supervisor, and must continue to reside therein during his or her incumbency, and upon ceasing to be such resident shall be removed from office." In light of these questions about your qualification to serve under the Charter, the City Attorney's Office is obligated to investigate these matters. It is in the public interest to resolve these questions as quickly as possible.

This inquiry requires an analysis of both law and fact. To that end, in coordination with the District Attorney's Office, we request that you provide the following factual information to us in writing by the close of business next Tuesday, May 29, 2007:

- A copy of your 2006 state and federal tax returns (you may redact any and all information on the returns that you choose other than the address used to file your return and the amount of property taxes for which you claimed a deduction, if any).
- A copy of your driver's license.
- A copy of the vehicle registration cards for any vehicle registered in your name.
- A copy of the following utility bills for your residence located at 2450 28th Avenue for the period June 1, 2006 through April 30, 2007:
 - any gas and electric bills [from Pacific Gas and Electric]
 - any waste removal bills from [Sunset Scavenger or Norcal Waste]
 - any cable or satellite television bills [from Comcast Cable, Direct TV, the Dish Network or VOOM]
 - any telephone bills [from AT&T or SBC].
- A statement disclosing whether you maintain a homeowner's property tax exemption pursuant to Section 218 of the California Revenue and Taxation Code, and if so, the address of the dwelling where you maintain such exemption.

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- A statement disclosing whether you maintain a renter's tax credit pursuant to Section 17053.5 of the California Revenue and Taxation Code, and if so, the address of the dwelling where you maintain such credit.

Thank you in advance for your cooperation with this request. Please let us know if you cannot provide the requested information and the reason why. If we do not receive this information from you by the deadline stated above, we will be compelled to seek to obtain it by other means.

Should you have any questions regarding this request, please contact Deputy City Attorney Chad Jacobs at 554-4677 or our Chief of Investigations, Tom Boyd, at 554-4264.

Very truly yours,

DENNIS J. HERRERA
City Attorney



Chad A. Jacobs
Deputy City Attorney

cc: District Attorney, Kamala D. Harris
June Cravett, Assistant District Attorney