

**SUNSHINE ORDINANCE  
TASK FORCE**



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**ORDER OF DETERMINATION**

March 14, 2011

**DATE THE DECISION ISSUED**

February 22, 2011

*WILLIAM CLARK V CITY ATTORNEY'S OFFICE (CASE NO. 11001)*

**FACTS OF THE CASE**

Complainant William Clark alleges that the City Attorney's Office ("CAO" or "Respondent") violated Section 67.21(b) of the Ordinance by failing to respond to his request for "copies of all the documents and/or records which explain exactly what the 11.75 hours of the City Attorney's Office personnel's [sic] time was used for regarding the "Sunshine Disclosures" for the Street Artists Program during the [20]09-10 fiscal year[, including] a breakdown of what amount of time was used for each specific Sunshine Ordinance request your office had to spend time on and what each Sunshine Ordinance request was during the 09-10 fiscal year."

**COMPLAINT FILED**

On January 11, 2011, the Complainant filed a complaint with the Task Force alleging a violation of Section 67.21(b).

**HEARING ON THE COMPLAINT**

On February 22, 2011, Complainant presented his case to the Task Force. The Respondent was not represented and no one in the audience spoke or presented facts and evidence in support of the Respondent.

Mr. Clark told the Task Force that he sent City Attorney Dennis Herrera an email on December 15, 2010, and asked for a breakdown of the 11.75 hours his office had charged the Street Artists Program. He said he received a response that showed how three deputy city attorneys had accumulated the total figure. He said no other specifics were provided even though the Sunshine Ordinance Section 67.20(i) says all communications with the City Attorney's Office, including petitions, requests for opinion, and opinions shall be public records. He said he believed that Jack Song, the CAO's representative, had told the Task Force that he would show exactly how the 11.75 hours was reached. The CAO, he said, was invoking the attorney-client privilege and was refusing to provide the subject matter.

**FINDINGS OF FACT AND CONCLUSIONS OF LAW**

Judging from the evidence presented, the Task Force noted that the CAO's response was provided one month after the complaint was filed, and that the office was taking the attorney-client privilege concept too far. Members noted that the CAO did not keep its withholdings to a minimum, and that even if the substance was privileged the names of the cases were not. They said the CAO could have redacted the advice and indicated the case to which it referred.

**DECISION AND ORDER OF DETERMINATION**

The Task Force finds that the CAO violated Sunshine Ordinance Section 67.26 by not identifying the cases on which the attorneys worked, and Section 67.21(b) by not providing the information in a timely manner.

Mr. Song is to appear before the Education, Outreach and Training Committee on April 14, 2011.

This Order of Determination was adopted by the Sunshine Ordinance Task Force on February 22, 2011, by the following vote: (Johnson/Wolfe)

Ayes: Washburn, Knoebber, Wolfe, Chan, Johnson, Cauthen, Knee

Excused: Snyder, Manneh



Richard A. Knee, Chair  
Sunshine Ordinance Task Force

c: William Clark, Complainant  
Jack Song, Respondent  
Jerry Threet, Deputy City Attorney