

**SUNSHINE ORDINANCE
TASK FORCE**



City Hall
1 Dr Carlton B. Goodlett Place, Room 244
San Francisco, CA 94102-4689
Tel. No. (415) 554-7724
Fax No. (415) 554-7854
TTD/TTY No. (415) 554-5227

**ORDER OF DETERMINATION
March 5, 2018**

DATE DECISION ISSUED
December 5, 2018

CASE TITLE – Ray Hartz v. Office of the Mayor

FACTS OF THE CASE

The following petition/complaint was filed with the Sunshine Ordinance Task Force (SOTF):

File No. 17087: Complaint filed by Ray Hartz against the Office of the Mayor for allegedly violating Administrative Code (Sunshine Ordinance), Sections 67.31, by failing to administer and coordinate the implementation of the provision of the Sunshine Ordinance for departments under the control of boards and commission appointed by the Mayor.

HEARING ON THE COMPLAINT

On June 26, 2018, the Complaint Committee acting in its capacity to hear petitions/complaints heard the matter.

Ray Hartz (Petitioner) provided a summary of the complaint and requested the Committee to find a violation. Mr. Hartz stated that the Office of the Mayor is required to administer and coordinate the implementation of the Sunshine Ordinance to departments under the control of boards and commissions appointed by the Mayor which include the Public Librarian and members of the Library Commission. Mr. Hartz stated that the Library Commission and the Public Librarian have not complied with the Sunshine Ordinance and the Mayor failed to oversee the practices of their department and appointees.

Victor Lim, former Communication Director for Mayor Edwin Lee's (Respondent), provided a summary of the department's position. Mr. Lim stated that the Mayor's Office has policies and mechanisms in place to comply with provisions of the Sunshine Ordinance and there were no willful violations.

A question and answer period occurred. The parties were provided an opportunity for rebuttals.

Member B. Wolfe asked if there is a specific process in the Mayor's Office to provide training and assure that the executive branch is fully aware or educated on how to implement the Sunshine Ordinance?

In response to Member Wolfe's question, Mr. Lim stated that prior to his departure from the Mayor's Office, they had spoken with the Library regarding their method for training the Department on the implementation of the Sunshine Ordinance.

Member B. Wolfe, seconded by Member Hinze, moved to find jurisdiction, refer the matter to the SOTF for hearing and requested that the Mayor's Office provide their written policy regarding Administrative Code (Sunshine Ordinance), Section 67.31, and citations of law supporting the Mayor's position.

On December 5, 2018, the SOTF held a hearing to review the recommendation from Committee and/or to review the merits of the petition/complaint.

Ray Hartz (Petitioner) provided a summary of the Complaint and requested the SOTF find a violation. Mr. Hartz stated that he never said that the Mayor should enforce the rulings of the Sunshine Ordinance as the Ethics Commission enforces the Sunshine Ordinance. Mr. Hartz stated that he has asked that the President of the Library Commission, Jewelle Gomez, be removed from office, but that the Mayor has re-appointed this person to another term as President. Mr. Hartz stated that the current Mayor does not want to deal with the Librarian issue. Mr. Hartz also stated that the Mayor has total control over the Librarian and appoints members of the Library Commission. Mr. Hartz also stated that he has had disputes with the Library Commission regarding his right to free speech and have his 150-word public comments recorded in the Library Commission hearings. Mr. Hartz stated that he wants the City Librarian and the Library Commission to comply with the Sunshine Ordinance.

Hank Heckle, Office of the Mayor (Respondent), provided a summary of the department's position. Mr. Heckle requested that the SOTF dismiss Mr. Hartz's complaint because this matter refers to the late Mayor Edwin Lee not the current Mayor London Breed. Mr. Heckle stated that the merits of Mr. Hartz's complaint are not clear and that Mr. Hartz did not expressly complain about the current Mayor's Office. Mr. Heckle stated that it is too burdensome for the Mayor's Office to supervise all City departments individually.

FINDINGS OF FACT AND CONCLUSION OF LAW

Based on the testimony and evidence presented, the SOTF found that the Office of the Mayor violated Administrative Code (Sunshine Ordinance), Section 67.31.

DECISION AND ORDER OF DETERMINATIONS

On December 5, 2018, Member J. Wolf, seconded by Member Cannata, moved to find the Office of the Mayor violated Administrative Code (Sunshine Ordinance), Section 67.31, by not enforcing and/or complying with the Sunshine Ordinance.

The SOTF referred the matter to the Education, Outreach and Training Committee for a hearing to review how the Mayor's Office perceives its role in ensuring that city agencies and departments are complying with the Sunshine Ordinance.

(The Mayor shall administer and coordinate the implementation of the provisions of this chapter for departments under his or her control. The Mayor shall administer and coordinate the implementation of the provisions of this Chapter for departments under the control of board and commissions appointed by the Mayor. (Sunshine Ordinance, Section 67.31.))

The motion PASSED by the following vote:

Ayes: 7 - Vice-Chair Hyland, LaHood, J. Wolf, Yankee, Martin, Cannata,
Hinze,
Noes: 1 - Cate
Absent: 3 - Chopra, B. Wolfe and Tesfai



Chris Hyland, Vice Chair
Sunshine Ordinance Task Force



Bruce Wolfe, Chair
Sunshine Ordinance Task Force

cc. Ray Hartz, (Petitioner/Complainant)
Hank Heckle, Office of the Mayor (Respondent)