

**SUNSHINE ORDINANCE  
TASK FORCE**



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**ORDER OF DETERMINATION**

January 26, 2009

**DATE THE DECISION ISSUED**

January 6, 2009

*PAUL HORCHER, ESQ v. PLANNING DEPARTMENT (08051)*

**FACTS OF THE CASE**

On July 21, 2008, Complainant Paul V. Horcher ("Horcher"), an attorney retained by Well-Care Acupuncture & Health Care, Inc. ("Well-Care") to represent Well-Care before the Board of Appeals, made a public records request for the City Planning files that involve Well-Care's appeal of City Planning's Notice of Violation issued by the Zoning Administrator. On July 24, 2008, City Planning provided its files for Mr. Horcher's review. Mr. Horcher believed that the files that City Planning provided were incomplete and that documents may have been removed prior to their release to Mr. Horcher. On October 15, 2008, during the hearing on the appeal, City Planner Tina Tam told the Board of Appeals that City Planning continues to receive numerous complaints of illegal massage use at the business run by Well-Care. Mr. Horcher reviewed the files provided to him and did not find the complaints alluded to by City Planner Tam. During the hearing, City Planner Tam allegedly stated that there is a City Planning file for the appeal and a separate City Planning file for enforcement proceedings. The enforcement file was allegedly not provided to Mr. Horcher.

**COMPLAINT FILED**

On November 3, 2008, Mr. Horcher filed a complaint against the City Planning Department alleging violation of Sec. 67.24 of the Sunshine Ordinance.

**HEARING ON THE COMPLAINT**

On January 6, 2009, Complainant Paul Horcher appeared before the Task Force and presented his case. Respondent Agency was represented by Rachna Rachna, who was also the enforcement planner in Mr Horcher's client's case.

**FINDINGS OF FACT AND CONCLUSIONS OF LAW**

Based on the testimony and evidence presented the Task Force found that the Planning Department failed to provide all of the available information to Mr. Horcher at the time of his

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request, because records regarding complaints had not been incorporated into the Department's complaint log that was produced to Mr. Horcher. The Task Force also finds that the Department should have notified Mr. Horcher when it discovered that information was missing from its complaint log, and knew that Mr. Horcher had only received partial information in response to his request. The Department was encouraged to avoid a similar situation from reoccurring in the future.

**DECISION AND ORDER OF DETERMINATION**

The Task Force finds that the agency violated Section(s) 67.21 ( a ) & ( c ) of the Sunshine Ordinance. No further action was taken and the matter was forwarded to the Education, Outreach and Training Committee and placed at the chair's discretion.

This Order of Determination was adopted by the Sunshine Ordinance Task Force on January 6, 2009, by the following vote: ( Craven / Goldman )

Ayes: Craven, Knee Cauthen, Washburn, Knoebber, Johnson, Chu, Chan, Goldman  
Excused: Williams



Kristin Murphy Chu, Chair  
Sunshine Ordinance Task Force

c: Ernie Llorente, Deputy City Attorney  
Paul Horcher  
Rachna Rachna, Planning Department