

**SUNSHINE ORDINANCE
TASK FORCE**



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ORDER OF DETERMINATION

DATE THE DECISION ISSUED

June 4, 2008

PETER WITT v. TAXI COMMISSION (08020)

FACTS OF THE CASE

Complainant Peter Witt, who regularly attends Taxi Commission meetings, claimed that when he attended the 7/25/06, 10/24/06, 2/13/07, 4/10/07, 11/27/07, 2/26/08 and 3/11/08 meetings, the Commission committed the following acts: Interrupting public speaker, depriving public speaker of equal speaking time, removing a public speaker from the meeting, misrepresentation of statements, excluding written statements that were less than 150 words from the minutes, deleting public testimony from the minutes, failure to allow additional time for set-up procedure, and discussing a subject that was not on the agenda.

COMPLAINT FILED

On 4/1/08 Peter Witt filed a complaint that did not specifically list the sections of the Sunshine Ordinance that were violated but described the violations as listed above.

HEARING ON THE COMPLAINT

On May 27, 2008, Complainant Peter Witt appeared before the Task Force and presented his claim. Respondent Agency was represented by Jordanna Thigpen, who presented the Agency's defense. Mr. Witt presented video clips from two meetings of the Taxi Commission, where he claimed public comment was interrupted and also asserted that various 150 word written statements submitted to the Commission were not included in the minutes as required by the Sunshine Ordinance. Ms. Thigpen responded that there probably was a violation for interrupting a public speaker during public comment during the 10/24/06 meeting and asked the Task Force for guidance regarding how much leeway the Commission should allow members of the public during public comment time as well as guidance on other matters.

The issue in the case is whether the Agency violated Section(s) 67.7, 67.15 and 67.16 of the Ordinance and/or Sections 54957.9 of the California Public Records Act.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Based on the testimony and evidence presented, the Task Force finds that sections 67.15 and 67.16 are applicable in this case. Specifically, during the 10/24/06 meeting, the Task

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Force found that the Chair of the Commission impermissibly interrupted and prevented Mr. Witt from providing public comment on an agenda item, thereby depriving Mr. Witt of equal speaking time. The Task Force also found that the Taxi Commission failed to include brief written statements of testimony, provided by Mr. Witt to the Commission, in the Commission minutes.

DECISION AND ORDER OF DETERMINATION

The Task Force finds that the agency violated Section(s) 67.15 and 67.16 of the Sunshine Ordinance for interrupting a public speaker, depriving a public speaker of equal speaking time, and failure to include a brief (written statement) in the minutes.

The Task Force directs the Taxi Commission to allow the public the opportunity to give their public comment on an agenda item without interruption; so long as/until the point which it becomes clear that the public comment has no relation to the agenda item under discussion. The Task Force also encourages the Chair to use his/her broad discretion to allow public comment to continue and to err on the side of allowing public comment to proceed to the full allotted time.

The Task Force further recommends that the Taxi Commission adopt and publicize procedures to facilitate the use of audio-video presentations by public speakers. For example, by providing notice in agendas and on the Commission's website that public speakers who intend to use audio-visual equipment at a particular meeting contact the Commission secretary in advance to discuss their needs, and that the staff member assist the public speaker with providing audio-video presentations as feasible.

This Order of Determination was adopted by the Sunshine Ordinance Task Force on May 27, 2008 by the following vote: (Craven / Knee)

Ayes: Craven, Knee, Cauthen, Gokhale, Washburn, Comstock, Pilpel, Chu, Chan, Goldman, Williams



Doug Comstock, Chair
Sunshine Ordinance Task Force

c: Ernie Llorente, Deputy City Attorney
Peter Witt, Complainant
Jordanna Thigpen, Respondent