

**SUNSHINE ORDINANCE  
TASK FORCE**



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January 13, 2010

San Francisco Ethics Commission  
25 Van Ness Avenue, Suite 220  
San Francisco, CA 94102

**Referral from Sunshine Ordinance Task Force Complaint #09033, Sue Cauthen v. Library Commission**

This is a referral from the amended August 13, 2009, Order of Determination from the Sunshine Ordinance Task Force against the Library Commission, through its representative Secretary Sue Blackman, for violation of Sunshine Ordinance Sections 67.15 (a) and 67.34 for willful failure to allow public comment at a Library Commission meeting, and under Section 67.21(e) for failure to send representatives to Task Force hearings.

**Background**

Sue Cauthen filed a Sunshine Ordinance complaint on June 23, 2009, alleging that Jewel Gomez, President of the Library Commission, illegally prevented her from provide public comment at a Library Commission hearing, and that Ms. Gomez's conduct was so egregious that it was a willful violation of the requirements of the Sunshine Ordinance.

**Order of Determination**

The Task Force heard the matter at their July 28, 2009, meeting. Ms. Cauthen presented her complaint; that when she attempted to speak about a branch library under the first item on the agenda ("general public comment"), she was interrupted and prevented from speaking further. Respondent, Library Commission was not present at the meeting, but had submitted a letter in response to the complaint.

The DVD of the meeting played by Ms. Cauthen showed the Commission President insisting that under the Library's unwritten "practice", comments about the North Beach branch library would have to be taken under item two, which according to the agenda dealt with the peer review of the proposed design for the North Beach branch library.

Ms. Cauthen was adamant that the comment she wanted to provide was not about the peer review or design for the North Beach library but was generally about the branch. Ms. Gomez instructed Ms. Cauthen to sit down and Ms. Cauthen was not allowed to provide public comment.

Based on the evidence and testimony provided, the Task Force found that the Commission had violated Sections 67.15(a) and 67.34 for willfully failing to allow Ms. Cauthen's general public comment and in the manner by which the Library President interrupted and silenced Ms. Cauthen.

### **Proceedings at the Task Force Education and Outreach and Compliance and Amendments Committees**

The matter was initially referred to the Education Outreach and Training Committee's September 10, 2009, meeting to determine whether the Library Commission had taken steps to train the Commission President and Board members on how to allow and manage public comment in accordance with the Sunshine Ordinance and whether the Commission had changed its policies regarding taking of public comment and/or changed its agenda to note the policy regarding when members of the public can make comment regarding branch libraries generally. However, no representative from the Library Commission was present at the meeting nor was any written response/material submitted by the Commission.

The compliance with the Order of Determination was subsequently referred to the Compliance and Amendments Committee. The matter of compliance with the Order was heard by the Compliance and Amendments Committee on October 13, 2009. However, no representative from the Library Commission was present at the meeting nor was any written response/material provided by the Commission.

In light of the repeated failure of the Commission to appear before the Task Force's committees to discuss the steps the Commission was or was going to take to comply with the Order of Determination, the Compliance and Amendments' Committee voted to refer the matter back to the full Task Force for a potential referral to the Ethics Commission for failure to comply with the Order of Determination and failure to appear at Task Force meetings.

### **Referral**

At their special meeting on Tuesday, December 1, 2008, the San Francisco Sunshine Ordinance Task Force ordered that the attached complaint #09033 of Sue Cauthen and the August 13, 2009, Task Force Order of Determination be referred to the Ethics

Commission for comment and advice, and potential enforcement with a finding of willful failure to comply with the Sunshine Ordinance and willful failure to comply with the Order of Determination and failure to send representatives to Task Force meetings under Section 67.21(e). Under the Sunshine Ordinance, those acts shall be deemed official misconduct.

This request and referral is made under Section 67.30(c) (e) of the Sunshine Ordinance whereby the Task Force shall make referrals to the a municipal office whenever it concludes that any person has violated any provision of this ordinance, and under Section 67.34 of the Ordinance which provides that willful failure to discharge any duties imposed by the Sunshine Ordinance shall be deemed official misconduct and complaints involving allegation of willful violations of this Ordinance shall be handled by the Ethics Commission.

### **Supporting Materials**

The enclosed CD and DVD contains material in reference to this referral including (1) the August 13, 2009, Task Force Order of Determination, (2) the July 20, 2009, jurisdictional letter prepared by the Task Force's Deputy City Attorney; (3) documents and DVDs regarding this complaint that were submitted to the Sunshine Ordinance Task Force, and (4) the minutes from the Task Force meetings on July 28, 2009, October 10, 2009, and December 1, 2009; Education, Outreach and Training Committee meetings of September 10, 2009; and the Compliance and Amendments Committee meeting on October 13, 2009.

If you need any further information, including audio recordings of any of the meetings referenced above, please feel free to contact me, or the Task Force Administrator at (415) 554-7724.



Richard Knee, Chair  
Sunshine Ordinance Task Force

cc: Sue Cauthen, complainant  
Jewel Gomez, respondent  
Sue Blackman, respondent  
Jerry Threet, Deputy City Attorney