

**SUNSHINE ORDINANCE  
TASK FORCE**



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

**Referral of Sunshine Ordinance Complaint #09057, Peter Warfield v. Clerk of the Board of Supervisors**

This is a referral from the November 3, 2009, Order of Determination from the Sunshine Ordinance Task Force against the Clerk of the Board, through its representative Legislative Deputy Director Rick Caldeira, for failure to comply with the Order of Determination in that it did not provide unredacted contact information about members of City and County commissions, boards, task forces and other office holders. The referral is made pursuant to Sunshine Ordinance section 67.30(c).

**Background**

On September 9, 2009, Peter Warfield filed a complaint with the Sunshine Ordinance Task Force alleging that the Clerk's Office did not provide him prompt access to a file that contained contact information on members of the Library Citizen Advisory Commission, and instead asked him to return after three hours, when he was allowed to view documents from the file with redactions. He also claimed that legal justification for the redactions was not provided. Mr. Warfield noted that on prior occasions, he was allowed to see and receive copies of similar documents without redaction.

**Task Force Hearing and Order of Determination**

The matter was scheduled to be first heard on September 22, 2009, but was continued to October 27, 2009. At the latter meeting the Task Force noted that in the past it has consistently found that, in absence of a specific request for privacy or fear of retaliation, contact information in government files including home and email addresses is generally public information. The Task Force also noted that when a person volunteers to serve in the public domain, he or she may need to give up certain privacy rights that a private citizen may enjoy in order to allow members of the public to effectively communicate with the official. Therefore, if a person serving on a government body provides contact information to the City,

that information should be disclosed to members of the public. Individuals who choose to serve on policy-making bodies or passive bodies, however, can protect their privacy if they wish by opening a Google email account and/or a Post Office Box to use for City business to avoid releasing his or her home contact information.

Based on the foregoing, the Task Force found the Clerk's Office in violation of Section(s) 67.21 (a) and 67.21 (b) for failure to provide records for inspection or review on a timely basis and for making impermissible redactions. The Clerk's Office was directed to produce unredacted copies of the documents that Mr. Warfield requested within five calendar days of the issue date of the Order of Determination and to appear before the Compliance and Amendments Committee on November 10, 2009, to discuss compliance with the Order of Determination.

### **Hearings at the Compliance and Amendments Committee**

A hearing on the status of the Clerk's Office compliance with the Order of Determination was held on November 10, 2009. Madeline Licavoli, Deputy Clerk with the Clerk's Office, informed the body that the Clerk was revisiting the policy and had decided that the home address, home telephone and home fax numbers, home email, Social Security number and date of birth on applications and rosters for boards and commissions would be redacted before documents would be released. The home address would not be redacted if specific residency is required to be appointed to a specific seat on a board or commission. The Clerk's Office noted that information provided on Form 700s will not be redacted. The matter was continued to the Compliance and Amendments Committee on December 8, 2009, because members wanted to see the new policy.

On December 8, 2009, Ms. Licavoli attended the hearing and said the Clerk's new policy was in effect but that because Mr. Warfield was a member of the Library CAC, he would be given unredacted access only to the LCAC roster. However, he would not have unredacted access to other boards and commission rosters. The Committee did not take issue with the redaction of personal, non-contact information (*e.g.*, social security numbers, DOBs) but stated its position again that members of the public should be able to contact directly people serving on government boards and commissions by having access to the same mailing and email addresses that the City uses to communicate with them and encouraged the City to either set up email accounts for individuals appointed to boards and commissions (*i.e.*, non-government employees) and/or encourage those who did not want their home email and/or home mailing addresses to be released to the public to set up specific email or mailing addresses that would be used for their City business. Recognizing, that this issue was an important one that has repeatedly arisen at the Task Force, members recommended that the matter be sent to the next full Task Force meeting for failure to comply with the Order of Determination.

### **Referral by Task Force**

At the Task Force meeting on January 5, 2010. Ms. Licavoli said the Clerk had reviewed and revised the policy and no further changes were planned. Members of the public could contact the commission, board and task force members and office holders through their respective clerks or secretaries, she said. Mr. Warfield reiterated that this case was about denial of access to information and urged the Task Force to refer it to the appropriate authority for enforcement. The matter was originally referred to the Education, Outreach and Training Committee, but the motion was amended and referred the matter to the Ethics Commission for the Clerk's Office's failure to comply with the Order of Determination and their continued failure to provide contact information for members of board and commissions to members of the public.

This request and referral are made under Section 67.30(c) of the Sunshine Ordinance whereby the Task Force shall make referrals to a municipal office with enforcement power under this Ordinance whenever it concludes that any person has violated any provision of this Ordinance.

### **Supporting Materials**

The enclosed CD contains material in reference to this referral including (1) the November 3, 2009, Task Force Order of Determination, (2) documents regarding this complaint that have been submitted to the Sunshine Ordinance Task Force, (3) the minutes from the Task Force meetings on September 22, 2009, October 10, 2009, January 5, 2010, and the minutes from the Compliance and Amendments Committee meetings on November 10, 2009, and December 8, 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: Peter Warfield, complainant  
Madeline Licavoli, respondent  
Rick Caldeira, respondent  
Jerry Threet, Deputy City Attorney