

**SUNSHINE ORDINANCE
TASK FORCE**



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ORDER OF DETERMINATION

July 6, 2010,

DATE THE DECISION ISSUED

June 22, 2010

SVETLANA PTASHNAYA v. DEPT. OF ADULT AND AGING SERVICES (10018)

FACTS OF THE CASE

Complainant Svetlana Ptashnaya alleges that the Department of Aging and Adult Services ("DAAS") failed to respond adequately to her February 11, 2010, Public Records Request to Julie Peck, Program Manager for Adult Protective Services ("APS"), for the results of APS's investigation into Ms. Ptashnaya's complaint against APS employee Ethelbert Ogbuehi.

COMPLAINT FILED

On May 19, 2010, Ms. Ptashnaya filed a complaint against DAAS.

HEARING ON THE COMPLAINT

On June 22, 2010, Ms. Ptashnaya presented her claim before the Task Force. The respondent agency was not represented and no one in the audience spoke or presented facts and evidence in support of the respondent.

Ms. Ptashnaya told the Task Force that she complained to Ms. Peck about an encounter she had with Mr. Ogbuehi on February 10, 2010, and requested that his actions toward her be investigated and the findings be released to her. She said that on March 5, 2010, APS Program Supervisor Cindy E. Rasmussen responded by saying that an investigation was done but because all APS investigations were considered confidential, the results would not be released. She promised Ms. Ptashnaya that the matter had been fully investigated and that appropriate steps had been taken. Ms. Ptashnaya also said she contacted Department of Human Services Agency Director Trent Rhorer, and his Executive Director E. Anne Hinton responded by stating that state law prevented the release of the result of any APS investigation.

It was noted during the hearing that DHSA had opined to the Task Force that it did not have jurisdiction over the matter and that the requested information was protected from disclosure under the State of California's Welfare and Institutions Code, Sections 15630 and 10850.

ORDER OF DETERMINATION**FINDINGS OF FACT AND CONCLUSIONS OF LAW**

Based on the testimony and evidence presented, the Task Force finds that the agency violated the Ordinance. The Task Force agreed with the department that state law covered information related to the department and its clients, but Ms. Ptashnaya's request was on a distinctly separate issue, the alleged misconduct of a public agency employee. Her request, it said, was for information related to an employee's disciplinary hearing, and documents related to it should have been released pursuant to requirements of the Ordinance. The Task Force also said the department could redact parts of the document or documents if they contained confidential information related to any welfare case. Task Force members were also disappointed that the department violated the Ordinance by not sending a representative to the hearing to state and defend its position.

DECISION AND ORDER OF DETERMINATION

The Task Force finds that the agency violated Section(s) 67.21(c), 67.21(e), 67.24(c)(7) and 67.27 of the Sunshine Ordinance for not assisting the requestor, for not sending a knowledgeable representative to the hearing, for not releasing documents related to employee misconduct and for not providing justification for withholding information. The agency shall release the requested records within five business days of the issuance of this Order and shall send a representative knowledgeable in this matter to appear before the Compliance and Amendments Committee on July 13, 2010.

This Order of Determination was adopted by the Sunshine Ordinance Task Force on June 22, 2010, by the following vote: (Wolfe / Goldman)

Ayes: Snyder, Cauthen, Washburn, Knoebber, Goldman, Wolfe, Chan, Johnson, Williams, Knee

Excused: Manneh



Richard A. Knee, Chair
Sunshine Ordinance Task Force

c: Jerry Threet, Deputy City Attorney
Jana Clark, Deputy City Attorney
Svetlana Ptashnaya, Complaint
Trent Rhorer, Respondent
E. Anne Hinton, Respondent
Julie Peck, Respondent
Cindy E. Rasmussen, Respondent