

**SUNSHINE ORDINANCE  
TASK FORCE**



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**ORDER OF DETERMINATION**

April 15, 2011

**DATE THE DECISION ISSUED**

March 22, 2011

*MARY MILES v PLANNING COMMISSION (CASE NO. 11005)*

**FACTS OF THE CASE**

Complainant Mary Miles alleges that the San Francisco Planning Commission ("Commission" or "Respondent") failed to respond adequately to her Immediate Disclosure Request ("IDR") for the draft minutes of the February 10, 2011, meeting of the Commission and the transcript of the Commission hearing on the Park Merced project from that same meeting.

**COMPLAINT FILED**

On February 25, 2011, Ms. Miles filed a complaint with the Task Force alleging a violation of Sunshine Ordinance Section 67.25(a).

**HEARING ON THE COMPLAINT**

On March 22, 2011, Ms. Miles presented her case to the Task Force. The Respondent was not represented and no one in the audience spoke or presented facts and evidence in support of the Respondent.

Ms. Miles told the Task Force that Sunshine Ordinance Section 67.16 says that the draft minutes of each meeting shall be made available for inspection and copying upon request no later than 10 working days after the meeting. She said she requested the Commission's February 10, 2011, minutes on February 23, assuming that they would be available on February 25. She said Commission Secretary Linda Avery responded the same day to say the document was not ready and she did not indicate when it would become available. Ms. Miles said she then sent an IDR to the Director of Planning John Rahaim, Custodian of Records Brian Smith and Ms. Avery. She said the department did not respond to the IDR but provided her with the draft minutes on March 9, more than 10 working days after the meeting. She said getting the draft minutes within the given time frame was extremely important, especially if somebody wanted to appeal a Commission decision on a particular project such as Park Merced to the Board of Supervisors.

Ms. Miles also said that in the February 23 request, she also had asked for the court reporter's transcript of the February 10 meeting on the Park Merced items as well as the reporter's contact information. She said she was not provided with the contact information but was given the transcript on March 9.

After Ms. Miles' presentation, Chair Knee disclosed that an email had been received from Mr. Smith and read in part that one of the reasons for the delay was that Ms. Avery was late in finalizing the meeting minutes. Mr. Smith said the Task Force's findings against the department for the indiscretion would be accepted.

### **FINDINGS OF FACT AND CONCLUSIONS OF LAW**

Judging from the evidence presented, the Task Force found that the department did provide the draft minutes at a later date and a reason for the delay should had been provided.

### **DECISION AND ORDER OF DETERMINATION**

The Task Force finds that the agency violated Sunshine Ordinance Section 67.16 for not providing the minutes within the required 10 days, Section 67.25(a) for not providing a reason for the delay and Section 67.21(e) for not sending a knowledgeable representative to the hearing. Department representatives are instructed to appear before the Education, Outreach and Training Committee on May 12, 2011.

This Order of Determination was adopted by the Sunshine Ordinance Task Force on March 22, 2011, by the following vote: (Knoebber/Wolfe)

Ayes: Cauthen, Manneh, Washburn, Knoebber, Costa, Wolfe, Chan, Johnson, Knee

Absent: Snyder, West



Richard A. Knee, Chair  
Sunshine Ordinance Task Force

c: Mary Miles, Complainant  
Brian Smith, Respondent  
Jerry Threet, Deputy City Attorney