

**SUNSHINE ORDINANCE
TASK FORCE**



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ORDER OF DETERMINATION

November 1, 2010

DATE THE DECISION ISSUED

August 28, 2010

THOMAS PICARELLO v SRO TASK FORCE (CASE NO. 10036)

FACTS OF THE CASE

Complainant alleges that the SRO Task Force ("Respondent") refused to allow him to comment publicly on a proposed action item at its June 17, 2010, meeting and those members were holding illegal meetings through emails.

COMPLAINT FILED

On July 1, 2010, Complainant filed a complaint with the Sunshine Ordinance Task Force ("SOTF") alleging the violations.

HEARING ON THE COMPLAINT

On August 28, 2010, Complainant Thomas Picarello presented his complaint before the SOTF. The Respondent agency was not represented and no one in the audience spoke or presented facts and evidence in support of the Respondent.

Mr. Picarello said he attended the SRO Task Force's June 17 meeting and spoke on items on the agenda. However, when he got to Item 5, he was told to speak at the end of the meeting when general public comment is held. He said the Respondent, as the minutes show, had a substantial discussion on the topic and delayed public comment because it was running out of time. He said the Respondent meets for one-and-a-half-hours but allocates only five minutes for general public comment. He said the Sunshine Ordinance and the Brown Act mandate that he be allowed to speak on any possible-action item on an agenda. He said also that SRO Task Force members discussed legislation and proposals at length through emails as proven by the documents submitted to the SOTF. He said doing so denies the public access and input on a public matter.

The SOTF found that the emails proved that the SRO Task Force members were taking part in ex parte communications as well as holding a seriatim meeting.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Based on the testimony and evidence presented, the SOTF finds that the agency violated the Ordinance.

ORDER OF DETERMINATION

DECISION AND ORDER OF DETERMINATION

The SOTF finds that the Respondent violated Sunshine Ordinance Sections 67.3(b), 67.5 and 67.15(b). The SOTF also finds Anne Kronenberg, Chair of the Department of Health's SRO Task Force, in violation of Section 67.21(e) for failing to send a knowledgeable representative to the SOTF's November 11, 2010, hearing. The agency shall arrange within 30 calendar days of the issuance of this Order of Determination to appear before the Education, Outreach and Training Committee.

This Order of Determination was adopted by the SOTF on August 28, 2010, by the following vote: (Wolfe / Knee)

Ayes: Cauthen, Washburn, Wolfe, Chan, Johnson, Knee

Excused: Snyder, Manneh, Knoebber, Williams



Richard A. Knee, Chair
Sunshine Ordinance Task Force



David Snyder, Member, Seat #1*
Sunshine Ordinance Task Force

c: Jerry Threet, Deputy City Attorney
Jana Clark, Deputy City Attorney
Thomas Picarello, Complainant
Anne Kronenberg, Respondent
Pamela Tebo, Respondent

*Sunshine Ordinance Task Force Seat #1 is a voting seat held by an attorney specializing in sunshine law and nominated by the Society of Professional Journalists, Northern California Chapter.