

**SUNSHINE ORDINANCE
TASK FORCE**



**City Hall
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco 94102-4689
Tel. No. (415) 554-7724
Fax No. (415) 554-7854
TDD/TTY No. (415) 554-5227**

ORDER OF DETERMINATION

June 6, 2011

DATE THE DECISION ISSUED

May 24, 2011

CHARLES PITTS V SUPERVISOR MARK FARRELL (CASE NO. 11030)

FACTS OF THE CASE

Charles Pitts ("Complainant") alleges that Supervisor Mark Farrell (the "Supervisor", "Supervisor Farrell" or "Respondent") failed to timely and honestly respond to an immediate disclosure request for public records of communications between his office and any individual concerning the Shelter Monitoring Committee applicants for 2011.

COMPLAINT FILED

On April 5, 2011, Mr. Pitts filed a Complaint alleging the Supervisor violated Sunshine Ordinance Section 67.25(a).

HEARING ON THE COMPLAINT

On May 24, 2011, Mr. Pitts presented his case to the Task Force. The Respondent was not represented and no one in the audience presented facts or evidence in support of the Respondent. The Supervisor's legislative aide Catherine Stefani was in attendance when the matter was called earlier in the day but left after the Task Force announced that the matter was to be tabled because the Complainant was not present. However, the Task Force reopened and heard the complaint when the Complainant arrived.

Mr. Pitts told the Task Force that he sent an IDR to Supervisors Farrell, Jane Kim and Sean Elsbernd on March 21, 2011. He said all three supervisors responded differently. In Supervisor Farrell's case, Mr. Pitts said, he received only a couple of documents in comparison to the 45 pages of documents he got from Supervisor Kim after he filed a complaint against her. He said Supervisor Farrell's office also did not respond within the required time period. He said he especially wanted copies of the documents that were provided to the supervisors by Bernice Casey, an analyst with the Shelter Monitoring Committee, at the start of the Board of Supervisors Rules Committee meeting on March 17, 2011.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Judging from the evidence presented, the Task Force finds that Supervisor Kim's office did not follow sunshine rules governing public information and public records.

DECISION AND ORDER OF DETERMINATION

The Task Force finds that the office of Supervisor Farrell violated Sunshine Ordinance Sections 67.25(a) by not responding to an IDR before the close of the next business day, 67.21(b) by not responding to a request for information, 67.27 by failing to justify the withholding, and 67.26 by failing to keep withholding to a minimum. The agency shall release the records requested within 5 business days of the issuance of this Order and shall appear before the Compliance and Amendments Committee on June 14, 2011.

This Order of Determination was adopted by the Sunshine Ordinance Task Force on May 24, 2011, by the following vote: (Wolfe/Johnson)

Ayes: Snyder, Manneh, Costa, Wolfe, Johnson, Knee

Excused: Cauthen, Washburn, Knoebber, Chan

Absent: West



Richard A. Knee, Chair
Sunshine Ordinance Task Force



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

c: Charles Pitts, Complainant
Supervisor Mark Farrell, Respondent
Catherine Stefani, Respondent
Jerry Threet, Deputy City Attorney

*Sunshine Ordinance Task Force Seat #1 is a voting seat held by an attorney specializing in sunshine law.