

**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**

January 11, 2011

**DATE THE DECISION ISSUED**

November 30, 2010

*KAI WILSON V NORTH OF MARKET/TENDERLOIN COMMUNITY BENEFIT DISTRICT  
(CASE NO. 10052)*

**FACTS OF THE CASE**

Complainant Kai Wilson ("Complainant") alleges that on August 4, 2010, she made an Immediate Disclosure Request ("IDR") to board members and staff of the North of Market/Tenderloin Community Benefit District ("Respondent" or "NMT-CBD") requesting "all correspondences between staff and current as well as immediate-past board members regarding [her] removal from the CBD Board of Directors ("Board") and any conversations regarding [her] term of service with the [NMT-CBD]." Ms. Wilson further alleges that she has not been provided with the records requested.

Complainant also appears to allege that the NMT-CBD held a closed session during one or more of its meetings, in violation of the Brown Act.

**COMPLAINT FILED**

On October 5, 2010, Complainant filed a Sunshine Complaint against NMT-CBD, its staff and its board of directors, alleging violations of public meeting and public records laws.

**HEARING ON THE COMPLAINT**

On November 30, Ms. Wilson presented her claim to the Sunshine Ordinance Task Force. The Respondent agency was represented by District Manager Elaine Zamora and Assistant District Manager Dina Hilliard.

Ms. Wilson said she made the IDR after she resigned from the Board. She said nobody responded or acknowledged receipt of her request and that she still had not received the documents she requested. Ms. Wilson said her performance was discussed at two closed sessions, including one with the Board's Executive Committee, and that she was asked to resign during closed session. She also said the Brown Act forbids a policy body from meeting in closed session to discuss a member's performance or to dismiss a member from that body.

Ms. Zamora said she brought Ms. Wilson onto the Board but the working relationship did not work out and the fallout was starting to hurt the Board. She said the reason for the closed

**ORDER OF DETERMINATION**

session was to discuss her work performance as well as Ms Hilliard's. She said the Board did not willfully or with malice fail to respond to Ms. Wilson. She said the Board was trying to defuse a volatile situation. She also said Ms. Wilson made the IDR under the California Public Records Act ("CPRA") and that the Sunshine Ordinance was not mentioned. She also said that the State Streets and Highway Code, under which the CBD was formed, makes the CBD subject to the CPRA but forbids application of the Sunshine Ordinance to it. She said the CBD had also been informed by the City Attorney's Office in a training that the Sunshine Ordinance did not apply to CBDs.

Ms. Hilliard said she did not respond to Ms. Wilson's request because the Board was told by the City Attorney's Office that as a private-sector entity, the NMT-CBD was not under Sunshine Ordinance jurisdiction. Since the SOTF Complaint Committee found jurisdiction, the Board had collected relevant documents and offered them to Ms. Wilson if she would indicate how she wanted to receive them, Ms. Hilliard said. She said the closed session was held because Ms. Wilson had indicated that she would take the issue into litigation and because Ms. Hilliard wanted her own job performance to be discussed in private. Ms. Wilson resigned after she was asked to do so, and if she had not, the Board would have had a discussion and voted on it, Ms. Hilliard said. She also said no written response to the IDR was provided to Ms. Wilson prior to the communication to her after the Complaint Committee meeting.

**FINDINGS OF FACT AND CONCLUSIONS OF LAW**

Based on the testimony and evidence presented, the Task Force finds that it has jurisdiction to hear the complaint under the Sunshine Ordinance, based in part on 67.30(c) of the Ordinance, which provides that the Task Force shall have authority to make referrals for a violation of the CPRA.

Further, the Task Force finds that the NMT-CBD violated Sunshine Ordinance Sections 67.21 for denying access to public records, 67.21(k) for failure to release public records in compliance with the California Public Records Act, 67.25 for not responding to an Immediate Disclosure Request, 67.26 for not keeping withholding to a minimum, and 67.27 for not providing a justification for withholding.

The Task Force further finds that respondent violated CPRA Sections 6253(a) for denying access to a public record, Section 6253(b) for not making the records available promptly, Section 6253(c) for not responding within the 10-day allowable time limit, and Section 6253(d) for not justifying the withholding of the records.

**DECISION AND ORDER OF DETERMINATION**

The NMT-CBD is instructed to release the requested records within 5 business days of the issuance of this Order and to appear at a Compliance and Amendments Committee hearing on February 8, 2011.

**ORDER OF DETERMINATION**

This Order of Determination was adopted by the Sunshine Ordinance Task Force on November 30, 2010, by the following vote: (Washburn / Manneh)

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

Excused: Cauthen, Knoebber, Chan, Williams



Richard A. Knee, Chair  
Sunshine Ordinance Task Force



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

- c: Kai Wilson, Complainant
- Elaine Zamora, Respondent
- Dina Hilliard, Respondent
- Jerry Threet, Deputy City Attorney

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