

File No. 11083

SOTF Item No. 10

CAC Item No. _____

SUNSHINE ORDINANCE TASK FORCE
AGENDA PACKET CONTENTS LIST

Sunshine Ordinance Task Force

Date: June 6, 2012

Compliance and Amendments Committee

Date: _____

CAC/SOTF

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Completed by: Andrea Ausberry Date May 31, 2012
Completed by: _____ Date _____

*An asterisked item represents the cover sheet to a document that exceeds 25 pages.
The complete document is in the file.

**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
March 12, 2012

DATE THE DECISION ISSUED
December 14, 2011

RAY HARTZ v PUBLIC LIBRARY (CASE NO. 11083)

FACTS OF THE CASE

Complainant Ray Hartz alleges that the San Francisco Public Library ("Library") and City Librarian Luis Herrera violated the Sunshine Ordinance by failing to appropriately respond to his July 21, 2011 Immediate Disclosure Request ("IDR") for assistance identifying the existence, form, and nature of documents related to the financial relationship between the Library and the nonprofit Friends of the San Francisco Public Library ("Friends").

COMPLAINT FILED

On October 4, 2011, Mr. Hartz filed a complaint with the Sunshine Ordinance Task Force ("Task Force") against the Library and Mr. Herrera alleging violations of Sunshine Ordinance Sections 67.21(c), 67.21 (d), and 67.21(e).

HEARING ON THE COMPLAINT

On December 14, 2011, Ray Hartz presented his case to the Task Force. Library Commission Secretary Sue Blackman represented respondents Luis Herrera and the Library as their Custodian of Records.

Mr. Hartz submitted an IDR to Mr. Herrera on the evening of July 21, 2011, requesting assistance identifying documents that would provide enough information on the financial relationship between the Friends and the Library to enable him to identify and request specific records. He wanted to identify documents related to the amount of funds raised by Friends for fiscal years 2008 to 2010 and the actual amount received by the Library from Friends during that same time period.

On July 25, 2011, Mr. Hartz contacted Ms. Blackman to discuss his request. He alleged he advised her that he was requesting assistance identifying existing documents rather than the production of documents. He stated he specified his request included identifying audited documents provided by the Library to the Board of Supervisors, the Mayor's Office, and the Controller's Office accounting for specific use of funds from the Friends.

Ms Blackman responded the same day. She produced several documents, advised that the request would be considered a standard request because it did not meet the criteria of an IDR, and invoked a 14 day extension of time to respond based on the voluminous nature of the request and the need to retrieve records from storage. Mr. Hartz stated only one of the documents received was responsive to his request. He responded to Ms. Blackman on July 26, stating the documents were nonresponsive and that by failing to assist him in identifying documents, she was limiting his search.

On August 4, 2011, Ms. Blackman produced additional documents in her final response. Mr. Hartz disputed the final production date, alleging final production was not made until August 25 and consisted of six electronic files totaling 13 pages. He alleged the Library failed to appropriately respond to his request for assistance because Ms. Blackman did not identify any audited expenditures by the Library and did not direct him to other knowledgeable departments or staff. He stated the documents produced identify the Library receiving or requesting funds from Friends but not how those funds were received or spent, indicating some documents were withheld. He stated one document included an entry for City Librarian Discretionary Funds of \$65,000 but no additional information on receipt or distribution.

Ms. Blackman stated the current complaint is similar to Mr. Hartz's Complaint No. 11055 heard by the Task Force on August 23, 2011. She stated no violation was found in the previous case and this new complaint should be dismissed. She further stated Mr. Hartz's claim that this is a new case with new facts is counter to Deputy City Attorney Jerry Threet's instructional letter indicating no new facts have been alleged.

Ms. Blackman stated the complaint should also be dismissed because the Library has fully responded to Mr. Hartz's request by providing him with all responsive documents. She stated she believed the request was related to the amount of money the Library received, and she had produced all documents she believed were responsive after a diligent search which included contacting the Librarian and Department Heads.

Upon further questioning by the Task Force, Ms. Blackman stated Friends pays for some material purchases directly and no funds are handled by the Library. She explained the City Librarian Discretionary Funds are received from Friends and used for additional funding of various programs. She stated she does not know whether receipts exist that document the use or breakdown of these funds, and indicated she would need to investigate further with accounting to identify such documents. She advised the Task Force that the Library is working with Friends to post expenditure documents online.

Ms. Blackman stated she had determined Mr. Hartz's request was not an IDR based on advice provided by the City Attorney's Office. She indicated the City Attorney's Office had since advised the Library that although it is within its right to invoke an extension of time to respond, the requester is the only one to determine if a request is intended to be an IDR.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Task Force concluded that although the Library incorrectly reclassified the IDR as a standard request, it then treated the request as an IDR and responded in a timely manner.

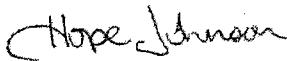
The Task Force did not find persuasive respondents' statements that documents accounting for the use of funds may not exist. Based in part on Ms. Blackman's admission that she has no knowledge of whether documents exist related to Library expenditure of Friends' funds and in part on City policy requiring accounting for gifts, the Task Force found that the Library did not fully respond to the request. Based on written responses and statements at the hearing, the Task Force further found that the requester was not directed to contact other departments or staff that might have information such as the Library's accounting department or the City Controller's Office as required by Sunshine Ordinance Section 67.21(c).

DECISION AND ORDER OF DETERMINATION

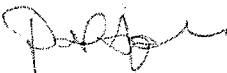
The Task Force finds City Librarian Luis Herrera in violation of Sunshine Ordinance Sections 67.21(c) for failure to direct Mr. Hartz to the proper office or staff person to respond to his request to identify documents related to Library expenditures of Friends' funds and 67.26 for failure to keep withholding to a minimum by not including documents related to Library expenditures of Friends' funds in the documents identified.

Mr. Herrera shall investigate the existence of the requested documents related to audited Library expenditures of Friends' funds, identify the documents within 5 business days of the issuance of this Order, and appear before the Compliance and Amendments Committee on Tuesday, March 20, 2012 at 4:00 p.m. in Room 408 at City Hall.

This Order of Determination was adopted by the Sunshine Ordinance Task Force on December 14, 2011, by the following vote: (Wolfe/Knee)
Ayes: 7 – Knee, Manneh, Washburn, Costa, Wolfe, West, Johnson
Noes: 2 – Snyder, Cauthen
Absent: 1 – Chan



Hope Johnson, Chair
Sunshine Ordinance Task Force



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

cc: Ray Hartz, Complainant
Luis Herrera, Respondent
Sue Blackman, Respondent
Jerry Threet, Deputy City Attorney

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



DENNIS J. HERRERA
City Attorney

JERRY THREET
Deputy City Attorney

DIRECT DIAL: (415) 554-3914
E-MAIL: jerry.threet@sfgov.org

MEMORANDUM

TO: Sunshine Task Force
FROM: Jerry Threet
Deputy City Attorney
DATE: December 13, 2011
RE: Complaint No. 11083: Ray Hartz v. Library, et al.

THE COMPLAINANT ALLEGES THE FOLLOWING:

Complainant Ray Hartz alleges that the San Francisco Public Library (the "Library"), as well as City Librarian Luis Herrera, violated the Sunshine Ordinance by failing to appropriately respond to his July 21, 2011 Immediate Disclosure Request ("IDR") pursuant to Ordinance section 67.21(c) for assistance in identifying the existence form and nature of documents related to the financial relationship of the Library with the Friends of the San Francisco Public Library (the "Friends").

COMPLAINANT FILES COMPLAINT:

On October 4, 2011, Mr. Hartz filed this complaint with the Task Force. It appears to be very similar, if not identical, to Mr. Hartz' July 26, 2011 complaint against the same parties, which the Task Force heard on August 23, 2011.

JURISDICTION

The Library has not contested jurisdiction to hear the complaint.

APPLICABLE STATUTORY SECTION(S):

Sunshine Ordinance (S.F. Administrative Code Section 67.1, et seq.)

- Section 67.21 governs responses to a public records request, including assistance to a requester of records.
- Section 67.25 governs immediacy of response.

APPLICABLE CASE LAW:

None.

ISSUES TO BE DETERMINED

Uncontested/Contested Facts: Mr. Hartz alleges that on July 21, 2011, he made an Immediate Disclosure Request to Luis Herrera, City Librarian, for assistance under Section

Memorandum

DATE: December 13, 2011

PAGE: 2

RE: *Complaint No. 11083: Ray Hartz v. Library, et al.*

67.21(c) of the Ordinance in identifying the existence, form, nature, and location of documents related to the financial relationship of the Library with the Friends, including whether those records are exempt from disclosure, with enough specificity to enable a requester to identify records and make a request for them. Specifically, Mr. Hartz alleges he made this request with regard to amounts raised by Friends during fiscal years 2008-2009 and 2009-2010 and the amounts received by the Library from Friends during those same periods. Mr. Hartz further alleges that his request specified that the records should have sufficient specificity to allow the reader to ascertain the exact monetary value of any donations involved. Mr. Hartz further alleges that he contacted Sue Blackman by telephone on July 25, 2011 to clarify that his IDR was seeking specifically "assistance in identifying documents."

The Library's July 25, 2011 letter response, from Sue Blackman, stated that Mr. Hartz's request did not meet the criteria for an IDR and therefore would be treated like a standard request. The Library further stated that the request would require it to search voluminous, off-site records and therefore it was invoking a 14-day extension of the normal 7-day response time. This letter also included several identified documents which it asserted were responsive to the IDR.

Mr. Hartz alleges that the July 25, 2011 response of the Library "provided nothing of substance responsive to the request." Mr. Hartz further alleges that the invocation of a 14-day extension was improper because Ms. Blackman had failed to assist him in limiting the request. Finally, Mr. Hartz specifically alleges that the complaint is against Mr. Herrera, who remains responsible for Ms. Blackman's response since he delegated responsibility to her for it.

The Library and Herrera, through Ms. Blackman, do not contest the above facts, but do contest whether their actions constitute a violation of the Ordinance. Specifically, the Library notes that it provided documents to Mr. Hartz on July 25, 2011 which would help him identify documents related to his proposed request: two separate PowerPoint presentations; the Public-Private Support and Cooperation Framework for Branch Library Improvement Program (Framework document); and the Annual Report for 2007-08 and 2008-09 by the Library and the Friends. The Library further notes that, after providing these documents, it continued to search for other documents that might prove helpful to Mr. Hartz in his request. While that search was occurring, Mr. Hartz made a public records request on July 28, 2011, for records that were identified in some of the documents the Library provided to Mr. Hartz on July 25, 2011.

The Library further alleges that

Mr. Hartz' July 28, 2011 IDR referred to the Framework document and requested the Friends' "independently prepared audits" for years 2008, 2009 and 2010. We responded to his request the following day on July 29, 2011, with the "independently prepared audits" documents: The Friends and Foundation of the San Francisco Public Library/Financial Statements for the Years Ended June 30, 2010 and 2009/Report of Independent Auditors," and "The Friends and Foundation of the San Francisco Public Library/Financial Statements for the Years Ended June 30, 2009 and 2008/Report of Independent Auditors."

Memorandum

DATE: December 13, 2011

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RE: Complaint No. 11083: Ray Hartz v. Library, et al.

Based on these allegations, the Library argues that it has complied with Section 67.21(c), and that it has appropriately assisted Mr. Hartz in identifying documents that might be responsive to his area of interest. The Library therefore requests the Complaint be dismissed.

Finally, the Library notes that Mr. Hartz filed a similar complaint, Complaint #11055, on July 26, 2011, which the Task Force heard on August 23, 2011, and no motion was made on the matter after hearing, concluding the matter without any order of determination against the Library or Mr. Herrera.

Mr. Hartz responded that "this is a new case with new facts, and, as such, should not be dismissed." *It is entirely unclear from the allegations what these new facts are, as none appear to have been alleged.*

LEGAL ISSUES/LEGAL DETERMINATIONS:

- Is this complaint legally the same as that made by Complaint #11055?
- Did the hearing of the Task Force on Complaint #11055 finally adjudicate this matter, such that this complaint should be dismissed?
- Was the July 25, 2011 response of the Library timely?
- Did the Library or Mr. Herrera violate Section 67.21(c) of the Ordinance?

SUGGESTED ANALYSIS**Under Section 67.21(c) of the Ordinance:**

- Determine whether the Task Force should dismiss this complaint as having already been adjudicated.
- Determine whether Ms. Blackman's July 25, 2011 letter response assisted Complainant in the manner required by Section 67.21(c).
- If not, determine whether Mr. Herrera is legally responsible under the Ordinance for Ms. Blackman's failure.

Under Section 67.21 and 67.25 of the Ordinance:

- Determine whether the Library timely responded to any records request.

CONCLUSION

THE TASK FORCE FINDS THE FOLLOWING FACTS TO BE TRUE:

THE TASK FORCE FINDS THE ALLEGED VIOLATIONS TO BE **TRUE OR NOT TRUE.**

Memorandum

DATE: December 13, 2011

PAGE: 4

RE: *Complaint No. 11083: Ray Hartz v. Library, et al.*

ATTACHED STATUTORY SECTION FROM CHAPTER 67 OF THE SAN FRANCISCO ADMINISTRATIVE CODE UNLESS OTHERWISE SPECIFIED**SEC. 67.21. PROCESS FOR GAINING ACCESS TO PUBLIC RECORDS; ADMINISTRATIVE APPEALS.**

(b) A custodian of a public record shall, as soon as possible and within ten days following receipt of a request for inspection or copy of a public record, comply with such request. Such request may be delivered to the office of the custodian by the requester orally or in writing by fax, postal delivery, or e-mail. If the custodian believes the record or information requested is not a public record or is exempt, the custodian shall justify withholding any record by demonstrating, in writing as soon as possible and within ten days following receipt of a request, that the record in question is exempt under express provisions of this ordinance.

(c) A custodian of a public record shall assist a requester in identifying the existence, form, and nature of any records or information maintained by, available to, or in the custody of the custodian, whether or not the contents of those records are exempt from disclosure and shall, when requested to do so, provide in writing within seven days following receipt of a request, a statement as to the existence, quantity, form and nature of records relating to a particular subject or questions with enough specificity to enable a requester to identify records in order to make a request under (b). A custodian of any public record, when not in possession of the record requested, shall assist a requester in directing a request to the proper office or staff person.

SEC. 67.25. IMMEDIACY OF RESPONSE.

(a) Notwithstanding the 10-day period for response to a request permitted in Government Code Section 6256 and in this Article, a written request for information described in any category of non-exempt public information shall be satisfied no later than the close of business on the day following the day of the request. This deadline shall apply only if the words "Immediate Disclosure Request" are placed across the top of the request and on the envelope, subject line, or cover sheet in which the request is transmitted. Maximum deadlines provided in this article are appropriate for more extensive or demanding requests, but shall not be used to delay fulfilling a simple, routine or otherwise readily answerable request.



SUNSHINE ORDINANCE TASK FORCE

1 Dr. Carlton B. Goodlett Place, Room 244, San Francisco CA 94102

Tel. (415) 554-7724; Fax (415) 554-7854

http://www.sfgov.org/sunshine

SUNSHINE ORDINANCE COMPLAINT

Complaint against which Department or Commission SAN FRANCISCO PUBLIC LIBRARY

Name of individual contacted at Department or Commission LUIS HERRERA, CITY LIBRARIAN

- Alleged violation public records access
- Alleged violation of public meeting. Date of meeting _____

Sunshine Ordinance Section 67.21(c), 67.21(d), 67.21(e)
(If known, please cite specific provision(s) being violated)

Please describe alleged violation. Use additional paper if needed. Please attach any relevant documentation supporting your complaint.

PLEASE SEE ATTACHED

Do you want a public hearing before the Sunshine Ordinance Task Force? yes no
Do you also want a pre-hearing conference before the Complaint Committee? yes no

(Optional) Name RAY WHARTZ, JR Address 839 LEMMENWORTH ST #304 SAN FRANCISCO CA 94109

Telephone No. (415) 345-9144 E-Mail Address RWHARTZ.JR@SBCGLOBAL.NET

Date 10/4/11 Ray Whartz
Signature

I request confidentiality of my personal information. yes no

¹ NOTICE: PERSONAL INFORMATION THAT YOU PROVIDE MAY BE SUBJECT TO DISCLOSURE UNDER THE CALIFORNIA PUBLIC RECORDS ACT AND THE SUNSHINE ORDINANCE, EXCEPT WHEN CONFIDENTIALITY IS SPECIFICALLY REQUESTED. YOU MAY LIST YOUR BUSINESS/OFFICE ADDRESS, TELEPHONE NUMBER AND E-MAIL ADDRESS IN LIEU OF YOUR HOME ADDRESS OR OTHER PERSONAL CONTACT INFORMATION. Complainants can be anonymous as long as the complainant provides a reliable means of contact with the SOTF (Phone number, fax number, or e-mail address).

Wednesday, October 05, 2011

On Thursday, July 21, 2011 and Immediate Disclosure Request was filed with Luis Herrera, City Librarian. The request was for assistance in identifying documents in Mr. Herrera's custody which would provide information relating to the financial relationship between the Friends of the San Francisco Public Library and the San Francisco Public Library. On Monday, July 25, 2011, I contacted Ms. Blackman, Secretary of the Library Commission regarding this request which was delegated to her by Mr. Herrera. I attempted to clarify that my request was specifically for assistance in identifying documents, which would enable me to make a specific request for specific documents.

Ms. Blackman responded by close of day on Monday, July 25, 2011. Her response contained nothing of substance responsive to the request. One of the documents did contain information which helped me frame a request for two specific documents, subsequently received, which are not part of this complaint. Other documents provided were for time periods not requested and included other information not responsive to my request. In fact, two of the four documents provided were items I had specifically told Ms. Blackman by telephone I did not want! In addition, Ms. Blackman invoked a 14 day extension to answer the request without making any good-faith effort to assist me in limiting the request. My intent was, and remains, acquiring public records in the least demanding and/or complicated way possible. It was never my intent to ask for everything, but to get assistance in identifying documents which would provide needed information with minimal use of city resources.

Ms. Blackman subsequently provided additional documents which were responsive to the request. However, Ms. Blackman at no time provided assistance in identifying documents to enable me to frame a request as required by the Sunshine Ordinance, but, picked selected documents by some means quite unclear to me. She has placed me in the position of playing some guessing game as to how to identify what documents are available and responsive to this request.

The Ordinance section 67.21 (and my IDR quoting same) clearly indicates the responsibility that a custodian of records has in providing assistance in *"identifying the existence, form, and nature of any records or information maintained by, available to, or in the custody of the custodian, whether or not the contents of those records are exempt from disclosure and shall, when requested to do so, provide in writing within seven days of a request, a statement as to the existence, quantity, form and nature of records relating to a particular subject or questions with enough specificity to enable a requester to identify records in order to make a request under (b). A custodian of any public record, when not in possession of the record requested, shall assist a requester in directing a request to the proper office or staff person."*

It is my contention that other documents exist, either in Ms. Blackman's custody as Secretary of the Library Commission and/or the custody of Luis Herrera, the City Librarian, which are responsive to my request.

This complaint is specifically against Luis Herrera, to whom the request was submitted. Mr. Herrera delegated the response to Ms. Blackman and she subsequently failed to respond appropriately or on a timely basis. In fact, Ms. Blackman lacks the authority to respond to a public records request as she has without the approval and/or direction of Mr. Herrera.

IMMEDIATE DISCLOSURE REQUEST

Thursday, July 21, 2011

Luis Herrera, City Librarian

Mr. Herrera,

In accordance with Sunshine Ordinance Sec 67.21, I am requesting your assistance in "identifying the existence, form, and nature of any records or information maintained by, available to, or in the custody of the custodian, whether or not the contents of those records are exempt from disclosure and shall, when requested to do so, provide in writing within seven days of a request, a statement as to the existence, quantity, form and nature of records relating to a particular subject or questions with enough specificity to enable a requester to identify records in order to make a request under (b). A custodian of any public record, when not in possession of the record requested, shall assist a requester in directing a request to the proper office or staff person."

This request is for documents regarding the financial relationship of the San Francisco Public Library with the Friends of the San Francisco Public Library. Specifically the amounts raised by the Friends of the San Francisco Public Library during the fiscal years 2008 to 2009 and 2009 to 2010 and the amounts received by the San Francisco Public Library from the Friends of the San Francisco Public Library during those same periods. The figures relating to receipts by the San Francisco Public Library should contain enough information to ascertain the exact value, either in cash or in kind of all monies and/or materials actually received by the library during the two fiscal years indicated.

Sincerely,

Ray W. Hartz, Jr.

839 Leavenworth St, Apt 304

San Francisco CA 94109-6131

(415) 345-9144

www.ciobcaioabai.net

COPY

IMMEDIATE DISCLOSURE REQUEST



RE: #11083_Ray Hartz vs Luis Herrera, Public Library
Sue A. Blackman to: sotf@sfgov.org, rwhartzjr@sbcglobal.net
Cc: Luis Herrera

11/18/2011 12:08 PM

History: This message has been forwarded.

2 attachments



final 7.25.11.doc 8.4.11 response.doc

November 18, 2011

Members, Sunshine Ordinance Task Force
c/o Chris Rustom
City Hall, Room 244
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102-4689

Re: Complaint #11083 Ray W. Hartz v. Library Commission

Dear Task Force Members:

This letter responds to Complaint #11083, which was signed by Ray Hartz on October 4, 2011 and sent to the San Francisco Public Library "SFPL" on October 14, 2011.

For the reasons set forth below, the complaint is without merit and should be dismissed.

The Complaint

Mr. Hartz filed a similar complaint (Complaint #11055) with the Task Force regarding this same Immediate Disclosure Request on July 26, 2011. The Task Force heard Complaint #11055 on August 23, 2011 and no motion was made on the item and the matter was concluded.

The complaint alleges that Luis Herrera, the SFPL Librarian, violated Section 67.21 (c), (d) and (e) of the Administrative Code for failure to assist a member of the public's request for assistance in identifying documents in the Library's custody and for failure to respond appropriately or on a timely basis.

On Thursday evening, July 21, 2011 at the Library Commission an Immediate Disclosure Request (IDR) was handed to the City Librarian by Mr. Hartz. SFPL acknowledged Mr. Hartz' request on Monday, July 25, 2011 and provided Mr. Hartz with two separate PowerPoint presentations and the Public-Private Support and Cooperation Framework for Branch Library Improvement Program (Framework document). We also identified another document, the Annual Report for 2007-08 and 2008-09 by SFPL and the Friends of SFPL, which he might be interested in perusing. While SFPL requested a 14-day extension to identify additional types of documents that SFPL might have, SFPL did in fact respond to Mr. Hartz' request in an appropriate and timely manner.

Mr. Hartz responded on July 26, 2011 stating that our response was non-responsive. We replied on July 16, 2011 and disagreed with Mr. Hartz'

characterization of our timely response. Notwithstanding Mr. Hartz' allegations, SFPL continued to research his request.

Based on documents SFPL provided i.e. the two PowerPoint presentations and Framework document, Mr. Hartz submitted a subsequent IDR on July 28, 2011. Mr. Hartz' July 28, 2011 IDR referred to the Framework document and requested the Friends' "independently prepared audits" for years 2008, 2009 and 2010. We responded to his request the following day on July 29, 2011, with the "independently prepared audits" documents: The Friends and Foundation of the San Francisco Public Library/Financial Statements for the Years Ended June 30, 2010 and 2009/Report of Independent Auditors," and "The Friends and Foundation of the San Francisco Public Library/Financial Statements for the Years Ended June 30, 2009 and 2008/Report of Independent Auditors."

On August 4, 2011, (see attached) we followed up again and listed four additional documents which might be responsive to his first request.

Mr. Hartz states that "it is my contention that other documents exist, either in Ms. Blackman's custody as Secretary of the Library Commission and/or the custody of Luis Herrera, the City Librarian, which are responsive to my request." The Library has provided Mr. Hartz with documents responsive to his request and is not aware of any other documents that might be responsive to his request.

Conclusion

The Library believes it has fully complied with Administrative Code Section 67.21(c) in assisting Mr. Hartz to identify records and information that are responsive to his request or purpose of his request and we believe this Complaint should be dismissed.

We hope this letter will be of assistance to the Task Force. If I can be of further assistance with respect to this Complaint, please do not hesitate to contact me.

Sincerely,

Sue Blackman
Custodian of Records,
Library Commission Secretary

-----Original Message-----

From: sotf@sfgov.org [mailto:sotf@sfgov.org]
Sent: Thursday, November 17, 2011 11:07 AM
To: rwhartzjr@sbcglobal.net
Cc: Luis Herrera; Sue A. Blackman
Subject: #11083_Ray Hartz vs Luis Herrera, Public Library

Due to an increase in the amount of complaints received within the last two months, the Task Force is requesting that your complaint be heard at a later regular or special meeting date. Please let me know if you can accommodate the request.

Chris Rustom
Sunshine Ordinance Task Force
City Hall, Rm. 244, San Francisco, CA 94102 sotf@sfgov.org, (415) 554-7724;
fax: (415) 554-7854

Official SFPL Use Only

Official SFPL use only

July 25, 2011

Ray W. Hartz, Jr.
839 Leavenworth Street, Apt. 304
San Francisco, CA 94109-6131
Via email: rwhartzir@sbcglobal.net

Re: Immediate Disclosure Request

Dear Mr. Hartz:

I am writing in response to your immediate disclosure request hand delivered at the Library Commission meeting on Thursday, July 21, 2011. In order for the Library to more efficiently respond to any requests in the future, please see the attached Procedures for Public Records Request.

Your request is not "simple, routine or otherwise readily answerable" and does not meet the criteria for "immediate disclosure" under the San Francisco Sunshine Ordinance. (S.F. Adm. Code Sec. 67.25(a).) Accordingly, it is a standard public records request not subject to the expedited time limit for response that applies to an immediate disclosure request. Further, we must invoke an extension of 14 days because your request is voluminous, and we will have to retrieve records from off-site storage to respond to the request (Cal. Gov. Code Sec. 6253(c)).

In your request you ask for assistance in accordance with Sunshine Ordinance Sec. 67.21 in identifying "documents regarding the financial relationship of the San Francisco Public Library (SFPL) with the Friends (Friends) of the San Francisco Public Library. Specifically the amounts raised by the Friends during the fiscal years 2008 to 2009 and 2009 to 2010 and the amounts received by the SFPL from the Friends during those same periods. The figures relating to receipts by the SFPL should contain enough information to ascertain the exact value, either in case or in kind of all monies and/or materials actually received by the library during the two fiscal years indicated."

The Library is conducting a diligent search to identify documents responsive to your request. We have located two PowerPoint presentations given by the Friends to the Library Commission on March 5, 2009 and February 3, 2011, which are attached. Also attached is the Public-Private Support and Cooperation Framework for Branch Library Improvement Program and Neighborhood Library Campaign, "Framework" between SFPL and Friends. Other documents available are the 2007-08, 2008-09 Annual Report of the SFPL and Friends.

If you have further questions about this matter, please feel free to contact me.

Sincerely,

Sue Blackman
Library Commission Secretary/
Custodian of Records

August 4, 2011

Ray W. Hartz, Jr.
839 Leavenworth Street, Apt. 304
San Francisco, CA 94109-6131
Via email: rwhartzir@sbcglobal.net

Re: Immediate Disclosure Request

Dear Mr. Hartz:

I am writing in response to your immediate disclosure request hand delivered at the Library Commission meeting on Thursday, July 21, 2011. On July 25, 2011 we responded and provided you with several documents: two PowerPoint presentations given by the Friends to the Library Commission on March 5, 2009 and February 3, 2011 and the Public-Private Support and Cooperation Framework for Branch Library Improvement Program and Neighborhood Library Campaign. We also asked for a 14 day extension to allow us time to identify additional documents, which would be responsive to your request.

In your request you ask for assistance in accordance with Sunshine Ordinance Sec. 67.21 in identifying "documents regarding the financial relationship of the San Francisco Public Library (SFPL) with the Friends (Friends) of the San Francisco Public Library. Specifically the amounts raised by the Friends during the fiscal years 2008 to 2009 and 2009 to 2010 and the amounts received by the SFPL from the Friends during those same periods. The figures relating to receipts by the SFPL should contain enough information to ascertain the exact value, either in cash or in kind of all monies and/or materials actually received by the library during the two fiscal years indicated."

You followed up with another Immediate Disclosure Request on July 28, 2011 requesting the "independently prepared audits" for fiscal years 2008-09 and 2009-10." We responded to your request on July 29, 2011 with the documents you requested.

The Library has conducted a diligent search and has identified four additional documents which may be responsive to your request. These documents are the Friends Grant Funding Report; Check Voucher Register; Temporary Restricted Fund Balance and Traditionally Funded Grants.

If you have further questions about this matter, please feel free to contact me.

Sincerely,

Sue Blackman
Library Commission Secretary/
Custodian of Records



Re: #11083_Ray Hartz vs Luis Herrera, Public Library

Ray Hartz Jr

to:

Sue A. Blackman, sotf@sfgov.org

11/18/2011 02:29 PM

Cc:

Luis Herrera

Hide Details

From: Ray Hartz Jr <rwhartzjr@sbcglobal.net>

To: "Sue A. Blackman" <sblackman@sfpl.org>, "sotf@sfgov.org" <sotf@sfgov.org>

Cc: Luis Herrera <lherrera@sfpl.org>

November 18, 2011

Members, Sunshine Ordinance Task Force
c/o Chris Rustom
City Hall, Room 244
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102-4689

Re: Complaint #11083 Ray W. Hartz v. Library Commission

Dear Task Force Members:

In reference to the attached request from the City Librarian to dismiss this case, I would simply reply that the facts of the case have changed. While I felt at the time of the original case (and still do) that my complaint was valid, the Task Force declined to act. Subsequent events relating to the original request and the City Librarians response have altered significantly. This presented the need to file the new case.

This is a new case with new facts, and, as such, should not be dismissed.

Sincerely,

Ray W. Hartz, Jr.

Director, San Francisco Open Government

From: Sue A. Blackman <sblackman@sfpl.org>
To: "sotf@sfgov.org" <sotf@sfgov.org>; "rwhartzjr@sbcglobal.net" <rwhartzjr@sbcglobal.net>
Cc: Luis Herrera <lherrera@sfpl.org>
Sent: Fri, November 18, 2011 12:08:35 PM
Subject: RE: #11083_Ray Hartz vs Luis Herrera, Public Library

November 18, 2011

Members, Sunshine Ordinance Task Force
c/o Chris Rustom
City Hall, Room 244
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102-4689

Re: Complaint #11083 Ray W. Hartz v. Library Commission

Dear Task Force Members:

This letter responds to Complaint #11083, which was signed by Ray Hartz on October 4, 2011 and sent to the San Francisco Public Library "SFPL" on October 14, 2011.

For the reasons set forth below, the complaint is without merit and should be dismissed.

The Complaint

Mr. Hartz filed a similar complaint (Complaint #11055) with the Task Force regarding this same Immediate Disclosure Request on July 26, 2011. The Task Force heard Complaint #11055 on August 23, 2011 and no motion was made on the item and the matter was concluded.

The complaint alleges that Luis Herrera, the SFPL Librarian, violated Section 67.21 (c), (d) and (e) of the Administrative Code for failure to assist a member of the public's request for assistance in identifying documents in the Library's custody and for failure to respond appropriately or on a timely basis.

On Thursday evening, July 21, 2011 at the Library Commission an Immediate Disclosure Request (IDR) was handed to the City Librarian by Mr. Hartz. SFPL acknowledged Mr. Hartz' request on Monday, July 25, 2011 and provided Mr. Hartz with two separate PowerPoint presentations and the Public-Private Support and Cooperation Framework for Branch Library Improvement Program (Framework document). We also identified another document, the Annual Report for 2007-08 and 2008-09 by SFPL and the Friends of SFPL, which he might be interested in perusing. While SFPL requested a 14-day extension to identify additional types of documents that SFPL might have, SFPL did in fact respond to Mr. Hartz' request in an appropriate and timely manner.

Mr. Hartz responded on July 26, 2011 stating that our response was non-responsive. We replied on July 16, 2011 and disagreed with Mr. Hartz' characterization of our timely response. Notwithstanding Mr. Hartz' allegations, SFPL continued to research his request.

Based on documents SFPL provided i.e. the two PowerPoint presentations and Framework document, Mr. Hartz submitted a subsequent IDR on July 28, 2011. Mr. Hartz' July 28, 2011 IDR referred to the Framework document and requested the Friends' "independently prepared audits" for years 2008, 2009 and 2010. We responded to his request the following day on July 29, 2011, with the "independently prepared audits" documents: The Friends and Foundation of the San Francisco Public Library/Financial Statements for the Years Ended June 30, 2010 and 2009/Report of Independent Auditors," and "The Friends and Foundation of the San Francisco Public Library/Financial Statements for the Years Ended June 30, 2009 and 2008/Report of Independent Auditors."

On August 4, 2011, (see attached) we followed up again and listed four additional documents which might be responsive to his first request.

Mr. Hartz states that "it is my contention that other documents exist, either in Ms. Blackman's custody as Secretary of the Library Commission and/or the custody of Luis Herrera, the City Librarian, which are responsive to my request." The Library has provided Mr. Hartz with documents responsive to his request and is not aware of any other documents that might be responsive to his request.

Conclusion

The Library believes it has fully complied with Administrative Code Section 67.21(c) in assisting Mr. Hartz to identify records and information that are responsive to his request or purpose of his request and we believe this Complaint should be dismissed.

We hope this letter will be of assistance to the Task Force. If I can be of further assistance with respect to this Complaint, please do not hesitate to contact me.

Sincerely,

Sue Blackman
Custodian of Records,
Library Commission Secretary

-----Original Message-----

From: sotf@sfgov.org [mailto:sotf@sfgov.org]
Sent: Thursday, November 17, 2011 11:07 AM
To: rwhartzjr@sbcglobal.net
Cc: Luis Herrera; Sue A. Blackman
Subject: #11083_Ray Hartz vs Luis Herrera, Public Library

Due to an increase in the amount of complaints received within the last two months, the Task Force is requesting that your complaint be heard at a later regular or special meeting date. Please let me know if you can accommodate the request.

Chris Rustom

Sunshine Ordinance Task Force

City Hall, Rm. 244, San Francisco, CA 94102 sotf@sfgov.org, (415) 554-7724, fax: (415) 554-7854

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