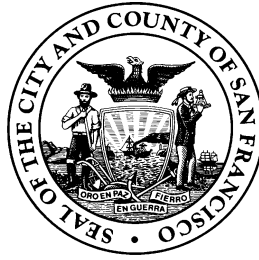


**SUNSHINE ORDINANCE
TASK FORCE**



**City Hall
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San Francisco 94102-4689
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March 3, 2014

San Francisco Ethics Commission
25 Van Ness Avenue, Suite 220
San Francisco, CA 94102

**Re: Sunshine Ordinance Task Force (SOTF) referral to the Ethics Commission –
Dominic Maionchi against Phil Ginsburg, Director, Recreation and Park
Department (Sunshine Ordinance Complaint No. 12058)**

Dear Ethics Commission:

On May 1, 2013, the Task Force heard Complaint No. 12058, by Dominic Maionchi (Complainant) against Recreation and Parks Department (Respondent). The Complainant alleged that the Recreation and Parks Department failed to timely respond to his November 22, 2012, records request, and that they also failed to provide unredacted copies of the records requested pertaining to berthing contracts between the City and County of San Francisco and slip holders.

Dominic Maionchi appeared before the Task Force and presented his claim. Respondent, Olive Gong, Custodian of Records, Recreation and Park Department presented the department's defense. The issue in the case was whether the Recreation and Park Department violated Sections 67.21 and 67.24 of the Ordinance and/or Sections 6253 of the California Public Records Act.

Based on the testimony and evidence presented, the Task Force found the testimony of Complainant to be persuasive and finds Sections 67.26 of the Sunshine Ordinance to be applicable in this case. The Task Force does not find testimony provided by the Respondent persuasive with regard to alleged violation of Section 67.26. An Order of Determination was issued on June 12, 2013.

At the July 16, 2013, Compliance and Amendments Committee Mr. Maionchi provided an update on the June 12, 2013, Order of Determination from the May 1, 2013, SOTF meeting. Mr. Maionchi stated that the Respondent provided the same documents provided in original records request, which do not comply with the Order of Determination. Olive Gong, Recreation and Park (Respondent), stated the California

Government Code upholds the department's decision to redact documents provided to the Complainant and not disclose others.

Member Knee, seconded by Member Grant, moved to refer the matter back to the Task Force with a recommendation of referral to Ethics Commission for enforcement for violating Sunshine Ordinance Sections 67.34, 67.26 and 67.21(i); for the Chair to draft a letter to the City Attorney stating the Recreation and Park's attorney is in violation of Sunshine Ordinance Section 67.21 (i).

At the November 6, 2013, SOTF meeting Mr. Maionchi provided an update and overview of the complaint. Olive Gong, Recreation and Park (Respondent), provided an overview of Recreation and Park's defense; reiterating the department is not in violation according to their interpretation and the department policy to not disclose addresses.

Member Knee, seconded by Member Oka, moved to find the Recreation and Park Department in violation of the Sunshine Ordinance as determined in the Order of Determination (Sections 67.21(e), 67.24(g) and 67.34); referral to the Ethics Commission for enforcement specifically naming Phil Ginsburg, Director, Recreation and Park Department responsible.

This request and referral is made under Section 67.30(c) whereby the Task Force shall make referrals to a municipal office with enforcement power under the Sunshine Ordinance or under the California Public Records Act and the Brown Act whenever it concludes that any person has violated any provisions of this Ordinance or the Acts.

Thank you for your timely attention to this matter. A description of the Task Force hearing, violations found, and decision are described in the attached Order of Determination. Please contact the Sunshine Ordinance Task Force Administrator at soft@sfgov.org or (415) 554-7724 with any questions or concerns.



Kitt Grant, Chair
Sunshine Ordinance Task Force

Encl.

- c: Dominic Maionchi, Complainant
- Olice Gong, Recreation and Park Department
- Phil Ginsberg, General Manager, Recreation and Park Department
- Nicholas Colla, Deputy City Attorney
- Jerry Threet, Deputy City Attorney



ORDER OF DETERMINATION

June 12, 2013

DATE THE DECISION ISSUED

May 1, 2013

DOMINIC MAIONCHI V. RECREATION AND PARKS DEPARTMENT (CASE NO. 12058)

FACTS OF THE CASE

Complainant Dominic Maionchi ("Complainant") alleges that the Recreation and Parks Department ("the Department") failed to timely respond to his November 22, 2012 records request, and that they also failed to provide unredacted copies of the records requested.

COMPLAINT FILED

On December 12, 2012, Complainant filed this complaint against the Department, alleging violations of Sections 67.21 (b), 67.24(e)(1), and 67.24(i) of the Ordinance.

HEARING ON THE COMPLAINT

On May 1, 2013, Complainant, Dominic Maionchi appeared before the Task Force and presented his claim. Respondent, Olive Gong, Custodian of Records, Recreation and Park Department presented Recreation and Park Department's defense.

The issue in the case is whether Recreation and Park Department violated Sections 67.21 and 67.24 of the Ordinance and/or Sections 6253 of the California Public Records Act.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Based on the testimony and evidence presented the Task Force finds that the testimony of Complainant, Dominic Maionchi to be persuasive and finds that Section 67.26 of the Sunshine Ordinance to be applicable in this case. The Task Force does not find the testimony provided by Respondent, Olive Gong persuasive with regard to alleged violation of Section 67.26.

DECISION AND ORDER OF DETERMINATION

The Task Force finds that Recreation and Park Department violated Section 67.26 of the Sunshine Ordinance for illegal redaction of personal information contained in public records. The agency shall release the unredacted records requested within 5 business days of the issuance of this Order and appear before the Compliance and Amendments Committee on July 16, 2013.

This Order of Determination was adopted by the Sunshine Ordinance Task Force on May 1, 2013, by the following vote: (Knee / Hyland)

Ayes: Knee, Pilpel, Sims, Hyland, Oka, Fischer, Grant

Noes: David

Absent: Washburn



Kitt Grant, Chair
Sunshine Ordinance Task Force

c: Jerry Threet, Deputy City Attorney
Dominic Maionchi, Complaint
Olive Gong, Recreation and Park Department, Respondent