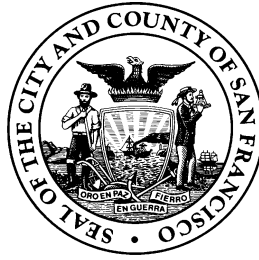


**SUNSHINE ORDINANCE  
TASK FORCE**



**City Hall  
1 Dr. Carlton B. Goodlett Place, Room 244  
San Francisco 94102-4689  
Tel. No. (415) 554-7724  
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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 –  
Ray Hartz Jr. against Luis Herrera, City Librarian (Sunshine Ordinance Complaint  
No. 13013)**

Dear Ethics Commission:

On July 9, 2013, the Sunshine Ordinance Task Force heard Complaint No. 13013, by Ray Hartz Jr. (Complainant) against Luis Herrera, City Librarian (Respondent). The Complainant alleged that the Respondent violated the Sunshine Ordinance by failing to provide equal access to members of the public to Library audiovisual equipment for use during public comment at Library Commission meetings, thereby abridging their speech.

Mr. Hartz appeared before the Task Force and presented his claim. Respondents Sue Blackman, Library Commission Secretary, and Roberto Lombardi, Library Logistics, presented the Library's defense. The issue in the case was whether the Agency violated Sunshine Ordinance Section 67.15 of the Ordinance.

Based on the testimony and evidence presented, the Task Force found the testimony of Mr. Hartz to be persuasive and finds Sections 67.15(a) and 67.15(d) of the Ordinance to be applicable in this case. The Task Force does not find testimony provided by the Library persuasive to this case. An Order of Determination was issued on August 19, 2013.

At the September 17, 2013, the Compliance and Amendments Committee, Mr. Hartz provided an update on the August 19, 2013, Order of Determination from the July 9, 2013, SOTF meeting. Mr. Hartz stated the Library has not allowed access to its audio visual equipment, failing to comply with the Order of Determination. Michael Jeffers, Library (Respondent), referred the committee to the Library's letter dated September 12, 2013, stating the Library Commission voted 6-0 to bar use of Library-provided audio-visual equipment for public comment, because allowing members of the public to use audio-visuals during public comment would require the Library to expend significant

resources to make the necessary accommodations to modify the technology set up that the Library uses.

Member Grant, seconded by Chair Washburn, moved to refer the matter back to the Task Force with notice to be sent requiring the City Librarian to attend the Task Force's next proceedings on the matter; recommendation of referral to Ethics Commission.

At the October 2, 2013, SOTF meeting Mr. Hartz provided an updated and overview of the complaint. Sue Blackman, Library Commission Secretary (Respondent), provided an overview of the department's defense.

**Member Washburn, seconded by Member David, moved to find Luis Herrera, City Librarian, in violation of the Sunshine Ordinance as determined in the Order of Determination; referral to the Ethics Commission and the Board of Supervisors for enforcement.**

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 [sof@sfgov.org](mailto:sof@sfgov.org) or (415) 554-7724 with any questions or concerns.



Kitt Grant, Chair  
Sunshine Ordinance Task Force

Encl.

c: Ray Hartz Jr., Complainant  
Luis Herrera, City Librarian  
Sue Blackman, Library Commission  
Nicholas Colla, Deputy City Attorney  
Jerry Threet, Deputy City Attorney



## **ORDER OF DETERMINATION**

August 19, 2013

### **DATE THE DECISION ISSUED**

July 9, 2013

*RAY HARTZ VS. CITY LIBRARIAN LUIS HERRERA (13013)*

### **FACTS OF THE CASE**

Ray Hartz ("Complainant") alleges that the City Librarian, Luis Herrera (the "Librarian") violated the Ordinance by failing to provide equal access to members of the public to Library audiovisual equipment for use during public comment at Library Commission meetings, thereby abridging their speech.

### **COMPLAINT FILED**

On March 4, 2013, Complainant filed a complaint with the Task Force alleging a violation of Section 67.15 of the Ordinance.

### **HEARING ON THE COMPLAINT**

On July 9, 2013, Complainant, Mr. Hartz appeared before the Task Force and presented his claim. Respondents Sue Blackman, Library Commission Secretary and Roberto Lombardi, Library Logistics presented the Library's defense.

The issue in the case is whether the Agency violated Section 67.15 of the Ordinance.

### **FINDINGS OF FACT AND CONCLUSIONS OF LAW**

Based on the testimony and evidence presented the Task Force finds the testimony of Complainant Mr. Hartz to be persuasive and finds that Sections 67.15(a) and 67.15(d) to be applicable in this case. The Task Force does not find testimony provided by the Library persuasive to this case.

### **DECISION AND ORDER OF DETERMINATION**

The Task Force finds that the Library Commission violated Section 67.15(a) and 67.15(b) of the Sunshine Ordinance for abridging public comment by not providing equal access to audio visual equipment by invited parties and the public. The Library Commission shall provide equal access to its audio visual equipment and appear before the Compliance and Amendments Committee on September 17, 2013 for a hearing on its compliance with this Order.

This Order of Determination was adopted by the Sunshine Ordinance Task Force on July 9, 2013 by the following vote: (Sims/Oka)  
Ayes: Knee, Washburn, Sims, David, Hyland, Oka, Fischer, Grant  
Noes: Pilpel



Kitt Grant, Chair  
Sunshine Ordinance Task Force

c: Jerry Threet, Deputy City Attorney  
Ray Hartz, Jr., Complaint  
Sue Blackman, Library Commission Secretary, Respondent  
Roberto Lombardi, Library Logistics, Respondent