

**SUNSHINE ORDINANCE
TASK FORCE**



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**ORDER OF DETERMINATION
March 30, 2015**

DATE DECISION ISSUED
March 4, 2015

CASE TITLE - Thomas Picarello v. San Francisco Fire Department. (File No. 15010)

FACTS OF THE CASE

Thomas Picarello (Complainant) made a complaint alleging that the San Francisco Fire Department (Respondent) violated provisions of the Sunshine Ordinance by failing to adequately respond to an Immediate Disclosure Request in a timely and/or complete manner.

COMPLAINT FILED

On February 12, 2015, Mr. Picarello filed a complaint with the Sunshine Ordinance Task Force (Task Force).

HEARING ON THE COMPLAINT

On March 4, 2015, Mr. Picarello appeared before the Task Force and presented his claim. Rob Baugh, Fire Department, and Captain Darmanin, Bureau of Fire Investigation, appeared before the Task Force and presented the department's position. The Respondents stated that the Fire Department considers the Bureau of Fire Investigation as a separate entity in regards to public records request.

The issue in the case was whether Administrative Code (Sunshine Ordinance) Sections 67.21, 67.25, and 67.27 and California Government Code, Section 6254 were violated.

FINDINGS OF FACT AND CONCLUSION OF LAW

Based on the testimony and evidence presented, the Task Force finds the testimony of Mr. Picarello to be persuasive and finds Administrative Code (Sunshine Ordinance) Sections 67.21(c), 67.25(a), and 67.27 to be applicable to this case. The Task Force does not find the testimony provided by the Respondents persuasive to this case.

DECISION AND ORDER OF DETERMINATIONS

The Task Force finds the San Francisco Fire Department in violation of Administrative Code (Sunshine Ordinance) Sections 67.21(c) for failure to identify public records that were withheld, 67.25(a) for failure to respond to a public records request in a timely manner, and 67.27 for failure to justify the reason for withholding certain records.

The Task Force believes that an additional investigation is required in the future to determine the relationship between the San Francisco Fire Department and the Bureau of Fire Investigation in regards to public records.

Chair Washburn referred the matter to the Compliance and Amendments Committee and directed the Respondents to provide all public records related to Mr. Picarello's public records request within 5 business days of the issue of this Order of Determination. The records shall include, but not be limited to, email communications, photographs, reports, and any other related public record.

The Task Force requests a review of the basis for the redaction of the reports related to the public records request.

The Task Force requests a review of the source of the public records (email, files, reports, etc.) and the method the Fire Department used to search for the requested for public record. It should be noted that not all public records are located in a "file" and that all documents such as communication, emails, and photos are considered public records.

The Task Force requests the Fire Department be prepared to discuss the separations of the Bureau of Fire Investigation in terms of functions and responding to request for public records.

This Order of Determination was adopted by the Sunshine Ordinance Task Force on March 4, 2015.

Violation of Administrative Code (Sunshine Ordinance), Sections 67.21c and 67.25a, PASSED by the following vote:

Ayes: 9 - Rumold, Wolf, Pilpel, Hepner, David, Fischer, Hinze, Hyland, Washburn

Noes: 0 - None

Absent: 2 - Winston, Chopra

Violation of Administrative Code (Sunshine Ordinance), Section 67.27, PASSED by the following vote:

Ayes: 8 - Wolf, Pilpel, Hepner, David, Fischer, Hinze, Hyland, Washburn

Noes: 1 - Rumold

Absent: 2 - Winston, Chopra



Allyson Washburn, Chair
Sunshine Ordinance Task Force

- c. Members, Sunshine Ordinance Task Force
- Nicholas Colla, Deputy City Attorney
- Thomas Picarello, Complainant
- Rhab Baugh, Fire Department
- Captain Darmanin, Bureau of Fire Investigation