

Date: May 11, 2010

Item No. 6
File No. 10017

SUNSHINE ORDINANCE TASK FORCE
COMPLAINT COMMITTEE
AGENDA PACKET CONTENTS LIST*

- Jurisdiction; Ray Hartz against the Rent Board**
-
-
-
-
-
-
-
-
-
-

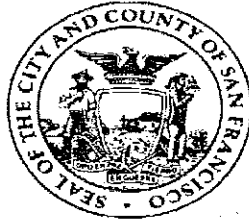
Completed by: Chris Rustom

Date: May 06, 2010

***This list reflects the explanatory documents provided**

~ Late Agenda Items (documents received too late for distribution to the Task Force Members)

** The document this form replaces exceeds 25 pages and will therefore not be copied for the packet. The original document is in the file kept by the Administrator, and may be viewed in its entirety by the Task Force, or any member of the public upon request at City Hall, Room 244.



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 RESIDENTIAL REST STABILIZATION AND ARBITRATION BOARD

Name of individual contacted at Department or Commission DELENE WOLF

Alleged violation public records access
 Alleged violation of public meeting. Date of meeting FEB 23, 2010

Sunshine Ordinance Section 67.16 MINUTES
 (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.

A STATEMENT WAS SUBMITTED AT THE MEETING LIST ABOVE DURING PUBLIC COMMENT, THE STATEMENT WAS NOT INCLUDED IN THE MINUTES PER SECTION 67.16

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)¹
 Name RAY W HARTZ JR Address 839 LEWENWORTH ST #304

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

Date 4/10/10 Ray W Hartz Jr
 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).

February 23, 2010.

In accordance with the San Francisco sunshine ordinance of 1999, section 67.16 MINUTES, I ask the following statement be entered in the minutes of this meeting. From the above listed section: *"Any person speaking during the public comment period may supply a brief written summary of their comments, which shall, if no more than 150 words, be included in the minutes."*

I believe the process used by this board is unfair to all tenants with business before the board. I believe this is true for two primary reasons:

- 1. Throughout the process, tenants are denied the opportunity to present facts or arguments to the board for their consideration when reviewing and deciding the cases before it.**
- 2. There are two sets of rules for the operation of this board: one for landlords and another for tenants. Although the ordinance itself, and other materials provided by the rent board, are available to all parties, this is not true in regard to Rent Board policies. Board members, landlords and their representatives, and others dealing with this board on a regular basis are familiar with these policies. On the other hand, tenants are unaware of these policies and as such are at a distinct disadvantage, when appearing to argue their case.**

COPY



April 28, 2010

Sunshine Ordinance Task Force
1 Dr. Carlton B. Goodlett Place
Room 244
San Francisco, CA 94102-4689

RE: Sunshine Complaint Received: #10017 Ray Hartz v Rent Board

This complaint does not state a matter within the jurisdiction of the Sunshine Task Force, and so the Rent Board respectfully requests that it be dismissed. In his Sunshine Ordinance Complaint, Mr. Hartz states that the Rent Board violated Administrative Code section 67.16 of the Sunshine Ordinance by not including his written statement in the Board's minutes verbatim. However, the City Attorney has advised the Board that the written statement requirement found in Administrative Code section 67.16 only applies to boards and commissions "enumerated in the Charter," and does not apply to the Rent Board since it is not a Charter entity. (See the Good Government Guide at pages 97 and 124). Accordingly, the Rent Board contests jurisdiction over the complaint, and requests a prehearing conference in this matter on Tuesday May 11, 2010.

Sincerely,

A handwritten signature in cursive script, appearing to read "Delene Wolf".

Delene Wolf
Executive Director

Enclosures



- The roll call vote on each matter considered at the meeting;
- The time the board or commission began and ended any closed session;
- The names of members and the names and titles, where applicable, of any other person attending any closed session (other than the names of applicants or employees considered in closed session for employment or employee discipline);
- A list of the members of the public who spoke on each matter if the speakers identified themselves, whether in support or opposition; and
- A brief summary of each person's statement during the public comment.

Admin. Code § 67.16.

In addition, when a member has disclosed on the record a personal, professional, or business relationship as required by Section 3.214 of the Campaign and Governmental Conduct Code, that disclosure must be recorded in the minutes. See Part Two, Section II(F)(5) above.

There are no other requirements for the content of minutes, except for those that a policy body may impose on itself, for example, through its bylaws. There may be variations among policy bodies in the style, length, and content of the minutes of their respective meetings. Generally, the purpose of minutes is to record publicly the action of the policy body.

Any person speaking during a public comment period may supply a brief written summary of the comments that person made to the policy body. This summary must be included in the minutes if it is 150 words or fewer. Admin. Code § 67.16. Because this summary is not part of the official minutes adopted by the body, the summary may be included as an attachment to the minutes.

The draft minutes of each meeting must be available for public inspection and copying no later than 10 business days after the meeting. The officially adopted minutes must be available for inspection and copying no later than 10 business days after the meeting at which the minutes are adopted. If requested to do so, the body must produce the minutes in Braille or enlarged type. Admin. Code § 67.16. In addition, each board and commission must send two copies of its minutes to the Government Information Center at the San Francisco Public Library. Admin. Code § 87.16. Minutes must also be posted on the board or commission's Web site within 48 hours after approval. Admin. Code § 67.29-2.

sider applicants for employment or employee discipline, the minutes must not contain the names of the applicants or employee;

- A list of those members of the public who spoke on each matter if the speakers identified themselves, whether such speakers supported or opposed the matter; and a brief summary of each person's statement during the public comment; and
- Any person speaking during a public comment period may supply a brief written summary of their comments, which must, if limited to no more than 150 words, be included in, or appended to, the minutes.

2. TIMING

The policy body must:

- Make draft minutes available for inspection and copying no later than ten working days after the meeting.
- Make officially adopted minutes available for inspection and copying no later than ten working days after the meeting at which the minutes are adopted.
- If requested to do so, produce the minutes in any alternative format, including Braille or enlarged type.
- Send two copies of its minutes to the San Francisco Main Library Government Information Center.
- Post the minutes on the department's Web site within 48 hours after approval.

B. NON-CHARTER BOARDS AND COMMISSIONS

The Charter requires each board or commission to keep a record of the proceedings of each regular or special meeting indicating how each member voted on each question. Non-charter boards and commissions must keep that record, but are not required to comply with the format listed directly above.

C. COMMITTEES

Committees are not required to keep minutes of their meetings. We advise that committees keep brief minutes consisting of a record of attendance, actions taken and votes on those actions.

V. DISABLED ACCESS

These requirements apply to all policy bodies.

Each policy body must make any such disability-related modification or accommodation necessary, including providing auxiliary aids or services, to permit a person with a disability to participate in a public meeting. Such accommodations include, but are not limited to:

- Making an agenda available in an appropriate alternative format, upon request;
 - Providing sign language interpreters or note-takers, upon request;
-



May 5, 2010

Sunshine Ordinance Task Force
City Hall, Room 244
One Dr. Carlton B. Goodlett Place
San Francisco, CA 94102-4689

RE: Rent Board Supplemental Response to Complaint Filed by Ray Hartz, SOTF #10017

To the Sunshine Ordinance Task Force:

This letter supplements the initial response of the Residential Rent Stabilization and Arbitration Board (Rent Board) dated April 28, 2010 regarding the above-noted matter, and further explains the status of the Rent Board.

The complaint alleges that the Rent Board is in violation of City Administrative Code/Sunshine Ordinance §67.16, because Complainant Hartz submitted written public comment of 150 words or less at a Rent Board meeting, and that document was not subsequently appended to the minutes of that meeting.

The Rent Board is established by ordinance, codified in the City's Administrative Code Chapter 37 "Residential Rent Stabilization and Arbitration Board." The Rent Board is not created by or otherwise "enumerated in" the City's Charter.

Administrative Code/Sunshine Ordinance §67.16 provides that:

"The clerk or secretary of each board and commission enumerated in the Charter shall record the minutes for each regular and special meeting of the board or commission. The minutes shall state the time the meeting was called to order, the names of the members attending the meeting, the roll call vote on each matter considered at the meeting, the time the board or commission began and ended any closed session, the names of the members and the names, and titles where applicable, of any other persons attending any closed session, a list of those members of the public who spoke on each matter if the speakers identified themselves, whether such speakers supported or opposed the matter, a brief summary of each person's statement during the public comment period for each agenda item, and the time the meeting was adjourned. Any person speaking during a public comment period may supply a brief written summary of their comments which shall, if no more than 150 words, be included in the minutes.


.....
(Emphasis added.)



Since the Rent Board is not a board or commission that is "enumerated in the Charter," Administrative Code/Sunshine Ordinance §67.16, by its own terms, does not apply to the Rent Board or to the Rent Board minutes of meetings. The Rent Board is not required by Section 67.16 to append submitted written public comment of 150 words or less to the Rent Board meeting minutes. This is not simply our interpretation. The City Attorney has made clear that the requirement does not apply to bodies such as the Rent Board, created by ordinance. See the City Attorney's "Good Government Guide" regarding public meetings, at pages 96-97 and pages 123-124, where the topic of "minutes" is explained, and where the distinction between requirements for Charter created boards/commissions and requirements for non-Charter created boards/commissions is noted (copies attached).

Accordingly, there is no legal basis for the complaint. The Rent Board respectfully requests that this Complaint be dismissed.

Sincerely,


Delene Wolf
Executive Director

Enclosures

b. VOTING

Secret ballots are prohibited. All votes must be taken publicly, other than votes at meetings permitted as closed sessions. An absent member may not vote by proxy. Charter §§ 2.108 and 4.104(3); Govt. Code § 54953(c); Admin. Code § 67.16.

With two exceptions, the Charter and Administrative Code require members of policy bodies to vote on every matter before them. Charter § 4.104, last paragraph. As noted elsewhere in this Guide, a member must not vote on a matter where the member's vote would violate a conflict of interest law. In addition, a member may be excused for any reason from voting on a matter by a motion adopted by a majority of members present. Charter § 4.104; Admin. Code § 1.29.

Except for certain procedural matters, when a policy body is determining whether action on an agenda matter is approved, the body must count the vote based on the total number of seats comprising the body rather than the number of seats currently filled or the number of members present. Charter § 4.104.

D. RECORDS OF MEETINGS

1. TAPE RECORDINGS

The Sunshine Ordinance requires each board or commission listed in the Charter to tape record each regular and special meeting, including closed sessions. These policy bodies must retain copies of tapes of meetings permanently. Admin. Code § 67.14(b). All policy bodies, even those not listed in the Charter, must tape record closed sessions. Tapes of closed sessions must be retained for at least 10 years, or permanently if possible. Admin. Code § 67.8-1(a). A policy body may not charge a member of the public to listen to a tape recording of a meeting, or watch a video recording if the policy body made a video recording. Admin. Code § 67.14(b).

2. MINUTES

i. CHARTER BOARDS AND COMMISSIONS.

The Charter requires each board or commission to keep a record of the proceedings of each regular or special meeting. The record must include how each member voted on each question. Charter § 4.104.

In addition, the Sunshine Ordinance requires the clerk or secretary of every board and commission listed in the Charter to record the minutes of each meeting. Admin. Code § 67.16. The minutes must include the following:

- The time the meeting was called to order and the time the meeting was adjourned;
- The names of the members attending the meeting;

- The roll call vote on each matter considered at the meeting;
- The time the board or commission began and ended any closed session;
- The names of members and the names and titles, where applicable, of any other person attending any closed session (other than the names of applicants or employees considered in closed session for employment or employee discipline);
- A list of the members of the public who spoke on each matter if the speakers identified themselves, whether in support or opposition; and
- A brief summary of each person's statement during the public comment.

Admin. Code § 67.16.

In addition, when a member has disclosed on the record a personal, professional, or business relationship as required by Section 3.214 of the Campaign and Governmental Conduct Code, that disclosure must be recorded in the minutes. See Part Two, Section II(F)(5) above.

There are no other requirements for the content of minutes, except for those that a policy body may impose on itself, for example, through its bylaws. There may be variations among policy bodies in the style, length, and content of the minutes of their respective meetings. Generally, the purpose of minutes is to record publicly the action of the policy body.

Any person speaking during a public comment period may supply a brief written summary of the comments that person made to the policy body. This summary must be included in the minutes if it is 150 words or fewer. Admin. Code § 67.16. Because this summary is not part of the official minutes adopted by the body, the summary may be included as an attachment to the minutes.

The draft minutes of each meeting must be available for public inspection and copying no later than 10 business days after the meeting. The officially adopted minutes must be available for inspection and copying no later than 10 business days after the meeting at which the minutes are adopted. If requested to do so, the body must produce the minutes in Braille or enlarged type. Admin. Code § 67.16. In addition, each board and commission must send two copies of its minutes to the Government Information Center at the San Francisco Public Library. Admin. Code § 87.16. Minutes must also be posted on the board or commission's Web site within 48 hours after approval. Admin. Code § 67.29-2.

III. AUDIO OR VIDEO RECORDINGS OF MEETINGS

A. CHARTER BOARDS AND COMMISSIONS

Every board or commission listed in the Charter must record every meeting, whether closed or open, regular or special.

B. POLICY BODIES OTHER THAN CHARTER BOARDS AND COMMISSIONS

1. CLOSED SESSIONS

Every policy body (including all boards and commissions, whether Charter-created or not, and committees of commissions/boards) must record all closed sessions. Recordings may be audio or video recordings.

2. OPEN SESSIONS

Non-charter policy bodies, (including boards, commissions, committees and task forces created by ordinance or resolution, and committees of Charter boards and commissions) are not required to record open sessions.

C. DISCLOSING CLOSED SESSION TAPES

Contact the Deputy City Attorney advising the policy body before disclosing any closed session tape.

IV. MINUTES

→ A. CHARTER BOARDS AND COMMISSIONS

Every board or commission listed in the Charter must keep minutes of each regular or special meeting, consisting of the following:

1. CONTENT

- The time the meeting was called to order;
- The time the meeting was adjourned;
- The names of the members attending the meeting;
- The roll call vote on each matter considered at the meeting;
- The time the board or commission began and ended any closed session;
- The names of members and the names and titles, where applicable, of any other person attending any closed session. When the policy body is meeting in closed session to con-

sider applicants for employment or employee discipline, the minutes must not contain the names of the applicants or employee;

- A list of those members of the public who spoke on each matter if the speakers identified themselves, whether such speakers supported or opposed the matter; and a brief summary of each person's statement during the public comment; and
- Any person speaking during a public comment period may supply a brief written summary of their comments, which must, if limited to no more than 150 words, be included in, or appended to, the minutes.

2. TIMING

The policy body must:

- Make draft minutes available for inspection and copying no later than ten working days after the meeting.
- Make officially adopted minutes available for inspection and copying no later than ten working days after the meeting at which the minutes are adopted.
- If requested to do so, produce the minutes in any alternative format, including Braille or enlarged type.
- Send two copies of its minutes to the San Francisco Main Library Government Information Center.
- Post the minutes on the department's Web site within 48 hours after approval.

➔ B. NON-CHARTER BOARDS AND COMMISSIONS

The Charter requires each board or commission to keep a record of the proceedings of each regular or special meeting indicating how each member voted on each question. Non-charter boards and commissions must keep that record, but are not required to comply with the format listed directly above.

C. COMMITTEES

Committees are not required to keep minutes of their meetings. We advise that committees keep brief minutes consisting of a record of attendance, actions taken and votes on those actions.

V. DISABLED ACCESS

These requirements apply to all policy bodies.

Each policy body must make any such disability-related modification or accommodation necessary, including providing auxiliary aids or services, to permit a person with a disability to participate in a public meeting. Such accommodations include, but are not limited to:

- Making an agenda available in an appropriate alternative format, upon request;
- Providing sign language interpreters or note-takers, upon request;

GOOD GOVERNMENT GUIDE

AN OVERVIEW OF THE LAWS GOVERNING
THE CONDUCT OF PUBLIC OFFICIALS



2007-08 EDITION

DENNIS J. HERRERA
CITY ATTORNEY OF SAN FRANCISCO

This page purposely left blank