

Date: Oct. 14, 2008

Item No. 4
File No. 08049

SUNSHINE ORDINANCE TASK FORCE
COMPLAINT COMMITTEE
AGENDA PACKET CONTENTS LIST*

- Determination of jurisdiction of complaint filed by John**
- Caldera against the Veterans Affairs Commission for alleged**
- failure to provide requested records.**
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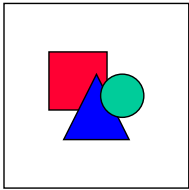
Completed by: Chris Rustom

Date: Oct. 10, 2008

***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.



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City Attorney

ERNEST H. LLORENTE
Deputy City Attorney

DIRECT DIAL: (415) 554-4236
E-MAIL: ernest.llorente@sfgov.org

October 7, 2008

Nick Goldman, Chair
Members of the Complaint Committee

Re: JOHN CALDERA v. VETERANS AFFAIRS COMMISSION (08049)

Dear Chair Goldman and Members of the Complaint Committee:

This letter addresses the issue of whether the Sunshine Ordinance Task Force ("Task Force") has jurisdiction over the complaint of John Caldera against the San Francisco Veterans Affairs Commission ("VA Commission").

BACKGROUND

Complainant John Caldera is a member of the VA Commission. John Caldera made a public records request with the VA Commission for the financial report of the San Francisco Veterans Day Parade and the Memorial Day Ceremony. John Caldera made his request during the 1/07/08 VA Commission Meeting. To his request, John Caldera claims that he did not receive the records.

COMPLAINT

On September 2, 2008, John Caldera filed a complaint against the VA Commission alleging violations of the Public Records laws and the Public Meetings laws.

BOARD'S RESPONSE

On September 29, 2008, Wallace Levin, the President of the VA Commission wrote to the Task Force and stated that the VA Commission did not provide John Caldera with a written financial report concerning the Veteran's Day Parade and the Memorial Day Ceremony because the VA Commission does not have such a report in its possession. Mr. Levin further stated that the VA Commission does not receive funds from the City and County of San Francisco and does not receive funds from any other source. Therefore it does not receive or spend funds and does not generate any financial reports. Mr. Levin stated that the above facts have been explained to John Caldera on multiple occasions.

SHORT ANSWER

Based on Complainant's allegation and the applicable sections of the Sunshine Ordinance and the California Public Records Act, which are cited below, the Sunshine Ordinance Task

Letter to the Complaint Committee

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Force *does* have jurisdiction over the allegation. The allegations are covered under 67.21 of the Ordinance.

DISCUSSION AND ANALYSIS

Article I Section 3 of the California Constitution as amended by Proposition 59 in 2004, the State Public Records Act, the State Brown Act, and the Sunshine Ordinance as amended by Proposition G in 1999 generally covers the area of Public Records and Public Meeting laws that the Sunshine Ordinance Task Force uses in its work.

The Sunshine Ordinance is located in the San Francisco Administrative Code Chapter 67. All statutory references, unless stated otherwise, are to the Administrative Code. Section 67.21 generally covers requests for documents and Section 67.25 covers Immediate Disclosure Requests. CPRA Section 6253 generally covers Public Records Requests.

In this case, section 67.21 governs public records of a policy body. John Caldera alleges a violation by the VA Commission for its non-disclosure of financial records in its possession. The VA Commission has responded and stated that does not have records that John Caldera is seeking. The allegation brings the case under the jurisdiction of the Task Force. The VA Commission has provided a factual defense and the Task Force will have to decide the legal and factual issues.



<complaints@sfgov.org>
09/02/2008 04:52 PM

To <soft@sfgov.org>
cc
bcc
Subject Sunshine Complaint

Submitted on: 9/2/2008 4:52:59 PM

Department: San Francisco Veterans Affairs Commission

Contacted: Wallace Levin

Public_Records_Violation: Yes

Public_Meeting_Violation: Yes

Meeting_Date: January 7, 2008

Section(s)_Violated:

Description: Violation of a written request of a financial report of the San Francisco Veterans Day Parade and the Memorial Day Ceremony. This is documented on the SFGOV.org SFVAC minutes: 01/07/08

Hearing: Yes

Pre-Hearing: Yes

Date: September 2, 2008

Name: John Caldera

Address: [REDACTED]

City: San Francisco

Zip: 94115

Phone: 415-[REDACTED]

Email: [REDACTED]

Anonymous:

Confidentiality_Requested: Yes

User Data

**CITY AND COUNTY OF SAN FRANCISCO
VETERANS AFFAIRS COMMISSION
1390 MARKET STREET, 7TH FLOOR
SAN FRANCISCO, CA 94102**

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

Sept. 29, 2008

Re: Sunshine Complaint #08049 John Caldera vs Veterans Affairs Commission

Dear Assistant Administrator Rustom:

I am writing on behalf of the Veterans Affairs Commission in response to the Sunshine complaint that I understand has been made by John Caldera, one of the Commission's members. Commissioner Caldera requested that the Commission provide him with a written financial report concerning the San Francisco Veterans Day Parade and the San Francisco Memorial Day ceremony.

The Veterans Affairs Commission has not provided Commissioner Caldera with such a financial report, because the Commission does not have such a document in its possession. The Commission does not organize, run, plan or otherwise control the Veterans Day Parade or the Memorial Day ceremony. Nor does the Commission provide any funds for these events.

The Veterans Affairs Commission during its 25-year history has never received any funds from the City and County of San Francisco. We also have never received funds from any other source. This commission is only an advisory commission to the Mayor and the Board of Supervisors. Since we are an advisory commission we have no way to receive or to spend funds of any kind. Since we do not receive funds, we thus do not have any financial reports in our possession.

All of this has been explained many times to Commissioner Caldera at commission meetings and by the San Francisco Controller's Office.

If you need additional information, please contact me at 554-6036 or 554-3894. My cell phone number is 748-0613.

Sincerely,



Wallace Levin, President

**c/c: Wayne Snodgrass,
Deputy City Attorney**