

Date: July 12, 2011

Item No. 9
File No. 11028

SUNSHINE ORDINANCE TASK FORCE

Compliance and Amendments Committee

AGENDA PACKET CONTENTS LIST*

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| <input checked="" type="checkbox"/> | Charles Pitts against Supervisor Jane Kim |
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Completed by: Chris Rustom

Date: July 8, 2011

***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**



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ORDER OF DETERMINATION

June 7, 2011

DATE THE DECISION ISSUED

May 24, 2011

CHARLES PITTS V SUPERVISOR JANE KIM (CASE NO. 11028)

FACTS OF THE CASE

Charles Pitts ("Complainant") alleges that Supervisor Jane Kim (the "Supervisor", "Supervisor Kim" or "Respondent") failed to respond to an Immediate Disclosure Request ("IDR") for public records of communications between her office and any individual concerning the Shelter Monitoring Committee applicants for 2011.

COMPLAINT FILED

On March 25, 2011, Mr. Pitts filed a Complaint against the Supervisor for her alleged violations of Sunshine Ordinance Section 67.25(a).

HEARING ON THE COMPLAINT

On May 24, 2011, Mr. Pitts presented his case to the Task Force. Supervisor Kim was represented by her legislative aide Matthias Mormino.

Mr. Pitts told the Task Force that he sent an IDR to Supervisors Kim, Mark Farrell and Sean Elsbernd on March 21, 2011. He said all three supervisors responded differently. In Supervisor Kim's case, he said, he received copies of emails and found that it did not include certain documents. He said he especially wanted copies of the documents that were provided to the supervisors by Bernice Casey, an analyst with the Shelter Monitoring Committee, at the start of the Board of Supervisors Rules Committee meeting on March 17, 2011.

Mr. Mormino said the supervisor's staff misinterpreted Mr. Pitts's request to be about communication between him and her office with regards to the Shelter Monitoring Committee. He said the office failed to inform him that no documents were found. Subsequently, he said, the office realized that the request was broader when the Sunshine complaint was filed and the office reviewed the request once more. The office then did a search and provided the documents.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Judging from the evidence presented, the Task Force finds that Supervisor Kim's office did not follow sunshine rules governing public information and public records.

DECISION AND ORDER OF DETERMINATION

The Task Force finds that the office of Supervisor Jane Kim violated Sunshine Ordinance Sections 67.25(a) by not responding to an IDR before the close of the next business day, 67.21(b) by not responding to a request for information in a timely manner, 67.27 by failing to justify the withholding, and 67.26 by failing to keep withholding to a minimum. The Supervisor's office shall release the records requested within 5 business days of the issuance of this Order and shall appear before the Compliance and Amendments Committee on June 14, 2011.

This Order of Determination was adopted by the Sunshine Ordinance Task Force on May 24, 2011, by the following vote: (Cauthen /Johnson)

Ayes: Snyder, Cauthen, Manneh, Costa, Wolfe, Johnson, Knee

Excused: Washburn, Knoebber, Chan

Absent: West



Richard A. Knee, Chair
Sunshine Ordinance Task Force



David Snyder, Member, Seat #1*
Sunshine Ordinance Task Force

c: Charles Pitts, Complainant
Supervisor Jane Kim, Respondent
Matthias Mormino, Respondent
Jerry Threet, Deputy City Attorney

*Sunshine Ordinance Task Force Seat #1 is a voting seat held by an attorney specializing in sunshine law.