

Date: June 9, 2011

Item No. 3
File No. _____

SUNSHINE ORDINANCE TASK FORCE
Education, Outreach and Training Committee
AGENDA PACKET CONTENTS LIST*

- 11010-12 Jason Grant Garza v Haight-Ashbury Free Clinic**
- _____
- _____
- _____
- _____
- _____
- _____
- _____
- _____
- _____
- _____

Completed by: Chris Rustom

Date: June 6, 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**



City Hall
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco 94102-4689
Tel. No. (415) 554-7724
Fax No. (415) 554-7854
TDD/TTY No. (415) 554-5227

**ORDER OF DETERMINATION
May 16, 2011**

DATE THE DECISION ISSUED
April 21, 2011

JASON GRANT GARZA V HAIGHT-ASHBURY FREE CLINIC (CASE NOS. 11010 - 11012)

FACTS OF THE CASE

Jason Grant Garza ("Complainant") alleges that the Haight-Ashbury Free Clinic ("HAFC") has failed to adequately respond to his Immediate Disclosure Requests ("IDRs") made on December 22, 2010, January 12, 2011 and January 21, 2011.

COMPLAINT FILED

On March 2, 2011, the complaint forms were finalized and a hearing date set.

HEARING ON THE COMPLAINT

On April 21, 2011, Mr. Garza presented his case to the Task Force. HAFC was represented by its Chief Executive Officer, Dr. Vitka Eisen. As a procedural matter, cases 11010, 11011 and 11012 were combined without objection among Task Force members. Mr. Garza protested the Task Force hearing three complaints simultaneously. He said that although all the complaints involved IDRs, the occurrences happened over a period of time. He said he is entitled to everything he has asked for and has yet to receive anything from a City-funded organization.

Dr. Eisen said she has put together everything that she believes Mr. Garza has requested and the documents have been emailed to him. She said she was surprised that Mr. Garza had not received the documents. Dr. Eisen also told the Task Force that non-profits are told when they sign their contracts that the Sunshine Ordinance applies to them. She said it was in the master contract with the Department of Public Health. Dr. Eisen was asked why it had taken HAFC four months to respond to an IDR. Dr. Eisen said she was appointed CEO in January and had sent a representative with the documents to an earlier meeting but the matter was tabled and she did not know what to do next.

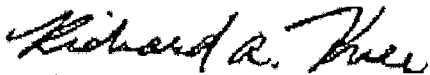
FINDINGS OF FACT AND CONCLUSIONS OF LAW

Based on the evidence presented, including HAFC's acknowledgment that it took four months to respond to an IDR, which generally requires a response within 24 hours, the Task Force finds that the HAFC did not respond to an IDR properly.

DECISION AND ORDER OF DETERMINATION

The Task Force finds that the agency violated Sunshine Ordinance Section 67.25 by not responding to the IDR before the end of the next business day. HAFC is to appear before the Education, Outreach and Training Committee on June 9, 2011.

This Order of Determination was adopted by the Sunshine Ordinance Task Force on April 21, 2011, by the following vote: (Cauthen / Manneh)
Ayes: Snyder, Cauthen, Manneh, Costa, Wolfe, West, Knee
Excused: Washburn, Knoebber, Chan, Johnson



Richard A. Knee, Chair
Sunshine Ordinance Task Force



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

c: Jason Grant Garza, Complainant
Dr. Vitka Eisen, Respondent
Jerry Threet, Deputy City Attorney

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



Richard Knee
<rak0408@earthlink.net>
05/25/2011 04:55 PM

To Jerry.Threet@sfgov.org
cc SOTF@SFGov.org, SOTF_Costa Jay
<jay.costa09@gmail.com>, SOTF_Manneh Suzanne
<smanneh@newamericamedia.org>
bcc
Subject Re: 5/25 - FW: Order of Determination:
#11010-10012_Jason Grant Garza vs Haight AshburyFree
Clinics

Thanks, Jerry. This is very helpful.
Chris, please make sure Jerry's memo (below) is included in the info packet for the EO&T
Committee's June 9 meeting.

Chair Knee -

I was not at the meeting where the Task Force found a violation in the 3 complaints by Mr. Garza and did not witness the testimony of the HAFC director. However, Mr. Garza' report of that testimony raised a question for me that caused me to request the contract that governs HAFC from DPH. I have attached that contract. As I suspected, the contract contains only the standard paragraphs for City contracts relating to the Sunshine Ordinance and Admin Code 12L. I have included the text of those two paragraphs, below. As you can see, those paragraphs do not subject HAFC to all requirements of the Sunshine Ordinance, but only to Section 67.24(e). I hope this information is helpful.

40. Sunshine Ordinance. In accordance with San Francisco Administrative Code §67.24(e), contracts, contractors' bids, responses to solicitations and all other records of communications between City and persons or firms seeking contracts, shall be open to inspection immediately after a contract has been awarded. Nothing in this provision requires the disclosure of a private person or organization's net worth or other proprietary financial data submitted for qualification for a contract or other benefit until and unless that person or organization is awarded the contract or benefit. Information provided which is covered by this paragraph will be made available to the public upon request.

41. Public Access to Meetings and Records. If the Contractor receives a cumulative total per year of at least \$250,000 in City funds or City-administered funds and is a non-profit organization as defined in Chapter 12L of the San Francisco Administrative Code, Contractor shall comply with and be bound by all the applicable provisions of that Chapter. By executing this Agreement, the Contractor agrees to open its meetings and records to the public in the manner set forth in §§12L.4 and 12L.5 of the Administrative Code. Contractor further agrees to make-good faith efforts to promote community membership on its Board of Directors in the manner set forth in §12L.6 of the Administrative Code. The Contractor acknowledges that its material failure to comply with any of the provisions of this paragraph shall constitute a material breach of this Agreement. The Contractor further acknowledges that such material breach of the Agreement shall be grounds for the City to terminate and/or not renew the Agreement, partially or in its entirety.

Jerry Threet, Deputy City Attorney
Neighborhood and Resident Safety Division
Counsel to Sunshine Task Force
Office of City Attorney Dennis J. Herrera
1390 Market Street, 6th Floor
San Francisco, CA 94102

Direct: (415) 554-3914
Fax: (415) 437-4644.
jerry.threet@sfgov.org

The information contained in this electronic message may be confidential and may be subject to the attorney-client privilege and/or the attorney work product doctrine. It is intended only for the use of the individual or entity to whom it is addressed. If you are not the intended recipient, you are hereby notified that any use, dissemination or copying of this communication is strictly prohibited. If you have received this electronic message in error, please notify me by telephone at (415) 554-3914, and delete the original message from your email system. Thank you.

From: Richard Knee <rak0408@earthlink.net>
To: Jason Grant Garza <jasongrantgarza@yahoo.com>
Cc: sof@sfgov.org, SFCityAtty_Clark Jana <Jana.Clark@sfgov.org>, SFCityAtty_Threet Jerry <Jerry.Threet@sfgov.org>, SOTF_Costa Jay <jay.costa09@gmail.com>
Date: 05/25/2011 12:38 PM
Subject: Re: 5/25 - FW: Order of Determination: #11010-10012_Jason Grant Garza vs Haight AshburyFree Clinics

Dear Mr. Garza,

Thank you for updating us about your dealings with the Haight-Ashbury Free Clinic following your request for certain records.

In issuing its Order of Determination in the matter (Case Nos. 11010, 11011 and 11012), the Task Force found only that the Clinic violated Sunshine Ordinance Section 67.25 through its tardiness in responding to your request. We were not under the impression that you had yet to receive any disclosable information that you had requested; otherwise, we would have found additional violations by the Clinic, and I would have referred the matter to the Compliance and Amendments Committee rather than the Education, Outreach and Training Committee.

Your statement that you have yet to receive certain requested, disclosable information is of concern. When the Education, Outreach and Training Committee meets, on Thursday, June 9, please be prepared to tell the Committee what specific requested items you have not received. In copying this note to Committee Chair Jay Costa, I am asking that the Committee provide an update on this matter in its report to the Task Force on Tuesday, June 28.

Regarding Case No. 10071: The Task Force tabled the matter at its January 25 meeting because you declined to discuss its substance until the Task Force answered certain

procedural questions; we could not and would not provide certain procedural guarantees, the conversation went in circles and the Task Force felt that the matter was proceeding in a manner that was non-productive for you, for the Respondent and for the Task Force.

We certainly want to hear the substance of Case No. 10071. Therefore, by this note, I am asking Administrator Chris Rustom to place it on the agenda for our Tuesday, June 28, meeting and to notify all parties in interest thereto. Please be reminded that the Task Force has already accepted jurisdiction of this matter. I trust that the foregoing is helpful. Thank you for your attention.

Sincerely,
Richard Knee
Task Force Chair

C: Chris Rustom, Task Force Administrator
Jana Clark and Jerry Threet, Deputy City Attorneys
Jay Costa, Education, Outreach and Training Committee Chair

5/25/2011 11am PST Wednesday

Dear Mr. Knee and Mr. Rustom:

I am in receipt of the order of determination for Jason Grant Garza v Haight Ashbury Free Clinic (Case nos 11010-11012.)

Yet, I still have NOT received all the requested material as specifically requested in these IDR's and as the determination states " Dr. Eisen also told the Task Force that non-profits are told when they sign their contracts that the Sunshine Ordinance applies to them. She said it was in the master contract with the Department of Public Health. Dr. Eisen was asked why it had taken HAFC four months to respond to an IDR. Dr. Eisen said she was appointed CEO in January and had sent a representative with the documents to an earlier meeting but the matter was tabled and she did not know what to do next."

After going home and finding the emails from Dr. Eisen ... I noted that they were incomplete as specifically requested. Therefore, since per your determination and Dr. Eisen's admission this case needs to be revisited and the missing documents provided.

If however, your determination MIS-SPEAKS then this too needs clarification unless confusion and deceit was the original purpose of the MIS-SPEAK. Please contact me ASAP regarding the missing requested information,.

Secondly, an investigation needs to be started and address my complaint over false process and late response since as the determination states " Jason Grant Garza ("Complainant") alleges that the Haight-Ashbury Free Clinic ("HAFC") has failed to adequately respond to his Immediate Disclosure Requests ("IDRs") made on December 22, 2010, January 12, 2011 and January 21, 2011" and also states that "On March 2, 2011, the complaint forms were finalized and a hearing date set" yet DOES NOT ADDRESS the

fact that the procedure failed since I correctly submitted and requested IMMEDIATE action that was delayed, "a false attempt to make it look like my fault for SOTF's incompetent delay" and STILL has not addressed the failure by SOTF in schedule (late) on March 2, 2011. This needs to be explained, addressed, and rectified towards the VICTIM by the TASK FORCE and NOT SWEPT under the RUG.

Thirdly, the remaining case (10071) that was tabled without my request and was discussed and NOT ACTED UPON during the APRIL 21st hearing must continue, be rescheduled ASAP and the lateness also addressed and accounted for.

Please inform and send a copy of this email to the Education, Outreach and Training Committee on June 9, 2011 of these developments and STILL UNANSWERED IDR requests as of this date. In addition be please informed that Dr. Eisen's response that becoming CEO in January while representing "NOT KNOWING WHAT TO DO AFTER SOTF TABLED THE MATTER" was NOT DUE DILIGENCE on her part ... she could have contacted SOTF as my continuing record indicates, or she could have asked her SUNSHINE PERSON; however, to leave unanswered as the CEO was neither diligent or reflective of any concern.

Please contact me ASAP regarding these matters. Please schedule #10071 ASAP.

Still disgusted but NOT with me,

Jason Grant Garza
jasongrantgarza@yahoo.com

P.S. I will be sending followup to Mr. Rustom for a hearing against DPH and Ms. Shields for an incomplete IDR and the lack of specific and requested help by both the complainant and respondent and naturally the delay and non-compliance with the ordinance.

--- On Mon, 5/23/11, jaygarza@pacbell.net <jaygarza@pacbell.net> wrote:

From: jaygarza@pacbell.net <jaygarza@pacbell.net>
Subject: FW: Order of Determination: #11010-10012_Jason Grant Garza vs Haight AshburyFree Clinics
To: jasongrantgarza@yahoo.com
Date: Monday, May 23, 2011, 6:09 PM

Original Message:

From: sotf@sfgov.org
Date: Fri, 20 May 2011 16:53:03 -0700
To: jaygarza@pacbell.net, NAbdullah@hafci.org, Jerry.Threet@sfgov.org

Subject: Order of Determination: #11010-10012_Jason Grant Garza vs Haight
AshburyFree Clinics

Attached is the Order of Determination from the Sunshine Ordinance Task
Force, regarding the above titled complaint.

(See attached file: 11010_11012_Jason Grant Garza v Haight-Ashbury Free
Clinic_RK_DS.pdf)

Chris Rustom
Sunshine Ordinance Task Force
1 Dr. Carlton B. Goodlett Place
City Hall, Room 244
San Francisco, CA 94102-4689
OFC: (415) 554-7724
FAX: (415) 554-7854
SOTF@sfgov.org