

Date: Sept. 8, 2011

Item No. 2  
File No. 10050

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

- Ray Hartz v Police Commission**
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Completed by: Chris Rustom

Date: Sept. 2, 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  
March 1, 2011**

**DATE THE DECISION ISSUED**  
January 20, 2011

*RAY HARTZ v POLICE COMMISSION (CASE NO. 10050)*

**FACTS OF THE CASE**

Complainant Ray Hartz alleges that the San Francisco Police Commission ("Commission" or "Respondent") has violated Sunshine Ordinance ("Ordinance") Section 67.15(d) due to Commissioner Thomas Mazzucco interrupting his public comments on an agenda item at the September 22, 2010, Commission meeting, and due to Commission President Joe Marshall allowing this interruption.

**COMPLAINT FILED**

On September 27, 2010, Mr. Hartz filed a complaint against the Commission.

**HEARING ON THE COMPLAINT**

On January 20, 2011, Mr. Hartz presented his case to the Task Force. The Commission was represented by Police Lt. Tim Falvey.

Mr. Hartz said he had spoken for approximately 35 seconds on the movement of an item on the agenda when Mr. Mazzucco interrupted, saying Mr. Hartz could comment only on the substance of the item. Mr. Hartz said Section 67.15(d) says a policy body shall not abridge or prohibit public criticism of the policy, procedures, programs or services of the City, or of any other aspect of its proposals or activities, or of the acts or omissions of the body, on the basis that the performance of one or more public employees is implicated, or on any basis other than reasonable time constraints adopted in regulations pursuant to subdivision (c) of the section. Mr. Hartz said he was prevented from talking about the movement of an agenda item during public comment because that topic was on the agenda, and was again prevented from addressing the movement of an agenda item because such movement had nothing to do with the substance of the item on the agenda. Mr. Hartz said he told Mr. Mazzucco that he had violated the constitutional rights of the public who wanted to provide public comment but was unable to because the Commission made changes to the agenda and the item was called after a 4-hour closed session.

Lt. Falvey said Mr. Mazzucco stopped Mr. Hartz to clarify that his comment was on a specific item and Mr. Hartz was then allowed to proceed. He said Mr. Hartz chose not to do so and stepped away from the podium. He said Mr. Hartz made a similar statement during public comment on the following agenda item. He also said the Commission did not abridge

what Mr. Hartz had to say.

**FINDINGS OF FACT AND CONCLUSIONS OF LAW**

Judging from the testimony and evidence presented, the Task Force finds that Mr. Hartz's comments to the Commission constituted criticism protected by Section 67.15(d), and that the Commission abridged that criticism in violation of same.

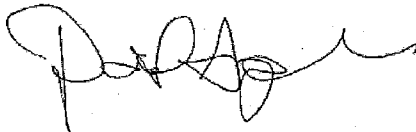
**DECISION AND ORDER OF DETERMINATION**

The Task Force finds that the agency violated Section(s) 67.15(d) of the Sunshine Ordinance for abridging Mr. Hartz's criticism of the Commission's actions. The matter is referred to the Education, Outreach and Training Committee.

This Order of Determination was adopted by the Sunshine Ordinance Task Force on January 20, 2011, by the following vote: (Johnson/Washburn)  
Ayes: Snyder, Manneh, Washburn, Knoebber, Johnson, Knee  
Excused: Cauthen, Wolfe  
Recused: Chan



Richard A. Knee, Chair  
Sunshine Ordinance Task Force



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

- c: Ray Hartz, Complainant
- Police Lt. Tim Falvey, Respondent
- Jerry Threet, Deputy City Attorney

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