

Date: Jan. 5, 2010

Item No. 37

File No. \_\_\_\_\_

## SUNSHINE ORDINANCE TASK FORCE

### AGENDA PACKET CONTENTS LIST\*

- Administrator's Report**
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Completed by: Chris Rustom

Date: Dec. 30, 2009

**\*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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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

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**MEMORANDUM**

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**TO:** Sunshine Ordinance Task Force

**DATE:** December 29, 2009

**SUBJECT:** Administrator's Report

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1. Requests from community persons:

From November 23, 2009 through December 22, 2009, the Task Force's office responded to approximately 375 calls/e-mails/office visits from persons requesting information regarding the Sunshine Ordinance, or to mediate request for records.

2. 2009 – Complaint Log.

3. Communications Received Log

4. Communications sent

Letter to Kenneth Kinnard

Letter to Mayor Gavin Newsom

5. Orders of Determination:

- #09067\_ Library Users Association v Historic Preservation Committee
- #09069\_ Asian Law Caucus v Mayor's Office
- #09076\_ Anmarie Mabbutt v Mayor's Office

## Complaints 2009

Date Received	Complainant	Department/Respondent	Status
1/6/2009	Ray Hartz (09001)	City Attorney's Office (Matt Dorsey)	Complaint 2/10/09, Task Force 02/24/09, Contd. 03/24/09, Withdrawn 3/24/09
1/6/2009	Michael Petrellis (09002)	Public Health STD Unit	Task Force 1/27/09, No violation
1/19/2009	Rita O'Flynn (09003)	Dept. of Technology	Task Force 02/24/09, continued, Complaint Committee 3/10/09, Task Force 3/24/09, Violated 67.21-1 and CPRA 6253.9, CAC 5/12/09, Contd 6/9/09, 7/14/09, No further action
1/23/2009	Ray Hartz (09004)	City Attorney, Matt Dorsey	Task Force 2/24/09, No action taken, petition for reconsideration denied 3/24/09
1/23/2009	Steve Lawrence (09005)	Public Utilities Commission	Task Force 2/24/09, Withdrawn 2/9/09
1/26/2009	Joshua Atce & Eric Brooks (09006)	Public Utilities Commission	Task Force 2/24/09, quorum loss, Task Force 3/24/09, violated 67.29-7, CAC 5/12/09, Task Force 5/26/09, EC referral failed
1/30/2009	David Larkin (09007)	Public Works	Complaint 03/10/09, Task Force 3/24/09, 4/29/09, Violated 67.21, CAC 5/12/09, Task Force 5/26/09, Referred to EC
2/4/2009	Ray Hartz (09008)	Police Commission	Task Force 2/24/09, violated 67.29 & 67.21(e), EOT 4/9/09, SOTF 6/23/09, 8/25/2009, 9/22/2009, No further action, EOT to review every few months
2/9/2009	Charles Pitts (09009)	Health Dept	Complaint 03/10/09, Task Force 3/24/09, Violated 67.21 (e)
2/20/2009	Ray Hartz (09010)	Arts Commission	Task Force 3/24/09, EOT 4/9/09, No further action
2/23/2009	Ray Hartz (09011)	City Attorney's Office (Matt Dorsey)	Task Force 3/24/09, Withdrawn 3/24/09
2/23/2009	Ray Hartz (09012)	Office of Citizen Complaints	Complaint 4/14/09, Withdrawn 3/24/09
2/27/2009	Steve Lawrence (09013)	Public Utilities Commission	Task Force 3/24/09, 4/28/09, violated 67.21 (b), EOT 5/14/09, 6/11/09
3/18/2009	Ahimsa Porter-Sumchal (09014)	Board of Supervisors	Task Force 4/28/09, Contd 5/26/09, No violation
3/18/2009	Raymond Bank (09015)	SF HIV Health Services Planning Council	Complaint Committee 4/14/09, Task Force 4/28/09, violated 67.21 (b), EOT 5/14/09, 6/11/09, No further action
3/23/2009	Peter Green (09016)	Public Health	Task Force 4/28/09, Contd 5/26/09, No violation
23-Mar	SORE (09017)	Public Utilities Commission	Task Force 4/28/09, violated 67.21 (b), EOT 5/14/09, No further action
3/27/2009	Anonymous Tenants (09018)	Dept of Bldg Inspection	Complaint Committee 4/14/09, Task Force 4/28/09, Violated 67.28, CAC 5/12/09, Contd 7/14/09, 8/11/09, no further action
4/3/2009	Christian Holmer (09019)	Board of Supervisors (COB & SOTF)	Task Force 5/26/09, Withdrawn
4/7/2009	Anonymous (09020)	MTA	Task Force 5/26/09, No violation
4/23/2009	SORE (09021)	Public Utilities Commission	Task Force 5/26/09, Violated 67.21, CAC 6/9/09
5/13/2009	Raymond Banks (09022)	SF HIV Health Services Planning Council	Task Force 5/26/09, No violation
5/13/2009	SORE (09023)	Public Utilities Commission	Task Force 5/26/09, No violation
5/15/2009	Paul Weston (09024)	Human Services	Complaint 6/9/09, Task Force 6/23/09, violated 67.25 (a)
5/15/2009	Charles Pitts (09025)	Human Services	Task Force 6/23/09, 7/29/09, violated 67.25, No further action
5/18/2009	Hanna Leung & Lydia Fong (09026)	Human Services	Complaint 6/9/09, Task Force 6/23/09, 7/29/09, No further action
5/18/2009	Alvin Xex (09027)	Office of Economic and Workforce Development	Complaint 6/9/09, Task Force 6/23/09, violated 67.21 (b), EOT 7/9/09, No further action
5/18/2009	Alvin Xex (09028)	Dept. of Human Resources	Complaint 6/9/09, Task Force 6/23/09, No violation
5/20/2009	Paul Weston (09029)	Human Services (St Vincent de Paul Society)	Task Force 6/23/09, No violation
6/8/2009	Ann Grogan (09030)	Police Commission	Complaint 7/14/09; Task Force 7/28/2009, violated 67.21, EOT, 9/10/09, 10/8/09, Tabled

Complaints 2009

6/3/2009	Kenneth Kimard (09031)	Human Rights Commission	Complaint 7/14/09; Cont requested 8/1/09, TF 8/25/2009, violated 67.21, 67.25, CAC 9/8/2009, 10/13/09, No further action
6/18/2009	Dominic Malonchi (09032)	Park and Recreation	Task Force 7/28/09, violated 67.27, 67.24 (1), CAC 9/8/2009, No further action
6/23/2009	Sue Caulhen (09033)	Library Commission	Task Force 7/28/09, violated 67.15 (a) and 67.34, EOT 9/10, CAC 10/13/09, Task Force 10/27/2009, Contid 11/2/01/2009, referred to EC
6/23/2009	Brian Tomina (09034)	Bldg Inspection	Complaint 7/14/09; Task Force 7/28/09, No violation.
7/14/2009	Dave Schneider (09035)	COB, BOS	Task Force 8/25/2009, No further action
7/14/2009	Bridgid (09036)	Police Dept	Task Force 8/25/2009, violated 67.21 (a), 67.24(d), 67.27, EOT 9/10/09, No further action
7/14/2009	Ging Louie (09037)	SFPUC	Task Force 8/25/2009, Withdrawn 9/14/09
7/17/2009	Anmarie Mabbutt (09038)	Rec. & Park	Complaint 8/11/2009, Task Force 8/25/2009, violated 67.21, CAC 9/8/2009, 10/13/2009, No further action
7/20/2009	Rita O'Flynn (09039)	Mayor's Office of Housing	Task Force 8/25/2009, 9/22/2009, violated 67.21, 67.29-7 (a), CAC 10/13/2009, contid 11/10/2009, 12/8/2009, Task Force 01/5/10
7/22/2009	Hanna Leung & Lydia Fong (09040)	Human Services	Task Force 8/25/2009, 9/22/2009, Withdrawn
7/28/2009	Anna Mabbutt (09041)	Mayor's Office	Task Force 8/25/2009, Withdrawn 8/22/2009
8/11/2009	Peter Warfield (09042)	Public Library	Task Force 8/25/2009, violated 67.21, CAC 9/8/09, Task Force 09/22/2009, CAC 10/13/2009, Task Force 10/27/09, referred to EC for violation of 67.21 (e)
8/11/2009	Peter Warfield (09043)	Library Commission	Task Force 8/25/2009, 9/22/2009, No further action
8/11/2009	Peter Warfield (09044)	Board of Appeals	Task Force 8/25/2009, violated 67.1(a), 67.21, CAC 9/8/2009, 10/13/09, Task Force 10/27/2009, contid 12/01/2009, referred to EC
8/11/2009	Peter Warfield (09045)	Board of Appeals	Task Force 8/25/2009, No further action
8/14/2009	Randall Evans (09046)	Ella Hill Hutch Community Center	Task Force 9/22/2009, CAC, 10/13/2009, 11/10/2009, Withdrawn
8/14/2009	Dominic Malonchi (09047)	Park and Recreation	Task Force 9/22/2009, withdrawn
8/14/2009	Brian Tomina (09048)	Bldg Inspection	Task Force 9/22/2009, withdrawn
8/17/2009	Randall Evans (09049)	Public Defender (MoMagic)	Task Force 9/22/2009, withdrawn
8/17/2009	Randall Evans (09050)	African American Art and Culture Complex	Task Force 9/22/2009, violated 67.21, CAC 10/13/2009, Tabled
8/20/2009	Marilyn Mollinedo (09051)	Zoological Society	Complaint Committee 10/13/2009, Task Force 10/27/2009, CAC 11/10/2009, CAC 11/10/2009, 12/8/2009, no further action
9/2/2009	Charles Pitts (09052)	Shelter Monitoring Committee	Task Force 9/22/09, violated 67.15 (d), EOT 10/08/2009, No further action
9/3/2009	Lou Dillon (09053)	Recreation and Park	Task Force 9/22/09, Contid 10/27/2009, No violation
9/8/2009	Robert Garcia (09054)	Entertainment Commission	Complaint Committee 10/13/09, Withdrawn 10/13/2009
9/9/2009	Peter Warfield (09055)	Public Library	Task Force 9/22/09, No further action
9/9/2009	Peter Warfield (09056)	Clerk of the Board	Task Force 9/22/09, Contid 10/27/2009, CAC 11/10/2009, No further action
9/9/2009	Peter Warfield (09057)	Clerk of the Board	Task Force 9/22/09, Contid 10/27/2009, CAC 11/10/2009, 12/8/2009, Task Force 01/5/10
9/11/2009	Anmarie Mabbutt (09058)	Clerk of the Board	Task Force 10/27/09, Withdrawn 10/23/09
9/11/2009	Anmarie Mabbutt (09059)	Clerk of the Board	Task Force 10/27/09, Withdrawn 10/23/09
9/11/2009	Anmarie Mabbutt (09060)	Clerk of the Board	Task Force 10/27/09, Withdrawn 10/23/09

Complaints 2009

9/22/2009	Alvin Xex (09061)	Human Services Agency	Task Force 10/27/09, No violation
10/2/2009	Debra Benedict (09062)	Public Health	Task Force 10/27/09, No further action
10/5/2009	Alvin Xex (09063)	Human Services Agency	Task Force 10/27/09, Tabled
10/6/2009	Alvin Xex (09064)	Economic Opportunity Council of San Francisco	Task Force 10/27/09, No further action
10/7/2009	Charles Pitts (09065)	Local Homeless Coordinating Board	Task Force 11/24/2009, violated 67.7 (a) and 67.21 (e), No further action
10/7/2009	Emil Lawrence (09066)	Municipal Transportation Agency	Complaint 11/10/2009, no jurisdiction
10/13/2009	Library Users Association (09067)	Historic Preservation Commission	Task Force 11/24/2009, referred to EOTC 12/10/09, 01/14/10
10/14/2009	Brent Plater (09068)	Recreation and Park	Task Force 11/24/2009, Withdrawn 11/13/2009
10/14/2009	Asian Law Caucus (09069)	Mayor's Office	Task Force 11/24/2009, violated 67.21 (e), 67.27, Task Force 01/05/10
10/21/2009	Anmarie Mabbutt (09070)	Recreation and Park	Task Force 11/24/2009, CAC 01/12/10
10/21/2009	Anmarie Mabbutt (09071)	Recreation and Park	Task Force 11/24/2009, no violation
10/23/2009	Anmarie Mabbutt (09072)	Clerk of the Board	Task Force 11/24/2009, 01/05/10
10/23/2009	Anmarie Mabbutt (09073)	Clerk of the Board	Task Force 11/24/2009, 01/05/10
10/27/2009	Kimo Crossman (09074)	Ethics Commission	Task Force 11/24/2009, 01/05/10
10/29/2009	Bred Starr (09075)	City Attorney's Office, Jack Song	Task Force 12/8/2009, 01/05/10
11/2/2009	Anmarie Mabbutt (09076)	Mayor's Office	Task Force 11/24/2009, EOT 01/14/10
11/6/2009	Raymond Banks (09077)	Public Health	Complaint Committee 12/8/2009, Task Force 01/05/2010
12/16/2009	Anonymous Tenants (09078)	Planning Department	Task Force 01/05/2010
12/16/2009	Kenneth Kimard (09079)	Human Rights Commission	Task Force 01/05/2010
12/17/2009	Alvin Xex (09080)	Human Services Agency	Task Force 01/05/2010
12/17/2009	Alvin Xex (09081)	Economic Opportunity Council of San Francisco	Task Force 01/05/2010
12/17/2009	Raymond Banks (09082)	Public Health	Task Force 01/05/2010
12/17/2009	Ellen Tsang (09083)	Building Inspection	Task Force 01/05/2010
12/17/2009	Chris Daly (09084)	Mayor's Office	Task Force 01/05/2010
12/17/2009	Mike Addario (09085)	Arts Commission	Task Force 01/05/2010

COMMUNICATIONS RECEIVED LOG

Nov 23, 2009, through Dec 22, 2009

	DATE	FROM	DESCRIPTION	
1	11/23/2009	mpetrelis	Folsom Fair forum	3
2	11/23/2009	melvin banks	Share mandate policy	3
3	11/23/2009	Bill Blum	Share mandate policy	3
4	11/24/2009	Maria Martinez	Share mandate policy	
5	11/24/2009	Anmarie Mabbutt	COB IDR follow up	
6	11/24/2009	SFGuardian	Events	10
7	11/25/2009	Daniel Solberg	Request for meeting	
8	11/28/2009	Anmarie Mabbutt	Re: IDR	13
9	11/30/2009	Anmarie Mabbutt	Prioritized list	4
10	11/30/2009	Olive Gong	Response to Mabbutt	
11	11/30/2009	Rita O'Flynn	Melgar emails	
12	12/1/2009	Tenants769NorthPoint	IDR	2
13	12/1/2009	Kimo Crossman	IDR	
14	12/2/2009	Kimo Crossman	Public information	2
15	12/2/2009	Anmarie Mabbutt	To Rec and Park	2
16	12/2/2009	William Strawn	Tenants769NorthPoint	
17	12/2/2009	Aaron Goodman	IDR to MTA	
18	12/2/2009	Anmarie Mabbutt	IDR	8
19	12/7/2009	Kimo Crossman	Complaint response	3
20	12/7/2009	Ross Mirkarimi	D5 newsletter	
21	12/8/2009	Peter Warfield	Conflicting duties	
22	12/9/2009	Lori Mazzola	City Hall news	2
23	12/9/2009	CFAC	Public records access	7
24	12/10/2009	Kimo Crossman	Real time access	
25	12/10/2009	Allen Grossman	Chaffee IDR	
26	12/10/2009	Christian Holmer	Rustom referral	3
27	12/10/2009	Lori Mazzola	City Hall advisory	
28	12/11/2009	SFGuardian	Editorials	4
29	12/14/2009	Steve Pitocchi	IDR to MTA	
30	12/14/2009	Oliver Hack	Disclosure response	
31	12/15/2009	Starr Terell	IDR follow up	
32	12/15/2009	mpetrelis	Milk club	
33	12/16/2009	Kimo Crossman	SF Weekly article	
34	12/16/2009	mpetrelis	Prop 8 hearing	
35	12/21/2009	Katharine Petrucione	Re IDR	
36	12/21/2009	mpetrelis	BBC FOIA	
37	12/22/2009	Olive Gong	Ginsburg letter	
38	12/22/2009	Virginia Elizondo	IDR response	4

SUNSHINE ORDINANCE  
TASK FORCE



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December 24, 2009

Mr. Kenneth Kinnard,

I write to follow up on the Compliance and Amendment Committee's hearing on the status of Human Rights Commission's compliance with your complaint seeking records regarding "copies of certification application #47101 Westbay Trucking." Ms. Melinda Kanios has stated that all responsive documents had been produced.

At the December 8, 2009 Compliance and Amendments Committee hearing, you indicated that you had not received all of the documents you requested, including all documents regarding the certification for Westbay and the company that subsequently took over/was assigned #47101.

However, your original Sunshine Ordinance complaint only covered the "certification application" for Westbay - it does not appear to cover all documents regarding #47101 or the company that was subsequently assigned #47101. Therefore, there is nothing more we can do at this juncture.

If you have requested, but not received all documents regarding the applications, certifications and documents related to #47101, I'd encourage you to follow up directly with Ms. Kanios and, if necessary, submit a complaint with the Task Force if your request is not fulfilled.

Regards.

A handwritten signature in black ink, appearing to read "Erica Craven-Green".

Erica Craven-Green  
Chair, Compliance and Amendments Committee

cc: C&A Committee Members  
Melinda Kanios, Human Rights Commission



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December 9, 2009

Honorable Gavin Newsom  
Mayor of San Francisco  
City Hall, Room 200  
1 Dr. Carlton B. Goodlett Place  
San Francisco, California 94102

Dear Mayor Newsom:

As you might be aware, your office is the respondent in a complaint (File No. 09069) that the Asian Law Caucus (ALC) filed with the Sunshine Ordinance Task Force (SOTF) on October 13, 2009.

The complaint alleges violation of Section 67.25 of the Sunshine Ordinance, which establishes a time limit for responding to requests for immediate disclosure (IDR) of public records; that your office failed not only to respond in timely fashion but also to provide all of the documents requested.

The requested records included:

1. All documents that the Mayor's Office provided to the San Francisco Chronicle – including any reporter, staff, employee, representative or agent of the newspaper – relating to the City of Refuge Ordinance, undocumented youth, immigrant youth, or pending or introduced legislation on the confidentiality of juveniles' immigration status; and
2. All documents – including memoranda, letters, reports, data compilations and statistics – and communications relating to a City Attorney's memorandum regarding the City of Refuge Ordinance, undocumented youth, immigrant youth, or pending or introduced legislation on the confidentiality of juveniles' immigration status.

The request stated that unless another date was specified, it applied to documents prepared, transmitted or in effect on or after June 1, 2009.

The ALC states that it sent the request by fax and first-class mail to your Office and the City Attorney's Office on September 2, 2009; and that on the following day, your Office complied with the request for the second set of documents and refused to provide the first set.

The SOTF conducted a public hearing on this matter on December 1, 2009, but the person representing your office, Brian Purchia, left the meeting before the hearing began, telling the SOTF Clerk that he had to meet with the press. Unable to hear testimony from and to ask questions of Mr. Purchia, the SOTF continued the matter to its next meeting, January 5, 2010.

The SOTF will need a representative of your Office who is fully knowledgeable on this matter to attend that meeting and to be able to answer questions about the response to the IDR, in order to determine whether your Office fully complied with the IDR.

The SOTF wants to know specifically:

1. How did your Office produce the memorandum for the San Francisco Chronicle? That information would indicate whether there are IDR-responsive documents (e-mails, faxes, logs, etc.) that should have been provided to the ALC, or whether no additional documents exist (i.e., because it was hand-delivered).
2. If the memorandum was not hand-delivered, what steps did your Office take to search for IDR-responsive records (e-mails, faxes, logs, etc.)?

Additionally, please be reminded that your Office failed to follow SOTF guidelines that call for responding to the ALC's complaint in writing within five days after its being filed with the SOTF; the SOTF still awaits that written response.

Finally, the SOTF takes an extremely dim view of your Office's absence from the December 1, 2009, hearing. Mr. Purchia was or should have been fully aware of the approximate time during the meeting that the hearing would take place, and approximately how long the hearing would last. If he knew or suspected that he would not be able to stay for the hearing, he should have found an alternate to speak for your Office.

Accordingly, please be informed that failure by your Office to have at the January 5, 2010, hearing a representative who is knowledgeable on this matter could lead to a finding of willful failure to comply with Sunshine Ordinance Section 67.21(e), and that such a finding could be construed as official misconduct meriting referral of the matter to a City, County or State entity empowered to impose penalties. Thank you for your kind attention.

Sincerely,



Richard A. Knee  
Sunshine Ordinance Task Force Chair

Cc: Asian Law Caucus  
Brian Purchia, Mayor's Office

**SUNSHINE ORDINANCE  
TASK FORCE**



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**ORDER OF DETERMINATION**  
December 21, 2009

**DATE THE DECISION ISSUED**  
December 1, 2009

*LIBRARY USERS ASSOCIATION V. HISTORIC PRESERVATION COMMITTEE (09067)*

**FACTS OF THE CASE**

Complainant Peter Warfield said the Historic Preservation Committee's meeting minutes on two occasions failed to comply with the Ordinance as they did not provide: (1) a brief summary of each person's statement provided during the public comment; and (2) an indication of whether the speaker favored or opposed the item at issue.

**COMPLAINT FILED**

On October 13, Mr. Warfield filed a complaint with the Sunshine Ordinance Task Force.

**HEARING ON THE COMPLAINT**

On December 1, 2009, Complainant Peter Warfield appeared before the Task Force and presented his claim. Respondent Agency was not represented. No one in the audience spoke on behalf of the respondent.

The issue in the case is whether the Agency violated Section 67.16 of the Ordinance for not providing meaningful minutes.

**FINDINGS OF FACT AND CONCLUSIONS OF LAW**

Mr. Warfield told the Task Force that he had informed the Historic Preservation Commission that it was violation the Sunshine Ordinance by not providing meaningful minutes. He said the Commission Secretary discussed the issue at a subsequent meeting and someone was heard saying: "Mr. Warfield was right." He said discussion of the item ended with those at the meeting being told that budgetary issues are preventing the Commission from getting the basic support needed to comply with the law.

**DECISION AND ORDER OF DETERMINATION**

The Task Force finds that the agency violated Section 67.16 for not providing a brief summary of each person's statement during public comment and an indication of whether the speaker was for or against particular items during two meetings at issue. The Task

**ORDER OF DETERMINATION**

Force also found the Commission in violation of Section 67.21 (e) for failure to appear at the hearing.

The agency is instructed to appear before the Education, Outreach and Training Committee on December 10, 2009, to discuss compliance.

This Order of Determination was adopted by the Sunshine Ordinance Task Force on December 1, 2009, by the following vote: ( Cauthen / Goldman )

Ayes: Craven-Green, Cauthen, Manneh, Washburn, Knoebber, Chu, Goldman, Knee

Excused: Johnson, Chan, Williams



Richard Knee

Chair, Sunshine Ordinance Task Force

- c: Jerry Threet, Deputy City Attorney
- Peter Warfield, Complaint
- Linda Avery, Respondent

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**ORDER OF DETERMINATION**  
December 21, 2009

**DATE THE DECISION ISSUED**  
December 1, 2009

*ASIAN LAW CAUCUS V. MAYOR'S OFFICE (09069)*

**FACTS OF THE CASE**

The Asian Law Caucus said that on Sept. 2, 2009, it submitted an Immediate Disclosure Request to the Mayor's Office for a copy of a City Attorney Office memo that was allegedly leaked to the San Francisco Chronicle newspaper and for copies of any communications the Mayor's Office had with the Chronicle regarding the issue. The Asian Law Caucus alleges that the Mayor's Office responded late to the first request and not at all to the second request.

**COMPLAINT FILED**

On October 13, 2009, the Asian Law Caucus filed a complaint with the Sunshine Ordinance Task Force.

**HEARING ON THE COMPLAINT**

On December 1, 2009, Asian Law Caucus staff attorney Angela Chan presented the organization's case to the Task Force. The Mayor's Office was not represented. There was also no one in the audience who spoke or presented facts or evidence on behalf of the respondent. Chair Richard Knee did note that Brian Purchia of the Mayor's Press Office was in the audience earlier, but left a note to say that he had to leave to respond to press requests.

**FINDINGS OF FACT AND CONCLUSIONS OF LAW**

Ms. Chan told the Task Force that the Mayor's Office responded late to her first request by sending her a link to the City Attorney's website where the memo in question had been posted. When Ms. Chan followed up on the status of the second request, she was told that the previous email completed the Mayor's Office's response. Ms. Chan sent another email, warning the Mayor's Office that if it did not respond, she would file a Sunshine complaint. The Mayor's Office has not responded and has not provided justification for withholding the documents relevant to her second request as provided by Sec. 67.27, she said. The Mayor's Office has a duty to maintain records of these communications under Sec. 67.29-7 (a) and these communications must be kept in accordance with Sec. 67.29-1, regardless of

**ORDER OF DETERMINATION**

the replacement, retirement or transfer of public officials, she said. The documents are public records covered by CPRA 6252 (e) and (g) and must be kept under Sec. 67.20 (b) of the Ordinance, she said. Ms. Chan argued that there was no privilege or exclusion for the documents and no attorney-client privilege existed because the Mayor's Office has released the document. She said Mayor Gavin Newsom needs to explain to the residents of San Francisco by whom, why and how the document was leaked.

**DECISION AND ORDER OF DETERMINATION**

The Task Force was troubled by the fact that the Mayor's Office representative left before the matter was called, because Task Force members needed to know the Mayor's position and response. After further debate the Task Force voted to continue the matter of whether documents had been impermissibly withheld by the Mayor's Office to its next meeting on January 5, 2010, to allow the Mayor's Office to respond to Ms. Chan's allegations.

However, the Task Force did find the Mayor's Office:

- in violation of Sec. 67.21 (e) for failure to appear, by the following vote ( Cauthen / Washburn )

Ayes: Craven-Green, Cauthen, Manneh, Washburn, Knoebber, Goldman, Knee  
Excused: Johnson, Chu, Chan, Williams

- in violation of Sec. 67.27 for failure to provide justification for withholding, by the following vote ( Cauthen / Washburn )

Ayes: Cauthen, Manneh, Washburn, Knoebber, Goldman, Knee  
Noes: Craven-Green  
Excused: Johnson, Chu, Chan, Williams

The motion to continue was by the following vote ( Knee / Craven-Green )

Ayes: Craven-Green, Cauthen, Manneh, Washburn, Knoebber, Goldman, Knee  
Excused: Johnson, Chu, Chan, Williams



Richard Knee  
Chair, Sunshine Ordinance Task Force

c: Jerry Threet, Deputy City Attorney  
Asian Law Caucus, Complaint  
Mayor's Office, Respondent

**SUNSHINE ORDINANCE  
TASK FORCE**



City Hall  
1 Dr. Carlton B. Goodlett Place, Room 244  
San Francisco 94102-4689  
Tel. No. (415) 554-7724  
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**ORDER OF DETERMINATION  
December 21, 2009**

**DATE THE DECISION ISSUED**  
December 1, 2009

*ANMARIE MABBUTT V. MAYOR'S OFFICE (09076)*

**FACTS OF THE CASE**

Anmarie Mabbutt complained that a study she had requested regarding fees being considered by the Board of Supervisors for the Japanese Tea Garden, the Conservatory of Flowers and the Botanical Garden from the Mayor's Office in June. The document was not provided until four months later.

**COMPLAINT FILED**

On November 11, 2009, Anmarie Mabbutt filed a complaint with the Sunshine Ordinance Task Force.

**HEARING ON THE COMPLAINT**

On December 1, 2009, David Eldred appeared before the Task Force and presented Anmarie Mabbutt's complaint. Respondent Agency was represented by Rich Hillis of the Mayor's Office on Economic and Workforce Development, who at the time was working for the Department of Recreation and Park.

**FINDINGS OF FACT AND CONCLUSIONS OF LAW**

Mr. Eldred complained that public policy was being created, but without the expert opinion of the Botanical Society. Mr. Hillis said the department was not originally in receipt of the study regarding proposed fee hikes, as the study was conducted by a private entity. He said the information regarding the study and proposed fee hikes conducted by the Botanical Society was passed orally onto neighborhood groups. Eventually, the department did come into possession of the study and it was, belatedly, provided to Ms. Mabbutt.

**DECISION AND ORDER OF DETERMINATION**

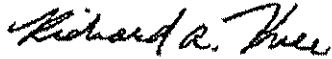
The Task Force finds that the agency violated Section 67.25 (a) of the Sunshine Ordinance for untimely response. The respondent shall appear before the Education, Outreach and Training Committee on January 14, 2010.

**ORDER OF DETERMINATION**

This Order of Determination was adopted by the Sunshine Ordinance Task Force on December 1, 2009, by the following vote: ( Goldman / Craven-Green )

Ayes: Craven-Green, Washburn, Knoebber, Chan, Goldman, Knee

Excused: Cauthen, Manneh Johnson, Chu, Chan, Williams



Richard Knee

Chair, Sunshine Ordinance Task Force

- c: Jerry Threet, Deputy City Attorney
- Anmarie Mabbutt, Complaint
- Richard Hillis, Respondent