

Date: Jan. 25, 2011

Item No. 6 & 7
File No. 10065

SUNSHINE ORDINANCE TASK FORCE

AGENDA PACKET CONTENTS LIST*

- Debra Benedict v San Francisco Bar Association**
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Completed by: Chris Rustom

Date: Jan. 21, 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.



DENNIS J. HERRERA
City Attorney

JERRY THREET
Deputy City Attorney

DIRECT DIAL: (415) 554-3914
E-MAIL: jerry.threet@sfgov.org

MEMORANDUM

January 18, 2011:

DEBRA BENEDICT VS. Bar Association of San Francisco (10065)

COMPLAINT

THE COMPLAINANT ALLEGES THE FOLLOWING:

Complainant Debra Benedict alleges that the Bar Association of San Francisco ("BASF") failed to provide public notice of the changed meeting time and place of the November 19, 2010 meeting of its Board of Directors, in violation of Administrative Code Section 12L.

COMPLAINANT FILES COMPLAINT:

On November 19, 2010 Ms. Benedict filed a complaint against BASF.

JURISDICTION

Based on Complainant's allegations, it appears the Task Force *does have* subject matter jurisdiction over the alleged Section 12L violations, as BASF is a non-profit receiving more than \$250,000 in financial grants from the City. BASF does not contest jurisdiction.

APPLICABLE STATUTORY SECTION(S):

- Section 12L.4 addresses public access to meetings of a non-profit

APPLICABLE CASE LAW:

None.

ISSUES TO BE DETERMINED

FACTUAL ISSUES

Uncontested/Contested Facts: Complainant alleges that BASF failed to provide the legally required public notice of a change in the time and place of the November 19, 2010 meeting of its Board of Directors. BASF responded by contesting this allegation. BASF submitted documentation to support its contention that it originally faxed the time and place of its meeting to the Library on October 14, 2010. BASF also supplied documentation that on October 18, 2010, it faxed to the Library notice of its changed meeting time and place to November 22, 2010. It is unclear whether these notices were also provided to the Clerk of the Board.

**Memorandum
Privileged & Confidential**

DATE: January 18, 2011
PAGE: 2
RE: Benedict vs. BASF

QUESTIONS THAT MIGHT ASSIST IN DETERMINING FACTS:

- Was this meeting one of the two designated by BASF as open to the public, as required by Chapter 12L of the Administrative code?
- Were the notices of the meeting and the changed meeting date provided to the Clerk of the Board of Supervisors?

LEGAL ISSUES/LEGAL DETERMINATIONS:

- Was Section 12L.4 violated?

CONCLUSION

THE TASK FORCE FINDS THE FOLLOWING FACTS TO BE TRUE:

THE TASK FORCE FINDS THE ALLEGED VIOLATIONS TO BE TRUE OR NOT TRUE.

**Memorandum
Privileged & Confidential**

DATE: January 18, 2011
PAGE: 3
RE: Benedict vs. BASF

**ATTACHED STATUTORY SECTION FROM CHAPTER 12L OF THE SAN
FRANCISCO ADMINISTRATIVE CODE UNLESS OTHERWISE SPECIFIED**

SEC. 12L.4. PUBLIC ACCESS TO MEETINGS.

(a) **Meetings Open to the Public.** Except as provided in Subsections (a)(2) or (a)(3), the following requirements shall be included in all City contracts with nonprofit organizations:

- (1) Each nonprofit organization shall **designate and hold at least two designated public meetings per year**. Issues addressed by the Board of Directors at designated public meetings shall be of approximately the same general nature and significance to the nonprofit organization as issues typically addressed by the Board of Directors at its other regular or special meetings. These issues may include adoption of the nonprofit organization's budget, nomination of members of the organization's Board of Directors, and evaluation of the organization's contract(s) with the City. At least one designated public meeting the public shall have an opportunity to address the Board of Directors on membership on the Board of Directors and to propose candidates for membership on the Board of Directors as provided in Section 12L.6(b).
- (2) Section 12L.4(a)(1) shall apply to the full extent allowed by State and federal law.

...

(d) **Notice.**

- (1) Each nonprofit organization shall provide the public with **notice of each designated public meeting** at least 30 days in advance of the meeting.
- (2) The Board of Directors shall cause a written notice of the date, time and location of each designated public meeting to be **submitted to the Clerk of the Board of Supervisors** who shall post the written notice where notices of meetings of the Board of Supervisors are posted, **and to the San Francisco Main Library Government Information Center** which shall post the written notice where notices of meetings of City boards and commissions are posted. In addition, upon inquiry by a member of the public, the nonprofit organization shall disclose the date, time and location of the designated public meeting.



SUNSHINE ORDINANCE TASK FORCE
1 Dr. Carlton B. Goodlett Place, Room 244, San Francisco CA 94102
Tel. (415) 554-7724; Fax (415) 554-7854
<http://www.sfgov.org/sunshine>

RECEIVED
BOARD OF SUPERVISORS
SAN FRANCISCO
2010 NOV 19 PM 12:10
BY [Signature]

SUNSHINE ORDINANCE COMPLAINT

Complaint against which Department or Commission

S.F. BAR # 33
Non Profit Sunshine Law Mfg. Notice Error

Name of individual contacted at Department or Commission

Arturo Gonzalez

Alleged violation public records access
 Alleged violation of public meeting. Date of meeting

Nov 19 12-1:30 @ 425 MK St. S
3310 Morrison + Foster

Sunshine Ordinance Section

12LC

(If known, please cite specific provision(s) being violated)

Please describe alleged violation. Use additional paper if needed. Please attach any relevant documentation supporting your complaint.

Meeting posted in Notice Books here @ Clerk's office at public library for above date was changed without notification of new date and new location for meeting. 30 days notice is necessary this is a classic Sunshine Law violation

Do you want a public hearing before the Sunshine Ordinance Task Force? yes no
Do you also want a pre-hearing conference before the Complaint Committee? yes no

(Optional)¹

Name Delia Benedict Address 75 Dore St. # 301

Telephone No. 415-240-0216 E-Mail Address macromail@yahoo.com

Date Nov 19 2010 Signature Delia Benedict

I request confidentiality of my personal information. yes no

¹ NOTICE: PERSONAL INFORMATION THAT YOU PROVIDE MAY BE SUBJECT TO DISCLOSURE UNDER THE CALIFORNIA PUBLIC RECORDS ACT AND THE SUNSHINE ORDINANCE, EXCEPT WHEN CONFIDENTIALITY IS SPECIFICALLY REQUESTED. YOU MAY LIST YOUR BUSINESS/OFFICE ADDRESS, TELEPHONE NUMBER AND E-MAIL ADDRESS IN LIEU OF YOUR HOME ADDRESS OR OTHER PERSONAL CONTACT INFORMATION. Complainants can be anonymous as long as the complainant provides a reliable means of contact with the SOTF (Phone number, fax number, or e-mail address).



THE BAR ASSOCIATION OF
SAN FRANCISCO
VOLUNTEER LEGAL SERVICES PROGRAM

vlsp Changing Lives

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December 9, 2010

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

LEADERSHIP COUNCIL

Christopher Emley
Chair
Robert Augustine Depew
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Re: Response to Public Complaint #10065
Volunteer Legal Services Program of
The Bar Association of San Francisco

STAFF

Tiela Chalmers, Esq.
Executive Director
Mairi McKeever
Managing Attorney
Teresa Friend
Managing Attorney, HAP
Julie Rosenthal, MSW
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Supervising Attorney, HAP
Ted Janowsky
Supervising Attorney, HAP
Hali Reiskin
Supervising Attorney
Kristie Whitehorse
Supervising Attorney, FLASH
Laura Chiera
Staff Attorney, HAP

Dear Mr. Rustom:

This letter is submitted in response to the Sunshine Ordinance Complaint that Ms. Debra Benedict filed against our organization, Volunteer Legal Services Program of The Bar Association of San Francisco (VLSP). On the complaint form it is alleged that VLSP violated Sunshine Ordinance Section "12LC." After reviewing the violation description it appears that the relevant section is 12L.4. which concerns public access to meetings of a non-profit's Board of Directors. We look forward to attending the pre-hearing conference scheduled for January 11, 2011 to confirm that our understanding of the focus of the complaint is accurate.

We are presenting the following information and attached documents in an effort to fully respond to Ms. Benedict's concerns and resolve this matter as efficiently as possible. On the complaint form the description of the alleged violation states that the November 19, 2010 VLSP Board of Directors' public meeting was changed without public notification of the new date and new location of the November meeting. It also suggests that VLSP failed to provide public notice 30 days in advance of the designated public meeting. It is our position that VLSP did not violate either portion of section 12L.4. of the Sunshine Ordinance.

Attached you will find documentation showing that the changed date, location, and time of the November Board of Directors' meeting was provided to the Public Library. That information was also provided more

VOLUNTEER LEGAL SERVICES PROGRAM
tel 415.982.1600 fax 415.477.2390
301 Battery Street, 3rd Floor San Francisco, CA 94111
www.sfbar.org/vlsp

HOMELESS ADVOCACY PROJECT
tel 415.575.3130 fax 415.575.3132
1- Comp [redacted] #10065 Street, Suite 201 San Francisco, CA 94103
www.sfbar.org/vlsp



THE BAR ASSOCIATION OF
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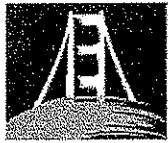
VLS Changing Lives

than 30 days in advance of the scheduled meeting. On October 14, 2010 our office faxed a public notice to the Public Library announcing the time and location of a November 19, 2010 Board meeting. That meeting was then rescheduled for November 22, 2010 to accommodate a change in availability for some of our Directors. For that reason, on October 18, 2010 our office faxed another notice to the Public Library announcing the new meeting date, time, and location. (Please see attached copies of the fax coversheets, public notices, and fax receipt confirmations.) We were pleased that Ms. Benedict joined us for the November 22, 2010 meeting and provided valuable feedback regarding the delivery of our services.

Thank you for taking the above information into consideration during your review of Ms. Benedict's complaint. Also please feel free to contact me if further information is required.

Sincerely,

Mairi McKeever
Managing Attorney
(415) 782-9000 x8754



THE BAR ASSOCIATION OF
SAN FRANCISCO
VOLUNTEER LEGAL SERVICES PROGRAM

vlsp Changing Lives

Facsimile transmittal

To: San Francisco City Main Library
Fax: 415-557-4281 **From:** Vince Sison, Program/Database Assistant

On behalf of Tiela Chalmers, ED

415.782.9000 (8760) direct

vsison@sfbbar.org

Date: October 14, 2010 **Pages:** 2 TOTAL

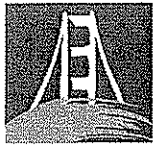
Re: VLSP Board Meeting

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Please post the enclosed public notice.

Thank you!

Volunteer Legal Services Program of The Bar Association of San Francisco
301 Battery Street Suite 300 • San Francisco, CA 94111
Tel: 415.982.1600 • Fax: 415.477.2390
www.sfbbar.org/vlsp • www.probono.net/sf



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Kristie Whitehorse
Supervising Attorney, FLASH
Laura Chiera
Staff Attorney, HAP

**PLEASE PUBLISH/POST/OR CIRCULATE AS
APPROPRIATE**

PUBLIC NOTICE

OPEN TO THE PUBLIC

DATE: October 14, 2010

TO: San Francisco City Hall – Clerk of the Board of Supervisors
San Francisco Main Library
MOCD – Grant Coordinator
San Francisco Department of Public Health
San Francisco Human Services Agency
San Francisco Mayor’s Office on Housing

FROM: Volunteer Legal Services Program of
The Bar Association of San Francisco
Tiela Chalmers, Executive Director, VLSP

RE: Public Board Meeting

The Volunteer Legal Services Program of
The Bar Association of San Francisco will be holding a
BOARD OF DIRECTORS MEETING
OPEN TO THE PUBLIC ON:

November 19th, 2010
12:00PM – 1:30PM
Morrison and Forester
425 Market Street, 33rd Floor
San Francisco, CA 94105

VOLUNTEER LEGAL SERVICES PROGRAM
tel 415.982.1600 fax 415.477.2390
301 Battery Street, 3rd Floor San Francisco, CA 94111
www.sfbar.org/vlsp

HOMELESS ADVOCACY PROJECT
tel 415.575.3130 fax 415.575.3132
1360 Mission Street, Suite 201 San Francisco, CA 94103
www.sfbar.org/vlsp

*** TX REPORT ***

TRANSMISSION OK

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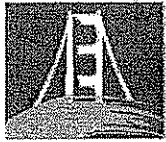
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Pages: 2 TOTAL
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415.782.9000 (8760) direct
On behalf of Tia Chalmers, ED
From: Vince Sison, Program/Database Assistant
Fax: 415-557-4281



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PLEASE ALSO NOTE THE DATE AND TIME CHANGE OF THIS MEETING.

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November 22nd, 2010
12:00PM – 1:30PM
The Bar Association of San Francisco
301 Battery Street, 3rd Floor
San Francisco, CA 94111

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*** TX REPORT ***

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TX/RX NO 1875
DESTINATION TEL # 5574281
DESTINATION ID
ST. TIME 10/18 13:31
TIME USE 00'41
PAGES SENT 2
RESULT OK

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Tel: 415.982.1600 • Fax: 415.477.2390
www.sfbabar.org/vlsp • www.probono.net/sf

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