Date: March 24, 2009

Item No. 25
File No.

SUNSHINE ORDINANCE TASK FORCE

AGENDA PACKET CONTENTS LIST*

- ☒ **Administrators Report**
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Completed by: Chris Rustom **Date:** March 19, 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

MEMORANDUM

Date: March 19, 2009

To: Sunshine Ordinance Task Force

From: Chris Rustom

Subject: Administrator's Report

Requests from community persons

- From February 18,2009, to March 17, 2009, the Task Force's office responded to approximately 315 calls/e-mails/office visits from individuals requesting information regarding the Sunshine Ordinance, or to mediate and direct requests for records.

Complaint Log 2008

Complaint Log 2009

Orders of Determination

- #09004_Ray Hartz v City Attorney's Office PIO Matt Dorsey
- #09008_Ray Hartz v San Francisco Police Commission

Letter from San Francisco Police Department

Submission regarding #08054_Anonymous Tenants v Building Inspection

COMMUNICATIONS RECEIVED LOG

Feburary 18, 2009, through March 17, 2009

	DATE	FROM	DESCRIPTION
1	16-Feb	Peter Witt	Old complaint
2	19-Feb	Anonymous	Complaint against Juvi Probation (2)
3	19-Feb	Anonymous	Doc request
4	20-Feb	Sally Leung	Info change
5	20-Feb	Ray Hartz	IDR for Rosa Sanchez (2)
6	20-Feb	Ray Hartz	IDR for Ernie Llorente
7	20-Feb	Richard Knee	dDefunding Ethics
8	24-Feb	Kimo Crossman	pdf virus
9	25-Feb	Kimo Crossman	Birth dates are public
10	24-Feb	Matt Dorsey	IDR for Ernie Llorente response
11	24-Feb	Matt Dorsey	IDR for Ernie Llorente response
12	25-Feb	Ray Hartz	City benefits
13	2-Mar	Christian Holmer	DA's record retention (3)
14	4-Mar	William Strawn	IDR response
15	4-Mar	Kimo Crossman	Ap report on Gov Blunt
16	5-Mar	William Strawn	Minimum fee (3)
17	5-Mar	Anonymous	Minimum fee (3)
18	6-Mar	CFAC	Open Govt news
19	6-Mar	Sup Mirkarimi	District 5 report
20	6-Mar	Ray Hartz	SOTF procedures
21	6-Mar	Kristin Chu	SOTF procedures
22	6-Mar	Kimo Crossman	SOTF procedures
23	9-Mar	Kimo Crossman	Minimum fee (3)
24	9-Mar	Ahimsa Sumchai	BOS trip to Washington, DC (4)
25	9-Mar	Anonymous	Lenna investigation
26	11-Mar	John Templeton	Hide and Go Seek Committee
27	12-Mar	Richard Knee	Bills related to Brown Act
28	12-Mar	Tom Newton	Bills related to Brown Act
29	13-Mar	Michael Stoll	Bills related to Brown Act
30	13-Mar	Kimo Crossman	Bills related to Brown Act
31	13-Mar	Terry Francke	Bills related to Brown Act

Complaints 2008

30-Jul	Eula Walters (08040)	Recreation and Park Commission	Complaint 9/9/08; Task Force 9/23/08 [No violation] Appealed 10/28/08 No action taken
8/1/2008	Kimo Crossman (08041)	DTIS, SFGTV	Task Force 8/26/08, Withdrawn 8/19/08
8/1/2008	Kimo Crossman (08042)	DTIS, SFGTV, City Administrator, Media Services, SOTF-A, COB	Complaint 9/9/08; Task Force 9/23/08, 10/28/08 (1st cont.), 11/25/08 (2nd cont.) Withdrawn 11/10/08
8/5/2008	Charles Pitts (08043)	SFPD	Task Force 8/26/08 (Withdrawn 8/11/08)
8/19/2008	Brian Browne (08044)	Building Inspection	Task Force 9/23/08, 10/28/08 Withdrawn 10/17/08
8/26/2008	Barry Taranto (08045)	MTA	Complaint Committee 10/14/08 Contd 11/12/08 Task Force 12/2/08 Violated 67.15. No further action
8/26/2008	Karl Beale (08046)	Rec & Park, Library	Complaint Committee 10/14/08 Task Force 10/28/08 No violation
8/26/2008	Peter Witt (08047)	Taxi Commission	Task Force 10/28/08, CAC 11/12/08, No action taken
8/26/2008	Anonymous Tenants (08048)	Building Inspection	Task Force 10/28/08, Withdrawn 10/27/08
9/3/2008	John Caldera (08049)	Veteran Affairs Commission	Complaint Committee 10/14/08, No action taken
10/17/2008	Charles Pitts (08050)	MOCJ	Task Force 11/25/08,12/2/08 No violation
11/3/2008	Paul V. Horcher (08051)	Planning Department	Complaint 12/09/08, Task Force 01/06/09, Violated 67.21 a & c, Referred to EOT
11/13/2008	Mr. Alvin Xex (08052)	Arts Commission	Complaint 12/09/08, Task Force 01/06/09, Referred to EOT
11/19/2008	Peter Witt (08053)	Taxi Commission	Complaint 01/13/09, Task Force 1/27/09, No further action
12/2/2008	Anonymous Tenants (08054)	Building Inspection	Task Force 12/23/08, Rescheduled 01/06/09, Complaint 01/13/2009, Task Force 1/27/09, No further action
12/2/2008	Kimo Crossman (08055)	CAO, DTIS, SFGTV	Task Force 12/23/08, Rescheduled 01/06/09, violated 67.21 (l), Referred to CAC
12/4/2008	Anonymous (08056)	Police Dept	Task Force 01/06/09, Violated 67.29, Referred to EOT
12/16/2008	Vince Courtney (08057)	Labor Standards Enforcement	Task Force 01/27/09, continuance requested, Task Force 02/24/09, continuance requested, Task Force 03/24/09
12/16/2008	Peter Warfield (08058)	Capital Planning Committee	Task Force 01/27/09, Withdrawn 1/20/09

Complaints 2009

Date Received	Complainant	Department/Respondent	Status
1/5/2009	Ray Hartz (09001)	CAO, Matt Dorsey	Complaint 2/10/09, Task Force 02/24/09, Contd, 03/24/09
1/6/2009	Michael Petrelis (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
1/23/2009	Ray Hartz (09004)	City Attorney, Matt Dorsey	Task Force 2/24/09, No violation motion failed. No further action
1/23/2009	Steve Lawrence (09005)	Public Utilities Commission	Task Force 2/24/09 withdrawn 2/9/09
1/26/2009	Joshua Arce & Eric Brooks (09006)	Public Utilities Commission	Task Force 2/24/09, quorum loss, Task Force 3/24/09
1/30/2009	David Larkin (09007)	Public Works	Complaint 03/10/09, Task Force 3/24/09
2/4/2009	Ray Hartz (09008)	Police Commission	Task Force 2/24/09, violated 67.29 & 67.21(e). Referred to EOT
2/9/2009	Charles Pitts (09009)	Health Dept	Complaint 03/10/09, Task Force 3/24/09
2/20/2009	Ray Hartz (09010)	Arts Commission	Task Force 3/24/09
2/23/2009	Ray Hartz (09011)	CAO, Matt Dorsey	Task Force 3/24/09
2/23/2009	Ray Hartz (09012)	Office of Citizen Complaints	Complaint 4/14/09
2/27/2009	Steve Lawrence (09013)	Public Utilities Commission	Task Force 3/24/09
3/18/2009	Ahimsa Porter Sumchai (09014)	Board of Supervisors	Task Force 4/28/09
3/18/2009	Raymond Banks (09015)	SF HIV Health Services Planning Council	Complaint Committee 4/14/09

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ORDER OF DETERMINATION
March 3, 2009

DATE THE DECISION ISSUED
February 24, 2009

ANONYMOUS (RAY HARTZ) V. CITY ATTORNEY'S OFFICE PIO MATT DORSEY (09004)

FACTS OF THE CASE

Complainant filed an Immediate Disclosure Request on January 12, 2009, requesting attorney timesheets for DCA Ernest Llorente for the period of January through December, 2008.

COMPLAINT FILED

Complainant filed a complaint on January 23, 2009, (incorrectly dated 1/23/07), alleging the City Attorney's Office impermissibly invoked an extension to the Immediate Disclosure Request. The Complainant also alleged that the Office failed to provide a specific justification for the extension, and that the responsive documents were not produced by the date of the extension.

HEARING ON THE COMPLAINT

On February 24, 2009, Complainant Anonymous appeared before the Task Force and presented his claim. Complainant identified himself as Ray Hartz and subsequently asked that he be identified by name on this and future complaints. Responding agency was represented by PIO Matt Dorsey of the City Attorney's Office.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

At the hearing, Mr. Hartz clarified that the basis of his complaint was the CAO's failure to respond to his request within the timeframe allowed for an IDR. The CAO responded that the extensions of time invoked by the CAO were necessary because the office needed to review DCA Llorente's time sheets and make redactions (based on attorney-client privilege, privacy, etc.) before the records could be released. Based on the testimony and evidence presented the Task Force voted on a motion for no violation. That motion failed on a 4-3 vote. No other motion was made and no further action will be taken by the Task Force. .

DECISION AND ORDER OF DETERMINATION

The Task Force was unable to reach a majority vote and no further action will be taken.

ORDER OF DETERMINATION

The Motion to find the City Attorney's Office not in violation presented by Craven/ Goldman failed on the following vote:

Ayes: Washburn, Knoebber, Goldman, Craven
Noes: Knee, Johnson, Williams
Excused: Cauthen, Chu
Absent: Chan

No further action was taken.

Erica Craven, Vice Chair
Sunshine Ordinance Task Force

c: Ray Hartz, Complainant
Matt Dorsey, City Attorney's Office
Rosa Sanchez, Deputy City Attorney
Ernie Llorente, City Attorney's Office

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ORDER OF DETERMINATION
March 3, 2009

DATE THE DECISION ISSUED
February 24, 2009

ANONYMOUS (RAY HARTZ) v. SAN FRANCISCO POLICE COMMISSION (09008)

FACTS OF THE CASE

Anonymous person checked the City's website and looked for the Index of Records for the San Francisco Police Commission ("Commission"). The website did not have a listing for the Commission.

COMPLAINT FILED

On December 4, 2009, Anonymous person filed a Sunshine Ordinance Complaint against the Commission for failure to comply with Section 67.29 of the Ordinance.

HEARING ON THE COMPLAINT

On February 24, 2009, Complainant Anonymous appeared before the Task Force and presented his case. Complainant identified himself as Ray Hartz and requested that in this and future complaints he be identified by name. Respondent Agency was not present but had submitted a letter that said the Department was responsible for including and posting the Commission's Index of Records, that the Commission, therefore, should not separately be found in violation of the Ordinance, and that the Commission was working with the San Francisco Police Department and the City Administrator's Office to list its records in the Department's Index of Records and post that document on line.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Based on the testimony and evidence presented the Task Force finds that the Commission failed to ensure that its records were included and posted in an Index of Records as required by Sec. 67.29. The Task Force also found a violation of Sec. 67.21 (e) for failure to appear.

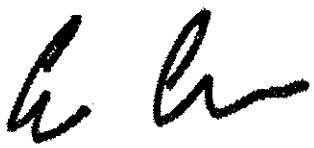
ORDER OF DETERMINATION

DECISION AND ORDER OF DETERMINATION

An Order of Determination finding the Commission in violation of 67.29 for failure to ensure its records were included in an Index of Records posted online and 67.21(e) for failure to send a representative to the Task Force hearing was adopted by the Sunshine Ordinance Task Force on February 24, 2009, by the following vote: (Knee / Goldman)

Ayes: Knee Washburn, Knoebber, Johnson, Goldman, Williams, Craven
Excused: Cauthen, Chu
Absent: Chan

The enforcement of this Order of Determination is referred to the Education, Outreach and Training Committee to work with the appropriate entities to make sure the Commission's records (as well as other entities who are under the direction or control of the Commission) are listed in an Index of Records that is posted online.



Erica Craven, Vice Chair
Sunshine Ordinance Task Force

c: Ray Hartz, Complainant
Lt. Joe Reilly, Police Commission
Lt. Daniel J. Mahoney, Police Department
Ernie Llorente, Deputy City Attorney

POLICE DEPARTMENT
CITY AND COUNTY OF SAN FRANCISCO
THOMAS J. CAHILL HALL OF JUSTICE
850 BRYANT STREET
SAN FRANCISCO, CALIFORNIA 94103-4603

GAVIN NEWSOM
MAYOR

HEATHER J. FONG
CHIEF OF POLICE

March 4, 2009

Ms. Kristin Chu, Chairperson
Sunshine Ordinance Task Force
1 Dr. Carlton B.Goodlet Place
City Hall, Room 244
San Francisco, CA 94102-4689

RE: Sunshine Complaint #09008

Dear Chairperson Chu:

We are in receipt of a Sunshine Ordinance Task Force Order of Determination dated March 3, 2009, regarding Sunshine Complaint #09008.

In order to clarify the issues involved and the Police Department's response to those issues on behalf of the San Francisco Police Commission, the following points are offered:

February 10, 2009 The Department received from the SOTF a notice of complaint, #09008. A copy of that notice is attached. The complaint, lodged by an individual originally identified only as "Anonymous" and then ultimately identified as Ray Hartz, alleged that the Police Commission was not in compliance with the requirements of Section 67.29 of the Ordinance.

February 12, 2009 Lieutenant Daniel Mahoney of the Department's Legal Division discussed the notice with Mr. Chris Rustom while Lieutenant Mahoney was in attendance at the Education, Outreach and Training Committee meeting. The focus of this conversation was that, after conferring with both the Police Commission and the City Attorney's Office, for purposes of this issue of compliance with Section 67.29, the Police Commission was part of the Police Department. Further, as had already been addressed through a Sunshine Ordinance Task Force hearing into Sunshine Complaint #08056, the Department was and is currently undertaking action to bring the Department into compliance with these requirements of the Ordinance and that the Commission would become part of these efforts.

In addition, Lieutenant Mahoney also advised Mr. Rustom that, based upon the actions involved in Sunshine Complaint #08056, no hearing into Sunshine Complaint #09008 need be held on February 24, 2009.

February 12, 2009 Lieutenant Mahoney sent an electronic mail to Mr. Rustom, with copies to Police Commission Secretary Lieutenant Reilly, Deputy City Attorney Stump and others, confirming the conversation that had taken place earlier that day as noted above. A copy of that email is attached. There was no response from Mr. Rustom or the Task Force.

February 19, 2009 Mr. Rustom sent another email regarding this matter to Police Commission Secretary Lieutenant Reilly. That email advised that this matter was scheduled before the Sunshine Ordinance Task Force on February 24, 2009. A copy of that communication is attached.

February 20, 2009 Lieutenant Reilly forwarded the email from Mr. Rustom to Lieutenant Mahoney. A copy of that email is attached.

February 20, 2009 Lieutenant Mahoney sent another email to Mr. Rustom, with copies to Lieutenant Reilly, Deputy City Attorney Stump and others. In it, Lieutenant Mahoney pointed out (1) that the issue with compliance with Ordinance Section 67.29 was part of the earlier actions and Task Force hearing toward resolution of Complaint #08056; (2) the issues and the Commission's and Department's position on them had been discussed with Mr. Rustom at the Education, Outreach and Training Committee meeting on February 12th; (3) the February 12th conversation had additionally been the object of an email from Lieutenant Mahoney to Mr. Rustom on February 12th; and, (4) that neither the Commission or Department would be attending the February 24th meeting. A copy of that email is attached. There was no response from Mr. Rustom or the Task Force.

March 4, 2009 The Police Commission and the Department receive the February 24th Order of Determination in Complaint #09008.

The Department and the Commission have endeavored to address Mr. Hartz's issues and the concerns of the Sunshine Ordinance Task Force as evidenced by our timely and relevant responses. Not withstanding any suggestion to the contrary, we continue, again as evidenced by these communications, the February 12th attendance at the Education, Outreach and Training Committee meeting and Lieutenant Mahoney's appearance before the Task Force on January 6, 2009 on the related matter in Complaint #08056, to work toward compliance with Ordinance Section 67.29 on behalf of both the Police Commission and Police Department.

Sincerely,

JERRY TIDWELL
Director
Risk Management Office

Attachments

cc: Chief of Police
Assistant Chief of Police
Police Commission
Molly Stump, City Attorney's Office

Daniel J Mahoney
02/12/09 17:48

To: sotf@sfgov.org
cc: Jerry Tidwell/SFPD/SFGOV@SFGOV, Joseph Reilly/SFPD/SFGOV@SFGOV, Maureen Conefrey/SFPD/SFGOV@SFGOV, Molly Stump/CTYATT@CTYATT
Subject: Sunshine Complaint # 09008

Mr. Rustom,

This is being written in follow-up to our conversation at City Hall on Feb 12 regarding the latest Sunshine Complaint by Mr. Hartz in regard to the Police Commission not having an Index of Records listed on the City's website.

After conferring with the Police Commission Secretary (Lieutenant Joseph Reilly) and also with Deputy City Attorney Molly Stump, it was concluded that the Police Commission is not a separate entity unto themselves but part of the San Francisco Police Department. Any failure in listing their index of records has been investigated and ruled upon by the entire Sunshine Ordinance Task Force under Case# 08056.

The Police Department is currently undertaking action to correct that violation and the records of the Police Commission will be included.

However, the Police Commission also oversees a different entity--the Office of Citizen Complaints. It is my understanding that the OCC does not have their records listed as required in Admin Code section 67.29. Since OCC is a separate entity, their records will NOT be part of the Police Department's and should be handled as a separate matter.

Therefore, based on the final ruling under SOTF Case# 08056, it is my recommendation that no hearing needs to take place on February 24 and thus, there will not be anyone in attendance representing the Police Commission for the matter outlined in SOTF Case# 09008.

Please feel free to contact me with any questions/concerns.

Cordially,

Lt. Daniel J. Mahoney
Legal Division
(415) 553-7929
San Francisco Police Department

Daniel J Mahoney

SFPD Online
02/10/09 14:59

To: Daniel J Mahoney/SFPD/SFGOV@SFGOV
cc:
Subject: Fw: Sunshine Complaint Received: #09008_Anonymous vs Police Commission

----- Forwarded by SFPD Online/SFPD/SFGOV on 02/10/2009 03:00 PM -----

SOTF/BOS/SFGOV

Sent by: SOTF/SOTF/SFGOV

02/10/2009 11:40 AM

To Commission SFPD/SFPD/SFGOV@SFGOV, sfpd.online@sfgov.org

cc

Subject Sunshine Complaint Received: #09008_Anonymous vs Police Commission

This e-mail is to confirm that the attached complaint has been received. The Department is required to submit a response to the charges to the Task Force within five business days of receipt of this notice. Please refer to complaint number #09007 when submitting any new information and/or supporting documents pertaining to this complaint.

If the Department contests jurisdiction or if the parties request a prehearing conference a hearing will be scheduled with the Complaint Committee of the Sunshine Ordinance Task Force who will determine whether the Task Force has jurisdiction over this matter, and/or to focus the complaint or to otherwise assist the parties to the complaint.

Date: Tuesday, March 10, 2009
Location: City Hall, Room 406
Time: 4:30 P.M.

If the Department does not contest jurisdiction or if the parties don't request a prehearing conference a hearing will be scheduled with the full Sunshine Ordinance Task Force who will hear the merits of the complaint and issue a determination.

Date: Tuesday, February 24, 2009
Location: City Hall, Room 408
Time: 5:00 P.M.

Complainants: Your attendance is required at this hearing.

Respondents/Departments: Pursuant to Section 67.21 (e) of the Ordinance, the custodian of records or a representative of your department, who can speak to the matter, is required at the hearing.

Any support documents to be considered by committee members, prior to the February meeting, must be submitted by 4:00 P.M. Tuesday, February 17, 2009.

Any support documents to be considered by committee members, prior to the March meeting, must be submitted by 3:30 P.M. Tuesday, March 3, 2009.

Also, attached is the Sunshine Ordinance Task Force's complaint procedures.

1_Complaint Procedures_3-25-08 _Final.pdf

09008_Complaint.pdf

Chris Rustom, Asst. Administrator
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

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

SUNSHINE ORDINANCE COMPLAINT

Complaint against which Department or Commission SAN FRANCISCO POLICE COMMISSION

Name of individual contacted at Department or Commission THERESA SPARKS, PRESIDENT

X Alleged violation public records access
___ Alleged violation of public meeting. Date of meeting N/A

Sunshine Ordinance Section 67.29 - INDEX TO RECORDS
(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.

SFPD POLICE COMMISSION HAS MADE NO EFFORT TO COMPLY WITH SECTION 67.29. THE CUSTODIAN OF RECORDS CONFIRMS THAT THE COMMISSION HAS NEVER BEEN IN COMPLIANCE WITH THE REQUIREMENTS OF THE LAW IN ANY RESPECT. THIS CAN ALSO BE CONFIRMED BY VISITING THE CCSF - INDEX OF RECORDS.

Do you wish a public hearing before the Sunshine Ordinance Task Force? X yes ___ no

(Optional)[1]
Complainant Name RAY W HARTZ JR Address Ray W. Hartz Jr. [redacted] San Francisco, CA 94109-6131

Telephone No. (415) [redacted] E-Mail Address [redacted]@SRCGLOBAL.NET

Date 2/3/09 [redacted] Signature

CONFIDENTIALITY SPECIFICALLY REQUESTED

[1] NOTICE: PERSONAL INFORMATION THAT YOU PROVIDE IS SUBJECT TO DISCLOSURE UNDER THE CALIFORNIA PUBLIC RECORDS ACT AND THE SUNSHINE ORDINANCE, EXCEPT WHEN CONFIDENTIALITY IS SPECIFICALLY REQUESTED. COMPLAINANTS CAN BE ANONYMOUS AS LONG AS THE COMPLAINANT PROVIDES A RELIABLE MEA OF CONTACT WITH THE SOTF (PHONE NUMBER, FAX NUMBER, OR E-MAIL ADDRESS).

9/7/2007

Daniel J Mahoney
02/20/09 10:40

To: Chris Rustom/BOS/SFGOV@SFGOV
cc: Molly Stump/CTYATT@CTYATT, Jerry Tidwell/SFPD/SFGOV@SFGOV, Maureen Conefrey/SFPD/SFGOV@SFGOV
Subject: Fw: SOTF Hearing Reminder: #09008_Anonymous v Police Commission

Chris,

Lt. Reilly just forwarded this notice to appear at SOTF on the 24th. I just wanted to make sure you received my e-mail letter stating that this violation was covered already in an earlier hearing. I have instructed the Lieutenant not to appear. We discussed this at the EOT meeting last week.

I will re-send the earlier e-mail letter.

Lt. Daniel J. Mahoney
Legal Division
(415) 553-7929
San Francisco Police Department

----- Forwarded by Daniel J Mahoney/SFPD/SFGOV on 02/20/09 10:29 -----

Commission SFPD
02/20/09 10:28

To: Daniel J Mahoney/SFPD/SFGOV@SFGOV
cc:
Subject: Fw: SOTF Hearing Reminder: #09008_Anonymous v Police Commission

Lt. Joe Reilly, Secretary
San Francisco Police Commission
Thomas J. Cahill Hall of Justice, Room 505
850 Bryant Street
San Francisco, CA 94103
(415) 553-1667
(415) 553-1669 fax
----- Forwarded by Commission SFPD/SFPD/SFGOV on 02/20/09 10:30 -----

SOTF/BOS/SFGOV
Sent by: SOTF

02/19/09 16:38

To Commission SFPD/SFPD/SFGOV@SFGOV, sfpd.online@sfgov.org, Joseph Reilly/SFPD/SFGOV@SFGOV
cc
Subject SOTF Hearing Reminder: #09008_Anonymous v Police Commission

This is a reminder that a hearing is scheduled with the Sunshine Ordinance Task Force, regarding the above titled complaint, to hear the merits of the complaint and to issue a determination.

Date: Tuesday, February 24, 2009

Location: City Hall, Room 408
Time: 4:00 p.m.

Complainants: Your attendance is required at this hearing.

Respondents/Departments: Pursuant to Section 67.21 (e) of the Ordinance, the custodian of records or a representative of your department, who can speak to the matter, is required at the meeting/hearing.

Attached is the DCA's Instructional Letter to the Task Force.

09008_Instructional.pdf

To access the agenda please click on the link below. Then click on the associated item number to access the packet material related to your item.

http://www.sfgov.org/site/sunshine_page.asp?id=99269

Chris Rustom, Asst. Administrator
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ORDER OF DETERMINATION
March 3, 2009

DATE THE DECISION ISSUED
February 24, 2009

ANONYMOUS (RAY HARTZ) v. SAN FRANCISCO POLICE COMMISSION (09008)

FACTS OF THE CASE

Anonymous person checked the City's website and looked for the Index of Records for the San Francisco Police Commission ("Commission"). The website did not have a listing for the Commission.

COMPLAINT FILED

On December 4, 2009, Anonymous person filed a Sunshine Ordinance Complaint against the Commission for failure to comply with Section 67.29 of the Ordinance.

HEARING ON THE COMPLAINT

On February 24, 2009, Complainant Anonymous appeared before the Task Force and presented his case. Complainant identified himself as Ray Hartz and requested that in this and future complaints he be identified by name. Respondent Agency was not present but had submitted a letter that said the Department was responsible for including and posting the Commission's Index of Records, that the Commission, therefore, should not separately be found in violation of the Ordinance, and that the Commission was working with the San Francisco Police Department and the City Administrator's Office to list its records in the Department's Index of Records and post that document on line.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Based on the testimony and evidence presented the Task Force finds that the Commission failed to ensure that its records were included and posted in an Index of Records as required by Sec. 67.29. The Task Force also found a violation of Sec. 67.21 (e) for failure to appear.

ORDER OF DETERMINATION

DECISION AND ORDER OF DETERMINATION

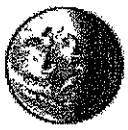
An Order of Determination finding the Commission in violation of 67.29 for failure to ensure its records were included in an Index of Records posted online and 67.21(e) for failure to send a representative to the Task Force hearing was adopted by the Sunshine Ordinance Task Force on February 24, 2009, by the following vote: (Knee / Goldman)

Ayes: Knee Washburn, Knoebber, Johnson, Goldman, Williams, Craven
Excused: Cauthen, Chu
Absent: Chan

The enforcement of this Order of Determination is referred to the Education, Outreach and Training Committee to work with the appropriate entities to make sure the Commission's records (as well as other entities who are under the direction or control of the Commission) are listed in an Index of Records that is posted online.

Erica Craven, Vice Chair
Sunshine Ordinance Task Force

c: Ray Hartz, Complainant
Lt. Joe Reilly, Police Commission
Lt. Daniel J. Mahoney, Police Department
Ernie Llorente, Deputy City Attorney



[redacted]@yahoo.com
03/18/2009 04:49 PM
Please respond to [redacted]@yahoo.com

To sotf@sfgov.org
cc grossman356@mac.com, mail@csrsf.com, [redacted]@sbcglobal.net, [redacted]@yahoo.com
bcc
Subject Case # 08054

Dear SOTF members:

Re: SOTF # 08054

We would like to ask for reconsideration for a rehearing because Sunshine Ordinance personal withheld documents from us. These documents are crucial to our case and we believe the out come would have been different if the documents were available to us.
This information was not available at the time of the hearing. The vote was 5 -3 in our favor if the information was available, the vote would have been different.

When personal at SOTF withhold documents therefore the public could not be prepared before the members this is not open government.

Please grant us a rehearing.

Thank you.

SOTF/SOTF/SFGOV
03/02/2009 04:50 PM

To Tenants 769NorthPoint <[redacted]@yahoo.com>
cc
bcc
Subject Re: SOTF case #08054

The complaint procedure in Section E says:

Reconsideration of Task Force Findings

1. Within 10 days of issuance of the Order of Determination, either the complainant or respondent may petition the SOTF for a reconsideration only if information exists that was not available at the time of the hearing.

2. The Task Force shall consider the petition at its next scheduled meeting. If a petition for reconsideration is granted, a new hearing on the complaint shall be scheduled at the next SOTF meeting. (Approved by Task Force 10/26/04)

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

Complete a SOTF Customer Satisfaction Survey by clicking the link below.
http://www.sfgov.org/site/sunshine_form.asp?id=34307
Tenants 769NorthPoint <tenants769np@yahoo.com>

Tenants 769NorthPoint
<[redacted]@yahoo.com>
03/02/2009 04:09 PM

To Sotf@sfgov.org, Frank.Darby@sfgov.org, Chris.Rustom@sfgov.org
cc kimo@webnetic.net, Allen Grossman <grossman356@mac.com>, Christian Holmer <mail@csrsf.com>, Ray Hartz Jr <[redacted]@sbcglobal.net>, [redacted]@yahoo.com
Subject SOTF case #08054

Dear Mr. Darby and Mr. Rustom:

We request for a reconsideration/rehearing for the above captioned case #08054.

Please advise what we are required to do following our request for

reconsideration/rehearing?

Thank you.

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

February 24, 2009

DATE THE DECISION ISSUED
January 29, 2009

ANONYMOUS TENANTS v. DEPARTMENT OF BUILDING INSPECTION (08054)

FACTS OF THE CASE

Anonymous Tenants state that on November 13, 2008, they made an Immediate Disclosure Request on the Department of Building Inspection ("DBI") through Anita Lee at the Central Permit section of DBI for a copy of the permit application for permit # 200810305471 in PDF form and that it be sent to the Tenants as an e-mail attachment. On November 13, 2008, Alan E. Whiteside, Custodian of Records of the Customer Service Division of DBI responded and stated that DBI could not scan and e-mail the requested permit application and that in the alternative, Mr. Whiteside prepared a record request for the Tenants. The procedure required the Tenants to pick up the hardcopy of the application at DBI and pay a records charge of $6.50.
The Tenants objected to the procedure as stated by Mr. Whiteside and cited an earlier request in which the secretary of the Director of DBI was able to scan and send as an e-mail attachment a requested document.

COMPLAINT FILED

On November 25, 2008, the tenants filed a complaint against DBI and alleged that DBI allegedly violated the Sunshine Ordinance, sections 67.29-2, 67.21(l), 67.21-1 and 67.21 generally.

HEARING ON THE COMPLAINT

On January 27, 2009, Complainant Anonymous Tenants appeared before the Task Force and presented his claim. Respondent Agency was represented by Communications Manager William Strawn and Alan Whiteside, the custodian of records, who presented the Agency's defense.

The issue in the case is whether the Agency violated Sections 67.21, 67.25, 67.21-1 and 67.29-2 of the Ordinance and Sections 6253 and 6255 of the California Public Records Act.

ORDER OF DETERMINATION

DECISION AND ORDER OF DETERMINATION

A Motion to find the department in violation of Sec.67.21-1 (b) (I) (ii) (iii) for failure to utilize computer technology in order to reduce the cost of public records management, including the costs of collecting, maintaining, and disclosing records failed for lack of a majority.

The Motion to find the department in violation presented by Knee/ Cauthen failed on the following vote:
Ayes: Knee, Cauthen, Johnson, Chan, Craven
Noes: Knoebber, Goldman, Chu
Excused: Washburn, Williams

A Motion to reopen the case was forwarded by Cauthen / Chan.

That motion also failed by the following vote
Ayes: Cauthen, Johnson, Chan
Noes, Craven, Knee, Knoebber, Goldman, Chu
Excused: Washburn, Williams

Kristin Murphy Chu, Chair
Sunshine Ordinance Task Force

c: Ernie Llorente, Deputy City Attorney
Rosa Sanchez, Deputy City Attorney
Anonymous Tenants, Complainant
William Strawn, Communications Manager
Alan Whiteside, Custodian of Records