

Date: June 28, 2011

Item No. 2

File No. 10054

SUNSHINE ORDINANCE TASK FORCE

AGENDA PACKET CONTENTS LIST*

- Ray Hartz against the Library Commission**
-
-
-
-
-
-
-
-
-
-

Completed by: Chris Rustom

Date: June 24, 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
February 7, 2011**

DATE THE DECISION ISSUED
January 25, 2011

RAY HARTZ v LIBRARY COMMISSION (CASE NO. 10054)

FACTS OF THE CASE

Complainant Ray Hartz alleges that the Library Commission (the "Commission" or "Respondent") violated the Sunshine Ordinance by failing to include in the text of the official minutes of its September 16, 2010, meeting his written statement of not more than 150 words. Mr. Hartz alleges that the Commission instead included a summary that did not accurately reflect his testimony. Mr. Hartz's complaint identifies Sunshine Ordinance ("Ordinance") Section 67.16 as having been violated. In his supplemental complaint, Mr. Hartz alleges that the above actions constituted a violation of Section 67.15 of the Ordinance by abridging his public testimony.

COMPLAINT FILED

On October 14, 2010, Mr. Hartz filed a complaint with the Task Force alleging a violation of the Ordinance. On October 20, 2010, Mr. Hartz amended his complaint with supplemental allegations of an additional violation of the Ordinance.

HEARING ON THE COMPLAINT

On January 25, 2011, Mr. Hartz presented his case before the Task Force. Mary Hudson appeared on behalf of the Commission.

Mr. Hartz told the Task Force that the Sunshine Ordinance allows for the inclusion of a 150-or fewer-word summary in the minutes. He said the Commission argues that its practice is supported by the Good Government Guide, which is not the law. He said he has repeatedly appeared before the Commission and have stated what the law requires. Instead, he said, the Commission's practice is to attach it as an addendum and make no mention of it in the body of the minutes. Another problem, he said, is that the Commission puts its own view of what was said in the minutes rather than what was actually said. If he had positive things to say, it would be in the minutes but if he had harsh words, the Commission would limit it or tone it down, he said.

Ms. Hudson of the City Librarian's Office said she was representing Commission Secretary Sue Blackman, who had earlier requested through two emails to the Task Force that the item not be placed on the current agenda because she would be unable to attend as she was on a planned vacation. Ms. Hudson requested that the item be continued to allow for Ms. Blackman's attendance at a future date. Chair Knee denied the request after sensing that members wanted the case heard. She then told Chair Knee that only Ms. Blackman, who is the Commission's lone staff person, was familiar with the complaint. Chair Knee said if that was the case, Commission President Jewelle Gomez should have made an alternate arrangement, including sending one of the seven commissioners.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Judging from the testimony and evidence presented, the Task Force finds the testimony of Mr. Hartz to be persuasive. It also noted that the Task Force had found in a previous ruling that placing the 150-word statement as an addendum was acceptable if it was mentioned in the body of the minutes.

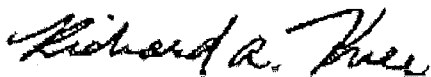
DECISION AND ORDER OF DETERMINATION

The Task Force finds that the Commission violated Sunshine Ordinance Section 67.15 by altering Mr. Hartz's statement as it constituted an abridgement of the submission and Section 67.16 for attaching the statement as an addendum and not placing it within the body of the minutes. The Task Force also found Ms. Gomez in violation of Section 67.21(e) for not sending a person knowledgeable in this matter to the hearing. The agency shall make the necessary changes and appear before the Task Force on March 22, 2011.

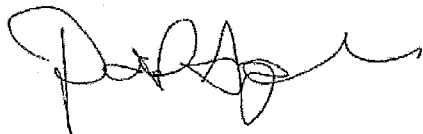
This Order of Determination was adopted by the Sunshine Ordinance Task Force on January 25, 2011, by the following vote: (Washburn / Chan)

Ayes: Snyder, Manneh, Washburn, Knoebber, Wolfe, Chan, Johnson, Knee

Excused: Cauthen



Richard A. Knee, Chair
Sunshine Ordinance Task Force



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

c: Ray Hartz, Complainant
Sue Blackman, Respondent
Jewel Gomez, Commission President
Jerry Threet, Deputy City Attorney

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