

Date: June 28, 2011

Item No. 3
File No. 11001

SUNSHINE ORDINANCE TASK FORCE

AGENDA PACKET CONTENTS LIST*

- William Clark against the City Attorney's Office**
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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
March 14, 2011

DATE THE DECISION ISSUED
February 22, 2011

WILLIAM CLARK V CITY ATTORNEY'S OFFICE (CASE NO. 11001)

FACTS OF THE CASE

Complainant William Clark alleges that the City Attorney's Office ("CAO" or "Respondent") violated Section 67.21(b) of the Ordinance by failing to respond to his request for "copies of all the documents and/or records which explain exactly what the 11.75 hours of the City Attorney's Office personal's [sic] time was used for regarding the "Sunshine Disclosures" for the Street Artists Program during the [20]09-10 fiscal year[, including] a breakdown of what amount of time was used for each specific Sunshine Ordinance request your office had to spend time on and what each Sunshine Ordinance request was during the 09-10 fiscal year."

COMPLAINT FILED

On January 11, 2011, the Complainant filed a complaint with the Task Force alleging a violation of Section 67.21(b).

HEARING ON THE COMPLAINT

On February 22, 2011, Complainant presented his case to the Task Force. The Respondent was not represented and no one in the audience spoke or presented facts and evidence in support of the Respondent.

Mr. Clark told the Task Force that he sent City Attorney Dennis Herrera an email on December 15, 2010, and asked for a breakdown of the 11.75 hours his office had charged the Street Artists Program. He said he received a response that showed how three deputy city attorneys had accumulated the total figure. He said no other specifics were provided even though the Sunshine Ordinance Section 67.20(i) says all communications with the City Attorney's Office, including petitions, requests for opinion, and opinions shall be public records. He said he believed that Jack Song, the CAO's representative, had told the Task Force that he would show exactly how the 11.75 hours was reached. The CAO, he said, was invoking the attorney-client privilege and was refusing to provide the subject matter.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Judging from the evidence presented, the Task Force noted that the CAO's response was provided one month after the complaint was filed, and that the office was taking the attorney-client privilege concept too far. Members noted that the CAO did not keep its withholdings to a minimum, and that even if the substance was privileged the names of the cases were not. They said the CAO could have redacted the advice and indicated the case to which it referred.

DECISION AND ORDER OF DETERMINATION

The Task Force finds that the CAO violated Sunshine Ordinance Section 67.26 by not identifying the cases on which the attorneys worked, and Section 67.21(b) by not providing the information in a timely manner.

Mr. Song is to appear before the Education, Outreach and Training Committee on April 14, 2011.

This Order of Determination was adopted by the Sunshine Ordinance Task Force on February 22, 2011, by the following vote: (Johnson/Wolfe)
Ayes: Washburn, Knoebber, Wolfe, Chan, Johnson, Cauthen, Knee
Excused: Snyder, Manneh



Richard A. Knee, Chair
Sunshine Ordinance Task Force

c: William Clark, Complainant
Jack Song, Respondent
Jerry Threet, Deputy City Attorney