

Date: August 24, 2010

Item No. 10

File No. 10025

SUNSHINE ORDINANCE TASK FORCE

AGENDA PACKET CONTENTS LIST*

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Completed by: Chris Rustom

Date: August 19, 2010

***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**



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ORDER OF DETERMINATION
July 6, 2010 (Revised)

DATE THE DECISION ISSUED
June 22, 2010

RAY HARTZ v SAN FRANCISCO POLICE COMMISSION (10025)

FACTS OF THE CASE

Complainant Ray Hartz alleges that the San Francisco Police Commission ("Commission") has failed to comply with the requirements of Administrative Code Section 67.29, dealing with the Index of Records. He further alleges that this violation took place after the Task Force previously found the Commission in violation for the same failure in Order of Determination #09008.

COMPLAINT FILED

On May 25, 2010, Mr. Hartz filed a complaint against the Commission.

HEARING ON THE COMPLAINT

On June 22, 2010, Mr. Hartz presented his claim before the Task Force. The respondent Commission was not represented and no one in the audience presented facts and evidence in support of the respondent. However, the Commission did respond to the complaint through a letter to the Task Force that was made a part of the record.

Mr. Hartz told the Task Force that when a person is in charge of something, that person has the responsibility of carrying out the task properly. The same applies when the task is delegated to someone else. If that happens, he said, that person needs to follow up and see if the task is being undertaken properly. The Commission, he said, has delegated the Police Department to take care of the index issue and has been let down miserably.

The Commission's letter responded that, although the Index of Records had disappeared from the Internet, the Commission was not responsible for its absence. Rather, the Commission had provided the Index of Records to the City Administrator, as required by the Ordinance, and it was thereafter available on the Internet. Unfortunately, the City Administrator said, for unknown reasons, the Index of Records was taken off the Internet. Once the Complainant alerted the Commission to the omission, the Commission contacted the City Administrator and made sure the Index of Records was restored to the Internet. Mr. Hartz told the Task Force that his complaint was not about the absence from the Internet of an Index of Records for the Commission, but rather about the inadequacy of the Index of Records that was placed there by the Commission. All the Police Department has done for

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the Commission is to put up a list that is not meaningful, he said. The Commission is responsible for ensuring that the Department follows the law and it needs to let the Department know that it has to do what it is supposed to do, he said. He also said the Commission has added responsibility because it has civilian oversight over the Department.

Member Wolfe noted that the department in its correspondence to the Task Force acknowledges responsibility for noticing the Index and not for its disappearance. He also added that Mr. Hartz is suggesting that the content and required detail were not in compliance, as was found in the previous case.

In closing, Mr. Hartz said his claim was simply that the Commission had violated Section 67.29 by not doing what it was supposed to do. He said he did not feel he had to provide a detailed complaint and that the department assumed what the complaint was about. The Commission, he said, did not show good faith in trying to resolve the issue but instead penned a letter that said the matter was taken care of and decided not to show up.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Based on the testimony and evidence presented, the Task Force finds that the agency... violated the Ordinance.

DECISION AND ORDER OF DETERMINATION

The Task Force finds that the Commission violated Sections 67.29 and 67.21(e) of the Sunshine Ordinance by not having a complete Index of Records and by not sending a knowledgeable representative to the Task Force hearing. The Commission shall send a representative knowledgeable in this matter to appear before the Compliance and Amendments Committee on July 13, 2010. The Commission's representative shall be prepared to demonstrate to the Committee that the Commission's Index of Records enables members of the public to learn the types of information and documents maintained by and for the Commission, per Ordinance Section 67.29.

This Order of Determination was adopted by the Sunshine Ordinance Task Force on June 22, 2010, by the following vote: (Wolfe / Goldman)
Ayes: Snyder, Cauthen, Washburn, Knoebber, Goldman, Wolfe, Chan, Johnson, Williams, Knee



Richard A. Knee, Chair
Sunshine Ordinance Task Force

c: Jerry Threet, Deputy City Attorney
Jana Clark, Deputy City Attorney
Ray Hartz, Complainant
Lt. Joe Reilly, Respondent

