

Date: Dec. 14, 2011

Item No. 15 & 16
File No. 11083

SUNSHINE ORDINANCE TASK FORCE

AGENDA PACKET CONTENTS LIST*

- Ray Hartz against the Public Library**
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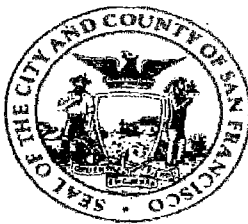
Completed by: Chris Rustom

Date: Dec 9, 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
 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 PUBLIC LIBRARY

Name of individual contacted at Department or Commission LUIS HERRERA, CITY LIBRARIAN

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

Sunshine Ordinance Section 67.21(c), 67.21(d), 67.21(e)
(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.

PLEASE SEE ATTACHED

- 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 RAY WHARTZ, JR Address 839 LEWENWORTH ST #304 SAN FRANCISCO CA 94109

Telephone No. (415) 345-9144 E-Mail Address RWHARTZ.JR@SBCGLOBAL.NET

Date 10/4/11 Ray Whartz
 Signature

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).

Wednesday, October 05, 2011

On Thursday, July 21, 2011 an Immediate Disclosure Request was filed with Luis Herrera, City Librarian. The request was for assistance in identifying documents in Mr. Herrera's custody which would provide information relating to the financial relationship between the Friends of the San Francisco Public Library and the San Francisco Public Library. On Monday, July 25, 2011, I contacted Ms. Blackman, Secretary of the Library Commission regarding this request which was delegated to her by Mr. Herrera. I attempted to clarify that my request was specifically for assistance in identifying documents, which would enable me to make a specific request for specific documents.

Ms. Blackman responded by close of day on Monday, July 25, 2011. Her response contained nothing of substance responsive to the request. One of the documents did contain information which helped me frame a request for two specific documents, subsequently received, which are not part of this complaint. Other documents provided were for time periods not requested and included other information not responsive to my request. In fact, two of the four documents provided were items I had specifically told Ms. Blackman by telephone I did not want! In addition, Ms. Blackman invoked a 14 day extension to answer the request without making any good-faith effort to assist me in limiting the request. My intent was, and remains, acquiring public records in the least demanding and/or complicated way possible. It was never my intent to ask for everything, but to get assistance in identifying documents which would provide needed information with minimal use of city resources.

Ms. Blackman subsequently provided additional documents which were responsive to the request. However, Ms. Blackman at no time provided assistance in identifying documents to enable me to frame a request as required by the Sunshine Ordinance, but, picked selected documents by some means quite unclear to me. She has placed me in the position of playing some guessing game as to how to identify what documents are available and responsive to this request.

The Ordinance section 67.21 (and my IDR quoting same) clearly indicates the responsibility that a custodian of records has in providing assistance in *"indentifying the existence, form, and nature of any records or information maintained by, available to, or in the custody of the custodian, whether or not the contents of those records are exempt from disclosure and shall, when requested to do so, provide in writing within seven days of a request, a statement as to the existence, quantity, form and nature of records relating to a particular subject or questions with enough specificity to enable a requester to identify records in order to make a request under (b). A custodian of any public record, when not in possession of the record requested, shall assist a requester in directing a request to the proper office or staff person."*

It is my contention that other documents exist, either in Ms. Blackman's custody as Secretary of the Library Commission and/or the custody of Luis Herrera, the City Librarian, which are responsive to my request.

This complaint is specifically against Luis Herrera, to whom the request was submitted. Mr. Herrera delegated the response to Ms. Blackman and she subsequently failed to respond appropriately or on a timely basis. In fact, Ms. Blackman lacks the authority to respond to a public records request as she has without the approval and/or direction of Mr. Herrera.

IMMEDIATE DISCLOSURE REQUEST

Thursday, July 21, 2011

Luis Herrera, City Librarian

Mr. Herrera,

In accordance with Sunshine Ordinance Sec 67.21, I am requesting your assistance in "identifying the existence, form, and nature of any records or information maintained by, available to, or in the custody of the custodian, whether or not the contents of those records are exempt from disclosure and shall, when requested to do so, provide in writing within seven days of a request, a statement as to the existence, quantity, form and nature of records relating to a particular subject or questions with enough specificity to enable a requester to identify records in order to make a request under (b). A custodian of any public record, when not in possession of the record requested, shall assist a requester in directing a request to the proper office or staff person."

This request is for documents regarding the financial relationship of the San Francisco Public Library with the Friends of the San Francisco Public Library. Specifically the amounts raised by the Friends of the San Francisco Public Library during the fiscal years 2008 to 2009 and 2009 to 2010 and the amounts received by the San Francisco Public Library from the Friends of the San Francisco Public Library during those same periods. The figures relating to receipts by the San Francisco Public Library should contain enough information to ascertain the exact value, either in cash or in kind of all monies and/or materials actually received by the library during the two fiscal years indicated.

Sincerely,

Ray W. Hartz, Jr.

839 Leavenworth St, Apt 304

San Francisco CA 94109-6131

(415) 345-9144

<http://www.sfbclibrary.org>

COPY

IMMEDIATE DISCLOSURE REQUEST



RE: #11083_Ray Hartz vs Luis Herrera, Public Library
Sue A. Blackman to: soft@sfgov.org, rwhartzjr@sbcglobal.net
Cc: Luis Herrera

11/18/2011 12:08 PM

History: This message has been forwarded.

2 attachments



final 7.25.11.doc 8.4.11 response.doc

November 18, 2011

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

Re: Complaint #11083 Ray W. Hartz v. Library Commission

Dear Task Force Members:

This letter responds to Complaint #11083, which was signed by Ray Hartz on October 4, 2011 and sent to the San Francisco Public Library "SFPL" on October 14, 2011.

For the reasons set forth below, the complaint is without merit and should be dismissed.

The Complaint

Mr. Hartz filed a similar complaint (Complaint #11055) with the Task Force regarding this same Immediate Disclosure Request on July 26, 2011. The Task Force heard Complaint #11055 on August 23, 2011 and no motion was made on the item and the matter was concluded.

The complaint alleges that Luis Herrera, the SFPL Librarian, violated Section 67.21 (c), (d) and (e) of the Administrative Code for failure to assist a member of the public's request for assistance in identifying documents in the Library's custody and for failure to respond appropriately or on a timely basis.

On Thursday evening, July 21, 2011 at the Library Commission an Immediate Disclosure Request (IDR) was handed to the City Librarian by Mr. Hartz. SFPL acknowledged Mr. Hartz' request on Monday, July 25, 2011 and provided Mr. Hartz with two separate PowerPoint presentations and the Public-Private Support and Cooperation Framework for Branch Library Improvement Program (Framework document). We also identified another document, the Annual Report for 2007-08 and 2008-09 by SFPL and the Friends of SFPL, which he might be interested in perusing. While SFPL requested a 14-day extension to identify additional types of documents that SFPL might have, SFPL did in fact respond to Mr. Hartz' request in an appropriate and timely manner.

Mr. Hartz responded on July 26, 2011 stating that our response was non-responsive. We replied on July 16, 2011 and disagreed with Mr. Hartz'

characterization of our timely response. Notwithstanding Mr. Hartz' allegations, SFPL continued to research his request.

Based on documents SFPL provided i.e. the two PowerPoint presentations and Framework document, Mr. Hartz submitted a subsequent IDR on July 28, 2011. Mr. Hartz' July 28, 2011 IDR referred to the Framework document and requested the Friends' "independently prepared audits" for years 2008, 2009 and 2010. We responded to his request the following day on July 29, 2011, with the "independently prepared audits" documents: The Friends and Foundation of the San Francisco Public Library/Financial Statements for the Years Ended June 30, 2010 and 2009/Report of Independent Auditors," and "The Friends and Foundation of the San Francisco Public Library/Financial Statements for the Years Ended June 30, 2009 and 2008/Report of Independent Auditors."

On August 4, 2011, (see attached) we followed up again and listed four additional documents which might be responsive to his first request.

Mr. Hartz states that "it is my contention that other documents exist, either in Ms. Blackman's custody as Secretary of the Library Commission and/or the custody of Luis Herrera, the City Librarian, which are responsive to my request." The Library has provided Mr. Hartz with documents responsive to his request and is not aware of any other documents that might be responsive to his request.

Conclusion

The Library believes it has fully complied with Administrative Code Section 67.21(c) in assisting Mr. Hartz to identify records and information that are responsive to his request or purpose of his request and we believe this Complaint should be dismissed.

We hope this letter will be of assistance to the Task Force. If I can be of further assistance with respect to this Complaint, please do not hesitate to contact me.

Sincerely,

Sue Blackman
Custodian of Records,
Library Commission Secretary

-----Original Message-----

From: sotf@sfgov.org [mailto:sotf@sfgov.org]
Sent: Thursday, November 17, 2011 11:07 AM
To: rwhartzjr@sbcglobal.net
Cc: Luis Herrera; Sue A. Blackman
Subject: #11083_Ray Hartz vs Luis Herrera, Public Library

Due to an increase in the amount of complaints received within the last two months, the Task Force is requesting that your complaint be heard at a later regular or special meeting date. Please let me know if you can accommodate the request.

Chris Rustom
Sunshine Ordinance Task Force
City Hall, Rm. 244, San Francisco, CA 94102 sotf@sfgov.org, (415) 554-7724,
fax: (415) 554-7854

Official SFPL Use Only

Official SFPL use only

July 25, 2011

Ray W. Hartz, Jr.
839 Leavenworth Street, Apt. 304
San Francisco, CA 94109-6131
Via email: rwhartzir@sbcglobal.net

Re: Immediate Disclosure Request

Dear Mr. Hartz:

I am writing in response to your immediate disclosure request hand delivered at the Library Commission meeting on Thursday, July 21, 2011. In order for the Library to more efficiently respond to any requests in the future, please see the attached Procedures for Public Records Request.

Your request is not "simple, routine or otherwise readily answerable" and does not meet the criteria for "immediate disclosure" under the San Francisco Sunshine Ordinance. (S.F. Adm. Code Sec. 67.25(a).) Accordingly, it is a standard public records request not subject to the expedited time limit for response that applies to an immediate disclosure request. Further, we must invoke an extension of 14 days because your request is voluminous, and we will have to retrieve records from off-site storage to respond to the request (Cal. Gov. Code Sec. 6253(c)).

In your request you ask for assistance in accordance with Sunshine Ordinance Sec. 67.21 in identifying "documents regarding the financial relationship of the San Francisco Public Library (SFPL) with the Friends (Friends) of the San Francisco Public Library. Specifically the amounts raised by the Friends during the fiscal years 2008 to 2009 and 2009 to 2010 and the amounts received by the SFPL from the Friends during those same periods. The figures relating to receipts by the SFPL should contain enough information to ascertain the exact value, either in case or in kind of all monies and/or materials actually received by the library during the two fiscal years indicated."

The Library is conducting a diligent search to identify documents responsive to your request. We have located two PowerPoint presentations given by the Friends to the Library Commission on March 5, 2009 and February 3, 2011, which are attached. Also attached is the Public-Private Support and Cooperation Framework for Branch Library Improvement Program and Neighborhood Library Campaign, "Framework" between SFPL and Friends. Other documents available are the 2007-08, 2008-09 Annual Report of the SFPL and Friends.

If you have further questions about this matter, please feel free to contact me.

Sincerely,

Sue Blackman
Library Commission Secretary/
Custodian of Records

August 4, 2011

Ray W. Hartz, Jr.
839 Leavenworth Street, Apt. 304
San Francisco, CA 94109-6131
Via email: rwhartzir@sbcglobal.net

Re: Immediate Disclosure Request

Dear Mr. Hartz:

I am writing in response to your immediate disclosure request hand delivered at the Library Commission meeting on Thursday, July 21, 2011. On July 25, 2011 we responded and provided you with several documents: two PowerPoint presentations given by the Friends to the Library Commission on March 5, 2009 and February 3, 2011 and the Public-Private Support and Cooperation Framework for Branch Library Improvement Program and Neighborhood Library Campaign. We also asked for a 14 day extension to allow us time to identify additional documents, which would be responsive to your request.

In your request you ask for assistance in accordance with Sunshine Ordinance Sec. 67.21 in identifying "documents regarding the financial relationship of the San Francisco Public Library (SFPL) with the Friends (Friends) of the San Francisco Public Library. Specifically the amounts raised by the Friends during the fiscal years 2008 to 2009 and 2009 to 2010 and the amounts received by the SFPL from the Friends during those same periods. The figures relating to receipts by the SFPL should contain enough information to ascertain the exact value, either in cash or in kind of all monies and/or materials actually received by the library during the two fiscal years indicated."

You followed up with another Immediate Disclosure Request on July 28, 2011 requesting the "independently prepared audits" for fiscal years 2008-09 and 2009-10." We responded to your request on July 29, 2011 with the documents you requested.

The Library has conducted a diligent search and has identified four additional documents which may be responsive to your request. These documents are the Friends Grant Funding Report; Check Voucher Register; Temporary Restricted Fund Balance and Traditionally Funded Grants.

If you have further questions about this matter, please feel free to contact me.

Sincerely,

Sue Blackman
Library Commission Secretary/
Custodian of Records



Re: #11083_Ray Hartz vs Luis Herrera, Public Library

Ray Hartz Jr

to:

Sue A. Blackman, sotf@sfgov.org

11/18/2011 02:29 PM

Cc:

Luis Herrera

Hide Details

From: Ray Hartz Jr <rwhartzjr@sbcglobal.net>

To: "Sue A. Blackman" <sblackman@sfpl.org>, "sotf@sfgov.org" <sotf@sfgov.org>

Cc: Luis Herrera <lherrera@sfpl.org>

November 18, 2011

Members, Sunshine Ordinance Task Force

c/o Chris Rustom

City Hall, Room 244

1 Dr. Carlton B. Goodlett Place

San Francisco, CA 94102-4689

Re: Complaint #11083 Ray W. Hartz v. Library Commission

Dear Task Force Members:

In reference to the attached request from the City Librarian to dismiss this case, I would simply reply that the facts of the case have changed. While I felt at the time of the original case (and still do) that my complaint was valid, the Task Force declined to act. Subsequent events relating to the original request and the City Librarian's response have altered significantly. This presented the need to file the new case.

This is a new case with new facts, and, as such, should not be dismissed.

Sincerely,

Ray W. Hartz, Jr.

Director, San Francisco Open Government

From: Sue A. Blackman <sblackman@sfpl.org>
To: "soft@sfgov.org" <soft@sfgov.org>; "rwhartzjr@sbcglobal.net" <rwhartzjr@sbcglobal.net>
Cc: Luis Herrera <lherrera@sfpl.org>
Sent: Fri, November 18, 2011 12:08:35 PM
Subject: RE: #11083_Ray Hartz vs Luis Herrera, Public Library

November 18, 2011

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Sincerely,

Sue Blackman
Custodian of Records,
Library Commission Secretary

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