

Date: Feb. 22, 2011

Item No. 11
File No. 10063

SUNSHINE ORDINANCE TASK FORCE

AGENDA PACKET CONTENTS LIST*

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| <input checked="" type="checkbox"/> | Debra Benedict v Office of Economic & Workforce |
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Completed by: Chris Rustom

Date: _____

***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

January 28, 2011

DATE THE DECISION ISSUED

January 25, 2011

DEBRA BENEDICT v OFFICE OF ECONOMIC & WORKFORCE DEVELOPMENT (10063)

FACTS OF THE CASE

Complainant Debra Benedict ("Complainant") alleges that Martha Cohen of the Mayor's Office of Economic & Workforce Development ("OEWD") ignored repeated requests to enable review of a contract related to the San Francisco Giants ("Giants") celebrations held at City Hall on November 3, 2010.

COMPLAINT FILED

On November 16, 2010, Ms. Benedict filed a complaint against the OEWD alleging that OEWD failed to respond to her request.

HEARING ON THE COMPLAINT

On January 25, 2011, Ms. Benedict presented her case before the Task Force. The Respondent Agency was represented by Myisha Hervey.

Ms. Benedict told the Task Force that she is a disabled person living in San Francisco and is the coordinator for Chapter 16 of the San Francisco and Bay Area Californians for Disability Rights group. She said her complaint was against Ms. Cohen and not the OEWD. She said she brought along a copy of her telephone records to show the number of times she tried unsuccessfully to contact Ms. Cohen. She said she came to watch the Giants World Series game 5 on the large screen at the Civic Center Plaza on November 1 and expected any indoor or outdoor event operated by the City of San Francisco to have a special seating area for people with disabilities as required by the Americans With Disabilities Act ("ADA"). She asked numerous officials where the ADA seating area was and did not receive a reply. After the event, she spoke with Ms. Cohen, who apologized for the oversight.

Ms. Benedict said her complaint is based on the November 3 event, which occurred in front of City Hall, for the celebration of the Giants' World Series win. The event was well attended and she said she had to fight her way through the crowd to reach a uniformed officer for directions to the ADA-designated area. She was first told that she had to go around the crowd to get there but when she explained that she was a disabled person and needed help, the officers conferred and called a member of the production company running the event. That person told her that the designated area was full but when she insisted, she was

ORDER OF DETERMINATION

forced to leave her personal belongings with the officers at the corner of Grove and Polk Streets. She said they walked through the blocked-off area to reach the designated area and saw two areas roped off. Each of those areas had about a dozen people in it and some were in wheelchairs. She also noticed that there were a few vacant seats. She then headed to the entrance of the area and saw that it was crowded and there was no one there to assist disabled people wishing to gain access to the area. She said she was very upset that the ADA was getting only lip service at a public event run by the City.

She said because her only contact was Ms. Cohen, she informed her that she wanted to know who was responsible for the contract covering the event. Before that, she said, she told Ms. Cohen that the California Public Records Act allows her access to public records. She said Ms. Cohen refused to give her the information and when she filed the complaint, the response came in the form of an unsigned letter.

Ms. Hervey of the OEWD said Ms. Benedict had asked for a copy of a contract that did not exist. She said the contract was between the Giants and Hartmann Studios and her office did not have a copy. She said the delay in the response was because the request went to Ms. Cohen, who did not know the rules and was out of the office. She said Ms. Cohen was still away for the next few days but was able to forward Ms. Benedict's request to her on November 22. She said she responded on November 23 and indicated that the office did not have a copy of the contract that was signed between two private entities.

Ms. Hervey also told Vice Chair Wolfe that she responded to the request but was not involved in the process, did not know the process, did not know of any event details and did not know what was required, and that Ms. Cohen, who was directly involved in the process, would probably have spoken to the Giants and the Police among others to make the event a success.

Member Snyder suggested that, regardless of the outcome of this complaint, Ms. Benedict make another request since everybody now knows what she wants. Ms. Hervey said if her office has the document, a copy would be provided.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Task Force noted that Ms. Hervey seemed to have all the answers and that if a person is constantly out of the office, that person should have a telephone answering message that sends callers in the right direction and, as required by the Sunshine Ordinance, the name of the person within the department who is assigned to answer sunshine questions should be provided.

DECISION AND ORDER OF DETERMINATION

The Task Force finds that the agency violated the Sunshine Ordinance Sections 67.21(b) by not responding within the given time frame, 67.21(c) by failing to assist the requestor and 67.25(a) by failing in immediacy of response. The agency shall release the records requested within 5 business days of the issuance of this Order and appear before the Compliance and Amendments Committee on February 8, 2011.

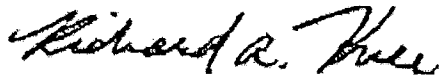
ORDER OF DETERMINATION

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

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

Noes: Knoebber

Excused: Cauthen



Richard A. Knee, Chair
Sunshine Ordinance Task Force



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

- c: Debra Benedict, Complainant
- Myisha Hervey, Respondent
- Jerry Threet, Deputy City Attorney

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