



**SUNSHINE ORDINANCE TASK FORCE**  
**Complaint Committee**  
**CITY AND COUNTY OF SAN FRANCISCO**  
**MINUTES**

**Hearing Room 408**  
**City Hall, 1 Dr. Carlton B. Goodlett Place**  
**San Francisco, CA 94102-4689**

**July 21, 2015 - 4:00 PM**

**Special Meeting**

**Members:** Louise Fischer (Chair), Fiona Hinze, David Pilpel

**1. CALL TO ORDER, ROLL CALL, AND AGENDA CHANGES**

The meeting was called to order at 4:07 p.m.

Member Pilpel was appointed by SOTF Chair Allyson Washburn to the Complaint Committee for the meeting of July 21, 2015. At the call of the roll Members Hinze, Pilpel, and Fischer were noted present. There was a quorum.

Member Pilpel disclosed his former association with the Public Utilities Commission's Citizen Advisory Committee and further stated that he had no bias in hearing items 2 and 3.

There were no agenda changes.

*The Complaint Committee shall hold a hearing on File Nos. 15078, 15077, 15050, 15023, 15055, 15076, 15084, and 15106 to: 1) determine if the Sunshine Ordinance Task Force (SOTF) has jurisdiction; 2) review the merits of the complaints; and/or 3) issue a report and/or recommendation to the SOTF. The SOTF, upon receipt of the report and/or recommendation from the Complaint Committee, shall: 1) accept the recommendation of the Complaint Committee; or 2) schedule the complaint for a hearing before the SOTF at a future date.*

Item 2 and 3 (File Nos. 15078 and 15077) were called together.

2. **File No. 15078:** Complaint filed by Richard Denton against the San Francisco Public Utilities Commission for allegedly violating Administrative Code (Sunshine Ordinance), Sections 67.21, 67.26, and 67.27, for failure to respond to a request for public records in a timely and/or complete manner.

**Member Pilpel, seconded by Member Fischer, moved to find jurisdiction on the matter.**

Public Comment:

Thomas Picarello stated that File Nos. 15078 and 15077 should not be heard together.

**The motion PASSED by the following vote:**

Ayes: 3 - Pilpel, Hinze, Fischer

Noes: 0 - None

Richard Denton (Complainant) provided a summary of the complaint and requested the Task Force find violations, as the report provided was significantly revised beyond the need for redactions of sensitive information. There were no speakers in support of the Complainant. Susanne Gautier, Public Utilities Commission (Respondent), provided a summary of the department's position and stated that due to a pending whistleblower complaint the requested documents were referred to the appropriate parties for review and redaction prior to providing the requested report to Mr. Denton. There were no speakers in support of the Respondent. A question and answer period followed. The Respondent provided a rebuttal. The Complainant provided a rebuttal.

Member Pilpel opined that the situation could have been handled better. He stated that the Complainant should have been informed that the report provided was redacted and the reason for the redaction.

The Complaint Committee found no violation of the Sunshine Ordinance as the requested records were provided in a redacted form due to privacy concerns.

**Member Pilpel, seconded by Member Hinze, moved to refer the matter to the Sunshine Ordinance Task Force with the recommendation that no violation occurred and that the matter be concluded.**

Public Comment:

Thomas Picarello stated that the full Task Force should hear the matters as City Attorney advice is needed.

**The motion PASSED by the following vote:**

Ayes: 3 - Pilpel, Hinze, Fischer

Noes: 0 - None

3. **File No. 15077:** Complaint filed by Richard Denton against the Office of the City Attorney for allegedly violating Administrative Code (Sunshine Ordinance), Section 67.21(d), for failure fulfill the duties of the Supervisor of Records.

**Member Pilpel, seconded by Member Fischer, moved to find jurisdiction on the matter.**

Public Comment:

Matt Dorsey (Office of the City Attorney)(Respondent) disputed the Task Forces jurisdiction as the matter is not regarding a public record, and declined to participate in the hearing.

Thomas Picarello stated that File No. 15077 and 15078 should not be heard together.

**The motion PASSED by the following vote:**

Ayes: 3 - Pilpel, Haines, Hepner

Noes: 0 - None

Richard Denton (Complainant) provided a summary of the complaint and requested the Task Force find violations. There were no speakers in support of the Complainant. Matt Dorsey, Office of the City Attorney (Respondent), provided a summary of the department's position that the Task Force does not have jurisdiction to review or rule on determinations made by the City Attorney in the performance of their duty as Supervisor of Records. Mr. Dorsey further stated that the Task Force does not have the authority to compel the attendance of an authorized representative in this matter as the City Attorney is not the custodian of records and refused to respond to questions related to the complaint. Mr. Denton departed from the meeting and was not available to answer any questions.

Member Pilpel expressed concern that the question as to whether or not the City Attorney responded to the request to make a determination as to whether a record is public or not in a timely manner was not answered.

**Member Hinze, seconded by Member Pilpel, moved to refer the matter to the Sunshine Ordinance Task Force with the recommendation to find a violation of Administrative Code (Sunshine Ordinance), Sections 67.21(d), for failure to provide a determination as to whether a record is public in a timely manner.**

Public Comment:

Thomas Picarello expressed concern that the Complainant did not receive due process as the response was not timely.

**The motion PASSED by the following vote:**

Ayes: 2 - Pilpel, Hinze

Noes: 1 – Fischer

Items 4 through 9 were heard together.

4. **File No. 15050:** Complaint filed by Alvin Johnson against Dennis Herrera and the Office of the City Attorney for allegedly violating Administrative Code (Sunshine Ordinance), Sections 67.24(i), 67.25(a), 67.26, 67.34, 67.36, for failure to respond to an Immediate Disclosure request in a timely and/or complete manner.

**Member Hinze, seconded by Member Pilpel, moved to find jurisdiction on the matters (File Nos. 15050, 15023, 15055, 15076, 15084, and 15106).**

Public Comment:

Matt Dorsey, Office of the City Attorney (Respondent), commented on the Task Force's jurisdiction in the matters.

**The motion PASSED by the following vote:**

Ayes: 3 - Pilpel, Hinze, Fischer

Noes: 0 – None

Alvin Johnson (Complainant) provided a summary of the complaints and requested the Task Force to find violations. Mr. Johnson commented on the existence and use of the Good Government Guide and does not believe that the Office of the City Attorney can limit staff time allocated to responding to his requests through use of the Rule of Reason. There were no speakers in support of the Complainant. Matt Dorsey, Office of the City Attorney (Respondent), provided a summary of the department's position. Mr. Dorsey stated that due to the voluminous and research-intensive nature of Mr. Johnson's requests the Office of the City Attorney has invoked the Rule of Reason and will only dedicate a reasonable amount of time to respond to the requests in the order that they are received. A list is being maintained to track pending requests. In addition, Mr. Dorsey commented on the adversarial nature of Mr. Johnson's requests and possible ulterior motives. There were no speakers in support of the Respondent. A question and answer period followed. The Respondent provided a rebuttal. The Complainant provided a rebuttal.

In regards to issues raised by Mr. Johnson about the City Attorney's Good Government Guide, Member Pilpel stated that the Guide is the advice and opinion of the City Attorney. Various parties may choose to agree or disagree with the guide.

The Complaint Committee did not find that the Sunshine Ordinance had been violated. The Committee believes that the City Attorney has appropriately used of the Rule of Reason and agrees with the decision to only dedicate a reasonable amount of time for the following reasons:

- City Attorney Dennis Herrera and other key members of the City Attorney's Office are aware of the circumstances behind the decision to implement the Rule of Reason;

- It has been demonstrated that the requests submitted by Mr. Johnson are voluminous and will require a significant amount of time for the Office of the City Attorney to address (*i.e. there are approximately 75 pending requests that require significant staff time and research*);
- The Office of the City Attorney is unable to dedicate the resources needed to respond to Mr. Johnson's public records requests in a timely manner without severely impacting their ability to serve other citizens of the City and County of San Francisco; and
- The Office of the City Attorney has documented all of the public records requests submitted by Mr. Johnson and will continue to dedicate a reasonable amount of time to responding to Mr. Johnson's requests.

The Complaint Committee suggested that the parties work together to narrow the requests. However, Mr. Johnson has requested that all of his requests be responded to in their entirety.

**Member Pilpel, seconded by Member Hinze, moved to refer the matters (File Nos. 15023, 15050, 15055, 15076, 15084 and 15106) to the Sunshine Ordinance Task Force with the recommendation that no violation occurred and that the matter be concluded. The Office of the City Attorney has demonstrated the need to use the Rule of Reason and will continue to respond to requests received from Mr. Johnson.**

Public Comment:

Thomas Picarello stated that the full Task Force should hear the matters as City Attorney advice is needed.

**The motion PASSED by the following vote:**

Ayes: 3 - Pilpel, Hinze, Fischer

Noes: 0 - None

5. **File No. 15023:** Complaint filed by Alvin Johnson against Dennis Herrera and the Office of the City Attorney for allegedly violating Administrative Code (Sunshine Ordinance), Section 67.21, for failure to respond to a request for public records in a timely and/or complete manner.

Items 4 through 9 were heard together. See Item 4 (File No. 15050) for details and actions.

6. **File No. 15055:** Complaint filed by Alvin Johnson against Dennis Herrera and the Office of the City Attorney for allegedly violating Administrative Code (Sunshine Ordinance), Sections 67.21, 67.24, and 67.25, for failure to respond to an Immediate Disclosure Request in a timely and/or complete manner.

Items 4 through 9 were heard together. See Item 4 (File No. 15050) for details and actions.

- 7. **File No. 15076:** Complaint filed by Alvin Johnson against Dennis Herrera and the Office of the City Attorney for allegedly violating Administrative Code (Sunshine Ordinance), Sections 67.21 and 67.25, for failure to respond to an Immediate Disclosure Request in a timely and/or complete manner.

Items 4 through 9 were heard together. See Item 4 (File No. 15050) for details and actions.

- 8. **File No. 15084:** Complaint filed by Alvin Johnson against Dennis Herrera and the Office of the City Attorney for allegedly violating Administrative Code (Sunshine Ordinance), Sections 67.21 and 67.25, for failure to respond to an Immediate Disclosure Request in a timely and/or complete manner.

Items 4 through 9 were heard together. See Item 4 (File No. 15050) for details and actions.

- 9. **File No. 15106:** Complaint filed by Alvin Johnson against Dennis Herrera and the Office of the City Attorney for allegedly violating Administrative Code (Sunshine Ordinance), Sections 67.12(b)(4), 67.21(b)(c)(d)(i)(k), 67.21-1(b)(1)(2)(3), 67.22(b)(c), 67.24(c)(1)(2)(3)(4), 67.24(d)(3), and 67.25(a)(c), for failure to response to various Immediate Disclosure Requests in a timely and/or complete manner.

Items 4 through 9 were heard together. See Item 4 (File No. 15050) for details and actions.

- 10. **Public Comment:** Members of the public may address the Complaint Committee on matters that are within Committee’s jurisdiction but not on today’s agenda.

Speakers:  
None.

- 11. **Announcements, Comments, Questions, and Future Agenda Items.**

There were no announcements.

Public Comment:  
None.

12. **ADJOURNMENT**

**There being no further business the meeting was adjourned at 6:55 p.m.**

**APPROVED by the Sunshine Ordinance Task  
Force: August 5, 2015**



**Victor Young  
Administrator  
Sunshine Ordinance Task Force**

N.B. The Minutes of this meeting set forth all actions taken by the Sunshine Ordinance Task Force on the matters stated, but not necessarily in the chronological sequence in which the matters were taken up.