



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

September 15, 2015 - 4:00 PM

Special Meeting

Members: Louise Fischer (Chair), Allyson Washburn

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

Chair Fischer called the meeting to order at 4:05 p.m. All members were present. There was a quorum.

The Complaint Committee shall hold a hearing on File No. 15096 and 15099 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.

- 2. File No. 15096:** Complaint filed by Jason Grant Garza against the Department of Public Health, Police Department, Sheriff's Department, and Department of Emergency Management 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. (*attachment*)

Member Washburn, seconded by Chair Fischer, moved to find jurisdiction.

Public Comment:
None.

The motion PASSED by the following vote:

Ayes: 2 - Washburn, Fischer
Noes: 0 - None

Jason Grant Garza (Complainant) provided a summary of the complaint and requested the Task Force to find violations. There were no speakers in support of the Complainant.

Nancy Sarieh, Department of Public Health (DPH), stated that DPH does not have any records responsive to the request. However, Ms. Sarieh acknowledged that due to a misunderstanding and assumption that the Sheriff's Department would provide a response directly to Mr. Garza, DPH's response was not timely. Ms. Sarieh stated that DPH's response to Mr. Garza was not provided until August 4, 2015.

Lt. Chris Woon, Police Department (SFPD), acknowledged that the SFPD's response provided to Mr. Garza on June 12, 2015 was late. He stated that the request was misdirected to Chief Greg Suhr's junk mail folder but was processed as soon as it was found. He also stated that in an effort to prevent this from occurring in the future, SFPD now reviews its junk mail folders for misdirected emails and is working with their technology department to develop a way to prevent misdirected emails.

Mark Nicco, Sheriff's Department (SFSD), stated that the SFSD requested an extension of time to respond to the request in a timely manner on June 9, 2015. He stated that the responsive documents were located at a different location and that additional time was required. He stated that the responsive documents were provided to Mr. Garza on June 12, 2015. Mr. Nicco stated that the SFSDs department responded to the records request in a timely and complete manner.

Robert Smuts, Department of Emergency Management (DEM), stated that it is DEM's policy to provide certain records via hardcopy due to the nature of the records. He stated that DEM mailed the responsive records to Mr. Garza in a timely manner. However, Mr. Smuts acknowledged that it would have been prudent to notify Mr. Garza of DEM's policy and that the requested documents were mailed in a timely manner on June 10, 2015.

Member Washburn, seconded by Chair Fischer, moved to refer the matter to the Sunshine Ordinance Task Force with the following recommendations:

- 1) The Department of Public Health is in violation of Administrative Code (Sunshine Ordinance), Sections 67.21(c) and 67.25(a), for failure to assist the requester by directing a request for records to the proper office or staff person and failure to respond to an Immediate Disclosure Request in a timely manner;**
- 2) The Police Department is in violations of Administrative Code (Sunshine Ordinance), Section 67.25(a), for failure to respond to an Immediate Disclosure Request in a timely manner;**
- 3) The Sheriff's Department is not in violation of Administrative Code (Sunshine Ordinance), Chapter 67; and**
- 4) The Department of Emergency Management is in violations of Administrative Code (Sunshine Ordinance), Section 67.21(c), for failure to assist the request in directing a request for records to the proper office or staff person.**

Public Comment:

Ann Treboux stated that the nature of the violations are petty and repetitive.

The motion PASSED by the following vote:

Ayes: 2 - Washburn, Fischer

Noes: 0 - None

3. **File No. 15099:** Complaint filed by Sarah Mars against Public Works for allegedly violating Administrative Code (Sunshine Ordinance), Section 67.21, for failure to respond to a public records request in a timely and/or complete manner. (*attachment*)

Member Washburn, seconded by Chair Fischer, moved to find jurisdiction.

Public Comment:

None.

The motion PASSED by the following vote:

Ayes: 2 - Washburn, Fischer

Noes: 0 - None

Dr. Sarah Mars (Complainant) provided a summary of the complaint and requested the Task Force to find violations. There were no speakers in support of the Complainant. Frank Lee, Public Works (Respondent), provided a summary of the department's position and acknowledged that the response to the request was not timely. He stated that the request was part of a chain of communications and was inadvertently not recognized as a request for public records by Mr. Chan at Public Works. Mr. Lee assured the Task Force that Public Works staff is aware of how public records requests should be handled and processed. A question and answer period followed. There were no speakers in support of the Respondent. The Respondent provided a rebuttal. The Complainant provided a rebuttal.

Once the purpose of the records request was presented, Mr. Lee proposed a list of additional documents that would provide more useful information to the Complaint. Dr. Mars agreed to the arrangement.

Public Works will provide the following to Dr. Mars:

- Copies of the public comments that Public Works received from September 2014 to September 2015 during the application Notice Of Intent (NOI) posting periods for wireless facilities permit applications within the area bounded by Beach Street (on the north), Kearny Street (on the east), Pacific Avenue (on the south), and Polk Street (on the west) and that prompted Public Works Hearings; and
- Copies of the Director's determinations/results of those hearings, if any.

Member Washburn, seconded by Chair Fischer, moved refer the matter to the Sunshine Ordinance Task Force with the recommendation to find a violation of Administrative Code (Sunshine Ordinance), Section 67.21(a) (b), for failure to respond to a request for public records in a timely and complete manner.

Public Comment:

None.

The motion PASSED by the following vote:

Ayes: 2 - Washburn, Fischer

Noes: 0 - None

4. **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. (*No Action*).

Speakers:

Ann Treboux stated that there are no guidelines regarding how a member of the public can communicate with commissioners and expressed concern regarding her inability to enter certain buildings due to a civil harassment order.

Jason Garza stated that the Sunshine Ordinance process and procedures are rigged in favor of departments and that the Task Force is not hearing complaints within 45 days.

5. **Announcements, Comments, Questions, and Future Agenda Items.**

Member Washburn commented on the Sunshine Ordinance Task Force vacancies.

6. **ADJOURNMENT**

There being no further business the meeting was adjourned at 5:35 p.m.

APPROVED: October 7, 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.