

**SUNSHINE ORDINANCE
TASK FORCE**



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December 5, 2011

San Francisco Ethics Commission
25 Van Ness Avenue, Suite 220
San Francisco, CA 94102

**Re: Sunshine Complaint No. 11049, George Wooding v. Recreation and Parks
Department
Notice and Referral for Willful Failure and Official Misconduct**

The Sunshine Ordinance Task Force (“Task Force”) hereby provides notification of willful failure and official misconduct findings against Phil Ginsburg and Sarah Ballard of the San Francisco Recreation and Parks Department for failure to comply with the Order of Determination (“Order”) issued on August 8, 2011 in Sunshine Complaint No. 11049, George Wooding v. Recreation and Parks Department.

This willful failure and official misconduct finding is noticed for appropriate action pursuant to:

- (1) Sunshine Ordinance Section 67.34 whereby the “willful failure of any elected official, department head, or other managerial city employee to discharge any duties imposed by the Sunshine Ordinance, the Brown Act or the Public Records Act shall be deemed official misconduct”;
- (2) San Francisco City Charter Section 15.105 (Suspension and Removal); and
- (3) San Francisco City Charter Sections C3.699-11(5) and C3.699-13 (c) and (d).

Additionally, the Task Force hereby refers Mark Buell, President of the Recreation and Parks Commission, and Olive Gong of the Recreation and Parks Department for failure to comply with the Order. These referrals are made pursuant to:

- (1) Sunshine Ordinance Section 67.30(c) whereby “the Task Force shall make referrals to a municipal office with enforcement power under this ordinance or under the California Public Records Act and the Brown Act whenever it concludes that any person has violated any provisions of this ordinance or the Acts”;

- (4) (2) San Francisco City Charter Section 15.105 (Suspension and Removal); and
- (5) San Francisco City Charter Sections C3.699-11(5) and C3.699-13 (c) and (d).

Background

George Wooding filed a complaint with the Task Force on June 22, 2011 alleging the Recreation and Parks Department failed to provide records responsive to two document requests, one dated June 3, 2011 and another dated June 10, 2011.

Task Force Hearings on Complaint

On July 26, 2011, the Task Force held a hearing on the complaint. The Task Force found respondents in violation of the Sunshine Ordinance and ordered disclosure of the requested records no later than August 15th. A description of the hearing, violations found, and the Task Force decision are described in the attached Order.

Mr. Wooding subsequently requested respondents review Recreation and Parks Department back up files for the improperly deleted email correspondence. Respondent Olive Gong agreed to accommodate the request, and the matter was continued by the Task Force.

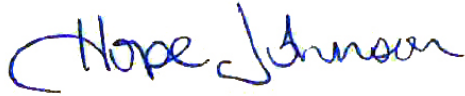
On October 11, 2011, the Task Force's Compliance and Amendments Committee held a hearing to monitor compliance with the Order and agreement to review back up files for responsive records. Ms. Gong had provided Mr. Wooding with nonresponsive department promotional materials she said were discovered in files created by an intern no longer working with the Recreation and Parks Department.

Although the original records request had been submitted four months prior to the Committee hearing, Ms. Gong requested additional time for the technology departments to review back up files. She could not provide a reason the technology departments required additional time.

The Compliance and Amendments Committee referred the matter to the full Task Force regularly scheduled meeting on October 25, 2011 for action on the failure to comply.

On October 21, 2011, two business days before the Task Force was to consider action on the failure to comply with its Order issued on August 8, 2011, respondents finally produced responsive records to Mr. Wooding.

Thank you for your attention to this matter. A copy of the Order is attached. Please contact the Task Force Administrator at sotf@sfgov.org or (415) 554-7724 for any additional information



Hope Johnson, Chair
Sunshine Ordinance Task Force

Encl.

cc: George Wooding, Complainant
Mark Buell, Respondent
Phil Ginsburg, Respondent
Sarah Ballard, Respondent
Olive Gong, Respondent
Jerry Threet, Deputy City Attorney