



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

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

August 22, 2017
5:30 PM – 7:30 PM

Regular Meeting

Members: Leuwam Tesfai (Chair), Bruce Wolfe and Fiona Hinze

1. CALL TO ORDER, ROLL CALL AND AGENDA CHANGES

Chair Bruce Wolfe called the meeting to order at 5:30 p.m. On the call of the roll Chair Wolfe and Member Tesfai was noted present. Member Hinze was noted absent. There was a quorum. *(Member Wolfe assumed the chair due to illness of Chair Tesfai.)*

2. Approval of the July 25, 2017, Complaint Committee meeting minutes.

The Committee discussed the draft minutes.

Member Wolfe, seconded by Chair Tesfai, moved to approve the July 25, 2017, Complaint Committee meeting minutes.

Public Comment:
None.

The motion PASSED by the following vote:

Ayes: 2 – B. Wolfe, Tesfai
Noes: 0 – None
Absent: 1– Hinze

3. **Public Comment:** Members of the public may address the Committee on matters that are within the Committee's jurisdiction but not on today's agenda. *(No Action)*

Speakers:

Ray Hartz reference the agenda packet which contained a memo from July 2000 regarding the Public Library's Memorandum of Understanding with the Friends of the Public Library contract and stated that there is a lack of disclosures.

Peter Warfield commented on Mr. Hartz's comments and the accountability of the Public Library.

Ann Treboux commented on slander from the Arts Commission staff.

The Complaint Committee (Committee) shall hold hearing(s) on File Nos. 17084, 17085, 17019, 17045, 17067 and 17089 to: 1) determine if the Sunshine Ordinance Task Force (Task Force) has jurisdiction; 2) review the merits of the complaints; and/or 3) issue a report and/or recommendation to the Task Force. The Task Force, upon receipt of the report and/or recommendation from the Committee, shall schedule and conduct a hearing on the merits of the complaint.

4. **File No. 17084:** Complaint filed by Ray Hartz against John Updike and the Department of Real Estate for allegedly violating Administrative Code (Sunshine Ordinance), Sections 67.21(e), 67.25 and 67.29(a)(c), by failing to respond to an Immediate Disclosure Request in a complete manner or failing to maintain required records. *(00:09:00 – 00:58:00)*

Member Tesfai, seconded by Chair Wolfe, moved to find that the Task Force has jurisdiction in the matter and find that the requested records are public.

Public Comment:

Peter Warfield stated that he does not contest jurisdiction but questioned the procedures of the committee.

The motion PASSED by the following vote:

Ayes: 2 – B. Wolfe, Tesfai

Noes: 0 – None

Absent: 1– Hinze

Ray Hartz (Petitioner) provided a summary of the complaint and requested the Committee to find a violation. Mr. Hartz stated that the department is legally required to maintain certain records and cannot state they have not receive it. Mr. Hartz stated that the certification of compliance, as required by the lease, has not been provided and that he has not received any documents showing that the Friends of the Public Library has paid rent. Mr. Hartz stated that Section 67.29 of the Sunshine Ordinance requires departments to maintain records. Claudia Gorham, Department of Real Estate (Respondent), provided summary of the department's position. Ms. Gorham provided a timeline of the department's response and stated that the department responded in a

timely and complete manner. Ms. Gorham stated that a copy of the entire lease file was provided and that the lease file contained all required records pursuant to records retention guidelines. Ms. Gorham stated that a copy of the Rent Roll detailing the rent payments received from the Friend of the Public Library can be provided but the document was not requested pursuant to the department interpretation of the request for public records.

Chair Wolfe requested that the Department of Real Estate be prepared to explain their reason for excluding certain records, describe what is maintained in a lease file and address any other relevant issues brought up at the Complaint Committee hearing.

Member Tesfai, seconded by Chair Wolfe, moved to refer the matter to the Task Force for hearing.

Public Comment:

Peter Warfield questioned the lack of information regarding payments and provided other related comments.

The motion PASSED by the following vote:

Ayes: 2 – B. Wolfe, Tesfai

Noes: 0 – None

Absent: 1 – Hinze

5. **File No. 17085:** Complaint filed by Ray Hartz against Luis Herrera and the Public Library for allegedly violating Administrative Code (Sunshine Ordinance), Sections 67.21(e), 67.25 and 67.29(a)(c), by failing to respond to an Immediate Disclosure Request in a complete manner or failing to maintain required records. (0058:00 – 01:27:00)

Member Tesfai, seconded by Chair Wolfe, moved to find that the Task Force has jurisdiction in the matter and find that the requested records are public.

Public Comment:

None.

The motion PASSED by the following vote:

Ayes: 2 – B. Wolfe, Tesfai

Noes: 0 – None

Absent: 1 – Hinze

Ray Hartz (Petitioner) provided a summary of the complaint and requested the Committee to find a violation. Mr. Hartz stated that the department is either withholding records or failing to properly maintain records related to the rent payment from the Friends of the Public Library for space at the Public Library. Mr. Hartz stated that he has not received documents regarding compliance with the lease for the Friend of the Public

Library. Maureen Singleton, Public Library (Respondent), provided summary of the department's position. Ms. Singleton stated that a copy of the lease was provided along with a financial accounting and related certifications. Ms. Singleton stated that the Public Library does not have any additional documents regarding alleged discrepancies in payment from the Friends of the Public Library.

Chair Wolfe, seconded by Member Tesfai, moved to refer the matter to the Task Force for hearing.

Public Comment:

Peter Warfield commented on the complaint and questioned how the Friends of the Public Library met their financial requirements to pay rent.

Ann Treboux stated that the Committee should limit the time for each complaint.

The motion PASSED by the following vote:

Ayes: 2 – B. Wolfe, Tesfai

Noes: 0 – None

Absent: 1– Hinze

6. **File No. 17019:** Complaint filed by Ann Treboux against Howard Lazar and the Arts Commission for allegedly violating Administrative Code (Sunshine Ordinance), Section 67.25, by failing to respond to an Immediate Disclosure Request in a complete and/or timely manner. (01:27:00 – 01:42:00)

Chair Wolfe, seconded by Member Tesfai, moved to find that the Task Force has jurisdiction in the matter and find that the requested records are public.

Public Comment:

None.

The motion PASSED by the following vote:

Ayes: 2 – B. Wolfe, Tesfai

Noes: 0 – None

Absent: 1– Hinze

Ann Treboux (Petitioner) provided a summary of the complaint and requested the Committee to find a violation. Ms. Treboux stated that the response to the complaint was late and that the multiply email response were not comprehensible. Ms. Treboux stated that she has still not receive all of the requested records. Kate Patterson, Arts Commission (Respondent), provided summary of the department's position. Ms. Patterson acknowledged that the department's response was late due to Ms. Treboux new email address being send to junk mail. Ms. Patterson stated that their email system has a tendency to send AOL emails to junk mail and again requested that Ms. Treboux send her requests to the custodian of records for the Arts Commission (Kate Patterson). Ms.

Patterson stated that once the request was found in the junk email box of Mr. Lazar a response was provided.

The Committee opined that the Arts Commission is responsible to finding a solution to valid emails being misdirected to junk mail. Even though Ms. Treboux has been informed of the issues, emails from other parties using AOL may be received and misdirected.

Member Tesfai, seconded by Chair Wolfe, moved to refer the matter to the Task Force for hearing.

Public Comment:
None.

The motion PASSED by the following vote:

Ayes: 2 – B. Wolfe, Tesfai
Noes: 0 – None
Absent: 1– Hinze

7. **File No. 17045:** Complaint filed by Ann Treboux against Kate Patterson and the Arts Commission for allegedly violating Administrative Code (Sunshine Ordinance), Section 67.25, by failing to respond to an Immediate Disclosure Request in a timely and/or complete manner. (01:42:00 – 01:56:00)
(On May 23, 2017, the Complaint Committee determined that the Task Force has jurisdiction.)

Chair Wolfe, seconded by Member Tesfai, moved to find that the Task Force has jurisdiction in the matter and find that the requested records are public.

Public Comment:
None.

The motion PASSED by the following vote:

Ayes: 2 – B. Wolfe, Tesfai
Noes: 0 – None
Absent: 1– Hinze

Ann Treboux (Petitioner) provided a summary of the complaint and requested the Committee to find a violation. Ms. Treboux stated that she has not received the requested documents and the Arts Commission has not identified what documents have been withheld. Kate Patterson, Arts Commission (Respondent), provided summary of the department's position. Ms. Patterson provided a timeline of the receipt of the requests and the Arts Commission's response and stated that the Arts Commission responded in a timely manner. Ms. Patterson stated that the Arts Commission did not have any

responsive documents at the time the request was received, informed Ms. Treboux of the fact and suggested a possible date when the requested documents would be available.

The Committee opined that the Arts Commission should have informed Ms. Treboux that the requested documents would be provided when the requested documents became available on a rolling basis.

Member Tesfai, seconded by Chair Wolfe, moved to refer the matter to the Task Force for hearing.

Public Comment:

None.

The motion PASSED by the following vote:

Ayes: 2 – B. Wolfe, Tesfai

Noes: 0 – None

Absent: 1– Hinze

8. **File No. 17067:** Complaint filed by Ann Treboux against Ann Tricky and the Arts Commission for allegedly violating Administrative Code (Sunshine Ordinance), Section 67.7, by failing to post an agenda for a policy body (Program Director Hearing, June 14, 2017). (01:56:00 – 02:03:00)

Member Tesfai, seconded by Chair Wolfe, moved to find that the Task Force has jurisdiction in the matter and find that the requested records are public.

Public Comment:

None.

The motion PASSED by the following vote:

Ayes: 2 – B. Wolfe, Tesfai

Noes: 0 – None

Absent: 1– Hinze

Ann Treboux (Petitioner) provided a summary of the complaint and requested the Committee to find a violation. Ms. Treboux stated that the Program Director meeting is a policy body and that agenda should have been provided to the public. Kate Patterson, Arts Commission (Respondent), provided summary of the department's position. Ms. Patterson provided a description of the Program Director's meetings and stated that it is not a policy body nor a passive meeting body as only one employee sits on it to deal various issues such as disputes between street artists. Ms. Patterson stated only street artist and other stakeholders receive notices of the Program Director's meetings.

Member Tesfai, seconded by Chair Wolfe, moved to refer the matter to the Task Force for hearing.

Public Comment:
None.

The motion PASSED by the following vote:

Ayes: 2 – B. Wolfe, Tesfai
Noes: 0 – None
Absent: 1– Hinze

File No. 17089: Complaint filed by Ann Treboux against Kate Patterson and the Arts Commission for allegedly violating Administrative Code (Sunshine Ordinance), Section 67.25, by failing to respond to an Immediate Disclosure Request in a timely and/or complete manner. (02:03:00 –)

Chair Wolfe, seconded by Member Tesfai, moved to find that the Task Force has jurisdiction in the matter and find that the requested records are public.

Public Comment:
None.

The motion PASSED by the following vote:

Ayes: 2 – B. Wolfe, Tesfai
Noes: 0 – None
Absent: 1– Hinze

Ann Treboux (Petitioner) provided a summary of the complaint and requested the Committee to find a violation. Ms. Treboux stated that she has not received the requested documents and is not satisfied with the reason the documents were withheld. Kate Patterson, Arts Commission (Respondent), provided summary of the department's position. Ms. Patterson stated that the Office of the City Attorney was consulted and the Arts Commission was advised that the requested records did not need to be disclosed due to attorney client privileged. Ms. Patterson stated that the investigation is ongoing and that Ms. Treboux was informed of the reason for withholding the records in a timely manner.

Member Tesfai, seconded by Chair Wolfe, moved to refer the matter to the Task Force for hearing.

Public Comment:
None.

The motion PASSED by the following vote:

Ayes: 2 – B. Wolfe, Tesfai

Noes: 0 – None

Absent: 1– Hinze

9. **Announcements, Comments, Questions, Future Agenda Items, and Pending Calendar by members of the Committee.**

There were no announcement by members of the Committee.

10. **ADJOURNMENT**

There being no further business the meeting was adjourned at 7:43 p.m.

APPROVED: DRAFT
Complaint Committee
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.