

**SUNSHINE ORDINANCE
TASK FORCE**



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ORDER OF DETERMINATION
June 22, 2020

DATE DECISION ISSUED
January 21, 2020

CASE TITLE – Terrence J. Kerrisk v. Department of Human Resources
(File No. 19015)

FACTS OF THE CASE

The following petition/complaint was filed with the Sunshine Ordinance Task Force (SOTF):

File No. 19015: Complaint filed by Terrence J. Kerrisk against the Department of Human Resources for allegedly violating Administrative Code (Sunshine Ordinance), Section 67.21, by failing to respond to a public records request in a timely and/or complete manner.

HEARING ON THE COMPLAINT

On April 23, 2019, the Complaint Committee acting in its capacity to hear petitions/complaints heard the matter.

Terence Kerrisk (Petitioner) provided a summary of the complaint and requested the Committee to find a violation. Mr. Kerrisk stated that he was told by his supervisor at Public Works to falsify time card records of certain employees. Mr. Kerrisk stated that in September 2015, he was released from his job. Mr. Kerrisk sent a request to the Civil Service Commission requesting investigation notes and materials which were the basis of the report used to justify termination and was told that they were in the possession of the Department of Human Resources (DHR). Mr. Kerrisk stated that five months later he was told by DHR that Public Works did no wrong in releasing him from his job. Mr. Kerrisk stated that DHR never released the investigative notes and materials in their possession to him.

Susan Gard, Department of Human Resources (Respondent), provided a summary of the department's position. Ms. Gard stated that she responded to Mr. Kerrisk's document request and acknowledged that she did not respond in a timely manner. Ms. Gard stated that she does not have the details of the investigation into Mr. Kerrisk's release from his job, and that there was no

evidence found against Mr. Kerrisk's former supervisor. Ms. Gard stated that in the interest of privacy, DHR withheld the investigative report.

Member Yankee moved to find jurisdiction, that the records are public, and that DHR violated Administrative Code, Section 67.21, by failing to respond in a timely and/or complete manner.

The Committee referred the matter to the SOTF. On January 21, 2020 the SOTF held a hearing to review the recommendation from Committee and/or to review the merits of the petition/complaint.

Terence Kerrisk (Petitioner) provided a summary of the complaint and requested the Committee to find a violation. Mr. Kerrisk stated that he requested his probationary report from the Department of Human Resources on removal from his probationary position. Mr. Kerrisk stated that he did get a copy of the report from the Department of Human Resources, but that it was four years after release from his position. Mr. Kerrisk expressed his thanks to the SOTF for getting the report to him.

Respondent (Department of Human Resources) (Respondent), was not present for the hearing.

Mr. Kerrisk was provided an opportunity for a rebuttal.

Member Yankee stated that since Mr. Kerrisk received the report he needed, that this complaint is regarding timeliness.

FINDINGS OF FACT AND CONCLUSION OF LAW

Based on the testimony and evidence presented, the SOTF found that the Department of Human Resources violated Administrative Code (Sunshine Ordinance), Sections 67.21(b) by failing to provide the requested records in a timely manner and Administrative Code (Sunshine Ordinance), Section 67.21(e), by failing to send a representative to the hearing.

DECISION AND ORDER OF DETERMINATIONS

On January 21, 2020, moved by Member Yankee, seconded by Member Martin to find that the Department of Human Resources violated Administrative Code (Sunshine Ordinance), Sections, 67.21(b), by failing to provide the requested records in a timely manner and Administrative Code (Sunshine Ordinance), Section 67.21(e), by failing to send a representative to the hearing.

The motion PASSED by the following vote:

Ayes: 8 - Yankee, Martin, J. Wolf, Tesfai, LaHood, Hinze, Hyland,
B. Wolfe
Noes: 0 - None
Absent: 0 - None



Bruce Wolfe, Chair
Sunshine Ordinance Task Force

cc. Terrence Kerrisk (Petitioner/Complainant)
Maggie McHale, Custodian of Records, Department of Human Resources
(Respondent)