

**SUNSHINE ORDINANCE
TASK FORCE**



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ORDER OF DETERMINATION
October 24, 2019

DATE DECISION ISSUED
October 2, 2019

CASE TITLE – Anonymous v. Mayor London Breed, Hank Heckel and the Office of the Mayor
File No. 19047

FACTS OF THE CASE

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

Complaint filed by Anonymous against Mayor London Breed, Hank Heckel and the Office of the Mayor for allegedly violating Administrative Code, (Sunshine Ordinance) Sections 67.21 and 67.26 and 67.27 and Government Code (CPRA) 6253.9, 6253, and 6255, by failing to respond to a request for public records in a timely and/or complete manner.

HEARING ON THE COMPLAINT

On August 20, 2019, the Complaint Committee acting in its capacity to hear petitions/complaints heard the matter.

Anonymous (Petitioner) provided a summary of the complaint and requested the Committee to find a violation. Anonymous stated that he requested the Mayor's calendar including the metadata. Anonymous stated that the Mayor's calendar is considered a public record which should have been provided. Anonymous stated that the City Attorney memo disputed what kind format of the calendar is in. Anonymous stated that metadata and headers are important to the works of an investigative journalist. Anonymous stated that he wants to know who actually invited the Mayor to meetings and events and that information can be provided in metadata.

Hank Heckel (Mayor's Office) (Respondent), provided a summary of the department's position. Mr. Heckel stated that the Mayor's office received the IDR on May 8 and responded on May 9. Mr. Heckel stated that the Mayor's Office provided their Prop G calendar which included event times, general attendees and the nature of the event. Mr. Heckel stated that all information was provided in pdf format to avoid compromising the integrity of the record. Mr. Heckel stated

that those records did not provide email addresses of invitees, conference call numbers and dial information which is subject to privilege. Mr. Heckel stated that the Mayor's Office relies on advices provided by the Information Technology Department and the City Attorney's Office regarding metadata. Mr. Heckel stated that there are security risks associated with providing this information.

The Committee found that the SOTF has jurisdiction, find that the requested records are public and referred the matter to the SOTF for hearing.

On October 20, 2019, the SOTF held a hearing to review the recommendation from Committee and/or to review the merits of the petition/complaint.

Anonymous (Petitioner) provided a summary of the complaint and requested the Committee to find a violation. Anonymous provided an overview of the submitted presentation. Anonymous stated that the Office of the Mayor refused to provide documents in the requested format and metadata, objected to the redactions to the calendar and stated that the ICS version of the calendar was not provided. Anonymous stated that the Office of the Mayor did not provide the Mayor's non-Prop G or 2nd calendar account until months later, and those non-Prop G calendars are public records.

Hank Heckel (Mayor's Office) and Michael Makstman (Chief Information Security Officer) (Respondent), provided a summary of the department's position. Mr. Heckel referenced California Government Code, Sections 6252.9(f) and 6254.19, and Sunshine Ordinance, Section 67.21(l). Mr. Heckel stated that the format requested is not easily generated and would also create a security risk. Mr. Makstman provided information regard metadata and possible security risks.

FINDINGS OF FACT AND CONCLUSION OF LAW

Based on the testimony and evidence presented, the SOTF found that Mayor London Breed, Hank Heckel and the Office of the Mayor violated Administrative Code (Sunshine Ordinance), Section(s) 67.21, 67.26 and 67.27.

DECISION AND ORDER OF DETERMINATIONS

On October 2, 2019, Member Yankee, seconded by Member Cate, moved to find that Mayor London Breed, Hank Heckel and the Office of the Mayor violated Administrative Code (Sunshine Ordinance), Sections 67.21, 67.26 and 67.27, by failing to provide records in a timely and/or complete manner, keep withholdings to a minimum, and justify the withholding of records.

The motion PASSED by the following vote:

Ayes: 7 - Yankee, Martin, LaHood, Cate, Hyland, J. Wolf, B. Wolfe

Noes: 0 - None

Absent: 2 - Cannata, Chopra

Excused: 2 - Tesfai, Hinze

A handwritten signature in black ink, appearing to read 'Bruce Wolfe', written in a cursive style.

Bruce Wolfe, Chair
Sunshine Ordinance Task Force

cc. Anonymous (Petitioner/Complainant)
Hank Heckel, Office of the Mayor (Respondent)