

**SUNSHINE ORDINANCE
TASK FORCE**



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**ORDER OF DETERMINATION
March 28, 2020**

DATE DECISION ISSUED
February 5, 2020

CASE TITLE – Maria Schulman V Animal Care and Control (File No. 19076)

FACTS OF THE CASE

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

File No. 19076: Complaint filed by Maria Schulman against Animal Care and Control, for allegedly violating Administrative Code (Sunshine Ordinance), Section 67.21, by failing to respond to a request for public records in a timely and/or complete manner.

HEARING ON THE COMPLAINT

On September 17, 2019, the Complaint Committee acting in its capacity to hear petitions/complaints heard the matter.

Maria Schulman (Petitioner) provided a summary of the complaint and requested the Committee to find a violation. Ms. Schulman stated that she requested email correspondence from Animal Care and Control (ACC) between certain individuals and that the records were not provided in a timely manner. Ms. Schulman stated that she sent a follow up request and that ACC responded to an incorrect email address. Ms. Schulman is not certain that she received all responsive records.

Justine Alberto (Animal Care and Control) (Respondent), provided a summary of the department's position. Ms. Alberto stated that on July 9, 2019, ACC received the follow up email from Ms. Schulman requesting records. Ms. Alberto stated that Diana Christensen sent a response on July 26, 2019. Ms. Alberto stated that Ms. Schulman notified ACC that the response went to an email address that Ms. Schulman did not provide to Ms. Christensen. Ms. Alberto that the email address used was provided by Ms. Schulman via telephone. Ms. Alberto stated that all responsive records have since been provided to Ms. Schulman.

Action: Moved by Member Wolfe, seconded by Chair Martin, to find that the SOTF has jurisdiction, find that the requested records are public and to refer the

matter to the SOTF for hearing. The Committee requested the Respondent to bring the legal citation that allows for the redactions of records of dogs not deemed to be vicious and dangerous.

On February 5, 2020, the SOTF held a hearing to review the recommendation from Committee and/or to review the merits of the petition/complaint.

Maria Schulman (Petitioner) provided a summary of the complaint and requested the Committee to find a violation. Ms. Schulman stated that she submitted a request for public records on June 23, 2020, and did not received a response until she followed up with the department on July 9, 2020. Ms. Schulman stated that the Respondent provided the response to the wrong email address which was never provided verbally or via email. Ms. Schulman stated that she has received documents but cannot be sure if anything was missing.

Justine Alberto, Animal Care and Control (Respondent), provided a summary of the department's position. Ms. Alberto stated the employees who responded to the request has retired but did convey that the email address in which the response was transmitted was provided via telephone. Ms. Alberto stated that upon receiving the request, all documents were provided on the same day.

The SOTF discussed the matter, noted the disagreements of the parties and opined that the Respondent believes that there was a telephone call in which it was requested that the records be send to a specific email address that is now known to be incorrect. The SOTF noted that the Petitioner stated that phone call was never received and the email address in question was never actively in use or provided.

FINDINGS OF FACT AND CONCLUSION OF LAW

Based on the testimony and evidence presented, the SOTF found that Animal Care and Control violated Administrative Code (Sunshine Ordinance), Section 67.21(b), by failing to comply with the request of the Petitioner to transmit the requested records to a specific email address.

DECISION AND ORDER OF DETERMINATIONS

Action: Moved by Member Hyland, seconded by Member Hinze, to find that Animal Care and Control violated Administrative Code (Sunshine Ordinance), Section 67.21(b), by failing to comply with the request of the Petitioner to transmit the requested records to a specific email address.

The motion FAILED by the following vote:

Ayes: 4 - Hyland, Hinze, LaHood, B. Wolfe

Noes: 3 - J. Wolf, Martin, Yankee

Absent: 1 - Tesfai

There being no additional motion the matter was closed and no violations were found.

A handwritten signature in blue ink, appearing to be "B. Wolfe", enclosed within a circular scribble.

Bruce Wolfe, Chair
Sunshine Ordinance Task Force

cc. Maria Schulman (Petitioner/Complainant)
Justine Alberto (Respondent)