

**SUNSHINE ORDINANCE
TASK FORCE**



City Hall
1 Dr Carlton B. Goodlett Place, Room 244
San Francisco, CA 94102-4689
Tel. No. (415) 554-7724
Fax No. (415) 554-7854
TTD/TTY No. (415) 554-5227

**ORDER OF DETERMINATION
February 19, 2020**

DATE DECISION ISSUED
December 4, 2019

CASE TITLE – Ahimsa Porter Sumchai v. Mayor London Breed
(File No. 19077)

FACTS OF THE CASE

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

File No. 19077: Complaint filed by Ahimsa Porter Sumchai against Mayor London Breed 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 and 67.7 for not posting the Agenda in a timely manner.

HEARING ON THE COMPLAINT

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

Dr. Ahimsa Porter Sumchai (Petitioner) provided a summary of the complaint and requested the Committee to find a violation. Dr. Sumchai, a female doctor of color, stated that she was excluded from and not notified of a July 17, 2019, meeting at UCSF with independent scientists and the Citizens Advisory Committee (CAC) of Hunters Point Shipyard regarding radiological testing at the Hunters Point Shipyard. Dr. Sumchai stated that this Committee is a passive body not a policy body and that she is not sure if there are Sunshine Ordinance violations. Dr. Sumchai met with Dr. Baums who was a presenter at the July 17 meeting. Dr. Baums informed Dr. Sumchai that he is in charge of the four male scientists were instructed by the Mayor's Office not to talk with Dr. Sumchai. Dr. Sumchai stated that she has correspondence documenting this and evidence that she was removed from lists. Dr. Sumchai believes that there were violations of freedom of speech and scientific integrity.

Hank Heckel, Compliance Coordinator (Mayor's Office) (Respondent), provided a summary of the department's position. Mr. Heckel stated that this CAC

addresses issues with relation to Hunters Point Shipyard and that Dr. Sumchai is a regular participant at these meetings. Mr. Heckel stated that when he was forwarded the complaint, it was the first time he had heard that Dr. Sumchai was not informed of the meeting and not allowed to speak. Mr. Heckel stated that the CAC did its research and that there was no deliberate effort to exclude Dr. Sumchai from the meeting. Mr. Heckel stated that records show that the meeting was properly noticed. Mr. Heckel stated that he believes there were no Sunshine violations.

Micha Fobbs (Hunters Point Shipyard Citizens Advisory Committee (CAC), spoke on behalf of the Respondent. Mr. Fobbs stated that Dr. Sumchai was not deliberately excluded from any meeting of the CAC. Mr. Fobbs stated that Dr. Sumchai did sign in at meeting and people who fill out the sign in sheet are provide notice of meeting.

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

On December 4, 2019, the SOTF held a hearing to review the recommendation from Committee and/or to review the merits of the petition/complaint.

Dr. Ahimsa Porter Sumchai (Petitioner) provided a summary of the complaint and requested the Committee to find a violation. Dr. Sumchai stated that she has been elected to the Advisory Board of Hunters Point Yard Committee (CAC) and has been on the email list serve and has participated on that Committee for several years. Dr. Sumchai stated that she made a presentation in January 2019 to that Committee and she received several email communications regarding such. Dr. Sumchai stated that an announcement went out of a special meeting held on July 17, 2019, and she was not included on the list serve. Dr. Sumchai stated that there is evidence of a purposeful omission of the noticing of this meeting and that other scientists were also selectively omitted. Dr. Sumchai stated that she wanted a correction to the Minutes of the Complaint Committee in that she did speak at the meeting but that she had been deliberately omitted from the list serve. Dr. Sumchai stated that this is a violation of Sunshine Ordinance 67.13.

Hank Heckel (Mayor's Office) (Respondent), provided a summary of the department's position. Mr. Heckel stated that until the Mayor's Office received notice of the Complaint regarding Dr. Sumchai, they had no knowledge of the issue. Mr. Heckel stated that the facts do not show that there was a deliberate effort to exclude Dr. Sumchai from CAC meeting email lists. Mr. Heckel stated that there is evidence that the meetings were noticed on the CAC website and were also forwarded to the public library. Mr. Heckel stated that the record shows that Dr. Sumchai's contact information was not legible. Mr. Heckel stated that Dr. Sumchai's email information will be included on the CAC email list hence

forth. Mr. Heckel stated that he believes that there is no violation because there was no deliberate action taken against Dr. Sumchai.

Micah Fobbs, Director, Hunters Point Yard Citizens Advisory Committee, spoke on behalf of the Respondent. Mr. Fobbs stated that he had no idea that Dr. Sumchai was not on the email list until she said so. Mr. Fobbs stated that when he became aware of Dr. Sumchai not being on the email list, he immediately worked to rectify the situation.

A question and answer period occurred. The parties were provided an opportunity for rebuttals.

Chair Wolfe stated that there are two issues to deliberate: one is the email exclusion and the other is quorum. Chair Wolfe stated that the Petitioner stated she had been on the email list and the Respondent said no. Chair Wolfe stated that with regard to the quorum issue, the SOTF needs to figure out if the CAC is a passive or policy body. Chair Wolfe stated that the second part of complaint, regarding code of conduct, does not fall under Sunshine.

FINDINGS OF FACT AND CONCLUSION OF LAW

Based on the testimony and evidence presented, the SOTF found that the Mayor's Office DID NOT VIOLATE Administrative Code (Sunshine Ordinance), Sections 67.7 and 67.21.

DECISION AND ORDER OF DETERMINATIONS

On December 4, 2019, Member Martin seconded by Member Hyland, moved to find that the Mayor's Office DID NOT violate Administrative Code (Sunshine Ordinance), Sections 67.21 and 67.7, in regards to responding to the public records request in a timely and/or complete manner and posting the agenda in a timely manner. In addition, the SOTF determined that it does not have jurisdiction over violations of the code of conduct.

The motion PASSED by the following vote:

Ayes: 6 - Martin, Hyland, Yankee, J. Wolf, LaHood, Hinze

Noes: 1 - B. Wolfe

Absent: 1 - Tesfai

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

Bruce Wolfe, Chair
Sunshine Ordinance Task Force

cc. Dr. Ahimsa Porter Sumchai (Petitioner/Complainant)
Hank Heckel, Office of the Mayor (Respondent)