

**SUNSHINE ORDINANCE  
TASK FORCE**



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**ORDER OF DETERMINATION  
March 28, 2020**

**DATE DECISION ISSUED**  
February 5, 2020

**CASE TITLE – Anonymous v. Office of the Mayor (File No. 19091)**

**FACTS OF THE CASE**

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

**File No. 19091:** Complaint filed by Anonymous against Mayor London Breed, the Office of the Mayor, Hank Heckel, Sean Elsbernd, Andres Power, Andrea Bruss, Marjon Philhour, Jeff Cretan, Sophia Kittler for allegedly violating Administrative Code, (Sunshine Ordinance) Sections 67.21, 67.26, 67.27 and 67.29-7, by failing to respond to a request for public records in a timely and/or complete manner.

**HEARING ON THE COMPLAINT**

On October 15, 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 records were withheld without providing justification and that a violation of Sunshine Ordinance, Section 67.29-7, occurred for failing to maintain records as records from the application 'WhatsApp' could not be provided. Anonymous requested that the portion of his complaint regarding metadata be divided out and that the remainder of the complaint move forward (Allegation No. 4 SFAC67.21(I)/CPRA Gov Code 6253(b) and No. 8 SFAC 67.26). (Metadata portion of complaint divided into File No. 19109 and will be scheduled before the Information Technology Committee.)

Hank Heckel, Office of the Mayor (Respondent) provided a summary of the department's position. Mr. Heckel stated that a search was conducted of all requested media, including email and text messages, and all responsive records were provided. Mr. Heckel stated that individuals are not required to provide affidavits or written declarations regarding the search for records on personal devices.

Action: Moved by Chair Martin, seconded by Member Cate, to find that the SOTF has jurisdiction, find that the requested records are public, and referred the matter to the SOTF for hearing.

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.

Anonymous (Petitioner) provided a summary of the complaint and requested the Committee to find a violation. Anonymous stated that some attachments to certain documents were not provided until 5-6 months after the request submitted. Anonymous stated that the Respondent did not provide a reason for redactions in a timely manner and disputes the legal authority for withholdings and redactions.

Hank Heckel, Mayor's Office (Respondent), provided a summary of the department's position. Mr. Heckel noted that the request was voluminous but over 1000 records were provided in a timely manner. Mr. Heckel stated that they have been in contact with Anonymous for over 6 months to provide records and workout issues with the requests. Mr. Heckel stated that the majority of the requested records were provided in a timely manner and they continue to work to provide the missing attachments.

#### FINDINGS OF FACT AND CONCLUSION OF LAW

Based on the testimony and evidence presented, the SOTF found that the Office of the Mayor violated Administrative Code (Sunshine Ordinance), Section 67.21(b) by failing to respond to a request for public records in a timely manner.

## DECISION AND ORDER OF DETERMINATIONS

Action: Moved by Member Martin, seconded by Vice Chair J. Wolf, to find that the Office of the Mayor violated Administrative Code (Sunshine Ordinance), Section 67.21(b), by failing to respond to a request for public records in a timely manner.

The motion PASSED by the following vote:

Ayes: 6 - Hyland, Hinze, LaHood, J. Wolf, Martin, B. Wolfe  
Noes: 1 - Yankee  
Absent: 1 - Tesfai



Bruce Wolfe, Chair  
Sunshine Ordinance Task Force

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