

**SUNSHINE ORDINANCE
TASK FORCE**



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**ORDER OF DETERMINATION
March 28, 2020**

DATE DECISION ISSUED
March 4, 2020

CASE TITLE – Stephen Malloy v. Department of Public Health
(File No. 19109)

FACTS OF THE CASE

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

File No. 19109: Complaint filed by Stephen Malloy against Department of Public Health for allegedly violating Administrative Code (Sunshine Ordinance), Sections 67.24, 67.25, 67.26 and 67.27, by failing to respond to a public records request in a timely and/or complete manner.

HEARING ON THE COMPLAINT

On January 28, 2020, the Compliance and Amendments Committee acting in its capacity to hear petitions/complaints heard the matter.

Stephen Malloy (Petitioner) provided a summary of the complaint and requested the Committee to find a violation. Mr. Malloy stated that in May 2019, he filed a request for records with the Ms. Vien of the Department of Public Health (DPH) and she responded in November 2019, with approximately 9 emails from 13 City officials. Mr. Malloy stated that there are other records that have not been release by Ms. Vien. Mr. Malloy stated that he filed a complaint with Micki Callahan in December 2018. Ms. Callahan responded citing attorney/client privilege.

The Respondent was not present for the hearing.

Action: Moved by Member B. Wolfe, seconded by Member Hinze, to find that the SOTF has jurisdiction, to find that the requested records are public and to refer the matter to the SOTF for hearing.

On March 4, 2020, the SOTF held a hearing to review the recommendation from Committee and/or to review the merits of the petition/complaint.

Stephen Malloy (Petitioner) provided a summary of the complaint and requested the Committee to find a violation. Mr. Malloy provided a timeline of the request for records and responses received. Mr. Malloy stated that he does not believe that all records have been provided and displayed a list of employees who may have records regarding the matter.

Veronica Vein, Department of Public Health (Respondent), provided a summary of the department's position. Ms. Vein stated that the request was received, and thousands of records have been and will be retrieved and will be provided on a rolling basis as they are reviewed for redactions. Ms. Vein stated that there were technical issues with the search that will be resolved. Ms. Vein stated that she would be happy to review the list of employees listed by Mr. Malloy to determine if they have any responsive records.

FINDINGS OF FACT AND CONCLUSION OF LAW

Based on the testimony and evidence presented, the SOTF found that the Office of the City Attorney violated Administrative Code (Sunshine Ordinance), Section 67.25(b)(d).

DECISION AND ORDER OF DETERMINATIONS

Action: Moved by Member LaHood, seconded by Member Martin, to find that the Department of Public Health violated Administrative Code (Sunshine Ordinance), Section 67.25(b)(d) by failing to respond to the request for public records in a timely and/or complete manner and inappropriately requesting a 14 day extension instead of the allowed 10 day extension of time to respond. In addition, the matter will be referred to the Compliance and Amendments Committee to verify that the remainder of the requested records are provided to the Petitioner.

The motion PASSED by the following vote:

Ayes: 8 - Hyland, Hinze, LaHood, Tesfai, J. Wolf, Martin, Yankee,
B. Wolfe

Noes: 0-- None



Bruce Wolfe, Chair
Sunshine Ordinance Task Force

cc. Stephen Malloy, (Petitioner/Complainant)
Department of Public Health (Respondent)