

**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. Fire Department**  
(File No. 19110)

**FACTS OF THE CASE**

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

**File No. 19110:** Complaint filed by Stephen Malloy against the Fire Department 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 on May 24, 2019, he submitted a request for records via NextRequest asking for all records involving Stephen Malloy. Mr. Malloy stated that in October 2019, the Fire Dept. responded stating that they had no responsive records. Mr. Malloy stated that in November 2019, the Fire Dept. stated that they had one record which was provided. Mr. Malloy stated that he did receive approximately 800 emails. Mr. Malloy stated that the Fire Department may be working with the Department of Human Resources to keep records from him. Mr. Malloy asked the SOTF to compel the Fire Department to do a complete search regarding who may have written records about Mr. Malloy. Mr. Malloy stated that the Fire Department did not provide the records in a timely manner.

John Tucker (Fire Department) (Respondent), provided a summary of the department's position. Mr. Tucker stated that the Department received Mr. Malloy's Immediate Disclosure Request on May 24, 2019, via NextRequest, asking for all records concerning Mr. Malloy. Mr. Tucker stated that the scope of

the request was too broad. Mr. Tucker stated that on September 29, 2019, the Department responded that they would continue searching for records. Mr. Tucker stated that he asked his IT Department to search for records and they said there were no other records. Mr. Tucker acknowledged that the Department failed to respond in a timely manner, but that the Department was taking steps to ensure that this situation never happens again.

Jesusa Buchong, Human Resources for the Fire Department, stated that because many staff access the Department's NextRequest system, it is hard to distinguish what has been opened and read. Mr. Buchong stated that they receive a large number of public records requests regarding property. Ms. Buchong stated that she asked the IT Department to conduct a final query on Mr. Malloy and they were able to locate an additional 500 pages of records which were provided.

Action: Moved by Member B. Wolfe, seconded by Chair LaHood, 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 stated that the matter is similar to his previous case in which he would like records from all parties who touched the case and note that the departments are not performing their due diligences to search for records.

John Tucker, Fire Department (Respondent), provided a summary of the department's position. Mr. Tucker acknowledged that the Fire Department was late in their response but have proved all records located. Mr. Tucker provided a description as to how public records requested are processed and noted that steps have been taken to prevent issues in the future. Mr. Tucker stated that the search for records should be completed by the end of next week.

#### FINDINGS OF FACT AND CONCLUSION OF LAW

Based on the testimony and evidence presented, the SOTF found that the Public Utilities Commission violated Administrative Code (Sunshine Ordinance), Section 67.21(a)(d).

#### DECISION AND ORDER OF DETERMINATIONS

Action: Moved by Member LaHood, seconded by Member Yankee, to find that the Fire Department violated Administrative Code (Sunshine Ordinance), Section 67.25(a)(d) by failing to respond to the request for public records in a timely and/or complete manner.

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

A handwritten signature in blue ink, appearing to read 'B. Wolfe', is written over the printed name of Bruce Wolfe.

Bruce Wolfe, Chair  
Sunshine Ordinance Task Force

cc. Stephen Malloy (Petitioner/Complainant)  
John Tucker, Fire Department (Respondent)