

**SUNSHINE ORDINANCE  
TASK FORCE**



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**ORDER OF DETERMINATION  
June 8, 2021**

**DATE DECISION ISSUED**  
January 6, 2021

**CASE TITLE – Anonymous v. Office of the City Attorney**  
(File No. 19120)

**FACTS OF THE CASE**

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

**File No. 19120:** Complaint filed by Anonymous against the Office of the City Attorney for allegedly violating Administrative Code (Sunshine Ordinance), Sections 67.21(b)(c), 67.26, 67.27, by failing to respond to a public records request in a timely and/or complete manner, failing to keep withholding to a minimum, failing to key redactions by footnote or other clear reference to justification, failing to cite legal justification for withholding, and failing to provide a written statement of nature, form, existence, and quantity of records.

**HEARING ON THE COMPLAINT**

On September 15, 2020, 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 he asked for Jeff Adachi's records. Anonymous pointed out that of the 2,000 pages of records received, many of those pages redacted and the City Attorney's Office did not provide legal justification for the redactions. Anonymous opined that the City Attorney's Office thinks they do not have to provide a legal citation for their redactions.

The Respondent was not present for the hearing and did not inform the SOTF Administrator of their absence.

Action: Moved by Member Yankee, seconded by Member J. Wolf, to find jurisdiction, that the requested records are public and to refer the matter to the SOTF for hearing.

On January 6, 2021, 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 the respondent must provide a written justification for withholdings and redactions per Administrative Code, Section 67.27. Anonymous stated that he narrowed his search terms. Anonymous stated that he does not care about timeliness and only wants a list of written justifications and redaction key. Anonymous stated that after challenging some redactions Respondent cited more justifications after the complaint was filed. Anonymous noted that in court cases a privilege log is produced so by analogy Respondents should provide a quantity of privileged records under 67.21(c) even if their content may be exempt, and that responses for large requests should be provided on a rolling basis. Anonymous discussed Respondent's citations of *L.A. County Board of Supervisors v. Superior Court of LA County* (cal..2016) and *St. Croix v. Superior Court* (Cal. Ct. App 2014) and where responsive records were provided on a rolling basis.

John Cote (City Attorney's Office) (Respondent), provided a summary of the department's position. Mr. Cote stated that he was pleased that Anonymous acknowledges that timeliness issue is not important. Mr. Cote noted that this request involved 16 people in the office and records regarding deceased Public Defender Jeff Adachi including post it notes, subpoenas and other materials that are often seen in public records requests. Mr. Cote stated that his office had already produced 2000 pages of records which were complex in nature, and on November 26, 2019, page 1635 of packet provided detailed responses explaining why redactions are provided. Mr. Cote opined that the law is clear and states that a response cannot abrogate attorney client privilege. Mr. Cote noted that the attorney/client privilege does not just include the substance of advice or when the City Attorney actually provides that advice and also includes the amount of privileged communications. Mr. Cote cited *LA County Board of Supervisors v. Superior Court of LA. County.* (Cal 2016) and *St. Croix v. Superior Court* (Cal. Ct. App. 2014).

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

## 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), Sections 67.26 and 67.27.

## DECISION AND ORDER OF DETERMINATIONS

On January 6, 2021, Member Schmidt, second by Member Yankee, moved to find that the Office of the City Attorney violated Administrative Code, Sections 67.26 and 67.27, by failing to provide a key to redactions and failing to provide written justifications for withholding.

The motion PASSED by the following vote:

Ayes: 7 - Schmidt, Yankee, LaHood, Hinze, Wong, Hyland, Wolfe  
Noes: 0 - None

A handwritten signature in blue ink, appearing to read 'Bruce Wolfe', is written over the text of the signature line.

Bruce Wolfe, Chair  
Sunshine Ordinance Task Force

cc. Anonymous (Petitioner/Complainant)  
John Cote, Office of the City Attorney (Respondent)