

**SUNSHINE ORDINANCE
TASK FORCE**



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**ORDER OF DETERMINATION
June 15, 2021**

DATE DECISION ISSUED
March 3, 2021

CASE TITLES –

Anonymous v. Rob Reiter and City Hall Building Management; File No. 19134
Anonymous v. Naomi Kelly and the Office of the City Administrator; File No. 19136

FACTS OF THE CASE

The following petitions/complaints were filed with the Sunshine Ordinance Task Force (SOTF). The SOTF combined the 19134 and 19136 into one file:

File No. 19134: Complaint filed by Anonymous against Rob Reiter and City Hall Building Management for allegedly violating Administrative Code (Sunshine Ordinance), Sections 67.21 and 67.25, by failing to respond to an Immediate Disclosure Request in a timely and/or complete manner.

File No. 19136: Complaint filed by Anonymous against Naomi Kelly and the Office of the City Administrator for allegedly violating Administrative Code (Sunshine Ordinance), Sections 67.21 and 67.25 by failing to respond to an Immediate Disclosure Request in a timely and/or complete manner.

HEARING ON THE COMPLAINT

On November 17, 2021 the Complaint Committee acting in its capacity to hear petitions/complaints heard both matters.

File No. 19134

Anonymous (Petitioner) provided a summary of the complaint and requested the Committee find a violation. Anonymous stated that he sent a letter December 7, 2019, to City Hall Building Management requesting all emails with metadata from the department heads. Anonymous stated that he sent a reminder on December 14, 2019. Anonymous stated that the department did not provide a timely response to his request. Anonymous noted that Naomi Kelly is the Department Head of Building Management. Anonymous requested that, per the Complaint Procedures Rule 10(c), the Committee combined File Nos. 19134 with 19136 on the agenda as they have similar issues.

Chair Hinze stated that the Committee will be addressing each complaint individually and acknowledged Anonymous' request that these matters be combined.

Tal Quetone (City Hall Building Management) (Respondent) provided a summary of the department's position. Mr. Quetone stated that he sent responsive records to Anonymous in a timely manner. Mr. Quetone stated that the Real Estate Division is within the City Administrator's Office. Mr. Quetone stated that he can speak to the request sent to City Administrator Naomi Kelly, not on building management. Mr. Quetone stated that Rob Reiter works in the Real Estate Division and is not a department head and thus a Prop G request would not apply to him. Mr. Quetone also noted that File No. 19136 is against the City Administrator not Rob Reiter. Mr. Quetone asked to wait until the other item is called to address combining the two matters.

Anonymous stated that he has not had a chance to review the records because he received them only in the last day. Anonymous noted that the respondent did not send the email to the requested address and instead they responded to Anonymous' personal email. Anonymous believes that it is not a complete response.

File No. 19134 combined into File No.19136 (See File No. 19136 for action)

File No. 19136

Anonymous (Petitioner) provided a summary of the complaint and requested the Committee to find a violation. Anonymous stated that on page 17 of the pdf item 5, December 7, 2019, he filed an Immediate Disclosure Request for Prop G and non-prop G calendars. Anonymous stated that he is aware that Naomi Kelly is the department head. Anonymous stated that the responsive records appear to be incomplete, that there is non-minimal withholding, no metadata records and has not had a chance to review the records. Anonymous opined that there may be a violation and quoted the *City of San Jose* case.

Tal Quetone (City Hall Building Management) (Respondent), provided a summary of the department's position. Mr. Quetone stated that the Department received the Immediate Disclosure Request and the response was provided in a timely manner. Mr. Quetone stated that there have been unforeseen staffing shortages and emails went unanswered. Mr. Quetone clarified that City Hall Building Management falls under the Office of the City Administrator. Mr. Quetone stated that he did not have a problem combining the two files.

Action: Moved by Member Yankee, second by Member Schmidt, to combine Files Nos. 19134 and 19136 and have respondent Naomi Kelly Office of the City

Administrator and City Hall Building Management named, that the records are public and refer the matter to the SOTF.

The motion PASSED by the following vote:

Ayes: 3 - Yankee, Schmidt, Hinze

Noes: 0 - None

On March 3, 2021, the SOTF held a hearing to review the recommendation from Committee and/or to review the merits of the petition/complaint.

The Chair moved for a motion to combine File Nos. 19134 and 19136.

Member Yankee provided a synopsis of the Complaint Committee hearing where the issue of combining File Nos. 19134 and 19136 was discussed and reiterated that both parties agreed that the motion was directed at Naomi Kelly and to combine the two matters.

Action: Moved by Member Yankee, seconded by Member Stein, to combine and hear File Nos. 19134 and 19136.

Chair Wolfe noted that the Respondent would not be available for the hearing and requested a continuance of both matters.

Anonymous asked that the SOTF proceed because these cases are over a year old.

Chair Wolfe stated that the Respondent advised that they would not be available for the hearing and requested a continuance. Chair Wolfe noted that there was no action regarding the request to continue, however Public Comment was allowed.

Anonymous asked to proceed because the case is over one year old.

Anonymous (Petitioner) provided a summary of the complaint and requested the Committee to find a violation. Anonymous stated that on December 7, 2019, he made a request for Prop G and Non-Prop G emails and calendars for File Nos. 19134 and 19136. Anonymous stated that he did not receive a response within the five-day window as required. Anonymous stated that Respondent's argument was lack of sufficient staff. Anonymous asked the SOTF to find a violation of 67.25 for an incomplete response to an Immediate Disclosure Request.

The Respondent was not present and requested a postponement before the hearing.

FINDINGS OF FACT AND CONCLUSION OF LAW

Based on the testimony and evidence presented, the SOTF found that Rob Reiter, City Hall Building Management, and Naomi Kelly, Office of the City Administrator, violated Administrative Code (Sunshine Ordinance), Section 67.25, by failing to respond to an Immediate Disclosure Requestion in a timely and/or complete manner.

DECISION AND ORDER OF DETERMINATIONS

On March 3, 2021, Member LaHood, seconded by Member Wong, moved to find that Rob Reiter, City Hall Building Management, and Naomi Kelly, Office of the City Administrator, violated Administrative Code (Sunshine Ordinance), Section 67.25, by failing to respond to an Immediate Disclosure Requestion in a timely and/or complete manner.

The motion PASSED by the following vote:

Ayes: 11 - LaHood, Wong, Yankee, Stein, Neighbors, Frazier,
Padmanabhan, Schmidt, Hyland, Wolfe, Forsley
Noes: 0 - None



Bruce Wolfe, Chair
Sunshine Ordinance Task Force

cc. Anonymous (Petitioner/Complainant)
Rob Reiter and City Hall Building Management
Naomi Kelly, Office of the City Administrator (Respondents)