

**SUNSHINE ORDINANCE
TASK FORCE**



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ORDER OF DETERMINATION

March 6, 2019

DATE DECISION ISSUED

February 6, 2019

CASE TITLE – Denta Tadesse v. Sheriff's Department (File No. 18028)

FACTS OF THE CASE

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

File No. 18028: Complaint filed by Denta Tadesse against the Sheriff's Department for allegedly violating Administrative Code (Sunshine Ordinance), Section 67.5, by restricting access to all meeting of any policy body in City Hall.

HEARING ON THE COMPLAINT

On August 21, 2018, the Education, Outreach and Training Committee acting in its capacity to hear petitions/complaints heard the matter.

Denta Tadesse (Petitioner) provided a summary of his complaint and requested the Committee find a violation. Mr. Tadesse stated that his complaint is about not being allowed to enter City Hall by the Sheriff's Department due to his service animal. Mr. Tadesse stated that the Sheriff's Department indicated that his service animal was not under control or leashed and referred him to the Mayor's Office on Disability several times. Mr. Tadesse stated that he has personal reasons for not using a leash and that his dog is always under his control. Mr. Tadesse stated that he is now homeless because of these personal reasons. Mr. Tadesse stated that he was granted a one week's stay signed by a judge and the Sheriff's department refused to meet to review the document. Mr. Tadesse stated that he was evicted from his apartment on the very next day. There were no speakers on behalf of the Petitioner.

Mark Nicco, legal counsel, Sheriff's Department (Respondent) provided a summary of the department's position. Mr. Nicco stated that this issue is solely about building rules regarding service animals and that there are no exceptions. Mr. Nicco stated that animals need to be under the control of their companion, need to be on a leash and that this rule is enforced by the Sheriff's Department on everyone who enters the building with a service animal. Mr. Nicco stated that this particular complaint is not restricting Mr. Tadesse from attending a public meeting. Mr. Nicco stated that after viewing a video of Mr. Tadesse's attempt to

enter City Hall, there is no evidence that the Sheriff Department's enforcement of the rules was ethnically motivated. Mr. Nicco stated that the video demonstrated that the Sheriff's Officers were calm and respectful of Mr. Tadesse and were only enforcing the building rules and that Mr. Tadesse refused to follow City Hall rules when entering the building.

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

Member B. Wolfe requested that both the Respondent and Sunshine Task Force legal counsel provide research on whether the law on the building rules are consistent with ADA law or whether the building rules impose a separate restriction that is not contemplated by ADA law regarding service animals.

Member B. Wolf, seconded by Chair J. Wolfe, moved to find that the SOTF has jurisdiction and to refer the matter to the SOTF for hearing.

On December 5, 2018, the SOTF held a hearing to review the recommendation from committee and/or to review the merits of the petition/complaint.

Vice-Chair Hyland, seconded by Member Hinze, moved to continue the Items Nos. 3 and 4 (File Nos. 18012 and 18028) matter to the next meeting of the SOTF.

On February 6, 2019, the SOTF held a hearing to review the recommendation from Committee and/or to review the merits of the petition/complaint.

Denta Tadesse (Petitioner) provided a summary of his complaint and requested the Committee to find a violation. Mr. Tadesse provided a recording of Donna Atkins (Mayor's Office on Disability) wherein she stated that Mr. Tadesse could leave his service animal outside. Mr. Tadesse stated that he was asking for reasonable accommodation pursuant to ADA.

Mark Nicco, Sheriff's Office (Respondent) provided a summary of the department's position. Mr. Nicco provided a summary of the Sheriff's Department's policy regarding service animals entering City Hall. Mr. Nicco stated that on the day Mr. Tadesse was not allowed into City Hall the task that Mr. Tadesse's service animal was to perform off leash was not made known. Mr. Nicco stated that the Sheriff's Office did not create the policy regarding service animals in City Hall. Mr. Nicco stated that he is not an expert on ADA law and would be interested in the ADA policy creation process.

FINDINGS OF FACT AND CONCLUSION OF LAW

Based on the testimony and evidence presented, the SOTF found that the Sheriff's Department violated Administrative Code (Sunshine Ordinance), Section 67.13(a).

DECISION AND ORDER OF DETERMINATIONS

On February 6, 2019, Member J. Wolf, seconded by Vice-Chair Hyland moved to find that the Sheriff's Department violated Administrative Code (Sunshine Ordinance), Section 67.13(a), by failing to make public meetings accessible to persons with disabilities caused by their mandatory service animal lease requirements.

The motion PASSED by the following vote:

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

Noes: 1 - Cate

Absent: 2 - Tesfai, Chopra

Chair B. Wolfe referred File Nos. 18012 and 18028 to the Compliance and Amendments Committee to monitor the Petitioners ability to enter City Hall with his service animal off lease pursuant to Administrative Code (Sunshine Ordinance), Section 67.13(a) which states the following:

"No policy body shall conduct any meeting, conference or other function in any facility that excludes persons on the basis of actual or presumed class identity or characteristics, or which is inaccessible to persons with physical disabilities, or where members of the public may not be present without making a payment or purchase. Whenever the Board of Supervisors, a board or commission enumerated in the charter, or any committee thereof anticipates that the number of persons attending the meeting will exceed the legal capacity of the meeting room, any public address system used to amplify sound in the meeting room shall be extended by supplementary speakers to permit the overflow audience to listen to the proceedings in an adjacent room or passageway, unless such supplementary speakers would disrupt the operation of a City office."



Bruce Wolfe, Chair
Sunshine Ordinance Task Force

cc. Denta Tadesse (Petitioner/Complainant)
Marc Nicco, Sheriff's Department (Respondent)