

**SUNSHINE ORDINANCE
TASK FORCE**



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**ORDER OF DETERMINATION
March 6, 2019**

DATE DECISION ISSUED
January 2, 2019

CASE TITLE – Mike Black v. Office of the Controller (File No. 18054)

FACTS OF THE CASE

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

File No. 18054: Complaint filed by Mike Black against the Office of the Controller for allegedly violating Administrative Code (Sunshine Ordinance), Section 67.25, by inappropriately invoking provisions for extensions of time to respond due to the voluminous nature of a request or need to consult with another department.

HEARING ON THE COMPLAINT

On July 17, 2018, the Compliance and Amendments Committee found jurisdiction and that the records are public.

On August 28, 2018, the Complaint Committee acting in its capacity to hear petitions/complaints heard the matter.

Mike Black (Petitioner) provided a summary of his complaint and requested the Committee find a violation. Mr. Black stated that on June 19, 2018, he submitted an Immediate Disclosure Request (IDR) for records related to any new hearing officers for the City's Vicious and Dangerous Dog hearings hired in 2018. Mr. Black stated that he did not get a response to this IDR until June 29. Mr. Black stated that he submitted a second IDR on June 20, 2018, asking that the Controller's Office identify all hearing officers currently under contract and which was responded to on June 21, 2018. Mr. Black stated that the Controller's Office acknowledged that were late in responding to the IDR. Mr. Black stated that the Controller's Office deliberately obstructed the released of records by invoking a 14-day extension to find documents that the Controller's Office knew didn't exist.

Todd Rydstrom, Deputy Controller, Office of the Controller (Respondent) provided a summary of the department's position. Mr. Rydstrom stated that on June 19, 2018, Mr. Black sent a records request for documents related to any new hearing officer hired in 2018 for San Francisco Vicious and Dangerous Dog

Hearing. Mr. Rydstrom stated that the Controller's Office maintain a contractor pool in which the Animal Care and Control Department may obtain hearing officers from. However, Mr. Rydstrom stated that city departments are not required to use the contractor pool and may hire from other sources on their own. Mr. Rydstrom stated the Controller's Office immediately responded to Mr. Black's June 20, 2018, revised request which stated that he wanted the names of any and all independent contractors who are currently under contract with the City and County and any public record in the Controller's Office that confirmed this. Mr. Rydstrom stated that the Controller's Office has provide all responsive records to Mr. Black.

Member B. Wolfe, seconded by Member Hinze, moved to refer the matter to the SOTF for hearing.

On January 2, 2019, the SOTF held a hearing to review the recommendation from Committee and/or to review the merits of the petition/complaint.

Mike Black (Petitioner) provided a summary of the complaint and requested the Committee to find a violation. Mr. Black stated that there were no new hearing officers for the Vicious and Dangerous Dog hearings and that the Respondent never stated this.

Todd Rydstrom (Office of the Controller) (Respondent), provided a summary of the department's position. Mr. Rydstrom spoke about the process for hiring from the contracting pool. Mr. Rydstrom stated that he is the Custodian of Records for the Office of the Controller and often needs to consult with other city departments to determine if certain records exist. Mr. Rydstrom stated that he asked Mr. Black to narrow the scope of his request and that he was invoking an extension of 14 days to respond to Mr. Black. Mr. Rydstrom stated that he responded to both of Mr. Black's Immediate Disclosure Requests in a timely manner.

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

Member Cannata stated that the extension of time to respond should have been 10 days instead of 14. Chair Wolfe stated that the Office of the Controller did due diligence.

FINDINGS OF FACT AND CONCLUSION OF LAW

Based on the testimony and evidence presented, the SOTF found that the Office of the Controller **DID NOT VIOLATE** Administrative Code (Sunshine Ordinance), Section 67.25.

DECISION AND ORDER OF DETERMINATIONS

On January 2, 2019, Vice Chair Hyland, seconded by Member Cate, moved to find that the Office of the Controller DID NOT violate Administrative Code, Section 67.25, by inappropriately invoking provisions for extensions of time to respond due to the voluminous nature of a request or need to consult with another department.

The motion PASSED by the following vote:

Ayes: 9 - Hyland, Cate, J. Wolf, Hinze, Yankee, LaHood, Martin, Yankee,
B. Wolfe

Absent: 2 - Tesfai, Chopra

Noes: 0 - None



Bruce Wolfe, Chair
Sunshine Ordinance Task Force

cc. Mike Black (Petitioner/Complainant)
Ben Rosenfield, Office of the Controller (Respondent)
Todd Rydstrom, Office of the Controller (Respondent)