

**SUNSHINE ORDINANCE
TASK FORCE**



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ORDER OF DETERMINATION
April 30, 2019

DATE DECISION ISSUED
March 6, 2019

CASE TITLE – Mark Sullivan v. Mission Dolores Green Benefit District Formation Committee
(File No. 18086)

FACTS OF THE CASE

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

File No. 18086 - Complaint filed by Mark Sullivan against the Mission Dolores Green Benefit District Formation Committee for allegedly violating Administrative Code (Sunshine Ordinance), Section 67.14, by failing to allow video and audio recording filming and still photography of a policy body.

HEARING ON THE COMPLAINT

On December 18, 2018, the Compliance and Amendments Committee acting in its capacity to hear petitions/complaints heard the matter.

Conan McHugh (Respondent) provided a summary of the Mission Dolores Green Benefit District Formation Committee (GBD) (Respondent) position within the community. Mr. McHugh stated that this particular GBD committee is made up of neighbors and business owners within the district trying to be good neighbors and make a difference. Mr. McHugh stated that this GBD was not created by ordinance or resolution and is not a city agency or an initiative of a policy body or passive body. Mr. McHugh stated that they are not receiving money from the City and that the neighbors are all volunteers. Mr. McHugh stated that many neighbors volunteer their time and that some funding came from former Supervisor Jeff Sheehy. Mr. McHugh stated that several neighbors got together to discuss the litter and safety issues in their neighborhood. Mr. McHugh stated that they do communicate frequently with the Department of Rec and Parks. Mr. McHugh stated that this particular community group plans to continue to meet to look at ways to improve the neighborhood and that they are not contingent on the GBD.

Mark Sullivan (Petitioner) provided a summary of his position regarding the GBD. Mr. Sullivan stated that Ordinance 14-14, Article 15(a) provided an opportunity for this GBD committee to form and that this committee is required to follow this Article. Mr. Sullivan stated that this committee makes decisions that neighbors cannot opt out of, decide what the boundaries are, the way to vote and when the vote is going to happen. Mr. Sullivan stated that this group votes on decisions that affect their neighbors. Mr. Sullivan stated that if they do form a GBD, it would have to be voted on by the City.

Jim Chappell explained that this is a group of volunteer neighbors who have not received money from the city and they have no obligations to this GBD. Mr. Chappell said that they are not sanctioned by any City department. Mr. Chappell explained that they have lobbied city departments on behalf of their GBD and neither has obligations to the other. Mr. Chappell stated that former Supervisor Jeff Sheehy directed the money to city departments, it did not come to the GBD.

Jonathan Goldberg, San Francisco Public Works, Green Benefits District Program Manager, provided a summary of the Mission Dolores GBD. Mr. Goldberg stated that this particular group is conducting outreach in order to determine what is feasible for them to pursue the formation of an assessment district. Mr. Goldberg stated that this GBD is a collection of business owners and neighbors. Mr. Goldberg stated that Ordinance 14-14 dictates the steps required to create a GBD which includes Board of Supervisor legislation to become a formal entity. Mr. Goldberg stated that this group of neighbors is going through the process to determine what is feasible and appropriate for this district at this time. Mr. Goldberg stated that this committee was not created by any city department. Mr. Goldberg stated that the City Attorney makes certain that these committees get a refresher on the Brown Act and Sunshine Ordinance once they have been officially formed.

Member LaHood, seconded by Member Hyland, moved to refer the matter to the SOTF with the recommendation to find that the SOTF does NOT have jurisdiction over the Mission Dolores Green Benefit District at this time.

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

Member Cannata provided a summary of the meeting of the Compliance and Amendments Committee's hearing on this matter.

Mark Sullivan (Petitioner) provided a summary of the complaint and requested the Committee to find a violation. Mr. Sullivan stated that Ordinance 14-14, Article 15(a) passed by the Board of Supervisors provides that the Mission Dolores Green Benefits District Formation Committee (GBD) may make policy decisions before the vote on their petition and decide on how long their vote can last. Mr. Sullivan stated that the Green Benefit District would not exist if not for

Article 15(a). John Hooper spoke in support of the Petitioner and stated that he lives in the Haight Ashbury where the neighbors tried to form a Green Benefits District Committee but were unsuccessful. Roger Hoffman spoke in support of Petitioner and commented on jurisdiction and advisory committees created by a member of a policy body or the Mayor. Mr. Hoffman stated that Mr. McHugh received \$11,000 from former Supervisor Sheehy for neighborhood improvement.

Conan McHugh provided a summary of the Mission Dolores Green Benefits District's position. Mr. McHugh stated that he has posted all minutes of public meetings on their website. Mr. McHugh has invited individuals from the Mayor's Office to attend meetings. Mr. McHugh believes that the Sunshine Ordinance does not have jurisdiction.

James Chappell, member of Mission Dolores GBD spoke in support of the Mr. McHugh and stated that this group of neighbors is not a policy body and was not created by Ordinance of the Board of Supervisors.

Member J. Wolf asked if City employees have attended meetings and Mr. McHugh responded that Jonathan Goldberg of Department of Public Works has.

Chair Wolfe wanted to know if City staff have been to meetings and how the money is spent within the process of the committee and why is money being spent on this group now.

Jonathan Goldberg, Public Works, provided a summary of the department's role in advising potential and current GBDs and stated that the city does not provide any funding to potential or current GDBs. Mr. Goldberg stated Public Works' goal is to make certain that potential GBDs have a mission/focus and provide advised as needed. Mr. Goldberg stated there is no timeline for planning groups to create a GBD.

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 SOTF does not have jurisdiction over the Mission Dolores Green Benefit District Formation Committee.

DECISION AND ORDER OF DETERMINATIONS

On March 6, 2019, Member Cannata, seconded by Chair Wolfe, moved to find jurisdiction.

The motion FAILED by the following vote:

Ayes: 5 - B. Wolfe, Hyland, LaHood, J. Wolf, Martin

Noes: 4 - Hinze, Cannata, Tesfai, Yankee

Absent: 2 - Cate and Chopra

(As the motion to find jurisdiction over the Mission Dolores Green Benefit District Formation Committee failed the SOTF does not have jurisdiction in this matter due to the vote did not meet the threshold of six required votes to affirm the action as per SOTF Bylaws relating to substantive motions and actions.)

A handwritten signature in blue ink, appearing to read 'Bruce Wolfe', is positioned above the printed name.

Bruce Wolfe, Chair
Sunshine Ordinance Task Force

cc. Mark Sullivan (Petitioner/Complainant)