ORDER OF DETERMINATION
October 12, 2016

DATE Decision Issued
May 6, 2015

CASE TITLE - Jason Grant Garza v. Barbara Garcia, Philip Katzenberger, Faye DeGuzman, and Nancy Sarieh, Department of Public Health (File No. 15012)

FACTS OF THE CASE

Jason Grant Garza (Complainant) made a complaint alleging that Barbara Garcia, Philip Katzenberger, Faye DeGuzman, and Nancy Sarieh, Department of Public Health (DPH), violated Administrative Code (Sunshine Ordinance), Sections 67.21 and 67.25, for failure to allow inspection of public records during normal hours of operations, without unreasonable delay, and without requiring an appointment and failure to respond to an Immediate Disclosure Request in a timely and/or complete manner.

COMPLAINT FILED

On February 17, 2015, Mr. Garza filed a complaint with the Task Force regarding the alleged violation.

HEARING ON THE COMPLAINT

On March 17, 2015, the Complaint Committee heard the matter.

The Complaint Committee determined that the only issue that should be considered is the request for specific video recordings. The other portions of the complaints regarding medical records and policies were previous adjudicated by the Sunshine Ordinance Task Force under File Nos. 14076, 14077, 14078, 14056, and 14084.

Jason Grant Garza (Complainant) appeared before the Complaint Committee and presented his claim. Mr. Garza commented on several unrelated issues and stated that he was not able to access the video provided by the Respondent and was not able to make an appointment with the custodian of records to discuss the request for records.

Nancy Sarieh, Department of Public Health (Respondent), provided a summary of the department’s position and provided a timeline of the department’s response.
Ms. Sarieh acknowledged that the response to the request for video recordings was not timely due to the need to visually review many hours of video to find the relevant portion requested. As a result of the labor intensive search, new policies regarding request for video recordings shall be established to prevent the issue from occurring again. A specific form shall be created to request video records. Possible fields shall be: 1) date and exact time of video; 2) location in the building; and 3) detailed description of the person in video.

On May 6, 2015, the Sunshine Ordinance Task Force (SOTF) held a hearing to review the recommendation of the Complaint Committee.

Member Pilpel requested that the Task Force provide/included advice to the Department of Public Health regarding public records request procedures. The information was not provided by Member Pilpel and not included in this Order of Determination.

FINDINGS OF FACT AND CONCLUSION OF LAW

Based on the testimony and evidence presented, the Task Force finds the testimony of the Complainant to be persuasive and finds Administrative Code (Sunshine Ordinance), Section 67.25(a), applicable in this case.

DECISION AND ORDER OF DETERMINATIONS

The Complaint Committee recommends that the Task Force accept the determination that the Task Force has jurisdiction and find that a violation of Administrative Code (Sunshine Ordinance), Section 67.25(a), occurred for failing to respond to an Immediate Disclosure Request in a timely manner (video recordings).

On May 6, 2015, the Sunshine Ordinance Task Force reviewed and adopted the Complaint Committee recommendation and found Barbara Garcia, Philip Katzenberger, Faye DeGuzman, and Nancy Sarieh, Department of Public Health, in violation of Administrative Code (Sunshine Ordinance), Section 67.25(a), for failing to respond to an Immediate Disclosure Request in a timely manner in regards to the request for specific video recordings.

This Order of Determination was adopted by the Sunshine Ordinance Task Force on May 6, 2015, by the following vote:

The motion PASSED by the following vote:
Ayes: 6 - Wolf, Pilpel, Hepner, Fischer, Hinze, Washburn
Noes: 0 - None
Absent: 2 - Chopra, Hyland

Bruce Wolfe, Chair
Sunshine Ordinance Task Force

c. Nicholas Colla, Deputy City Attorney
   Jason Grant Garza, Complainant
   Nancy Sarieh, Department of Public Health
   Philip Katzenberger, Department of Public Health
   Faye DeGuzman, Department of Public Health
   Barbara Garcia, Department of Public Health