

**SUNSHINE ORDINANCE  
TASK FORCE**



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**ORDER OF DETERMINATION  
January 12, 2017**

**DATE ISSUED**  
December 7, 2016

**CASE TITLE** – Ray Hartz v. Angela Calvillo, Clerk of the Board (File No. 16088)  
Ray Hartz v. Angela Calvillo, Clerk of the Board (File No. 16089)  
Ray Hartz v. Angela Calvillo, Clerk of the Board (File No. 16111)

**FACTS OF THE CASE**

On September 13, 2016, Ray Hartz filed the following complaint:

**File No. 16088:** Complaint filed by Ray Hartz against Angela Calvillo, Clerk of the Board of Supervisors, for allegedly violating Administrative Code (Sunshine Ordinance), Section 67.16, by failing to place a written summary of the public comment, if no more than 150 words, in the minutes (September 6, 2016).

On September 20, 2016, Ray Hartz filed the following complaint:

**File No. 16111:** Complaint filed by Ray Hartz against Angela Calvillo, Clerk of the Board of Supervisors, for allegedly violating Administrative Code (Sunshine Ordinance), Section 67.16, by failing to place a written summary of the public comment, if no more than 150 words, in the minutes (September 13, 2016).

On September 27, 2016, Ray Hartz filed the following complaint:

**File No. 16089:** Complaint filed by Ray Hartz against Angela Calvillo, Clerk of the Board of Supervisors, for allegedly violating Administrative Code (Sunshine Ordinance), Sections 67.16 and 67.34, by willfully failing to place a written summary of the public comment, if no more than 150 words, in the minutes (September 20, 2016).

## HEARING ON THE COMPLAINTS

On November 14, 2016, the Compliance and Amendments Committee (Committee) heard the following complaints:

**File No. 16088:** Ray Hartz (Complainant) provided a summary of the complaint and requested the Committee to find violations. Mr. Hartz provided a summary of previous Task Force Order of Determinations regarding the 150 word written summary in the minutes and stated that a legal opinion has never been provided regarding the matter. Wilson Ng, Office of the Clerk of the Board (Respondent), provided a summary of the department's position. Mr. Ng stated that the 150 word summary is inserted into the meeting minutes paginated as one document in the Addendum. Mr. Ng stated that the 150 word summary is placed into the Addendum after the signature of the Clerk of the Board because the Clerk of the Board cannot validate written summaries submitted for inclusion into the meetings by members of the public. In addition, Mr. Ng stated that the Task Force has previously ruled both in favor and against the Clerk of the Board in regards to the requirements for placement of the 150 word summary in meeting minutes and that the Ethics Commission has previously ruled that the placement of the 150 word summary in an Addendum does not violate the Sunshine Ordinance. Mr. Ng suggested that the Task Force seek administrative remedy with a third party, such as the Ethics Commission or the City Attorney, in order to issue a determination regarding the matter. A question and answer period followed. The Complaint and the Respondent were provided the opportunity for rebuttals.

**File No. 16089:** Ray Hartz (Complainant) provided a summary of the complaint and requested the Committee to find violations. Mr. Hartz restated certain arguments previously presented during the hearing of File No. 16088. Wilson Ng, Office of the Clerk of the Board (Respondent), provided a summary of the department's position. Mr. Ng stated issues and arguments regarding the complaint are the same as those provided File No. 16088. A question and answer period followed. The Complaint and the Respondent were provided the opportunity for rebuttals.

Upon review of the testimony and supporting documents the Committee referred the matters to the Task Force for hearing and suggested that the Task Force review the following issues in regards to the placement of the 150 word written summary:

- The Task Force has previously provided conflicting rulings on the matter both in favor and against the Clerk of the Board and other city departments
- The Ethics Commission has previously reviewed the findings of the Task Force and ruled against the Task Force findings that the 150 word must be in the body of the minutes

- The Task Force has previously found other city departments in violation of the Sunshine Ordinance regarding the same matter and that the departments in question now place the 150 word written summary into the body of minutes

The Committee forwarded the Respondent's suggestion that the Task Force seek administrative remedy with a third party in order to set precedence for future Task Force decision in regards to the requirement which states that the 150 written summary shall be inserting 'in the minutes'.

On December 7, 2016, the Sunshine Ordinance Task Force (Task Force) called and heard File Nos. 16088, 16089, and 16111 together with the agreement of both the Complainant and Respondent.

Ray Hartz (Complainant) provided an overview of the complaint and requested that the Task Force find violations. Mr. Hartz stated that the Task Force has previously ruled that the 150 word summary of public comment should be included into the body of minutes and not in an Addendum and provided samples of compliance by other city agencies. Mr. Hartz stated that the placement of the 150 word summary into an Addendum is a violation of his rights to free speech. There were no speakers in support of the Complainant. Wilson Ng, Office of the Clerk of the Board (Respondent), provided a summary of the department's position. Mr. Ng stated that the Addendum is part of the minutes and therefore complies with Administrative Code, Section 67.16, which states that the 150 word summary shall be in the minutes. Mr. Wilson stated that the Task Force has provide conflicting rulings regarding the 150 word summary and suggested that a third party review the legal text. There were no speakers in support of the Respondent. A question and answer period followed. The Respondent and Complainant were provided the opportunity for rebuttals.

#### FINDINGS OF FACT AND CONCLUSION OF LAW

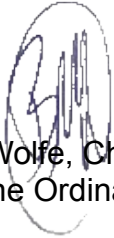
Based on the testimony and evidence presented, the Task Force found that a violation of Administrative Code (Sunshine Ordinance), Section 67.16, occurred.

## ORDER OF DETERMINATION

On December 7, 2016, the Task Force found that Angela Calvillo, Clerk of the Board of Supervisors, violated Administrative Code (Sunshine Ordinance), Section 67.16, by failing to include the written 150 word public comment summary submitted by Ray Hartz for the September 6, 13, and 20, 2016, Board of Supervisors meetings minutes, into the body of the minutes and not into an Addendum at the end of the minutes (File Nos. 16088, 16089, and 16111).

### **The motion to find the violation PASSED by the following vote:**

Ayes: 9 - Baranetsky, Eldon, J. Wolf, Tesfai, Maass, Cannata, Fischer,  
Hinze, B. Wolfe  
Noes: 0 - None  
Absent: 1 - Chopra  
Excused: 1 - Hyland



Bruce Wolfe, Chair  
Sunshine Ordinance Task Force

- c. Nicholas Colla, Deputy City Attorney  
Ray Hartz, Complainant  
Angela Calvillo, Clerk of the Board (Respondent)  
Wilson Ng, Office of the Clerk of the Board (Respondent)