

**SUNSHINE ORDINANCE  
TASK FORCE**



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**ORDER OF DETERMINATION  
July 24, 2017**

**DATE ISSUED**  
July 5, 2017

**CASE TITLE – Gregory Berlin, Terra Aeris Law Group v. Office of the Treasurer and Tax Collector (File No. 17024)**

**FACTS OF THE CASE**

On April 4, 2017, the following petition/complaint was filed with the Sunshine Ordinance Task Force (SOTF):

File No. 17024: Complaint filed by Gregory Berlin, Aqua Terra Aeris Law Group, against the Office of the Treasurer and Tax Collector, for allegedly violating Administrative Code (Sunshine Ordinance), Section 67.21, for failure to respond to a request for public records in a timely and/or complete manner.

**HEARING ON THE COMPLAINT**

On April 25, 2017, the Complaint Committee (Committee) acting in its capacity to hear petitions/complaints heard the matter and referred it to the SOTF for hearing.

Gregory Berlin (Petitioner) provided a summary of the complaint and requested the Committee to find violations. Mr. Berlin stated there were no response to his two written requests submitted on October 20, 2016, and December 7, 2016, and that he was provided incorrect information during his in-person visit on March 23, 2017. Mr. Berlin indicated that the response that was provided was incomplete/redacted and requested the Committee to review the redactions. Debra Lew, Office of the Treasurer and Tax Collector (Respondent) provided a summary of the department's position. Ms. Lew provided a summary of how the office processes incoming mail and stated that the department has searched for the two written request for records but found no evidence of receipt. Ms. Lew acknowledged the department's response to the March 23, 2017, requested on April 4, 2017, was one day late and has taken steps to insure the delay does not occur in the future. A question and answer period followed. The parties were provided an opportunity for rebuttals.

The Committee informed Mr. Berlin that the original complaint was regarding the timeliness of response and that a new complaint should be filed with the Task Force in order to allow the Respondent an opportunity to respond to the new allegations. In addition, the Committee does not believe it can make a ruling regarding the October 20, 2016, and December 7, 2016, public records request mailed to the Office of the Treasurer and Tax Collector as there was no evidence that the requested was transmitted or received.

On July 5, 2017, the SOTF held a hearing to review the recommendation from Committee and to review the merits of the petition/complaint.

Gregory Berlin, Aqua Terra Aeris Law Group, provided an overview of the complaint and requested that the Task Force find violations. Mr. Berlin stated that he submitted two public records request via U.S. Mail and one in person. There were no speakers in support of the Petitioner. Debra Lew, Treasurer and Tax Collector's Office (Respondent), provided a summary of the department's position and acknowledged that the response to the public records request was not timely. Ms. Lew stated that the department has no record of receiving the two public records request submitted via U.S. Mail and acknowledged that they were one day late in responding to the request submitted in person. There were no speakers in support of the Respondent. A question and answer period followed. The Respondent and Petitioner were provided the opportunity for rebuttals.

#### FINDINGS OF FACT AND CONCLUSION OF LAW

Based on the testimony and evidence presented the SOTF found that the Office of the Treasurer and Tax Collector violated Administrative Code (Sunshine Ordinance), Section 67.21(b).

## ORDER OF DETERMINATION

Member J. Wolf, seconded by Member Hinze, moved to find that the Office of the Treasurer and Tax Collector violated Administrative Code (Sunshine Ordinance), Section 67.21(b), by failing to respond to a public records request in a timely manner.

The motion PASSED by the following vote:

Ayes: 8 – Eldon, J. Wolf, Maass, Cannata, Fischer, Hinze, Hyland, B. Wolfe

Noes: 0 – None

Absent: 2 – Chopra, Tesfai

  
Bruce Wolfe, Chair  
Sunshine Ordinance Task Force

- c. Gregory Berlin (Petitioner/Complainant)  
Debra Lew, Office of the Treasurer and Tax Collector (Respondent)