

**SUNSHINE ORDINANCE
TASK FORCE**

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ORDER OF DETERMINATION
October 31, 2017

DATE ISSUED
October 4, 2017

CASE TITLE – Denta Tadesse v. George Colthran and Robin Reitze, Office of the City Attorney (File No. 17057)

FACTS OF THE CASE

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

File No. 17057: Complaint filed by Denta Tadesse against George Colthran and Robin Reitzes, Office of the City Attorney; for allegedly violating Administrative Code (Sunshine Ordinance), Chapter 67, by failing to protect the right to privacy of a member of the public.

HEARING ON THE COMPLAINT

On July 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.

The Petitioner was not present during the hearing. Andrea Guzman, Office of the City Attorney (Respondent), provided a summary of the complaint. Ms. Guzman stated that the Office of the City Attorney was serving notice to the Petitioner on behalf of their client (SFMTA). Ms. Guzman stated that there was no public records request in question and that Sunshine Ordinance, Section 67.24, only applies to law enforcement and civil actions. Ms. Guzman stated that the Office of the City Attorney was not charged with reviewing the records to determine if they were public or not. Ms. Guzman stated that their representative was not allowed entry in the building and were forced to leave documents for the Petitioner with the manager.

On October 4, 2017, the SOTF held a hearing to review the recommendation from Committee and/or to review the merits of the petition/complaint.

Denta Tadesse (Petitioner), provided a summary of the complaint and requested the SOTF to find violations. Mr. Tadesse provided a history of the issue and the adverse consequences that occurred due to the documents being delivered in an unsealed envelope. Mr. Tadesse requested a referral to the Ethics Commission.

There were no speakers in support of the Petitioner. John Cote, Office of the City Attorney (Respondent), provided a summary of the department's position. Mr. Cote stated that the issue of personal privacy is not under the jurisdiction of the SOTF. Mr. Cote stated that Administrative Code, Section 67.24, does not apply as a request for public records was not filed. There were no speakers in support of the Respondent. A question and answer period followed. The Petitioner and Respondent were provided an opportunity for rebuttals.

Upon discussion it was noted that documents may be served to third party for delivery via a reception desk or office manager if the entrance to the specific location is restricted. Chair Wolfe advised the Petitioner that the SOTF can only refer issues related to willful violations of the Sunshine Ordinance to the Ethics Commission.

FINDINGS OF FACT AND CONCLUSION OF LAW

Based on the testimony and evidence presented the SOTF found that they do not have jurisdiction over the subject of the complaint.

ORDER OF DETERMINATION

Member Maass, seconded by Member Tesfai, moved to find that the Sunshine Ordinance Task Force does not have jurisdiction of the subject matter of personal privacy and procedures for serving documents.

The motion PASSED by the following vote:

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

Noes: 0 – None

Absent: 2 – Chopra, J. Wolf



Bruce Wolfe, Chair
Sunshine Ordinance Task Force

- c. John Cote, Office of the City Attorney (Respondent)
Denta Tadesse (Petitioner)