

**SUNSHINE ORDINANCE
TASK FORCE**

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ORDER OF DETERMINATION
December 27, 2017

DATE ISSUED
December 6, 2017

CASE TITLE – Ellen Tsang v. John Rahaim, Ann Brask and the Planning Department
(File No. 17092)

FACTS OF THE CASE

On August 23, 2017, the following petition/complaint was filed with the Sunshine Ordinance Task Force (SOTF):

File No. 17092: Complaint filed by Ellen Tsang against John Rahaim, Anne Brask and the Planning Department for allegedly violating Administrative Code (Sunshine Ordinance), Sections 67.21 and 67.25, by failing to respond to an Immediate Disclosure Request in a timely and complete manner.

HEARING ON THE COMPLAINT

On November 13, 2017, the Compliance and Amendments Committee (Committee) acting in its capacity to hear petitions/complaints heard the matter and referred it to the SOTF for hearing.

Ellen Tsang (Complainant) and Christine Silva, Planning Department (Respondent); provided an overview and responded to questions raised through the discussion. Ms. Tsang stated that since the last meeting before the Committee the Planning Department has provided the requested records. Ms. Tsang request that the matter be referred to the SOTF for hearing so that Order of Determination can be issued to document the violation. Ms. Silva provided a summary the actions taken by the Planning Department. Ms. Silva previously stated at the September 19, 2017, meeting that Planning was not aware of an August 16, 2017. Ms. Silva stated that the Planning Department has since provided all responsive records to the August 16, 2017, request.

The Committee stated that the Planning Department has previously acknowledged that a response was not provided for the August 16, 2017, request for records.

On December 6, 2017, the SOTF held a hearing to review the recommendation from Committee and/or to review the merits of the petition/complaint.

Ellen Tsang (Petitioner), provided a summary of the complaint and requested the SOTF to find violations. Ms. Tsang provided a timeline of her request and stated that she did not receive a response until after she filed a complaint. Ms. Tsang requested that it be clarified that the complaint is only regarding her August 16, 2017, request that her right to file complaints on her other requests for records be protected. Ms. Tsang stated that the Planning Department did not respond to the SOTF request for information in a timely manner. There were no speakers on behalf of the Petitioner. Christine Silva, Planning Department (Respondent), provided a summary of the department's position. Ms. Silva stated that due to the multiple requests from Ms. Tsang the August 16, 2017, was confused with other public records requests and not responded to until it was brought to their attention by the SOTF. Ms. Silva acknowledged that the response was late but all documents were provided once the error was noted. 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.

FINDINGS OF FACT AND CONCLUSION OF LAW

Based on the testimony and evidence presented the SOTF found that a violation of Administrative Code (Sunshine Ordinance), Sections 67.21 and 67.25, occurred.

ORDER OF DETERMINATION

Member Cannata, seconded by Member Hinze, moved to find that John Rahaim, Anne Brask and the Planning Department, violated Administrative Code (Sunshine Ordinance), Sections 67.21 and 67.25, by failing to respond to the August 16, 2017, Immediate Disclosure Request in a timely manner.

The motion PASSED by the following vote:

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

Noes: 0 – None

Absent: 2 – Chopra, Eldon



Bruce Wolfe, Chair
Sunshine Ordinance Task Force

- c. Ellen Tsang (Petitioner/Complainant)
Christine Silva, Planning Department (Respondent)
Ann Brask, Planning Department (Respondent)
Director John Rahaim, Planning Department (Respondent)