

**SUNSHINE ORDINANCE
TASK FORCE**



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ORDER OF DETERMINATION
March 27, 2018

DATE ISSUED
March 7, 2018

CASE TITLE – Kevin Williams V Kate Patterson and the Arts Commission
(File No. 17096)

FACTS OF THE CASE

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

Complaint filed by Kevin Williams against Kate Patterson and the Arts Commission for allegedly violating Administrative Code (Sunshine Ordinance), Section 67.25, by failing to respond to an Immediate Disclosure Request in a timely and/or complete manner.

HEARING ON THE COMPLAINT

On January 30, 2018, 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.

Kevin Williams (Complainant) provided a summary of his complaint and requested that the Committee find violations. Mr. Williams stated that Director Tom DeCaigny (Arts Commission) directed staff to not provide certain records. Mr. Williams stated that the Arts Commission promised to retrieve documents from other city departments and refused to submit records requests to other city departments. Kate Patterson, Arts Commission (Respondent), provided a summary of the department's position. Ms. Patterson stated that the Arts Commission has provided all records in their possession and has forwarded documents from other city departments to Mr. Williams. Ms. Patterson stated that Mr. Williams was advised as to where additional records not under the control of the Arts Commission may be retrieved and that the Arts Commission never committed to retrieving records from other city departments. Ms. Patterson stated that the Arts Commission should not be required to provide an analysis of records from other departments.

The Committee advised that the Sunshine Ordinance Task Force's jurisdiction is limited to public records request and public meetings. The conduct of staff and departmental policies is not under the jurisdiction of the Task Force.

The Committee requested that the Arts Commission provide a written response, within two weeks, to each of Mr. Williams' twenty-six (26) requests with the following information:

- List of records that the Arts Commission has provided
- List other city departments who provided documents that were forwarded to Mr. Williams
- List of records that cannot be provided by the Arts Commission and why they cannot be provided (e.g. Not in possession of the Arts Commission or reason that record cannot be disclosed)
- Referrals information to departments who may be in possession of additional responsive document

On March 7, 2018, the SOTF held a hearing to review the recommendation from Committee and/or to review the merits of the petition/complaint.

Kate Patterson (Respondent), provided a summary of the department's position. Ms. Patterson stated that the Arts Commission has provided all of their records. In response to questions, Ms. Patterson stated that the Office of the City Attorney has advised that 14 day extensions are allowed. Ms. Patterson stated that the 26 items requested were voluminous and the full 14 days was needed to review and organize the records prior to transmitting them to the Petitioner. There were no speakers on behalf of the Respondent. A question and answer period occurred. The Petitioner and Respondent were provided an opportunity for rebuttals.

The SOTF review the alleged violations provided by Mr. Williams. The SOTF found that Administrative Code, Section 67.21(e), in regards to the 45 day requirement to determine if a record is public to apply to the SOTF and not the Arts Commission. The SOTF found that Administrative Code, Section 67.21(i) regarding actions by the Office of the City Attorney to not apply to the Arts Commission and noted that the letter referenced by Mr. Williams was advice from the SOTF legal counsel to the SOTF. In regards to Section 67.24(e), the SOTF opined that that Arts Commission has provided their records. The SOTF opined that pursuant to Section 67.25 the Arts Commission is allowed a 10 day extension and that documents should have been provided on a rolling basis.

The SOTF opined that the Sunshine Ordinance only allows for a 10 day extension and that records should be provided on a rolling basis as they become available. The SOTF stated that it appears that the Arts Commission has provided all records in their possession but did not meet the 10 day extension

deadline. The SOTF suggested that that other city departments and the Bayview Opera House may have additional records.

FINDINGS OF FACT AND CONCLUSION OF LAW

Based on the testimony and evidence presented the SOTF found that Kate Patterson and the Arts Commission violated Administrative Code (Sunshine Ordinance), Sections 67.25(b) and (d).

ORDER OF DETERMINATION

Member Cannata, seconded by Member J. Wolf, moved to find that Kate Patterson and the Arts Commission violated Administrative Code (Sunshine Ordinance), Sections 67.25(b) and (d), by failing to respond to an Immediate Disclosure Request in a timely manner and failing to provide records on a rolling basis as they become available.

The motion PASSED by the following vote:

Ayes: 9 – Eldon, J. Wolf, Tesfai, Maass, Cannata, Fischer, Hinze, Hyland,
B. Wolfe

Noes: 0 – None



Bruce Wolfe, Chair
Sunshine Ordinance Task Force

- c. Kevin Williams (Petitioner/Complainant)
Kate Patterson (Respondent)