



SUNSHINE ORDINANCE TASK FORCE

Complaint Committee

CITY AND COUNTY OF SAN FRANCISCO

MINUTES

**Hearing Room 408
City Hall, 1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102-4689**

September 27, 2016 - 4:00 PM

Regular Meeting

Members: Leuwam Tesfai (Chair), Victoria Baranetsky, Dave Maass

1. CALL TO ORDER, ROLL CALL, AND AGENDA CHANGES

Chair Leuwam Tesfai called the meeting to order at 4:38 p.m. On the call of the roll Chair Tesfai and Member Maass was noted present. There was a quorum.

Member Baranetsky was excused from the meeting.

Member Maass, seconded by Chair Tesfai, moved to hear Item No. 3 (File No. 14030) at the end of the agenda.

Public Comment:
None.

The motion PASSED by the following vote:

Ayes: 2 - Maass, Tesfai
Noes: 0 - None
Excused - Baranetsky

2. Adoption of the minutes for the April 26, 2016, Complaint Committee meeting.

The Committee discussed the draft minutes and request the Administrator to review the minutes and insert missing information.

Member Maass, seconded by Chair Tesfai, moved to continue the matter to the next meeting of the Committee.

Public Comment:

Ann Treboux comment on possible errors in the draft minutes.

The motion PASSED by the following vote:

Ayes: 2 - Maass, Tesfai

Noes: 0 - None

Excused – Baranetsky

At the hour of 6:30 p.m. Chair Wolfe appointed himself to the September 27, 2016, meeting of the Complaint Committee.

3. **File No. 14030: Review and Amendments to the Sunshine Ordinance Task Force Complaint Procedures.**

Chair Wolfe provided a summary of the current complaint process, his concerns that the public is entitled to consideration by all eleven members of the Task Force in regards to complaint filings and provided recommendations.

The following possible procedures changes were discussed by the Committee:

Proceed with the current complaint procedure of allowing the committee to adjudicate complaints and referring complaints to the Task Force for review/approval of the Committee's findings but increase the number of Committee members to five.

Revised the complaint procedures to direct complaints to the Complaint Committee for review and report and not for adjudication. In the review of the complaints the Committee shall review complaints to:

- Clarify the intent of the complaint
- Insure that the matter is in the jurisdiction of the Task Force
- Insure that all supporting documents are on file
- Summarize the complaint and its core components
- Disallow irrelevant information or complaints
- Request additional information from the parties
- Request that specific parties attend the full Task Force hearing
- Determine if there are other complaints not previously listed in the initial complaint (Complainant not clear as to what the violations may be)
- Bookmark relevant pages of supporting documents for Task Force review

Upon review by the Committee complaints will be referred to the Task Force for a hearing on the merits.

The Complainant and Respondent will be invited but not required to attend the Complaint Committee hearings to review complaints. However, it would be advised that attendance would be to their benefit.

The Complaint and Respondent will be required to attend the Task Force Hearing.

In addition, if the parties can resolve the issue at the committee level they may verbally waive their appearance at the full Task Force and/or withdraw their complaint.

Complaint review should be directed to the Complaint Committee with other Committee's only acting to hear overflow of complaints.

Complaint Committee might consider other issues for Task Force review such as:
Combining Complaints (A set of criteria and rules should be created –
Possible additional time added for presentations)

Complaints not under the jurisdiction of the Task Force

Administrator Victor Young pointed out possible problems with scheduling, volume and other issues. Creation of procedures for Committee hearings and Task Force hearings will need to be created and/or revised. The issue of non-attendance without prior notice should be addressed.

Public Comment:

Ray Hartz commented on the issue of repeat offenders of the Sunshine Ordinance and the combining of complaints.

Member Wolfe, seconded by Member Maass, moved to send a summary of the Committee's discussions and recommendations regard the complaint procedures to the Rules Committee for consideration.

Public Comment:

Ray Hartz provided comments on the motion.

The motion PASSED by the following vote:

Ayes: 3 - Maass, Tesfai, Wolfe

Noes: 0 - None

Excused - Baranetsky

4. **Public Comment:** Members of the public may address the Committee on matters that are within the Committee's jurisdiction but not on today's agenda.

Speakers:

Ray Hartz provided a summary of the Ethics Commission's decision to not find a violation regarding Steve Kawa.

Ann Treboux describe the pattern of Sunshine violations by the Arts Commission.

The Complaint Committee shall hold a hearing on File Nos. 16066, 16037 and 16056 to: 1) determine if the Sunshine Ordinance Task Force (SOTF) has jurisdiction; 2) review the merits of the complaints; and/or 3) issue a report and/or recommendation to the SOTF. The SOTF, upon receipt of the report and/or recommendation from the Committee, shall: 1) accept the recommendation of the Committee; 2) schedule the complaint for a hearing before the SOTF at a future date; or 3) immediately hold a hearing on the merits of the complaint.

5. **File No. 16066:** Complaint filed by Ellen Tsang against Tom Hui, Daniel Lowrey, and Lily Madjus, Department of Building Inspection, 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/or complete manner.

Member Mass, seconded by Chair Tesfai, moved to find jurisdiction on the matter.

Public Comment:

None.

The motion PASSED by the following vote:

Ayes: 2 - Maass, Tesfai

Noes: 0 - None

Excused - Baranetsky, Wolfe

Ellen Tsang (Complainant) provided a summary of the complaint and requested the Task Force to find a violation. Ms. Tsang stated that the Department of Building Inspection provided documents that were not specific to the public records requested. There were no speakers in support of the Complainant. Lilly Madjus, Department of Building Inspection (Respondent), provided a summary of the department's position. Ms. Madjus stated that the department has been working with Ms. Tsang via correspondence and in-person over the last 6 to 12 months and have previously provided the requested documents. In addition, Ms. Madjus provided a summary of the documents provided to Ms. Tsang. There were no speakers in support of the Respondent. A question and answer period followed. The Complainant and Respondent were allowed to provide rebuttals.

The Committee opined that referring to documents previously sent to the Complaint and providing documents not specific to the public records requested has confused the issue and made it difficult to determine if the records have been provided. In addition, it cannot be assume that Ms. Tsang has previously received the records and is allowed to submit additional requests for the same records.

In an effort to resolve the complaint the Committee requests that the Respondent review the public records and provide a detailed and separate response to each of Ms. Tsang's 11 requests as follows:

- Provide only the document specifically requested
- Do not provide documents that are questionable or might not be related to the specific document requested
- If you do not have a specific document, provide a statement stating that you do not have any responsive records to the request
- Do not refer to previously transmitted document, please provide a copy of the record
- Provide printouts of any information requested that is maintained online
- Provide copies of signed documents and the name of the signer if possible. Use of other resources to determine who signed the document may be necessary.
- Copies of emails or other records responsive to Ms. Tsang's requested records.

In an effort to make documents easier to find during the next hearing please number the pages or otherwise delineate your responses for reference.

Member Mass, seconded by Chair Tesfai, moved to refer the matter to the Sunshine Ordinance Task Force with a recommendation to find jurisdiction, find that a violation of Administrative Code (Sunshine Ordinance), Sections 67.21 (b) and 67.25 (b), occurred, and requested the Task Force to conduct a de novo hearing on the merits of the complaint. Both parties are required to attend the Sunshine Ordinance Task Force hearing. In addition, it is recommended that the Task Force consider referral to the Compliance and Amendments Committee after their consideration to insure compliance with any findings.

Public Comment:

Ray Hartz stated that a violation did occur and provided advice to the Committee.
Ann Treboux stated that the Immediate Disclosure Request was not routine and additional time was need to respond.

The motion PASSED by the following vote:

Ayes: 3 - Maass, Tesfai, Wolfe

Noes: 0 - None

Excused - Baranetsky

6. **File No. 16037:** Complaint filed by Ann Treboux against the Sharon Page-Ritchie and the Arts Commission for allegedly violating Administrative Code (Sunshine Ordinance), Section 67.7, by failing to provide correct contact information for the Sunshine Ordinance Task Force and the Ethics Commission on the April 12, 2016 agenda.

Member Wolfe, seconded by Chair Tesfai, moved to find jurisdiction on the matter.

Public Comment:
None.

The motion PASSED by the following vote:

Ayes: 3 – Wolfe, Maass, Tesfai
Noes: 0 - None
Excused - Baranetsky

Ann Treboux (Complainant) provided a summary of the complaint and requested the Task Force to find a violation. There were no speakers in support of the Complainant. Kate Patterson, Arts Commission (Respondent) provided a summary of the department's position. Ms. Patterson stated that upon the Arts Commission's move to their present location agenda information was updated and all of the Commission secretaries were informed of the need to update their agenda information. Ms. Patterson, stated that an error in the address for the Ethics Commission was made due to an auto update of the agenda information. There were no speakers in support of the Respondent. A question and answer period followed. The Complainant and Respondent were allowed to provide rebuttals.

Member Wolfe stated Sunshine Ordinance, Section 67.7 (g) and (h), only pertains to contact information for the Sunshine Ordinance Task Force and the information was present in the April 12, 2016, Arts Commissions agenda.

Member Wolfe, seconded by Member Maass, moved to refer the matter to the Sunshine Ordinance Task Force with a recommendation to find jurisdiction and find that there were no violations of Administrative Code (Sunshine Ordinance), Section 67.7.

Public Comment:
None.

The motion PASSED by the following vote:

Ayes: 3 - Maass, Tesfai, Wolfe
Noes: 0 - None
Excused - Baranetsky

7. **File No. 16056:** Complaint filed by Ann Treboux 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.

Member Mass, seconded by Member Wolfe, moved to find jurisdiction on the matter.

Public Comment:
None.

The motion PASSED by the following vote:

Ayes: 3 – Wolfe, Maass, Tesfai
Noes: 0 - None
Excused - Baranetsky

Ann Treboux (Complainant) provided a summary of the complaint and requested the Task Force to find a violation. There were no speakers in support of the Complainant. Kate Patterson, Arts Commission (Respondent) provided a summary of the department's position. Ms. Patterson stated that both she and her backup were out of the office at the time the public records request was made but cannot provide evidence that an out of office message was sent to the Complainant. In an effort to prevent the error from occurring again Ms. Patterson stated that a third backup has been added to respond to public records request and internal checks have been implement to be sure that precaution are taken to be sure that designated responders are not out of the office at the same time. There were no speakers in support of the Respondent. A question and answer period followed. The Complainant and Respondent were allowed to provide rebuttals.

Member Wolfe, seconded by Member Maass, moved to refer the matter to the Sunshine Ordinance Task Force with a recommendation to find jurisdiction and find that a violation of Administrative Code (Sunshine Ordinance), Section 67.25, occurred for failing to respond to an Immediate Disclosure Request in a timely manner.

Public Comment:
None.

The motion PASSED by the following vote:

Ayes: 3 - Maass, Tesfai, Wolfe
Noes: 0 - None
Excused - Baranetsky

8. Announcements, Comments, Questions, Future Agenda Items, and Pending Calendar by Members of the Complaints Committee.

There were no announcements.

9. **ADJOURNMENT**

There being no further business the meeting was adjourned at 7:15 p.m.

APPROVED: 11/22/2016
Complaint Committee
Sunshine Ordinance Task Force

N.B. The Minutes of this meeting set forth all actions taken by the Sunshine Ordinance Task Force on the matters stated, but not necessarily in the chronological sequence in which the matters were taken up.