



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**

December 20, 2016 - 5:30 PM – 7:30 PM

Special Meeting

Members: Leuwam Tesfai (Chair); Fiona Hinze, Victoria Baranetsky

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

Chair Leuwam Tesfai called the meeting to order at 5:36 p.m. On the call of the roll Chair Tesfai, Member Hinze and Member Fischer were noted present. There was a quorum.

Member Baranetsky was noted excused. Member Fischer was appointed to the Committee in place of Member Baranetsky for the December 20, 2016, Complaint Committee meeting.

There were no agenda changes.

2. Approval of the April 26, 2016, and the November 22, 2016, Complaint Committee meeting minutes.

The Committee discussed the draft minutes.

Member Hinze, seconded by Member Fischer, moved to approve the April 26, 2016, and the November 22, 2016, Complaint Committee meeting minutes.

Public Comment:

Speakers: None.

The motion PASSED by the following vote:

Ayes: 3 - Fischer, Hinze, Tesfai

Noes: 0 - None

Excused: - Baranetsky

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

Speakers:

None.

The Complaint Committee (Committee) shall hold hearing(s) on File No(s). 16092, 16094, 16106, 16107, and 16109 to: 1) determine if the Sunshine Ordinance Task Force (Task Force) has jurisdiction; 2) review the merits of the complaints; and/or 3) issue a report and/or recommendation to the Task Force. The Complainant and Respondent may attend to provide clarification, evidence and related testimony. However, attendance by the Complainant and Respondent are **not required** at the December 20, 2016, Complaint Committee meeting.

The Task Force, upon receipt of the report and/or recommendation from the Committee, shall schedule and conduct a hearing on the merits of the complaint. The Complaint and Respondent will be required to attend the Task Force meeting to review the merits of the complaint(s).

4. **File No. 16092:** Complaint filed by Anonymous against Dr. Lydia Leung, Department of Public Health, 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 Hinze, seconded by Member Tesfai, moved to find jurisdiction over the matter.

Public Comment:

Speakers: None.

The motion PASSED by the following vote:

Ayes: 3 - Fischer, Hinze, Tesfai

Noes: 0 - None

Excused: - Baranetsky

Anonymous (Complainant) summarized the complaint and requested that the Task Force find the respondent in violation of the Sunshine Ordinance. Anonymous stated that the documents provided to him were generic and did not respond to his request for all communications and documents relating to the Family Health Center Patient Advisory Committee. In addition, Anonymous stated that meetings are not allowed to be conducted in secret. The Respondent stated in their written response that the meetings of the Patient Advisory Committee is not open to the public due to patient privacy concerns.

The Committee does not believe there is enough information to issue a recommendation. Clarification on the following issue is requested prior to the hearing before the Task Force:

- Is the Family Health Center Patient Advisory Committee considered a passive meeting body or a policy body subject to the Sunshine Ordinance?
- What records exist that have not been provided to the Complainant due to privacy concerns?
- What are the citations/codes being referenced as to the reason to redacting or restricting access to certain records?

Member Hinze, seconded by Member Fischer, moved to find that the Sunshine Ordinance Task Force has jurisdiction and referred the matter to the Task Force without recommendations.

Public Comment:

Speakers: None.

The motion PASSED by the following vote:

Ayes: 3 - Fischer, Hinze, Tesfai

Noes: 0 - None

Excused: - Baranetsky

5. **File No. 16094:** Complaint filed by Sophia De Anda against the Mayor's Office of Housing and Community Development for allegedly violating Administrative Code (Sunshine Ordinance), Section 67.21, by failing to respond to a request for public records in a timely and/or complete manner. (*attachment*)

Eugene Flannery, Mayor's Office of Housing and Community Development (Respondent) provided a summary of the department's position and stated that the department does not have any records responsive to the request. Mr. Flannery further stated that Sophia De Anda was referred to the non-profit agency in possession of the records which confirmed that the requested records were provided as request.

It is the understanding of the Committee that the Respondent is not in possession of the requested records and that the non-profit agency in possession of the records has provided them to Sophia De Anda.

Member Hinze, seconded by Member Fischer, moved to find that the Sunshine Ordinance Task Force has jurisdiction and referred the matter to the Task Force with the recommendation to find that a violation of Administrative Code (Sunshine Ordinance), Section 67.21, DID NOT occur.

Public Comment:

Speakers: None.

The motion PASSED by the following vote:

Ayes: 3 - Fischer, Hinze, Tesfai

Noes: 0 - None

Excused: - Baranetsky

6. **File No. 16106:** Complaint filed by Anonymous against Andrew Perry, Anne Brask and the Planning Department, for allegedly violating Administrative Code (Sunshine Ordinance), Section(s) 67.21, 67.25, 67.26, and 67.29-7, by failing to respond to an Immediate Disclosure Request in a timely and/or complete manner.

Upon the Committee's review of the written complaint and responses it appears that the Planning Department did respond to the request for public records in a timely manner. However, the Complainant was not satisfied with the nature of the response.

The Committee opined that the Planning Department could have been proactive in attempting to provide records related to the request. In response to the Complainant request for a completed checklist (which allegedly does not exist) of Planning Code Sections applied to the new project for exterior expansion at 2650-52 Hyde the Planning Department could have offered to provide all documents related to the expansion.

Member Fischer, seconded by Member Hinze, moved to find that the Sunshine Ordinance Task Force has jurisdiction and referred the matter to the Task Force with the recommendation to find that a violation of Administrative Code (Sunshine Ordinance), Section 67.21(c), occurred for failing to assist a requester in identifying the existence, form and nature of any records or information maintain by, available to, or in the custody of the department.

Public Comment:

Speakers: None.

The motion PASSED by the following vote:

Ayes: 3 - Fischer, Hinze, Tesfai

Noes: 0 - None

Excused: - Baranetsky

7. **File No. 16107:** Complaint filed by the Library Users Association against Director Ed Reiskin, San Francisco Municipal Transportation Agency (SFMTA), for allegedly violating Administrative Code (Sunshine Ordinance), Section(s) 67.21, by failing to respond to a request for public records in a timely and/or complete manner.

The Committee reviewed the documents submitted by both the Complainant and Respondent.

Member Fischer, seconded by Member Hinze, moved to find that the Sunshine Ordinance Task Force has jurisdiction and referred the matter to the Task Force with the recommendation to find that a violation of Administrative Code (Sunshine Ordinance), Section 67.21, occurred for failing to respond to a request for public records in a timely manner in regards to the request made to Mr. Tajojanda on October 14, 2016. The remainder of the complaint regarding Mr. Folks, Mr. Janrahan, Mr. Kennedy, and Mr. White is referred to the Task Force without recommendation.

Public Comment:

Speakers: None.

The motion PASSED by the following vote:

Ayes: 3 - Fischer, Hinze, Tesfai

Noes: 0 - None

Excused: - Baranetsky

8. **File No. 16109:** Mike Black against Animal Care and Control for allegedly violating Administrative Code (Sunshine Ordinance), Section(s) 67.21, 67.24, and 67.26, and Government Code, Section(s) 6252(e) and 6253(a), by failing to respond to a request for Public records in a timely and/or complete manner.

Member Hinze, seconded by Member Fischer, moved to find that the Sunshine Ordinance Task Force has jurisdiction and referred the matter to the Task Force without recommendations.

Public Comment:

Speakers: None.

The motion PASSED by the following vote:

Ayes: 3 - Fischer, Hinze, Tesfai

Noes: 0 - None

Excused: - Baranetsky

Mike Black (Complainant) provided a summary of his complaint and requested the Task Force to find violations. Mr. Black stated that the documents received in response to his request for communications regarding dog leash laws for the period of January 1, 2014 through February 1, 2016, was not provided in a timely manner and was incomplete (Mr. Black stated that letters he submitted were not included in the documents provided in response to the public records request). Mr. Black also stated the Respondent must provide redacted versions of documents if any private information is listed on the document in question.

Mr. Black has stated that he has not yet received the following documents:

Copy of the redacted dog license application for dogs at a specified address on 17th Street
Copy of the redacted dog license at a specified address on 17th Street
Complete copies of all communications regarding dog leash laws for the period of
January 1, 2014 through February 1, 2016.

The committee requests that the Respondent respond to Mr. Black's allegations regarding copies of the dog license, dog license application, and the communications regarding dog leash laws. Information regarding the method used to search for communication such of keyword searches and methods used to gather the records will be a point of consideration for the Task force.

Member Fischer, seconded by Member Hinze, moved to find that the Sunshine Ordinance Task Force has jurisdiction and referred the matter to the Task Force with the recommendation to find that a violation of Administrative Code (Sunshine Ordinance), Section 67.21(d), 67.24(i), and 67.26, occurred for failing to respond to a public records request in a timely and complete manner, for withholding records and not citing an appropriate a provision of the Sunshine Ordinance, and inappropriately withholding records in its entirety.

Public Comment:

Speakers: None.

The motion PASSED by the following vote:

Ayes: 3 - Fischer, Hinze, Tesfai

Noes: 0 - None

Excused: - Baranetsky

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

There were no announcements or comments.

10. **ADJOURNMENT**

There being no further business the meeting was adjourned at 6:56 p.m.

APPROVED: January 24, 2017

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.