

**SUNSHINE ORDINANCE
TASK FORCE**



City Hall
1 Dr Carlton B. Goodlett Place, Room 244
San Francisco, CA 94102-4689
Tel. No. (415) 554-7724
Fax No. (415) 554-7854
TTD/TTY No. (415) 554-5227

ORDER OF DETERMINATION
September 20, 2019

DATE DECISION ISSUED
August 7, 2019

CASE TITLE –Justin Barker v. San Francisco Zoo
(File No. 19048)

FACTS OF THE CASE

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

File No. 19048: Complaint filed by Justin Barker against the San Francisco Zoo for allegedly violating Administrative Code (Sunshine Ordinance), Section 67.21, by failing to respond to a public records request in a timely and/or complete manner.

HEARING ON THE COMPLAINT

On June 18, 2019, the Compliance and Amendments Committee acting in its capacity to hear petitions/complaints heard the matter.

Justin Barker (Petitioner) provided a summary of the complaint and requested the Committee to find a violation. Mr. Barker stated that he requested the final report of the Accreditation Committee, the medical records of various animals including reports regarding use of psychotropic drugs on animals. Mr. Barker also stated that he requested the Zoo's financial records and lease agreement with the City. Mr. Barker stated that there was no written explanation on why a Black Rhinoceros loaned to the San Diego Zoo died.

Dr. Waters (San Francisco Zoo) (Respondent), provided a summary of the department's position. Dr. Waters stated that he oversees all the animals at the Zoo. Dr. Waters stated that the Zoo's financial information is on line and available at City Hall. Dr. Waters stated that all requirements of the Accreditation Report have been met however the Zoo does not disclose this report. Dr. Waters also stated that the veterinary care of animals is covered under this report and that it is not disclosed to the public.

John Phillips, attorney for the San Francisco Zoo, stated that Mr. Barker requested information about the animals at the Zoo, the Zoo's Lease Agreement

with the City and the Zoo's financial information. Mr. Phillips stated that the Lease Agreement and the Zoo's financial information were provided.

Chair Cannata stated that the financial information is on line as well as the animal status. Chair Cannata stated that he wanted to know if the 1993 Lease Agreement with the City is current.

A question and answer period occurred. The parties were provided an opportunity for rebuttals.

Action: Moved by Member Hinze, seconded by Member Yankee, to find that the SOTF has jurisdiction, find that the requested records are public and to refer the matter to the SOTF for hearing. The Committee requested that the Zoo provide the current lease to the SOTF.

On August 7, 2019, the SOTF held a hearing to review the recommendation from Committee and/or to review the merits of the petition/complaint.

Justin Barker (Petitioner) provided a summary of the complaint and requested the Committee to find a violation. Mr. Barker stated that the Zoo refused to provide animal care records. Mr. Barker stated that the Zoo receives over \$3 million dollars a year from the City for maintenance and animal care. Mr. Barker stated that the Zoo should be following local, state and federal public records laws and that they are violating those laws by not providing the requested records. Mr. Barker stated according to the 1993 Lease Agreement with the City, the status of animals should be made available to the general public.

Jason Waters (San Francisco Zoo) (Respondent), provided a summary of the department's position. Mr. Waters stated that the Zoo has complied with Mr. Barker's request. Mr. Waters stated that the Zoo is a nonprofit and not subject to the Sunshine Ordinance. The 1993 Lease Agreement was written before Sunshine was in place. Mr. Waters stated that the provision in the Lease states that compliance with public records act solely relates to status of animals but the Zoo will not disclose any information regarding to vet services to animals. Mr. Waters stated that Business and Professions Code 4857 states that they shall not disclose any information regarding vet services to the animals. Mr. Waters stated that Zoological meeting minutes are published on their website.

FINDINGS OF FACT AND CONCLUSION OF LAW

Based on the testimony and evidence presented, the SOTF found that the San Francisco Zoo violated Administrative Code (Sunshine Ordinance), Sections 67.21, 67.27, California Government Code 6253 and California Business and Professions Code 4857.

DECISION AND ORDER OF DETERMINATIONS

Action: On August 7, 2019, Moved by Member Martin, seconded by Member Cannata to find that the San Francisco Zoo violated Administrative Code, (Sunshine Ordinance) Sections 67.21 and 67.27, California Government Code 6253, and California Business and Professions Code 4857 by not providing requested records in a timely and/or complete manner.

The SOTF referred the matter to the Compliance and Amendments Committee and requested that the Zoo provide the animal care records and/or provide legal citation as to why the records have been withheld.

The motion PASSED by the following vote:

Ayes: 9 - Martin, Cannata, Yankee, J. Wolf, Tesfai, LaHood, Cate, Hinze,
B. Wolfe
Noes: 0 – None
Absent: 1 - Chopra
Excused: 1 - Hyland



Bruce Wolfe, Chair
Sunshine Ordinance Task Force

cc. Justin Barker (Petitioner/Complainant)
Jason Waters, San Francisco Zoo (Respondent)