

**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
February 19, 2020**

DATE DECISION ISSUED
December 4, 2019

CASE TITLE – Anonymous v. Dennis Herrera and the City Attorney’s Office
File No. 19089

FACTS OF THE CASE

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

File No. 19089: Complaint filed by Anonymous against Dennis Herrera and the Office of the City Attorney for allegedly violating Administrative Code (Sunshine Ordinance), Sections 67.21(d), by failing to provide a determination to a Supervisor of Records petition in a timely and/or complete manner.

HEARING ON THE COMPLAINT

On September 24, 2019, the Compliance and Amendments Committee acting in its capacity to hear petitions/complaints heard the matter.

Anonymous (Petitioner) provided a summary of the complaint and requested the Committee to find a violation. Anonymous stated that on May 8, 2019, he filed an Immediate Disclosure Request to the Mayor’s office for calendar records. Anonymous stated that the Mayor’s Office responded but he felt that response was inadequate. Anonymous stated that on May 15, 2019, he filed a petition to the Supervisor of Records, Bradley Russi but has not yet received a determination. Anonymous stated that on August 26, 2019, Mr. Russi denied Petitioner’s request for records. Anonymous stated that Mr. Russi violated 67.21(d) by not providing a response in a timely manner.

John Cote (City Attorney’s Office) (Respondent), provided a summary of the department’s position. Mr. Cote referred to written response dated September 5, 2019.

Action: Moved by Member Hyland, seconded by Member Hinze, to find that the requested records are public, that the SOTF has jurisdiction and referred the matter to the SOTF for hearing.

On December 4, 2019, the SOTF held a hearing to review the recommendation from Committee and/or to review the merits of the petition/complaint.

Anonymous (Petitioner) provided a summary of the complaint and requested the Committee to find a violation. Anonymous stated that this matter refers to Administrative Code (Sunshine Ordinance) 67.21(d). Anonymous stated that on May 15, 2019, he filed a request for determination from the Supervisor of Records. Anonymous stated that on May 25, 2019, he followed up on his request and received a response 10 days later denying his request. Anonymous stated that the Supervisor of Records should follow the law and that the rule of reason does not apply. Anonymous stated the City Attorney needs to follow Administrative Code (Sunshine Ordinance) 67.21(d).

Manu Pradhan (City Attorney's Office) (Respondent), provided a summary of the department's position. Mr. Pradhan stated there is no objection to Anonymous' claim of 67.21(d). Mr. Pradhan stated that the underlying request is important because it contains issues of metadata. Mr. Pradhan stated that Anonymous did not ask if this was a public record, but about the substance of the record; the metadata. Mr. Pradhan stated that the Information Technology Committee of the SOTF needs to develop a policy that allows for ease of response. Mr. Pradhan stated that the Supervisor of Records does not have to comply with the 10-day response rule.

FINDINGS OF FACT AND CONCLUSION OF LAW

Based on the testimony and evidence presented, the SOTF found that the Supervisor of Records DID NOT VIOLATE Administrative Code (Sunshine Ordinance), Section 67.21(d).

DECISION AND ORDER OF DETERMINATIONS

On December 4, 2019, Member Yankee, seconded by Member Martin, moved to find that the Supervisor of Records DID NOT violate Administrative Code, (Sunshine Ordinance) Section 67.21, by failing to respond to a request for public records in a complete and timely manner.

The motion PASSED by the following vote:

Ayes: 6 - Yankee, Martin, LaHood, Hinze, Hyland, B. Wolfe

Noes: 1 - J. Wolf

Absent: 1 - Tesfai

A handwritten signature in blue ink, appearing to read 'Bruce Wolfe', enclosed within a hand-drawn oval.

Bruce Wolfe, Chair
Sunshine Ordinance Task Force

cc. Anonymous (Petitioner/Complainant)
John Cote, Office of the City Attorney (Respondent)