

**SUNSHINE ORDINANCE
TASK FORCE**



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ORDER OF DETERMINATION

DATE DECISION ISSUED: 10/2/2024

File No. 24041: Complaint filed by Rosa L. against David Chiu and the City Attorney's Office for allegedly violating Administrative Code (Sunshine Ordinance), Section(s) 67.25, by failing to respond to an Immediate Disclosure Request in a timely and/or complete manner.

HEARING AND ACTION ON THE COMPLAINT

On 9/17/2024, the Complaint Committee, acting in its capacity to hear petitions/complaints, heard the matter.

Action: Moved by Member Stein, seconded by Member Sugarman, to find that the SOTF has jurisdiction, that the requested records are public, and refer the matter to the full Task Force with a recommendation to find that there were no violations with respect to this request.

The Committee noted that while it appears that no responsive records exist, the SOTF should consider whether the retention policy of the City Attorney's Office comports with the letter or spirit of the California Public Records Act or Sunshine Ordinance. The Committee also noted that Ms. Kwart stated she will provide a copy of the City Attorney's Office records retention policy.

The motion PASSED by the following vote:

Ayes: 3 – Schmidt, Stein, Sugarman

Noes: 0 – None

On 10/2/2024, the Sunshine Ordinance Task Force held a hearing to review the recommendation from the Committee and/or review the merits of the petition/complaint.

Action: Moved by Chair Yankee, seconded by Member Kumar, to find that City Attorney David Chiu violated Administrative Code (Sunshine Ordinance) Section(s) 67.29-7 by failing to maintain and preserve in a professional and businesslike manner the requested correspondence and failing to disclose such records in accordance with this Ordinance.

The SOTF requests that City Attorney Chiu confirm with the SOTF if he intends to maintain his correspondence in compliance with Administrative Code Section 67.29-7 going forward.

The motion PASSED by the following vote:

Ayes: 8 – Yankee, Kumar, Schmidt, LaHood, Sugarman, Anderson, Hyland, Stein
Noes: 0 - None
Absent: 2 – Wolfe, Pilpel

Action: Moved by Member Schmidt that the SOTF finds that the City Attorney's Office current usage of its 2015 records retention policy is in violation of the preservation and maintenance requirements of Administrative Code (Sunshine Ordinance) Section 67.29-7.

The motion FAILED for lack of a second.

Action: Moved by Member Kumar to find a violation of Administrative Code (Sunshine Ordinance) Section 67.27(d) for failing to inform the requester of the nature and extent of the nonexempt information and suggest alternative sources for the information requested, if available.

The motion FAILED for lack of a second.

This Order of Determination was approved by the Sunshine Ordinance Task Force on:
11/19/2024

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