

**SUNSHINE ORDINANCE
TASK FORCE**



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ORDER OF DETERMINATION
September 6, 2018

DATE DECISION ISSUED
August 1, 2018

CASE TITLE – Ann Treboux v. Dwight Moore and the Office of the City Attorney
(File No. 18009)

FACTS OF THE CASE

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

Complaint filed by Ann Treboux against Dwight Moore and the Office of the City Attorney, for allegedly violating Administrative Code (Sunshine Ordinance), Sections 67.21(a)(d)(e), 67.26, 67.29.5 and 67.34 4, 67.25, 67.26 and 67.27, by willfully failing to respond to an Immediate Disclosure Request.

HEARING ON THE COMPLAINT

On March 27, 2018, the Complaint Committee acting in its capacity to hear petitions/complaints heard the matter.

Ann Treboux (Petitioner) provided a summary of the complaint and requested the Committee to find a violation. Ms. Treboux stated she has not received the investigative notes or other responsive records. Andrea Guzman, Office of the City Attorney (Respondent), provided a summary of the department's position. Ms. Guzman acknowledged that the response to the public records request was late as Mr. Moore was out of the office. Ms. Guzman stated that out of office messages were provided and a response to the request was provided once the request was processed. Ms. Guzman requested that future public records requests be copied to the general records request email address in order to prevent delay in the future. Ms. Guzman stated that investigative notes are protected from disclosure pursuant to attorney work product rights, attorney client privileges and the California Evidence Code. A question and answer period occurred.

Member B. Wolfe, seconded by Member Hinze, moved to find that the SOTF has jurisdiction, determined that the records are public, and referred the matter to the SOTF for hearing.

On August 1, 2018, the SOTF held a hearing to review the recommendation from Committee and/or to review the merits of the petition/complaint.

Ann Treboux (Petitioner) provided a summary of the complaint and requested the Task Force to find violation. Ms. Treboux stated that she requested Dwight Moore provide copies of police reports, which she did not receive. Ms. Treboux stated that she did not receive response or out of office message from Mr. Moore. Ray Hartz spoke on behalf of the Petitioner.

John Cote, Office of the City Attorney (Respondent) provided a summary of the department's position. Mr. Cote stated that the department was unaware of the request until the complaint was filed with the SOTF and provided a response immediately upon notification. Mr. Cote stated that Mr. Moore's email account provide an auto response indicating that he was out of the office and provided and alternate contact. Mr. Cote stated that the City Attorney's office has an email address to accept public records requests (sfcityattorney.org) that Ms. Treboux's should have utilized. Mr. Cote stated that certain documents were withheld based on the attorney work product privilege.

FINDINGS OF FACT AND CONCLUSION OF LAW

Based on the testimony and evidence presented, the SOTF found that Dwight Moore and the Office of the City Attorney violated Administrative Code (Sunshine Ordinance), Section 67.25.

DECISION AND ORDER OF DETERMINATIONS

Member Tesfai, seconded by Member Cannata, moved that Dwight Moore and the Office of the City Attorney violated Administrative Code, (Sunshine Ordinance) Section 67.25, by failing to respond in an Immediate Disclosure Request in a timely manner.

The motion PASSED by the following vote:

Ayes: 8 – Tesfai, Cate, J. Wolf, LaHood, Cannata, Fischer, Hinze,
B. Wolfe

Noes: 0 - None

Absent: 2 – Hyland, Chopra


Bruce Wolfe, Chair
Sunshine Ordinance Task Force

cc. Ann Treboux (Petitioner/Complainant)
Dwight Moore, Office of the City Attorney (Respondent)
John Cote, Office of the City Attorney (Respondent)