



ORDER OF DETERMINATION
October 23, 2013

DATE THE DECISION ISSUED
October 2, 2013

CASE TITLE – PATRICK MONETTE-SHAW and MARIA RIVERO, M.D. V. PUBLIC HEALTH COMMISSION (13021)

FACTS OF THE CASE

Patrick Monette-Shaw and Maria Rivero, M.D. (“Complainants”) made a complaint Regarding an improper agenda notice for the April 2, 2013 Health Commission meeting. They contend that the Public Health Commission (“Commission”), Sonia Melara (President, Health Commission), Barbara Garcia (Director, Department of Public Health), and Mivic Hirose (CEO, Laguna Honda Hospital) violated the Ordinance by: (1) failing to include a meaningful description for an agenda item, (2) failing to refer to an explanatory document, and (3) failing to make available to the public, via either attachment or reference, a particular document relating to an agenda item for the Public Health Commission’s April 2, 2013 meeting.

COMPLAINT FILED

On April 16, 2013, “Complainants” filed a Complaint against the Commission, alleging violations of Sunshine Ordinance Sections 67.7 and 67.9. An amended complaint (the operative complaint before the Task Force) dated April 18, 2013, was submitted to the Task Force on April 19, 2013.

HEARING ON THE COMPLAINT

On October 2, 2013, “Complainants”, appeared before the Task Force and presented their claim. Mark Morewitz, Executive Secretary, Public Health Commission (“Respondent”) presented the Public Health Commission’s defense.

The issue in the case was whether the Agency violated Sections 67.7, 67.9 of the Ordinance and/or Section 54954.2 of the Brown Act.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Based on the testimony and evidence presented the Task Force finds the testimony of the “Complainants” to be persuasive and finds Sections 67.7(a), 67.7(b) and 67.9(a) to be applicable in this case. The Task Force does not find the testimony provided by the Public Health Commission persuasive to this case.

DECISION AND ORDER OF DETERMINATION

The Task Force finds that the Public Health Commission violated Section(s) 67.7(a), 67.7(b) and 67.9(a) of the Sunshine Ordinance for violating agenda requirements, by not posting an agenda containing meaningful descriptions of its item of business that was transacted and discussed on April 2, 2013. The Public Health Commission shall ensure future items are written in compliance with the Sunshine Ordinance and appear before the Compliance and Amendments Committee on November 18, 2013.

This Order of Determination was adopted by the Sunshine Ordinance Task Force on October 2, 2013, by the following vote: (Washburn/Oka)

Ayes: Knee, Washburn, Sims, David, Hyland, Oka, Fischer

Absent: Pilpel, Grant



Kitt Grant, Chair
Sunshine Ordinance Task Force

c: Celia Lee, Deputy City Attorney
Jerry Threet, Deputy City Attorney
Patrick Monette-Shaw, Complainant
Maria Rivero, M.D., Complainant
Mark Morewitz, Executive Secretary, Public Health Commission, Respondent
Sonia Melara, President, Public Health Commission
Barbara Garcia, Director, Department of Public Health
Mivic Hirose, CEO, Laguna Honda Hospital