

**SUNSHINE ORDINANCE
TASK FORCE**



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ORDER OF DETERMINATION

October 20, 2011

DATE THE DECISION ISSUED

September 27, 2011

DORIAN MAXWELL v MUNICIPAL TRANSPORTATION AGENCY (CASE NO. 11047)

FACTS OF THE CASE

Complainant Dorian Maxwell alleges that the San Francisco Municipal Transportation Agency ("SFMTA") willfully withheld documents responsive to his May 24, 2011 public records request related to the Trust Fund Contribution or trust fund payments pursuant to an agreement between the SFMTA and TWU Local 250-A and 9163 Transit Operators for the period 2008-2011.

COMPLAINT FILED

On June 17, 2011, Mr. Maxwell filed a Sunshine Ordinance complaint against the SFMTA.

HEARING ON THE COMPLAINT

On September 27, 2011, Mr. Maxwell presented his case to the Task Force. The SFMTA was represented by Eloida Leonardo.

Mr. Maxwell told the Task Force that, in November 1968, San Francisco voters approved Proposition E which added Sections 151 and 321 to the City Charter to compensate Municipal Railway coach and bus operators. He said he wants the actuarial studies done from 1997 to 2003 and from 2008 to 2010. He said the City agreed in 1997 to pay 7.5 percent toward workers' benefits and he is trying to find out what happened to the fund. He wants a copy of the agreement between TWU Local 250-A and the SFMTA regarding the fund. In addition, he wants a copy of the legislation that directed the payout to be made on a quarterly rather than annual basis.

Ms. Leonardo told the Task Force her department received a request for a copy on the outcome of the study that was done between 2008 and 2010. She said Mr. Maxwell has been provided with the report which was delivered through her supervisor, Sonali Bose. On questioning, Ms. Leonardo said she could have provided the pay out information but was under the impression that her supervisor would have taken care of it. She also said she did not have any information on the legislative changes and the MOUs because those issues

would be handled by the SFMTA's human resources office.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Based on Ms. Leonardo's own admission, the Task Force found that the payout information could have been provided but was not given to Mr. Maxwell. The Task Force further found that the SFMTA representative could not provide sufficient information on the reason Mr. Maxwell did not receive the legislative and agreement documents requested.

DECISION AND ORDER OF DETERMINATION

The Task Force finds Caroline Celaya and Sonali Bose of the SFMTA in violation of Sections 67.21(e) for failure to send a knowledgeable representative, 67.21(b) for failure to produce the requested documents, and 67.21(c) for failing to assist the requestor.

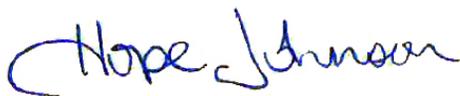
The SFMTA shall release the payout information, copies of legislation changes regarding trust fund contributions, and any Article 35 agreements between Local 250-A and the SFMTA regarding future trust fund payouts as referenced in Mr. Maxwell's public records request within 5 business days of the issuance of this Order and appear before the Compliance and Amendments Committee on Tuesday, November 8, 2011 at 4 p.m. in Room 406 at City Hall. The committee will assess the SFMTA's compliance with this Order.

This Order of Determination was adopted by the Sunshine Ordinance Task Force on September 27, 2011, by the following vote: (Snyder/Wolfe)

Ayes: Snyder, Knee, Cauthen, Washburn, Wolfe, Chan, Johnson

Excused: Manneh, West.

Absent: Knoebber.



Hope Johnson, Chair
Sunshine Ordinance Task Force

cc: Dorian Maxwell, Complainant
Elaida Leonardo, Respondent
Sonali Bose, Respondent
Caroline Celaya, Respondent
David Hill, SFMTA
Jerry Threet, Deputy City Attorney