

**SUNSHINE ORDINANCE
TASK FORCE**



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ORDER OF DETERMINATION

June 3, 2019

DATE DECISION ISSUED

May 1, 2019

CASE TITLE – Denta Tadesse v. John Haley and the San Francisco Municipal Transportation Agency
(File No. 18011)

FACTS OF THE CASE

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

File No. 18011: Complaint filed by Denta Tadesse against John Haley and the San Francisco Municipal Transportation Agency (SFMTA) for allegedly violating administrative Code (Sunshine Ordinance), Section 67.29-2, by failing to update the SFMTA website on a weekly basis.

HEARING ON THE COMPLAINT

On August 21, 2018, the Education, Outreach and Training Committee acting in its capacity to hear petitions/complaints heard the matter.

Denta Tadesse (Petitioner) provided a summary of his complaint and requested the Committee find a violation. Mr. Tadesse stated that his dog is a registered service animal, that he has complied with all laws related to service animals in San Francisco and that his service animal (a pit bull terrier) has a leash and collar. Mr. Tadesse stated that his issue with the SFMTA is that he is required to have his service animal on his lap while on the exterior of the Cable Car. Mr. Tadesse stated that in 2013, 2014, 2015 and 2016 this regulation was not on the SFMTA website and since his arrest, on January 6, 2017, this rule was reflected on the SFMTA website. Mr. Tadesse also stated that he is currently experiencing financial hardship and is homeless. In response to Member B. Wolfe's inquiry as to how Mr. Tadesse became aware that this rule was imposed in 2017, Mr. Tadesse stated that he received an outline from Ed Reiskin and Cheryl Brinkman, via emails, regarding the SFMTA's policy Cable Cars and buses. Mr. Tadesse stated that he checked the SFMTA's website regularly and the policy was only posted on January 6, 2017, of which he took a screen shot and included it in the record. Mr. Tadesse stated that it is his goal to be able to take public transit and have his service animal with him. Mr. Tadesse also stated that the public should be made aware of the rules and that the rules should be

posted in an easy to access location. There were no speakers on behalf of the Petitioner.

Chair J. Wolf, seconded by Member B. Wolfe, moved to find that the SOTF has jurisdiction and to refer the matter to the SOTF for hearing.

On November 7, 2018, the SOTF held a hearing to review the recommendation from Committee and/or to review the merits of the petition/complaint.

Denta Tadesse (Petitioner) provided a summary of his complaint and requested the Committee find a violation. Mr. Tadesse stated that the service animal policy for cable cars did not exist and was not posted on the SFMTA website prior to January 6, 2017. Mr. Tadesse alleged that the SFMTA created and posted the policy after an incident to justify action taken against him. There were no speakers on behalf of the Petitioner.

Roberta Boomer and David Coplon, SFMTA (Respondent), provided a summary of the department's response. Ms. Boomer clarified that the complaint was filed against John Haley and the SFMTA and stated that Mr. Haley is no longer with the SFMTA. Ms. Boomer stated that the complaint, as submitted, should only be regarding whether or not the SFMTA updated their website in a timely manner. Ms. Boomer stated the policy in question was authorized by John Haley, Director of Transit, and implemented via a departmental bulletin. Mr. Coplon stated that logs were provided as a sample of how the SFMTA continuously updates their website on a weekly if not daily basis. In response to questions from the SOTF, Ms. Boomer stated that the SFMTA Board of Directors does not act to implement ADA policy. Therefore, Ms. Boomer stated that there are no agenda or minutes regarding a public process to approve the cable car ADA policy. Ms. Boomer stated that department bulletins are not posted online but relevant webpages are updated to implement actions required by various bulletins. Ms. Boomer further stated that copies of the bulletins were provided upon request. There were no speakers on behalf of the Respondent.

Member Tesfai, seconded by Member Cannata, moved to continue the matter to the call of the chair and requested that the Respondent provide a response to the following questions:

- The SOTF Board requested from the SFMTA a chronology of when the bulletin is approved and updated;
- The SOTF Board requested information on what constitutes an update to the website;
- The SOTF Board requested that SFMTA logs between 2013 and 2017 be provided;
- The SOTF Board requested information on who has the authority to make ADA changes and what is the process under ADA to make specific changes;

- The SOTF Board requested information on when are the bulletins made public;
- The SOTF Board requested a chronology of when the operational bulletin were created and approved and services animals allowed on cable cars;
- The SOTF Board requested information on what constitutes an update on the website;
- The SOTF Board requested information on website update logs that are pertinent to this matter and policy information on updates and how the public is notified of these updates that are implemented at the SFMTA.

On May 1, 2019, the SOTF held a hearing to review the merits of the petition/complaint.

Roberta Boomer, Board Secretary, San Francisco Municipal Transportation Agency (SFMTA), Respondent, provided a summary of the department's position. Ms. Boomer introduced Dovid Coplon, Digital Communications Coordinator, Assessible Services Division (SFMTA) and Matthew West, also in Accessible Services, ADA Issues and Policy Changes (SFMTA). Mr. West stated that the notices are direct communications to operators and are reissued every year. Mr. West stated that all notices expire yearly on December 31st and they are generally reissued January 1st. Mr. West stated the public is informed accordingly when changing a policy. Mr. West also stated policy updates are generally provided to the public and noticed bulletins are provided to operators and updated online. Mr. West stated that Muni had a general policy that did not specify if a passenger with a service animal on a cable car must have the service animal on the owner's lap until it became Muni wide on January 6, 2017. In response to the SOTF, Ms. Boomer stated that this policy was not adopted by the SFMTA Board. Ms. Boomer stated that the SFMTA Board is a policy body but is not involved in the day-to-day operations of Muni.

Denta Tadesse (Petitioner) provided a summary of the complaint and requested the Committee to find a violation. Mr. Tadesse stated that at the time he was riding on the cable car with his service animal off leash, the operator stated that he was afraid of his dog because she is a Pitbull Terrier. Mr. Tadesse stated that after asking for reasonable accommodation, which was refused, he was advised to leave the cable car and then he was arrested. Mr. Tadesse stated that after that incident, Mr. West provided the policy allowing service animals on cable cars as long as the animal is under control. Mr. Tadesse stated that until January 6, 2017, there was no policy regarding historic cable cars and having a service animal on the owner's lap while riding on the exterior of the cable car on the SFMTA website.

FINDINGS OF FACT AND CONCLUSION OF LAW

Based on the testimony and evidence presented, the SOTF found that the San Francisco Municipal Transportation Agency violated Administrative Code (Sunshine Ordinance), Sections 67.29-2.

DECISION AND ORDER OF DETERMINATIONS

On May 1, 2019, Member Hyland, seconded by Member Cannata, moved to find that the San Francisco Municipal Transportation Agency violated Administrative Code (Sunshine Ordinance), Section 67.29-2, by not providing the policy of service animals riding on the cable cars before January 6, 2017, on the SFMTA website in a timely manner.

The motion PASSED by the following vote:

Ayes: 8 - Hyland, Cannata, Yankee, Martin, J. Wolf, LaHood, Hinze,
B. Wolfe

Noes: 1 - Cate

Absent: 2 - Tesfai and Chopra



Bruce Wolfe, Chair
Sunshine Ordinance Task Force

cc. Denta Tadesse (Petitioner/Complainant)
John Haley, San Francisco Municipal Transportation Agency (Respondent)
Caroline Celaya, San Francisco Municipal Transportation Agency (Respondent)
Roberta Boomer, San Francisco Municipal Transportation Agency (Respondent)