

**SUNSHINE ORDINANCE
TASK FORCE**

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ORDER OF DETERMINATION
December 27, 2017

DATE ISSUED
November 1, 2017

CASE TITLE – Denta Tadesse v. John Haley and Tom Nolan, San Francisco Municipal Transportation Agency (SFMTA) (File No. 17058)

FACTS OF THE CASE

On May 25, 2017, the following petition/complaint was filed with the Sunshine Ordinance Task Force (SOTF):

File No. 17058: Complaint filed by Denta Tadesse against John Haley and Tom Nolan, San Francisco Municipal Transportation Agency, for allegedly violating Administrative Code (Sunshine Ordinance), Section 67.21, by failing to respond to a request for public records in a timely and/or complete manner.

HEARING ON THE COMPLAINT

The Complaint Committee (Committee) acting in its capacity to hear petitions/complaints heard the matter and referred it to the SOTF for hearing.

Denta Tadesse (Petitioner) provided a summary of the complaint and requested Committee to find that the Task Force has jurisdiction in the matter. Mr. Tadesse stated that SFMTA retroactively created the document in question. Caroline Celaya, San Francisco Municipal Transportation Agency (SFMTA) (Respondent), provided a summary of the complaint and stated that Mr. Haley and Mr. Nolan were not responsible for responding to the request for public records. Ms. Celaya stated that the public records request was submitted online and that all records were provided in a timely manner and that no documents were created retroactively.

On November 1, 2017, 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 the complaint and requested the SOTF to find violations. Mr. Tadesse alleged that the SFMTA backdated the policy for service animal after an incident and that the policy did not exist until after the incident. Mr. Tadesse stated that the SFMTA's ADA coordinator has not responded to his request for records. There were no speakers in support of

the Petitioner. Caroline Celaya, San Francisco Municipal Transportation Agency (SFMTA)(Respondent), provided a summary of the department's position. Ms. Celaya stated that all responsive records have been provided in a timely manner. Ms. Celaya stated that it is common practice for staff members to sign documents on behalf of directors during their absence. There were no speakers in support of the Respondent. A question and answer period followed. The Petitioner and Respondent were provided an opportunity for rebuttals.

The SOTF opined that if a public records request is directed to specific individuals they must respond personally and separately as they may have a version of documents that are different than those held by other parties. It appears that while a response was provided to Mr. Tadesse, the SFMTA could not confirm if their ADA Coordinator provided a separate and individual response.

FINDINGS OF FACT AND CONCLUSION OF LAW

Based on the testimony and evidence presented the SOTF found violations of Administrative Code (Sunshine Ordinance), Section 67.21(e).

ORDER OF DETERMINATION

Chair B. Wolfe, seconded by Vice Chair Hyland, moved to find that John Haley and Tom Nolan, San Francisco Municipal Transportation Agency, violated Administrative Code (Sunshine Ordinance), Section 67.21(e), by failing to respond to a public records request in a timely and complete manner.

The SOTF requests that the SFMTA's ADA Coordinator respond separately to the public records request. The SOTF referred the matter to the Compliance and Amendments Committee to confirm that the SFMTA's ADA Coordinator provide a separate response to the public records request.

The motion PASSED by the following vote:

Ayes: 8 – Eldon, J. Wolf, Maass, Cannata, Fischer, Hinze, Hyland,
B. Wolfe
Noes: 0 – None
Absent: 2 – Chopra, Tesfai

On November 11, 2017, the SFMTA confirmed via email that the SFMTA Accessibility Division has provided all records and that there are no additional responsive document.



Bruce Wolfe, Chair
Sunshine Ordinance Task Force

- c. Denta Tadesse (Petitioner/Complainant)
- Caroline Celaya (SFMTA) (Respondent)
- John Haley (SFMTA) (Respondent)
- Tom Nolan (SFMTA) (Respondent)