



U.S. Department
of Transportation
**Federal Transit
Administration**

Headquarters

5th Floor – East Bldg, TCR
1200 New Jersey Ave, S.E.
Washington, D.C. 20590

February 3, 2010

Steve Heminger
Executive Director
Metropolitan Transportation Commission
Joseph P. Bort MetroCenter
101 Eighth Street
Oakland, CA 94607

Dear Mr. Heminger:

This letter is in response to a complaint received in our office in September 2009 by Public Advocates on behalf of Urban Habitat Program, Transform, and Genesis against the Bay Area Rapid Transit District (“BART”) alleging violations of Title VI of the Civil Rights Act of 1964.

The complaint alleges that BART did not conduct a service equity analysis of its Oakland Airport Connector project. Also, noted in the complaint sent to FTA, on July 8, 2009, Mr. Bob Allen of Urban Habitat spoke during a public meeting before Metropolitan Transportation Commission (MTC) staff advising of BART’s “failure to produce the required equity analysis for this project.” As a follow up to this public meeting a letter was sent to the Programming and Allocation Committee of MTC, dated July 8, 2009, by Mr. Allen outlining the service equity requirements. In a letter dated July 14, 2009, BART’s staff attorney sent a letter to MTC’s general counsel indicating that “BART has a policy in place for the evaluation of fare and service changes that has been approved by the FTA through every Triennial audit.”

The Federal Transit Administration (FTA) Office of Civil Rights is responsible for civil rights compliance and monitoring, which includes ensuring that providers of public transportation properly implement Title VI; the Department of Transportation regulations, 49 CFR Part 21, “Nondiscrimination in Federally-Assisted Programs of the Department of Transportation—Effectuation of Title VI of the Civil Rights Act of 1964”; and FTA Circular 4702.1A, “Title VI and Title VI-Dependent Guidelines for Federal Transit Administration Recipients.”

From December 15 to 17, 2009, FTA conducted an on-site compliance review of BART’s Title VI program. Preliminary compliance review findings indicate that BART had not conducted the necessary service equity analysis for this project or fare equity analysis.

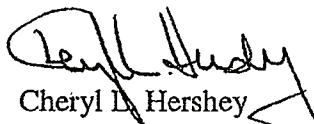
As you are aware, BART is a subrecipient of the MTC, and, therefore, MTC is responsible for ensuring its subrecipients comply with Title VI, the DOT Title VI regulations, and FTA Circular 4702.1A. Your agency is responsible for documenting a process that ensures that all MTC subrecipients are in compliance with the reporting requirements of FTA C 4702.1A.

The fact that BART has not conducted the necessary service equity analysis for the OAC project or fare equity analysis raises concerns that your agency does not have procedures in place to monitor its subrecipients. In order to determine whether MTC is in compliance with Title VI, FTA's Office of Civil Rights requests MTC send FTA the following information within 30 days of receipt of this letter:

- a list of all MTC subrecipients; and
- MTC's procedures for monitoring Title VI compliance of its subrecipients.

FTA will determine whether the information MTC provides meets Title VI requirements. If you have any questions regarding this request for information, please contact Amber Ontiveros at 202-366-5130 or at her electronic mail address: amber.ontiveros@dot.gov.

Sincerely,



Cheryl L. Hershey
Director, Office of Civil Rights

cc: Dorothy Dugger, General Manager, BART
Dorval Carter, Jr., Chief Counsel, Federal Transit Administration
Amber Ontiveros, Equal Opportunity Specialist