

April 13, 2007

Charlene Aguayo
Records and Information Coordinator
Los Angeles County Metropolitan Transportation Authority
Records Management Department
One Gateway Plaza
Los Angeles, CA 90012

Dear Ms. Aguayo:

Pursuant to the California Public Records Act (CPRA), I ask to request to view and/or copy all internal documents relating to the proposed fare increase. Specifically, this includes PowerPoint presentations made to the Governance Councils, board members, and their staff; spreadsheet and document files prepared relating to the fare increase, including elasticity analyses, revenue projections, and ridership projections; alternative analyses prepared; letters and e-mails sent by MTA staff to the Federal Transit Administration regarding compliance with Federal rules regarding fare increases; Board Box memos from LACMTA staff to the Board of Directors; letters, memos, and e-mails sent between LACMTA staff and members of the MTA Board and their deputies relating to the fare increase; and electronic mail sent between LACMTA staff, specifically high ranking LACMTA Officers such as Roger Snoble and Terry Matsumoto regarding the fare increase and its impacts on the proposed FY 2008 budget.

Under the provisions of the CPRA (i.e. Government Code 6253.9(f)), please provide these copies in their original electronic format if possible. I agree to pay the direct cost of electronic duplication onto a compact disc or similar format. In addition, the passage of Proposition 59 in 2004 has eliminated the "deliberative process privilege", since the public interest served by making the records public on such an important issue relative to the public's business clearly outweighs any interest in keeping deliberations private.

I would normally not make this request, but my earlier request dated April 11, 2007 (see attached) only produced a PowerPoint presentation sent to the Los Angeles Times. Therefore, I am making a formal written request.

If you have any questions about this request, please feel free to telephone me at XXXX..

Sincerely,

Hank Fung

Charles Safer
General Counsel
Los Angeles County Metropolitan Transportation Authority
One Gateway Plaza
Los Angeles, CA 90012

Dear Mr. Safer:

I am appealing the denial of my request on April 27, 2007 to review documents under the California Public Records Act relating to the proposed Los Angeles County Metropolitan Transportation Authority (Metro) fare increase (see original request and denial letter attached). The passage of Proposition 59 in 2004 has significantly reduced the “deliberative process privilege”, which is what Records Management staff is asserting when they state that “pre-decisional analysis, communications, and evaluation information used in developing information” is exempt. Article I, Section 3 of the California Constitution states, “*A statute, court rule, or other authority, including those in effect on the effective date of this subdivision, shall be broadly construed if it furthers the people’s right of access, and narrowly construed if it limits the right of access. A statute, court rule, or other authority adopted after the effective date of this subdivision that limits the right of access shall be adopted with findings demonstrating the interest protected by the limitation and the need for protecting that interest.*”

The opinion in Government Code Section 6255 that “the public interest in withholding the records clearly outweighs the public interest in disclosure of the records” is incorrect. As expressed by the numerous articles published in the *Los Angeles Times* and *Los Angeles Daily News* about the fare increase, media coverage on television and radio, and even the Chief Executive Officer writing an opinion piece in the *Los Angeles Times*, information about Metro’s assumptions and alternatives to a fare increase is clearly in the public interest. Information about the alternatives considered and the communication to the Board of Directors will enable the public to more intelligently comment on the fare increase and offer alternatives to the increase. Disclosure of these alternatives with the names of lower level staff members redacted can serve the purpose just as well without invasion of privacy. In addition, the citation of Government Code Section 6254 (k) is irrelevant since no litigation has yet been filed on this matter.

Nevertheless, if you determine that any or all of the information qualifies for an exemption from disclosure, I ask you to note whether, as is normally the case under the Act, the exemption is discretionary, and if so whether it is necessary in this case to exercise your discretion to withhold the information. If you determine that some but not all of the information is exempt from disclosure and that you intend to withhold it, I ask that you redact it for the time being and make the rest available as requested.

In any event, please provide a signed notification citing the legal authorities on which you rely if you determine that any or all of the information is exempt and will not be disclosed.

If I can provide any clarification that will help expedite your attention to my request, please feel free to contact me at XXXX.

Sincerely,

Hank Fung

cc: Edmond Morgan
Roger Snoble
Gloria Molina