

## How to Fight the SFMTA and Win: True Story

SFMTA in San Francisco is well known for its tight rules, aggressive ticketing and even aggressive towing. Locals know towing zones are serious things which is why you often see people staying in cars or even double parking with the Hazard signs on or “San Francisco valet”, but what surprised me most was when 1/05/13 I got a handwritten ticket for “evading fare.”

The scene was something out of a horror movie: I used my Clipper Card to get on a train near Dolores Park, my card signaled it was low so I had planned to reload it upon arriving at the next station since my entry station didn't have any machines. Upon arriving at **Montgomery Station**, all three of my friends exited the station and I get held back by an officer who said the machines were “broken” and to “come here” Upon walking near her she scanned my Clipper Card and announced that I am evading fare. Totally confused I try to reload the card with monies, or pay my fare in cash or even get the machine but she doesn't let me, “You are evading fare.” I even open my wallet with cash asking to pay because I don't understand the issue. “Its a \$103.00 ticket not to mention my pride as a hardened criminal now that I am known to be “evading fare” I'm pissed but I also know that NO ONE FIGHTS THE SFMTA AND WINS.

My roommate a few weeks earlier had a hearing regarding one of her rental cars that got towed. She lost. Every single friend I know who either protested or appealed lost, but despite my low odds my pride could not swallow this \$103.00-- I would spend the next few weeks dedicating my life to fight this ticket as if my life depended on it.

### 1) Step One: Request a Hearing

I prepared a written request for Hearing and followed the rules and format of such request. In my case, my “grounds” for dismissing the citation were:

- Entrapment
- Insufficient Proof of Violation of TRC 7.2.104
- Citation Not Valid (incomplete)
- Violation of Clipper Card terms and conditions 3.4, 3.5, 12.2

First I had to look up the actual “charges” of my citation ([TRC 7.2.104 “Fare Evasion - Clipper Card](#)). Then I needed to see if there were any holes or explanations from situation. From the SFMTA perspective you needed to prove: 1) Intent and 2) Validity

For Entrapment I needed the common legal definition and compared it to my circumstances. And for violation of Clipper Card conditions I was thinking that I am not an ill willed person, in fact there is no way what I did was wrong. Why didn't the conductor stop me? Why couldn't I pay in cash? Why was I going through this for having -1.25 on my clipper card. Why would I ever want to do the wrong thing over the right thing, what are my rights?

After reviewing the Clipper Card terms and conditions I found a few interesting things:

- 1) **3.4** *"If a ride costs more than the cash value on the Cardholder's Clipper® card, Clipper® may let the Cardholder complete the trip even if the fare exceeds the Card's remaining value. However, sufficient value must be added to the Card to pay for the prior trip before the Card can be used again."*
- 2) **3.5** *"If, for any reason, the Card is not accepted for fare payment on a participating Service Provider, the Cardholder may be required by the Service Provider to pay the fare in cash."*
- 3) **12.2** *"All information and data relating to the Cardholder collected by the Clipper® FPS shall be used by MTC and the Service Providers for the purposes of the operation and management of the FPS and shall serve as a source of information and data for transit and/or related services in general but shall otherwise be dealt with in a confidential manner by MTC and the Service Providers unless:  
(a) The Cardholder's express written consent has been obtained; and/or  
(b) Otherwise required by law or ordered by a court of competent jurisdiction."*

For a full copy of Clipper Card Terms and conditions [go here](#).

Now I know this is a Pandora's box but my rationale was this: my data was illegally obtained and couldn't be used against me in the first place. This could open up a whole gap in all of the way citations for Clipper Cards and trains are enforced. It also means that the city of San Francisco could possibly be cutting revenue from Clipper Card. And then of course there was what I thought was the weakest argument-- that the citation was not valid.

I created a well written doc and walked in a copy to the SFMTA office and mailed a copy to: 11 South Van Ness Avenue, San Francisco, CA 94103

## **2) Step Two: Request for Hearing --- Denied**

After receiving a letter that it was pending (see here), I received a letter that the citation was "valid." But how could my citation be valid when I am requesting a hearing due to my suspicion that the citation is not valid? Then I received a second one and realized that likely this is a templated response and unfair to my rights, I'm demanding a hearing and getting denied the right to have a hearing?

## **3) Step Three: in Person Request for Hearing, Pay Fine**

You're only other option now is to request again a hearing via mail or in person but after having my request already denied for "valid citation" I couldn't imagine a different outcome via mail. I also figured I could simplify my reasoning to contesting the citations validity since it appeared this is the only thing that matters despite my surprise. I went to the station and went to two different windows, paid my fine (yes, you have to pay the fine in order to even "contest" it) and

then waited. (note: bring wifi and snacks the wait is long)

A Hearing officer called me into a room and before I could scream and holler and make my case he simply stared at a computer screen in silence, printed some papers and then asked me if I had the original ticket with me which of course I did. He then went into another room and it occurred to me that the citation in file did not match my current citation which means the officer is busted for adding info after the fact. (Note: its actually "legal" for an officer to add information after the fact to a citation, but a notice must be mailed to you). The original citation which I had was technically not valid and an update had not been mailed.

Under California Vehicle Code section 40202(a) a citation is not valid if the following fields are missing:

- the date
- approximate time thereof
- approximate location where the violation occurred
- the violation, including in reference to the section of Vehicle Code, Public Resources code, local ordinance, or federal statute (i.e the actually citation must be noted)
- fine / penalty amount

The hearing officer, though he couldn't say how the ruling would go just that I would simply get a letter in the mail said he thought I had a valid case and would recommend that I also file a formal complaint with the city regarding the officer at hand. Very uneventful to have a "hearing" without a "verdict." You wait.

#### **Step Four: Wait for Letter with Ruling, Citation not Valid**

About two weeks after my in-person hearing I received my letter stating that my case was "dismissed" due to my citation not being valid (all my other points were not address) and a check would be mailed to me. A few weeks after the letter from the hearing a check arrived. All in all it took me (12 hours of prep: research, printing, sorting, mailing), \$103.00 + \$43.00 dollars in supplies, and of course my time both in person and running around.

I called Clipper Card and several times tried to get their legal department or information to which they fought me, I wanted to inform them to investigate SFMTA not the other way around but they were hesitant. The saga itself took 9 weeks and was very stressful and frustrating but, I promised myself that it was *principal* and that if in the very low chances I won against the SFMTA I would write a blog post about it and give people instructions.

Feel free to use any templates or formats above. Lets see if the SEO for "How to fight SFMTA" or "How to beat citation 7.6.1" work. If for nothing else, I feel like my situation had purpose.