

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN

INDEX OF EXHIBITS

<u>Exhibit</u>	<u>Description</u>
1	Letter to Andrew Jarvis Dated March 30, 2012
2	Electronic Mail From Nojay Dated March 23, 2012
3	Electronic Mail From Auditor David Rishel to Anthony Locicero and May 10, 2012 Letter to Andrew Jarvis

Levy, Judith (USAMIE)

From: David Rishel [d_rishel@yahoo.com]
Sent: Sunday, May 20, 2012 6:01 PM
To: Anthony Locicero; Andrew Jarvis; Bernadette Williams
Cc: Levy, Judith (USAMIE); DeClercq, Susan (USAMIE); Knight, David (CRT); Maisels, Amanda (CRT); Michael Blau
Subject: Re: Fwd: Mail delivery failed: returning message to sender

Tony,

As you noticed, I am having email problems. Please use this Yahoo account until further notice.

Here is what I have received from you:

- 4 inspection sheets: 1 Nova/RTS, 1 New Flyer, 1 Gillig and 1 Wheelchair pre-trip.
- An email stating that the official DDoT point of contact is Warren Emuson for maintenance issues and Bernadette will remain the point of contact for operations issues.
- An email listing a Lift-U chain oil, filter and hydraulic fluid which are to be added to the maintenance procedures

Was there anything else? In general, when you send me anything substantive, DDoT has been required in the past to copy all of the addressees listed on my email header above. This is to be sure that everyone is kept informed. Please do this as well.

As to my substantive review of these materials, I have looked at these briefly and they look ok on the surface. Although I have a couple of comments, I frankly have a bigger process question. These forms, even if they are perfect, are tools that will be part of a larger process. A form alone is not a maintenance program. In view of the fact that DDoT has experienced problems with the structure and management of lift maintenance, it's impossible for me to know or to understand how and when you will be implementing these forms, how you plan to train mechanics, what standards DDoT has established for pass/fail for the items on the pre-inspection form, how you plan to manage the scheduling of the checks and the other details of the program which these forms will be a part of. Have you developed these items? Unless I understand how and when you are going to be using these forms, I can't give you much of an opinion.

If I have missed any of your emails and you have developed the broader plan, please re-send me the email and be sure to copy everyone else. I will then review anything I have missed and offer further comments at that time.

Finally, what about the other items we have asked about? Do you plan to report on these seperately?

I am going to be in Washington, DC all day Monday with very limited email access and likewise little time to phone. I will be home Monday night and am fully scheduled Tuesday as well, but I should have more flexibility to talk if needed.

Thanks,

David Rishel

From: Anthony Locicero <antloc@detroitmi.gov>
To: drishel@deltaservicesgroup.com
Sent: Sunday, May 20, 2012 6:18 AM
Subject: Fwd: Mail delivery failed: returning message to sender



U.S. Department of Justice

United States Attorney's Office
Eastern District of Michigan

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May 10, 2012

BY ELECTRONIC AND U.S. MAIL

Mr. Andrew R. Jarvis, Esq.
Detroit City Law Department
660 Woodward Avenue, Suite 1650
Detroit, MI 48226

Re: Dilworth v. City of Detroit, Civil Action 04-73152

Dear Mr. Jarvis:

We again write to express our concerns regarding the City's compliance with its obligations under the Settlement Order in the above-referenced case, and to confirm our understanding of commitments the City made at our last meeting on May 1, 2012.

As you know from our previous letter to you dated March 30, 2012 (attached), there were significant delays during the first five months of the Settlement Order extension period. In short, although regular compliance meetings were required to be held between the parties and the Auditor, Mr. David Rishel, *beginning December 2011*, the first of these meetings did not take place until March 1, 2012, due to delays in the City's contracting procedures. Further, that meeting did not cover the full proposed agenda because the city did not provide all the necessary data. However, we were encouraged because at that time, Mr. Ron Freeland, the new CEO of DDOT, was present at the meeting and committed to fixing the problems identified by the Auditor with respect to pre-trip inspections and preventative maintenance.

However, the next meetings, which were scheduled for March 27, 2012, were essentially cancelled due to a series of electronic messages from Mr. Bill Nojay on March 23-26, 2012. Instead of the planned meetings, we twice sat in a room with counsel for DDOT, Mr. Rishel, and Mr. Tony Locicero, who introduced himself both verbally and through a business card, as DDOT's new General Manager of Vehicle Maintenance, but who was not prepared to present any data from DDOT. During the second of the two gatherings, Mr. Locicero promised to

provide Mr. Rishel and the parties with a memorandum within two weeks, or by April 10, 2012, that explained DDOT's plan to ensure pre-trip inspections of the accessibility features of the buses and thorough preventative maintenance on the accessibility features in accordance with the Court's order. On several occasions the Auditor has identified these two areas as needing improvement, and they are specifically identified in the November 8, 2011 Order. No such memorandum was provided to the parties. Furthermore, outstanding data requests were committed to be provided immediately, but they did not come until April 23, 2012.

The April meeting with the Auditor was rescheduled for May 1, 2012. At that meeting, individuals were present from DDOT's operations and reported on DDOT's performance as it relates to the Revised Settlement Order for both February and March 2012. Mr. Rishel also reported on his site assessment of the DDOT garages conducted on April 15-17, 2012. The Auditor's report on his observations of pre-trip inspections, however, was not promising. Moreover, although Mr. Locicero was present at the meeting, the memorandum on pre-trip inspections and preventative maintenance was still not provided, and Mr. Locicero appeared to have no recollection that such a memorandum was ever promised. Indeed, when pressed on the specific topics that were to have been addressed in the memorandum, Mr. Locicero attempted to disclaim that such areas of DDOT's operations were even his responsibility, claiming that he was simply "a contractor." After further discussions, Mr. Locicero eventually agreed that he was responsible for preventative maintenance, but indicated that creation and implementation of the pre-trip inspection policies and procedures were solely the responsibility of Bernadette Williams, Superintendent of DDOT. Both Mr. Locicero and Ms. Williams again committed to provide the Auditor and the United States with the memorandum explaining DDOT's plan for ensuring pre-trip inspections of the accessibility features of the buses and thorough preventative maintenance on the accessibility features in accordance with the Court's order, by no later than May 15, 2012.

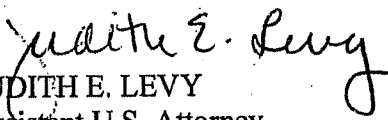
We understand that DDOT is going through a period of transition in its management, and we appreciate the challenges this might pose for the City. However, it is troubling and patently unacceptable that the responsibility for ensuring compliance with the Revised Settlement Order at DDOT's senior management level is unclear. We are half way through the extension of the Settlement Order, and have only six months until it expires. Responsibility for compliance with the Revised Settlement Order at the most senior levels of management must be resolved now. The transitions in DDOT management can no longer delay implementation if we are to successfully resolving the outstanding concerns, which have not been effectively addressed for close to a year.

Accordingly, we look forward to receiving DDOT's plan for ensuring pre-trip inspections of the accessibility features of the buses and thorough preventative maintenance on the accessibility features in accordance with the Court's order **on or before May 15, 2012**. However, if a substantive plan is not received by that date sufficient to convince the United States that the City has resolved these on-going concerns, we will cancel our next meeting (currently scheduled for May 29, 2012), and instead ask for a status conference with the Court.

If you have any questions or wish to discuss this further, please contact me at 313-226-9727, Susan DeClercq at 313-226-9149, Amanda Maisels at 202-305-8454, or David Knight at 202-616-2110.

Sincerely,

BARBARA L. McQUADE
United States Attorney


JUDITH E. LEVY
Assistant U.S. Attorney

cc: Krystal Crittendon
Corporation Counsel
City of Detroit

Amanda Maisels
David Knight
Disability Rights Section
Civil Rights Division