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DECISION

Protest ST-11-2024 (access to TA property)

By emails dated December 4 and 5, 2024, Evangeline Byars and Attorney Martin Druyan, on behalf of Ms. Byars, respectively, filed protests alleging that the NYCTA, TA, and MTA are “continuing to interfere in the election by preventing [Ms. Byars] from campaigning at TA depots and work locations.” As a remedy, the Protester requests that the ballot count be postponed to December 20, later amended to January 3.

I requested that the Protester submit evidence in support of the protest. At 8:49 PM on December 5, Ms. Byars sent an email stating that she was denied access to the property at EMD Northern Blvd (5:30 AM, unspecified date), Gun Hill Depot (11:40 AM, unspecified date), and Quill Depot (“recent visit” and November 19). At 9:19 PM on December 5, Ms. Byars sent two videos of her being denied access to TA property, apparently recorded on December 5 at EMD Northern and Gun Hill Depot. (There were three videos attached, but two were recordings of the same interaction.)

By email sent on December 6, I advised the Protester that “I have been informed by management at the Transit Authority that the attached memorandum has been sent to TA supervision. You would be specifically covered by the provisions of paragraph #2, among others. Supervision at the two locations where you had problems on Thursday will be reminded to allow you access for campaigning purposes pursuant to the guidelines set forth in the memorandum. There was a misunderstanding due to your disciplinary status.”

On Saturday, December 8, the Protester sent an undated video from Eastchester Depot MTA Bus, in which she was told by an unnamed person that the

company policy was that no campaigning was allowed on company property (two identical videos submitted). There is no evidence in the video that she gave her name to the person who denied her entry. She also sent an undated video labeled by Ms. Byars as occurring at Liberty Lines PBL, in which she identified herself as being “from TWU Local 100” and was told by an unnamed person that she had to call HR Monday to Friday to make an appointment to campaign.

It is not clear whether the Protester is also protesting what she describes as a denial of a list of properties/locations represented by Local 100. She raised this issue in early November and on November 7 the Election Committee sent her a list of the addresses of all employers and locations, except NYCTA and MaBSTOA. I issued a decision in ST-7-24 on November 7, stating that she received the requested information and denying her protest. She objected to the response from the Election Committee, and wrote to the Committee again on November 10 stating that she only got the requested information from MTA Bus and “20 of 21 locations were still outstanding.” I wrote to her on November 10 to make sure she knew that she had been sent information from the Election Committee with the names and addresses of all School Bus/Paratransit, Private Operations and MTA Bus properties, showing 19 companies working out of 25 addresses in these three divisions. I forwarded her the Election Committee’s November 7 email again in case it went to spam. I also gave her the number of employees in each division. She wrote back to me and the Election Committee saying, “To be very clear we asked for all properties and locations represented by TWU Local 100. You have only provided MTA BUS - PBL and as per EC Counsel there are 21 properties/locations TWU Local 100 represents. Omitting the other 20 local wide locations and properties constitute an unfair advantage.” Unfortunately, her email did not make it “very clear” what she meant by “there are 21 properties/locations TWU Local 100 represents.”

Election Counsel Arthur Schwartz wrote to her on November 12, clarifying that she had been “given the addresses of all employers, and the 25 work locations of each of those employers, other than NYC Transit and Mabstoa...NYC Transit and Mabstoa have 600 or more work locations...” He included links to location

information for subway yards and stations and bus depots. She wrote back again asking for a list and again stating that the Election Counsel stated that there were 21 properties/locations.

On November 13, I wrote to Ms. Byars as follows: "Ms. Byars. It is sometimes difficult for me to tell from the many emails on which I am copied whether a protest is intended. I do not think there are any open protests from Stronger Together before me at this time. Please let me know if that is not correct. Thank you." I received no response.

It is my position that I ruled on the issue of the information request related to properties/locations on November 7. If she objected to that decision, her avenue for review would through the International Committee on Appeals.

As the ballots were mailed out on November 15, 2021 and a significant percentage of the membership has already voted, no effective remedy could be ordered at this time, even if a violation were to be found. Therefore, this protest should be raised in post-election proceedings, if warranted.

The request to postpone the ballot count is denied.

In accordance with the International Constitution and the Election Rules, any interested party unsatisfied with this determination may appeal to the Transport Workers Union of America Committee on Appeals. Any appeal shall be in writing and shall be filed in accordance with the procedure set forth in Article IV(B)(9) of the Election Rules and Article XXII of the International Constitution for the appeal to the International from decisions of Local Unions.



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