



October 14, 2025

MTC Chair Sue Noack & MTC Commissioners
 Bay Area Metro Center
 375 Beale Street, Suite 800
 San Francisco, CA 94105

RE: OPPOSITION to the Metropolitan Transportation Commission’s Transit-Oriented Communities Policy

Dear MTC Chair Noack & MTC Commissioners,

I’m writing on behalf of the East Bay Leadership Council and this broad coalition of business organizations, collectively representing hundreds of employers, to express our concerns with the Metropolitan Transportation Commission’s Transit-Oriented Communities policy (TOC). While we commend MTC for their desire to improve housing affordability, we are concerned that the implementation of TOC will have the opposite effect, creating barriers to the development of desperately needed housing while also negatively impacting the region’s transportation infrastructure and competitive business environment.

There are three major reasons we believe MTC’s TOC policy poses a serious threat to the region. First, while we agree with many of the requirements that TOC includes, there are others we find particularly concerning. Second, we worry that the implementation framework will create a complex regulatory environment that will disincentivize development. Third, we are concerned about a funding scheme that withholds essential transportation funds from the One Bay Area Grant (OBAG) based on MTC’s

determination of city compliance, rather than incentivizing progress or supporting cities making genuine efforts to improve.

1. TOC Includes Problematic Policies

Housing

We support many of the housing policy requirements included in TOC, such as zoning for higher minimum and maximum densities, streamlining permit approval processes, developing mobility hubs, and creating funding programs for the production and preservation of affordable housing.

However, by requiring cities to pass *six* affordable housing policies, we are concerned that this may increase the use of policies that conflict with housing production goals. These include, for example, rent control, just cause eviction, and a 15% inclusionary zoning mandate without any offset incentives. While intended to protect tenants and expand affordability, these policies often instead deter investment in existing units, increase project risk, and render new developments financially infeasible, constraining both affordable and market-rate housing supply.

Since many of the policies MTC offers as options to fulfill the affordable housing component of the TOC requirements are funding programs (i.e. for the production of affordable housing, acquisition of public land, or tenant assistance), we are worried cities will be more likely to pass one of the concerning policies mentioned above because they will impose fewer costs.

This is especially true because MTC has determined funding tiers by jurisdiction and established minimum 4-year investment requirements for cities in each tier should they choose policies that require funding commitments. For example, if Walnut Creek chooses funding policies, the city would be required to allocate \$4 million towards affordable housing production policies, \$1.2 million towards affordable housing protection policies, and \$300,000 towards affordable housing preservation and anti-displacement policies. These are particularly large spending requirements in a time when many cities are experiencing major budget shortfalls.

On top of this, TOC also includes strict parking maximums, a requirement that not only risks deterring development because it limits a project's flexibility in meeting market demand and lender requirements, but is also inherently inequitable. One of TOC's primary goals is to create more affordable housing for low-income residents. Yet, restricting parking for these households undermines their ability to meet daily needs like work, childcare, and errands. Encouraging greater use of public transit is an important and worthwhile goal, but by tying strict parking limits to affordable housing, TOC pushes low-income residents to give up their cars instead of focusing that shift on residents who have the resources and flexibility to choose transit.

Business Competitiveness

Regarding the commercial stabilization policy that cities must implement under TOC, we are concerned about the small business and nonprofit preference policy option. As a coalition of business organizations

representing employers of all sizes, we recognize the need to support and protect small businesses. However, determining the best way to do so requires nuance and flexibility, which TOC does not account for in its policy requirements.

Not all transit-rich areas are the same. Some are situated in more residential areas well-suited to small businesses while others are located in larger commercial zones. Prioritizing small businesses and nonprofits in prime commercial areas may deter larger companies from locating there, devastating a city's tax base.

While there are other commercial stabilization policies cities could adopt that we find less harmful, and may even support, we have similar apprehensions here as with the funding requirements for the housing policies noted above. Because prioritizing small businesses and nonprofits is objectively the least expensive option in terms of direct costs, we worry it will be the most likely choice, even if its indirect costs to the city could be substantial.

One of the key indicators of the economic vitality of a region is its ability to help businesses start, stay, and grow. If this policy is adopted in cities across the region, it could have a severe impact on the area's status as a competitive place for business.

2. The Complexity of TOC Implementation will Deter Development

In addition to the specific policies we find concerning, TOC itself is complex, subjective, and vulnerable to inconsistent implementation, which is likely to disincentivize developers from building.

TOC is voluntary because MTC cannot establish standardized requirements across a region the way state legislation can. Thus, cities may pass resolutions stating their intent to comply with TOC but then lack the funding or political will necessary to make it happen, which would leave developers wondering what requirements they will be expected to follow. Other cities may decide not to adopt TOC altogether, deciding they are willing to lose out on OBAG funding. This patchwork implementation will leave developers caught in uncertainty, establishing an environment that discourages the very progress TOC intends to foster.

Moreover, many TOC policy requirements are inconsistent with established state laws already governing certain housing policies. For example, in contrast to TOC's inclusionary zoning policy, California's Density Bonus Law does not require a certain percentage of developments to be earmarked for affordable units but rewards developers who make those allocations with a variety of incentives (i.e. density bonuses and reduced parking, setback, and minimum square footage requirements). Conversely, TOC states that a successful inclusionary zoning policy should include incentives, but it does not require them. Further, under the Density Bonus Law, developers qualify with a 10% affordable set-aside, and even the Builder's Remedy threshold is only 13%, both well below the 15% required for an inclusionary zoning policy to align with TOC.

TOC requirements may also conflict with jurisdictions' Department of Housing and Community Development (HCD) approved housing elements. For example, a city may have concentrated its Regional Housing Needs Assessment (RHNA) sites in areas that meet HCD standards but fall outside of TOC

transit areas. Housing elements may also recognize constraints like environmental hazards, infrastructure limitations, or displacement risks and distribute housing accordingly, while TOC requirements do not necessarily accommodate these considerations. This all creates significant discord between state-mandated housing requirements and the narrow framework of TOC requirements. Further, conditioning OBAG eligibility on TOC compliance by early 2026 may penalize cities who are legally on track with the timeline of their housing elements.

Compelling cities to pass policies that conflict with state law and state approved housing elements will only add to the complexity, creating unnecessary confusion. Areas with clearly defined and consistent requirements and regulatory processes are far more attractive to developers.

3. TOC has a Counterproductive Funding Framework

Finally, we are concerned with the funding framework itself. In previous rounds of OBAG funding, MTC rewarded cities making progress on transit-oriented development, housing production, and sustainable transportation investments. TOC marks a reversal by punishing cities that do not or can not comply. Further, MTC is also looking for approval to apply this framework to other discretionary funding, which means this could be an issue for future funding opportunities beyond OBAG.

We believe improving transportation infrastructure is a regional economic imperative, especially with threats to public transportation already looming. With this funding framework, many transportation centers stand to lose out on critical transportation dollars. Given that many East Bay cities are likely lagging behind in TOC compliance, our region could face a disproportionate share of funding losses.

Next Steps

Addressing the region's housing availability and affordability crisis is imperative, and we appreciate that regional leaders like MTC recognize this pressing challenge and are working to identify solutions. The intent behind the TOC policy is commendable, but as outlined in our analysis, its current form risks creating barriers to development and eroding the region's infrastructure and economic competitiveness.

Our coalition calls on you to remove the TOC requirements and replace them with guidelines that truly incentivize cities to become more welcoming to affordable housing. This can be achieved by taking the following steps:

1. Remove the problematic affordable housing and commercial stabilization policies outlined above from the menu of policy options. Remove or incorporate greater flexibility around the parking maximums requirement to prevent it from impacting development and exacerbating inequities.
2. Provide greater flexibility on the funding commitments required by certain affordable housing policies to enable cities to choose these policies over alternatives that could hinder housing development.

3. Extend the implementation timeline to give cities more time to adopt well-researched policies. This approach would prevent rushed, short-term fixes driven by fear of critical funding losses, while also providing developers with enhanced predictability.
4. Allow for more flexibility on overall compliance to reward cities actively taking steps toward fostering a more development-friendly environment, instead of punishing those starting at a disadvantage. For example, this flexibility could involve considering OBAG funding eligibility for cities whose housing elements are approved by HCD and remain on track with their timelines, provided their land use plans actively encourage housing production and affordability even if they do not fully align with TOC requirements.
5. Provide timely, comprehensive, and transparent communications to all jurisdictions that may be eligible to receive OBAG funding on any changes made to funding eligibility requirements, the specific point thresholds required for compliance and how those thresholds translate into actual funding amounts, and any other important information that could impact their policy and budget decisions.

By making these changes, you would be replacing the current requirements with a constructive, incentive-based framework that would protect the region's transportation funding while also advancing real solutions to the housing crisis.

Please do not hesitate to reach out to me (mark@eblcmail.org) or EBLC's Policy Director, Meg Stern (meg@eblcmail.org), to further discuss these concerns. Thank you for your commitment to serving our region.

Sincerely,

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