



January 27, 2026

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

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

I’m writing on behalf of the East Bay Leadership Council and this broad coalition of business organizations, collectively representing hundreds of employers and housing providers, to share our recommendations regarding MTC’s Transit-Oriented Communities (TOC) Policy. Since the last time this coalition submitted a letter in October, we have expanded by five new members, including the Bay Area Council, Bridge Association of REALTORS, Building Industry Association of the Bay Area, San Jose Chamber of Commerce, and San Mateo Area Chamber of Commerce. This growth reflects both the clear strength of our coalition and the broad, unified support for our position on TOC.

We understand and share MTC’s intent behind TOC – encouraging transit-oriented development, supporting dense infill, expanding affordable housing production, and protecting tenants – but differ on approach.

With those common goals in mind, we recommend MTC replace TOC’s Production, Preservation, and Protection Policy (3-Ps) requirements with state Housing Element certification and ensure all TOC requirements are aligned with state law. In addition to the many state housing laws enacted in recent years, the Housing Element certification process already requires cities to apply the 3-Ps framework and implement policies that are both state-compliant and locally appropriate. Our recommended changes would therefore give TOC a genuine opportunity to achieve its intended outcomes and address the primary concerns we raised in our previous letter: that prescriptive and counterproductive policy mandates and intensified regulatory complexity will both discourage housing production. It would also help resolve significant issues embedded in the current TOC funding framework.

An L.A. Times analysis found that, over the same period, housing production increased by 10% in San Diego but fell by 33% in Los Angeles. The Times attributed San Diego’s growth to streamlined permitting, a clear general plan, and the absence of traditional rent control, while arguing that Los Angeles’s more restrictive regulations discourage new development.¹ Absent targeted reforms, TOC risks reinforcing the kinds of regulatory barriers that have constrained housing production in places like Los Angeles, undermining development and jeopardizing crucial transportation infrastructure projects.

1. Prevent Cities from Adopting Problematic Policies

We have serious concerns about several tenant protection and affordable housing policies included in the TOC menu, including rent control and just-cause eviction policies that exceed state requirements, and a 15% inclusionary zoning mandate without required offset incentives. While these policies are often well-intentioned, substantial economic research shows that when expanded beyond state standards or adopted without balancing incentives, they can deter investment in existing housing, increase financial risk for new projects, and render both affordable and market-rate developments infeasible, ultimately constraining overall housing supply. Reduced supply, in turn, exacerbates affordability challenges and displacement pressures rather than alleviating them.

Although the TOC framework characterizes these policies as optional “menu” items, in practice they are not meaningfully optional. The structure of TOC’s funding requirements and the political dynamics created by the policy menu strongly steer jurisdictions toward adopting these measures regardless of local market conditions or feasibility.

Funding Commitments

Many of the TOC menu options designed to satisfy affordable housing requirements are funding-based programs. As a result, jurisdictions facing fiscal constraints are more likely to select the problematic regulatory policies, regardless of their impacts on the housing market, because they appear to impose fewer immediate costs.

¹ <https://www.latimes.com/business/story/2026-01-20/san-diego-leads-california-cities-in-apartment-construction>

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 substantial obligations, particularly at a time when many cities are experiencing budget shortfalls and competing demands for essential services. You can review the full funding requirements on page 62 of MTC's TOC Administrative Guidance document.

Political Cover

The TOC menu also provides political cover for adopting policies that might not otherwise advance locally. When policies are framed as necessary to remain eligible for regional transportation funding, cities face strong incentives to adopt measures quickly, even when those policies conflict with local housing strategies, economic conditions, or state-certified Housing Elements.

2. Align TOC with State Requirements

Reducing overlap with state law is critical to addressing the regulatory complexity created by the current TOC framework. Complexity itself is a major deterrent to housing development. When jurisdictions are compelled to layer regional requirements on top of already comprehensive state mandates, the result is confusion and uncertainty, conditions that discourage and slow production.

Eliminating Overlap with HCD

The Regional Housing Needs Allocation (RHNA) and Housing Element processes already require jurisdictions to meet detailed, measurable standards related to housing production, preservation, and tenant protections, all of which are rigorously reviewed and certified by the California Department of Housing and Community Development (HCD). For example, San José's most recent Housing Element includes 137 HCD-vetted policies and programs explicitly focused on these objectives. These programs are not theoretical, they are enforceable commitments tied to state oversight and potential penalties. Jurisdictions with state-certified Housing Elements should not be subject to duplicative regional policy requirements in order to access crucial transportation funding. Recognizing Housing Element certification as satisfying TOC's 3-Ps would uphold policy integrity while avoiding unnecessary redundancies and confusion.

Moreover, most jurisdictions are already in the process of adopting Housing Element policies that reflect local needs and state law. If those policies do not align neatly with TOC's menu, cities may find it difficult or impossible to maintain eligibility for TOC-linked funding despite full compliance with state housing requirements.

Replacing the 3-Ps with Housing Element certification as a long-term condition of OBAG funding eligibility could also encourage jurisdictions to adopt their Housing Elements more quickly in future RHNA cycles. Aligning regional incentives with state housing requirements is an effective and efficient use of resources. It reinforces a strong, coordinated mandate for cities to address housing affordability, rather than imposing overlapping or conflicting requirements that ultimately slow progress.

Reducing Overlap with State Laws

Much of the TOC policy menu overlaps with state housing laws, including many that were enacted or expanded since TOC was first proposed in 2022. Housing Elements account for these laws in a coordinated and comprehensive way while the TOC framework does not. Below are just some examples of state laws that conflict with TOC.

Density Bonus Law and Inclusionary Zoning

California's Density Bonus Law incentivizes affordable housing by offering developers tangible benefits, such as additional density, reduced parking, and relaxed setback and square footage standards, in exchange for affordable set-asides. Developers can qualify with as little as a 10% affordable component, and even the Builder's Remedy threshold is only 13%.

By contrast, TOC's inclusionary zoning option requires a 15% set-aside and does not require jurisdictions to provide offset incentives, even though it acknowledges their importance. This distinction is critical. Inclusionary zoning works when affordability requirements are paired with incentives that maintain project feasibility. Without those incentives, projects often fail to pencil, leading to fewer units overall.

Rent Control and Anti-Displacement Protections

The state passed AB 1482 in 2019, and later strengthened it through SB 567 in 2023, to address price gouging in the state's rental market. They did so by limiting annual rent increases to no more than 5% plus CPI with a 10% maximum and requiring landlords to have "just cause" to evict tenants who have lived in a unit for more than a year. SB 330 (2019) further bolsters protections by preventing the loss of existing affordable and rent-restricted units and safeguarding tenants through protections such as a right of first refusal and a right to return to comparable units following redevelopment. These laws are substantial and apply across the rental market. Local policies that exceed these standards often create overlapping regulatory regimes and can discourage reinvestment in existing housing stock or the development of new rental units.

Ministerial Approval and Permit Streamlining

State laws such as SB 35 (2017), SB 330 (2019), and SB 423 (2023) already establish ministerial approval and streamlined processing pathways for qualifying housing developments. More recently in mid-2025, the Legislature advanced additional housing and CEQA reforms through AB 130 and SB 131. Taken together, these laws are designed to function in coordination with local Housing Elements and the state's broader housing accountability framework. In that context, we encourage MTC to closely review how TOC's requirements interact with these existing and newly enacted state provisions to avoid unintended overlap, conflicting standards, or added complexity that could undermine shared housing and transportation goals.

Density and Parking Requirements Near Transit

Although replacing the 3-Ps with Housing Element certification would resolve much of the TOC-related overlap, it is important to note that duplication extends beyond affordable housing policies. Several recent state laws now directly govern land use standards near transit, including both density and parking, and advance many of the same objectives as TOC through uniform, statewide requirements.

SB 79, enacted in 2025, establishes statewide minimum residential density requirements near major transit stops that must be reflected in local zoning and incorporated into Housing Elements when jurisdictions identify development capacity and suitable sites. Because these requirements are enforceable under state law and already integrated into the Housing Element process, they will shape how cities plan for growth near transit regardless of regional policy. Ensuring that TOC is aligned with SB 79 will help avoid redundancy and support a more coherent regulatory framework.

TOC's policies related to parking minimums and maximums similarly overlap with state law. AB 2097, which took effect in 2023, prohibits local governments from imposing minimum parking requirements on most developments within ½ mile of major transit stops. This statewide prohibition already removes parking minimums as a regulatory barrier to transit-oriented development and is incorporated into Housing Elements by default. In contrast, the state has deliberately avoided establishing mandatory parking maximums, reflecting an understanding that rigid caps can undermine project feasibility, complicate financing, and fail to account for wide variation in local conditions. Where parking maximums have appeared in state law, such as under SB 35, they are used only as an optional incentive tied to streamlined approval and set at levels (one space/unit) that preserve flexibility rather than constrain it. TOC's much lower maximums in tiers 1 and 2 therefore raise concerns about imposing inflexible standards in an area where the state has chosen a more measured approach.

Strict parking maximums also risk undermining equity goals by limiting mobility for lower-income households who may rely on vehicles for work, childcare, and daily needs, even in transit-rich areas. Encouraging transit use is an important objective, but doing so through rigid parking limits tied to affordable housing may place disproportionate burdens on residents with the fewest resources and flexibility to choose transit.

3. Resolve Funding Framework Concerns

Without adequate changes to the TOC Policy, jurisdictions face two undesirable outcomes. Some will simply opt out of funding tied to TOC, concluding that the cost and complexity of compliance outweigh the benefits. This would concentrate transportation funding in a small number of jurisdictions already positioned to comply, reducing regional equity and transportation access. Others may rush to adopt ill-fitting or counterproductive policies or even pass additional costs on to housing providers or taxpayers, solely to maintain eligibility. This would undermine housing production viability and create conflicts with state-approved Housing Elements. Neither outcome advances regional transportation or housing goals.

Replacing the 3-Ps with Housing Element certification would move the TOC Policy toward a more incentive-based and flexible framework. It would allow cities to demonstrate meaningful progress while accounting for differences in geography, capacity, and other local conditions.

Next Steps

We urge you to replace the TOC Policy's 3-Ps requirements with Housing Element certification and consider adjustments throughout the Policy that would bring it into alignment with state law. Regardless of the final structure, TOC cannot be used in its current form to determine eligibility for OBAG 4 funding

without posing a serious risk to housing development and critical transportation investments. By making these changes, MTC would preserve the TOC Policy while transforming it into a more constructive framework that protects regional transportation funding while fostering real, lasting progress on the Bay Area's housing crisis.

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

Sincerely,

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