



**Metro**

Los Angeles County  
Metropolitan Transportation Authority

One Gateway Plaza  
Los Angeles, CA 90012-2952

213.922.2000 Tel  
metro.net

**JANUARY 6, 2017**

**TO: BOARD OF DIRECTORS**

**THROUGH: PHILLIP A. WASHINGTON** *Paw*  
**CHIEF EXECUTIVE OFFICER**

**FROM: THERESE MCMILLAN** *TMC*  
**CHIEF PLANNING OFFICER**

**SUBJECT: NEW FEDERAL GUIDANCE ON AFFORDABLE HOUSING AND  
JOINT DEVELOPMENT**

### ISSUE

On November 28, 2016 the CEO sent a letter (Attachment A) to Carolyn Flowers, Acting Administrator of the Federal Transit Administration (FTA) requesting that the FTA issue a clarification to its regional offices, that covenanted affordable housing units can be considered a community service/benefit pursuant to the FTA Joint Development Circular and "fair share of revenue" requirements. This clarification will facilitate transit agencies providing a discount to the ground lease or disposition price for land purchased with federal funds, and therefore address financing gaps for affordable housing developed through Joint Development programs. This Board Box is to report that the FTA issued the clarification in its Federal Register, Volume 81, dated December 29<sup>th</sup> (Attachment B).

### DISCUSSION

As part of its commitment to creating Transit Oriented Communities, in March 2015 the Metro Board directed staff to develop a series of affordable housing policies, including exploring offering a discounted ground lease to developers of Joint Development projects offering covenanted units affordable at 60% of area median income or below. In order to provide this discount, Joint Development staff sought a clarification from our FTA regional office that affordable housing units would qualify for a discount of the FTA-required "fair share of revenue" criteria for determining an allowable ground lease or disposition price for land purchased with federal funds. Metro received approval from our regional office to proceed, and our affordable housing policies have become a national model for transit agencies committed to supporting affordable housing.

Through sharing of best practices with Joint Development teams across the nation, it became clear that FTA Regional Office acknowledgment of affordable housing as a community benefit is a critical step toward creating joint development programs that encourage affordable housing; however there was no guarantee that each Regional

Office would come to the same conclusion. With support from housing advocates, other transit agencies such as BART and Santa Clara Valley Transportation Authority, and other entities, including Enterprise Community Partners and the State of California's Housing and Community Development Department, Metro took the lead in seeking a clarification to the Joint Development circular that would apply across the nation.

The Federal Register issued on December 29<sup>th</sup> reflects our team's success in this effort.

Attachment A is a copy of the letter sent to the FTA and Attachment B is the Federal Register issuing the clarification.

### **NEXT STEPS**

Staff will continue its work supporting affordable housing through implementing the Board-adopted policies, as well as sharing best practices with colleagues across the United States.

### **ATTACHMENTS**

- A. November 28, 2016 letter to FTA Administrator Carolyn Flowers
- B. Federal Register, Volume 81, December 29, 2016



Los Angeles County  
Metropolitan Transportation Authority

One Gateway Plaza,  
Los Angeles, CA 90012-2952

Phillip A. Washington  
Chief Executive Officer  
213.922.7555 Tel  
213.922.7447 Fax  
washingtonp@metro.net

# Metro

November 28, 2016

Ms. Carolyn Flowers  
Acting Administrator  
Federal Transit Administration

Via email: [Carolyn.flowers@dot.gov](mailto:Carolyn.flowers@dot.gov)

Dear Ms. Flowers,

This letter is to request that the Federal Transit Administration (FTA) issue a clarification to its Regional Offices regarding Section 3.c.(2) of Circular 7050.1, *Guidance on Joint Development*. The section in question allows the “Fair Share of Revenue” criteria for determining an allowable ground lease or disposition sales price for joint developments on FTA-assisted property to be discounted “when a joint development project is a community service or publicly operated facility.” As currently written, this section does not clearly identify affordable housing as a community service or publicly operated facility.

Recently, at the direction of the Los Angeles Metropolitan County Transportation Agency (Metro) Board of Directors and with strong support from me and my executive team, Metro’s Joint Development team explored updating its policy to allow staff to recommend a discounted ground lease for joint development projects that include affordable housing units. Our FTA Regional Office was extremely helpful in vetting and discussing this policy, with the end result that it was agreed that Metro could adopt a policy allowing for a discount for affordable housing “on a case by case basis subject to FTA review and concurrence.” Based on the conversations with our Regional FTA staff and counsel, our staff is currently negotiating several affordable housing projects under the assumption that, to the extent that a discount is justified in the underwriting process, the FTA Regional staff will approve the financial negotiations. That said, it is difficult to promote this policy on an ongoing basis when administrations change, and certainly difficult for transit agencies across the country to consider similar approaches when discretion is left to each FTA Regional Office to interpret the circular.

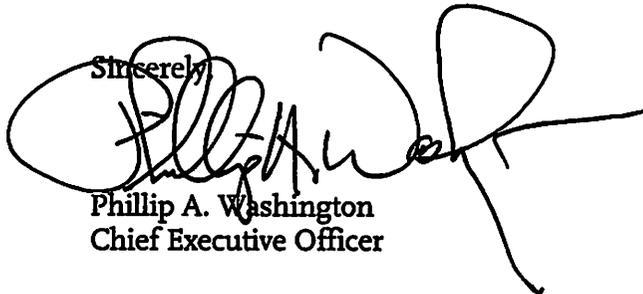
Given that the entire country is facing a housing affordability crisis and that the majority of transit riders are low income households, many transit agencies are seeking to make affordable housing a priority for their Joint Development programs and to provide creative solutions to making these challenging real estate projects financially feasible. In addition, other FTA programs such as New Starts and Ladders of Opportunity acknowledge the importance of affordable housing and serving low income households.

November 23, 2016  
Page 2

To that end, I am asking that the FTA consider issuing a clarification to its Regional offices finding that "Community Service or Publicly Operated Projects" shall also include: "affordable housing, defined as any affordable housing unit funded and regulated by Low Income Housing Tax Credits pursuant to Section 42 of the Internal Revenue Code, or a state housing finance agency." This definition of affordable housing recognizes that there are various funding sources for affordable housing projects, while ensuring that any project allowed a discount or other financial consideration from a transit agency and the FTA will have secure covenants and monitoring to ensure that the affordable units are maintained as affordable.

I appreciate your consideration in this matter and am happy to provide additional information as needed to support your deliberation.

Sincerely,

A handwritten signature in black ink, appearing to read "Phillip A. Washington". The signature is stylized and overlaps the "Sincerely," text above it.

Phillip A. Washington  
Chief Executive Officer

Cc: Kimberly Gayle, FTA  
Dan Schned, FTA

Jh:paw

vision in the better eye continues to meet the requirements in 49 CFR 391.41(b)(10), and (b) by a certified Medical Examiner, as defined by 49 CFR 390.5, who attests that the driver is otherwise physically qualified under 49 CFR 391.41; (2) each driver must provide a copy of the ophthalmologist's or optometrist's report to the Medical Examiner at the time of the annual medical examination; and (3) each driver must provide a copy of the annual medical certification to the employer for retention in the driver's qualification file and retains a copy of the certification on his/her person while driving for presentation to a duly authorized Federal, State, or local enforcement official. The exemption will be rescinded if: (1) The person fails to comply with the terms and conditions of the exemption; (2) the exemption has resulted in a lower level of safety than was maintained before it was granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136(e) and 31315.

**IV. Preemption**

During the period the exemption is in effect, no State shall enforce any law or regulation that conflicts with this exemption with respect to a person operating under the exemption.

**VI. Conclusion**

Based upon its evaluation of the 88 exemption applications, FMCSA renews the exemptions of the aforementioned drivers from the vision requirement in 49 CFR 391.41(b)(10), subject to the requirements cited above (49 CFR 391.64(b)). In accordance with 49 U.S.C. 31136(e) and 31315, each exemption will be valid for two years unless revoked earlier by FMCSA.

Issued on: December 19, 2016.

**Larry W. Minor,**

*Associate Administrator for Policy.*

[FR Doc. 2016-31559 Filed 12-28-16; 8:45 am]

BILLING CODE 4910-EX-P

**DEPARTMENT OF TRANSPORTATION**

**Federal Transit Administration**

[Docket No. FTA-2016-0045]

**Joint Development: Updated Circular**

**AGENCY:** Federal Transit Administration (FTA), DOT.

**ACTION:** Notice of update to joint development circular.

**SUMMARY:** The Federal Transit Administration (FTA) has issued and placed in the docket and on its Web site

updated guidance, in the form of a circular, on joint development projects making use of FTA funds or FTA-funded property. The purpose of the update is to implement recent statutory changes and clarify guidance in FTA Circular 7050.1: *FTA Guidance on Joint Development*. Because the update reflects existing statute and imposes no new requirements on recipients, FTA is not soliciting public comment.

**DATES:** The prohibition on the outfitting of commercial space as part of FTA-assisted joint development projects ended when the Fixing America's Surface Transportation (FAST) Act (Pub. L. 114-94) took effect on October 1, 2015. The policy guidance regarding the "fair share of revenue" for affordable housing as part of FTA-assisted joint development projects will be effective February 13, 2017.

**FOR FURTHER INFORMATION CONTACT:** For policy guidance questions, Daniel Schned, Office of Budget and Policy, Federal Transit Administration, 1200 New Jersey Ave. SE., Room E52-313, Washington, DC 20590, phone: (202) 366-1652, or email, [daniel.schned@dot.gov](mailto:daniel.schned@dot.gov). For legal questions, Christopher T. Hall, Office of Chief Counsel, same address, Room E56-311 phone: (202) 366-5218; or email: [Christopher.Hall@dot.gov](mailto:Christopher.Hall@dot.gov).

**SUPPLEMENTARY INFORMATION:** This notice provides a summary of the updates to Circular 7050.1. The Circular itself is not included in this notice; instead, an electronic version may be found on FTA's Web site, at [www.transit.dot.gov](http://www.transit.dot.gov), and in the docket, at [www.regulations.gov](http://www.regulations.gov). Paper copies of the Circular may be obtained by contacting FTA's Administrative Services Help Desk, at (202) 366-4865.

**Table of Contents**

- I. Overview
- II. Updates to Circular 7050.1
  - A. Outfitting Commercial Space
  - B. Affordable Housing

**I. Overview**

FTA is publishing updates to Circular 7050.1, regarding joint development, that affect: (1) the eligibility of outfitting space for commercial use under the FAST Act; and (2) the "fair share of revenue" for affordable housing as part of FTA-assisted joint development projects.

**II. Updates to Circular 7050.1**

**A. Outfitting Commercial Space**

Section 3002(2)(B) of the FAST Act amended Section 5302 of title 49, United States Code, by striking Section 5302(3)(G)(vi). Section 5302(3)(G)(vi)

had specified that, for the purpose of programs under Chapter 53, a capital project for joint development "does not include outfitting of commercial space (other than an intercity bus or rail station or terminal) or a part of a public facility not related to public transportation."

FTA has determined that the best way to comply with Section 3002(2)(B) of the FAST Act is to strike Section 5, "Ineligible Activities," of Chapter III of Circular 7050.1 and all references to the section.

**B. Affordable Housing**

Section 5302(3)(G)(iii) of title 49, United States Code, requires FTA-funded joint development projects to provide a "fair share of revenue that will be used for public transportation." Prior to the effective date of Circular 7050.1 on October 1, 2014, FTA generally deferred to a project sponsor's assessment of what is a "fair share" of revenue, and did not require any specific amount of transit funding from a joint development project. With Circular 7050.1, FTA determined that a fair share of revenue means that a joint development project must produce revenue for transit at least equal to the Federal Government's initial investment in the joint development. (79 FR 50,728; 50,731-32 August 25, 2014).

At the same time, FTA recognized that the revenue generated by below-market-rate development would be less compared to market-rate commercial, residential, or mixed-use development. So as not to impede these developments, Circular 7050.1 included an exception for joint development projects that are "community service" or "publicly-operated" facilities, thereby exempting them from the minimum fair share of revenue requirement. FTA also acknowledges that many transit agencies have incorporated affordable housing goals into their joint development policies. Similar to community service and publicly-operated facilities, affordable housing also may generate less revenue than market-rate development. Accordingly, FTA will allow the fair share of revenue provided by joint development projects including certain affordable housing to be less than the minimum threshold established in Circular 7050.1.

FTA defines the term "affordable housing" to mean legally binding affordability restricted housing units available to renters with incomes below 60 percent of the area median income or owners with incomes below the area median.

Given that this update of Circular 7050.1 is a direct implementation of a statutory change and imposes no new requirements on grantees, FTA is not soliciting public comment.

Carolyn Flowers,

*Acting Administrator.*

[FR Doc. 2016-31443 Filed 12-28-16; 8:45 am]

BILLING CODE P

---

## DEPARTMENT OF TRANSPORTATION

### Office of the Secretary

[Docket No.: DOT-OST-2016-0203]

#### Advisory Committee on Automation in Transportation Meeting Notice

**AGENCY:** Office of the Secretary, U.S. Department of Transportation (DOT).

**ACTION:** Notice of open committee meeting.

**SUMMARY:** The Department of Transportation is publishing this notice to announce the following Federal advisory committee meeting of the Advisory Committee on Automation in Transportation (ACAT). The meeting is open to the public.

**DATES:** The Committee will meet from 9 a.m. to 12 p.m. EST on January 16, 2017.

**ADDRESSES:** The meeting will be held at 1200 New Jersey Avenue SE., Washington, DC.

**FOR FURTHER INFORMATION CONTACT:** John Augustine, U.S. Department of Transportation, Office of the Secretary, Office of Policy, Room W84-306, 1200 New Jersey Avenue SE., Washington, DC 20590; phone: (202) 366-5437; or Rachael Sack, U.S. Department of Transportation, Volpe National Transportation Systems Center, Room 1-541, 55 Broadway, Cambridge, MA 02142; phone: 617-494-6352; or by email at: [Automation@dot.gov](mailto:Automation@dot.gov).

**SUPPLEMENTARY INFORMATION:** The committee meeting is being held in accordance with the Federal Advisory Committee Act, 5 U.S.C. App.

**Purpose of the Committee:** The purpose of the Committee is to provide information, advice, and recommendations to the U.S. Secretary of Transportation on cross-modal matters relating to the development and deployment of automated vehicles and assess the state of Departmental research, policy and regulatory support within this framework. The committee may convene and determine topics and is assembled around subject areas related to transportation aspects including the safety, mobility, environmental sustainability,

maintaining state of good repair, human impact, data use and cybersecurity.

**Proposed Agenda:** This will be the first meeting of the ACAT. The committee will conduct introductions of members, discuss organizational details and logistics, and discuss automated vehicle research, policy, and regulation. Agenda will be as follows:

- Welcome and Mission of ACAT
- Remarks by U.S. Transportation Secretary Anthony Foxx
- Briefing on FACA Rules and Ethics
- Discussion on Automated Vehicles
- Public Comments

**Public Accessibility to the Meeting:** Pursuant to 5 U.S.C. 552b, as amended, and 41 CFR 102-3.140 through 102-3.165, and subject to the availability of space, this meeting is open to the public. Seating is on a first to arrive basis. Because the meeting of the committee will be held in a Federal Government facility, security screening is required. Attendees are requested to register by submitting their name, affiliation, email address and daytime phone number three business days prior to the meeting by email to: [Automation@dot.gov](mailto:Automation@dot.gov). A photo ID is required to enter the premises. Please note that parking is limited. DOT Headquarters is fully accessible to individuals with disabilities. Wheelchair access is available in front at the main entrance of the building. For additional information about public access procedures, contact John Augustine, the committee's Designated Federal Officer, at the email address or telephone number listed in the **FOR FURTHER INFORMATION CONTACT** section.

**Written Comments or Statements:** Pursuant to 41 CFR 102-3.105(j) and 102-3.140 and section 10(a)(3) of the Federal Advisory Committee Act, the public or interested organizations may submit written comments or statements to the committee in response to the stated agenda of the meeting or in regard to the committee's mission in general. Written comments or statements should be submitted to John Augustine, the committee Designated Federal Officer, via electronic mail, the preferred mode of submission, at the address listed in the **FOR FURTHER INFORMATION CONTACT** section. Each page of the comment or statement must include the author's name, title or affiliation, address, email address and daytime phone number. The Designated Federal Official will review all submitted written comments or statements and provide them to members of the committee for their consideration. Written comments or statements being submitted in response to the agenda set forth in this notice

must be received by the Designated Federal Official at least three business days prior to the meeting to be considered by the committee. Written comments or statements received after this date may not be provided to the committee until its next meeting.

**Verbal Comments or Statements:** Pursuant to 41 CFR 102-3.140d, the Committee is not obligated to allow a member of the public to speak or otherwise address the Committee during the meeting. Members of the public are invited to provide verbal comments or statements during the Committee meeting only at the time and in the manner described below. All requests to speak or otherwise address the Committee during the meeting must be submitted to the committee's Designated Federal Official at least three days prior to the meeting, via electronic mail, the preferred mode of submission, at the address listed in the **FOR FURTHER INFORMATION CONTACT** section. The request should include a brief statement of the subject matter to be addressed by the comment, and should be relevant to the stated agenda of the meeting or in regard to the committee's mission in general. The Designated Federal Official will log each request in the order received. A 30-minute period will be available for verbal public comments, if time allows. Members of the public who have requested to make a verbal comment will be allotted no more than two minutes, and will be invited to speak in the order in which their requests were received by Designated Federal Official.

**Minutes:** The minutes of this meeting will be available for public review and copying within 90 days at the following Web site: [www.transportation.gov/acad](http://www.transportation.gov/acad).

Issued in Washington, DC, on December 23, 2016.

Anthony R. Foxx,

*U.S. Department of Transportation Secretary.*

[FR Doc. 2016-31668 Filed 12-28-16; 8:45 am]

BILLING CODE 4910-9X-P

---

## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

#### Proposed Collection; Comment Request for Form 4422

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Notice and request for comments.

**SUMMARY:** The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and