

FAQ: CIVIL RIGHTS IN TRANSIT
WHY DID THE FEDERAL GOVERNMENT HOLD UP
THE OAKLAND AIRPORT CONNECTOR PROJECT?

What civil rights law and U.S. Dept. of Transportation rules laid the basis for the action?

Title VI of the 1964 Civil Rights Act bars recipients of federal funds from intentionally discriminating against people on the basis of “race, color or national origin.” The rules made by the U.S. Dept. of Transportation to enforce Title VI go a step further. DOT will not fund any program that has a discriminatory impact, or that excludes people “of a particular race, color or national origin” from the benefits of the program. The 1994 Presidential Executive Order on Environmental Justice extends these protections to low-income communities, as well as communities of color.

What is an “equity analysis”?

BART is subject to DOT’s civil rights rules because it is relying on the Federal Transit Administration to help fund the Oakland Airport Connector. To comply, it would need to take several steps, which include considering the effects of service changes and fare hikes on low-income communities of color, and studying alternatives available for people affected by the fare increases or service changes. These steps are called the “equity analysis.” The purpose of such an analysis is to determine if the project would have a discriminatory effect on protected communities, either by providing them with less than their fair share of the project’s benefits, or by imposing an unfair share of its burdens on them.

The FTA found that BART did not make a proper equity analysis of the Airport Connector project.

Who would be affected by the Connector project?

In the complaint it filed with the FTA, the non-profit law firm Public Advocates noted two majority “minority” low-income neighborhoods within a half-mile of the Connector: North of BART, with 98% “minority” residents, 33.4% low-income, and Columbia Gardens, 97% “minority” and 25% low-income. The area also employs thousands of low-wage workers: around 1,620 at Oakland Airport, and others in the new hotels and the Wal-Mart near the airport.

Some 46% of BART riders are white, with less than 13% earning under \$25,000 per year. Almost one-third of all AC Transit bus riders earn less than \$25,000 per year, and almost 80% are people of color.

“Situated in an East Oakland community with a very high minority and low-income population, the OAC will traverse a corridor with many low-wage jobs that employ local residents, yet it will apparently be built without any intermediate stops. Even if such stops were added in the future, its extremely high fare will exclude low-income riders from the delayed benefits of the new service,” Public Advocates wrote.

What's new here?

The FTA became the first agency to hold up federal stimulus funds because an applicant didn't follow civil rights rules.

With this action, the agency shed new light on a persistent problem. Though people of color no longer literally sit at the back of the bus, low-income and minority transit users still get shoved to the back of the line when transit funding is handed out. For example, the Metropolitan Transportation Commission (MTC), which controls the distribution of federal and state transit dollars in the nine-county area around the San Francisco Bay, consistently favors funding for rail while shortchanging bus systems. Its \$13 billion transit expansion program dedicates 94 percent of the project costs to rail, while buses receive only 4 percent.

This adverse treatment falls mostly on transit-dependent riders. Nearly 60% of AC Transit riders depend exclusively on the bus, while 80% of BART riders and 83% of CalTrain riders own cars. (See *Race, Poverty & the Environment*, on line at <http://urbanhabitat.org/node/313>.) Being dependent on buses with long waits, long walks and long trips hampers people's access to jobs, services, childcare and recreation, marring the quality of life on every front.

Public Advocates, Communities for a Better Environment and others filed a Title VI civil rights suit against the MTC in 2005 over the disparities between bus and rail funding. The case, *Darensburg v. Metropolitan Transportation Commission*, is before the 9th U.S. Circuit Court of Appeals. Previously, the Los Angeles Bus Riders Union had won a Title VI consent decree against LA MTA, based on a suit asserting that bus riders of color were on the short end of the stick when it came to transit service improvements.

To see a copy of the Title VI complaint filed by Public Advocates on behalf of Urban Habitat, Genesis and TransForm, go to www.urbanhabitat.org/tj/campaigns/oac/1-20-10 or www.publicadvocates.org.

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