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New Starts:

Leveraging the New Transit Policy Guidance to Create Inclusive Communities of Opportunity

By Michael A. Spotts | August 2013

At a Glance:

- On August 14, 2013, the Federal Transit Administration (FTA) released the *Policy Guidance for the New Starts program* after a lengthy public rulemaking process. The New Starts program is the primary federal funding source for new transit investments.
- Enhanced transit service can increase mobility and economic opportunity as well as contribute to community revitalization. However, these positive effects can lead to significant housing price increases, making neighborhoods less affordable to low- and moderate-income families.
- It is important to preserve and develop affordable housing in affected communities in order to prevent displacement and ensure that people of all incomes can benefit from transit investments. Throughout the FTA rulemaking process, Enterprise Community Partners, Inc. (Enterprise) and its partners submitted detailed comments on best practices for coordinating transit, affordable housing and community development investments.
- The FTA's final Policy Guidance reflects many of these comments. Moving forward, the rating system for evaluating proposals for new transit expansions will include incentives to expand transit access to low-income communities, preserve existing affordable housing in transit corridors and develop additional affordable units near new transit stations.
- To remain competitive under the new system, local and regional policymakers, transit agencies, metropolitan planning organizations, and the affordable housing field should proactively coordinate plans, policies, tools and investments. Examples of successful planning for transit-oriented affordable housing and community development can be found throughout the country, including Denver, San Francisco, Atlanta and Seattle.

Background Information

The relationship between transit service and the surrounding land use is widely recognized by the transportation and planning fields, despite the fact that the decision-making authority for these factors generally lies with separate government agencies.[1] Some level of coordination between transportation planning organizations and local governments is necessary to ensure that development around a new transit line is sufficient to support efficient operations of the system. However, Enterprise and its partners believe it is necessary to expand the conversation beyond the density and use of the surrounding land in order to ensure equitable transit access and mitigate unintended negative effects of these investments.

Transit service is crucial to accessing jobs, health services and other everyday necessities for many low-income workers and families, and new transit expansions can enhance personal mobility. In addition, transit investments and other infrastructure projects can contribute to increased economic development and neighborhood change in surrounding areas. Investment in these communities can have significant revitalization effects in previously disinvested areas, with property values near new station areas often rising. However, the positive impact of new transit services can be diminished if rising housing costs make the area too expensive for low- and moderate-income households (and current residents in particular) who stand to benefit the most from these investments in transit and neighborhoods. In addition to the overall housing price appreciation and potential redevelopment of market-rate housing, private owners of subsidized housing may choose not to renew their subsidy contracts and instead convert the property to market rate to maximize profits. These factors may increase low- and moderate-income residents' housing costs and potentially lead to displacement. Therefore, it is imperative that policymakers consider housing affordability when making decisions about transit.

[1] For example, transportation decisions may be made by metropolitan planning organizations, transportation departments and/or transit agencies. Land use decisions are generally made by the planning departments of local governments.

Transit Investments and the Livability Principles

The FTA drew on the Livability Principles (developed by interagency Partnership for Sustainable Communities) in revising its evaluation framework:

- Provide more transportation choices
- Promote equitable, affordable housing
- Enhance economic competitiveness
- Support existing communities
- Coordinate and leverage federal policies and investments
- Value communities and neighborhoods

In 2010, the Federal Transit Administration (FTA) began the process of revising the rules and guidance for the Major Capital Investment Projects program, which is more commonly known as New Starts.[2] This program is the primary federal funding source for new transit investments. The rulemaking revised the framework for the program's competitive evaluation and ratings system in order to more explicitly address the wide range of benefits that transit investments provide (see sidebar). Throughout the process, Enterprise and its partners in the affordable housing and community development industry submitted several detailed public comment letters that promoted the coordination of affordable housing and community development activities with new transit investments.[3]

FTA released the Final Rule for the New Starts program (49 CFR Part 611) in January 2013 and detailed Policy Guidance in August 2013.[4] The rule and guidance reflect many of our recommendations. In particular, four separate rating categories include provisions related to providing transportation benefits to low- and moderate-income households. Moving forward, the evaluation system for potential grantees will include incentives to expand transit access to low-income communities, preserve existing affordable housing and develop additional affordable units near new stations. As the first federal transportation program to explicitly address affordable housing, these changes to the New Starts program represent a significant breakthrough.

The new guidance has important implications for both the transit and affordable housing fields. New Starts funding is highly competitive, and applicants to the program (referred to as project sponsors) now have a strong incentive to work with both local policymakers and housing stakeholders to coordinate plans, policies, tools and investments. At the same time, local housing stakeholders now have a built-in opportunity to engage their local transportation entities in a productive dialogue.

This brief analyzes the affordable housing- and community development-related provisions in the revised evaluation framework for the New Starts program while providing recommendations to the housing and transit fields on maximizing the benefits of these changes.

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[2] Major Capital Investment Projects program also includes a subset called Small Starts, which provides funding for smaller scale projects.

[3] For additional details on specific comments offered and the partner organizations involved, visit the Enterprise Testimony and Public Comment webpage.

[4] In 2012, a new surface transportation reauthorization law was adopted, commonly known as MAP-21. The final rule and policy guidance do not address the elements of the New Starts program that require a public comment/rulemaking process under that law.

Together, the Land Use and Mobility Improvements rating factors help project sponsors ensure their plans reach lower-income households.

New Starts Evaluation Framework Overview

The FTA uses a five-level rating system (Low, Medium-Low, Medium, Medium-High, High) for its analysis of proposed projects. A project sponsor's overall rating is derived from separate, equally weighted assessments of the Project Justification and Local Financial Commitment criteria. All affordable housing-related project elements are covered under the Project Justification criterion, which is further broken down into six rating factors, all equally weighted:

- Congestion Relief
- Cost Effectiveness
- Economic Development Effects
- Environmental Benefits
- Land Use
- Mobility Improvements

Applicants must score a medium on both the Project Justification and Local Financial Commitment criteria to be considered for funding.

Affordable Housing and Community Development – Related Evaluation Criteria

The FTA will assess a proposal's impact on low- and moderate-income families in several ways. First, the FTA will analyze the degree to which the planned project will reach existing lower income and transit-dependent populations:

- As part of the *Land Use* rating factor, the FTA will assess the proportion of existing "legally binding affordability restricted" housing within ½-mile of proposed station areas to the proportion of "legally binding affordability restricted" housing in the counties through which the project will travel.[5]

- The *Mobility Improvements* rating factor assesses the number of incremental trips taken on the proposed project, and assigns additional weight to "transit-dependent persons."[6]

The combination of these two assessments provides a meaningful incentive for project sponsors to ensure that the planned project reaches lower income households from the outset. Due to the highly competitive

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[5] See Appendix for definition of "Legally Binding Affordability Restricted Housing."

[6] The FTA definition of "transit-dependent persons" depends on the forecasting model used by the project sponsor. It may be either (a) a person in a household that does not own a car, or (b) a person who falls in the locally-defined lowest income bracket.

The Economic Development Effects assessment provides an opportunity for transit agencies to establish policies and enter into partnerships that promote affordable housing and community development.

nature of the New Starts program, project sponsors who do not directly address these elements will be at a significant competitive disadvantage.

While the *Land Use* assessment provides a snapshot of the types of neighborhoods the project will reach, the *Economic Development Effects* rating factor addresses the neighborhood change that often accompanies transit investments. The FTA will assess the "plans and policies to maintain or increase affordable housing" in the project corridor. The FTA will consider the level of developer activity in the corridor, as well as the extent to which the project sponsor has coordinated with local policymakers housing agencies, and the development community to:

- Evaluate corridor-specific housing needs and the existing affordable housing stock
- Adopt plans, policies, and financial tools designed to both preserve the existing affordable housing stock and develop new affordable units
- Promote activities that support long-term affordability and address the needs of very- and extremely-low-income households

In addition, the *Economic Development Effects* assessment of "tools to implement transit-supportive plans and policies" encourages project sponsors to establish and implement a joint development program. Joint development refers to development of property purchased with FTA funds. Residential development, including affordable housing, is an eligible type of joint development. This provides an opportunity for transit agencies to establish policies and enter into partnerships that promote affordable housing and community development as part of these projects.

Finally, the New Starts Final Rule and Policy Guidance removed a barrier to incorporating project elements related to sustainability and affordable housing. Previously, the *Cost Effectiveness* rating factor assessed the total project costs against a measure of mobility benefits provided by the project. By this standard, any project element that added cost but did not directly and measurably increase the number and length of trips on the new project reduced its competitiveness. The new evaluation framework provides a list of project elements, defined as "enrichments." FTA will exclude at least a portion of the cost of enrichments from the cost effectiveness calculation, thus removing the disincentive to incorporate such elements.[7] The list of enrichments includes sustainability-related project features, such as energy-efficiency measures, as well as the incremental costs of joint development.

[7] Enrichments are defined as "improvements to the transit project that are desired by the project sponsor but are non-integral to the planned functioning of the project, and whose benefits are not captured in whole by the criteria."

The New Starts program will remain highly competitive for the foreseeable future due to budget constraints.

Making the Most of the New Guidelines to Support Equitable Transit-Oriented Development (TOD)

The aforementioned rule changes will significantly impact communities that are considering starting or expanding their transit systems. The amount of New Starts funding requested exceeds the amount available, and given budget constraints the program will remain highly competitive for the foreseeable future. This means that project sponsors have a strong incentive to score highly on the affordable housing-related rating factors. Local and regional housing practitioners also have a strong incentive to engage in the transit development process to help ensure access to transit-oriented housing for the families they serve. Therefore, it is important for the relevant stakeholders to work together to create a holistic vision and implementation plan for the affected areas.

Effective collaboration is not always easy. Professionals versed in transit programs must become more familiar with the workings of the affordable housing industry, and vice-versa. Therefore, the first step is to identify the right people to participate and engage. The following is a non-exhaustive list of stakeholders that will likely need to be involved in these discussions:

- *Metropolitan planning organizations (MPOs)* – As the regional entity that conducts long-term planning for the overall transportation system and allocates scarce federal transportation resources, MPOs are well placed to convene working groups that cross jurisdictional boundaries and lead comprehensive planning efforts. In some cases, they can also provide financial resources to support TOD that are not tied to a specific municipality (see sidebar).

- *Transit agencies* – If the transit agency is also the project sponsor, it is ultimately responsible for meeting the standards set in the evaluation framework. Along with the MPOs and local governments, it determines where the transit line will go and who it will reach. The transit agency is also responsible for developing policies related to joint development, which can facilitate equitable TOD.

- *Local government officials and land use planning agencies* – Transit projects generally require local approval and funding. Local officials and planning staff often bear the responsibility of developing and implementing transit-supportive plans and policies, such as allowing greater density near transit and identifying affordable housing needs and opportunities. Local officials can support equitable TOD by directing resources for that purpose and introducing inclusionary zoning requirements, among other actions.

Coordination in Action

Even before the FTA rule changes, regions throughout the country have been working to coordinate transit and affordable housing investments:

- The Denver TOD Fund combines public and private resources to provide acquisition financing for affordable TOD projects. The fund has created a pipeline of 625 permanently affordable, transit-oriented homes plus supportive nonprofit and commercial space.
- The Denver region features the Mile High Connects partnership of regional stakeholders committed to "housing choices, good jobs, quality schools and essential services."
- The Metropolitan Transportation Commission invested $10 million to help create the Bay Area Transit-Oriented Affordable Housing Fund, which leveraged $40 million in additional capital.
- Atlanta's BeltLine initiative includes a goal of developing or preserving 5,600 affordable units, funded by a program that sets aside 15 percent of revenues for the BeltLine Affordable Housing Trust Fund.
- When disposing of surplus property, King County, Wash. gives priority to developers who plan to incorporate affordable housing into their project.

- *Local and state housing agencies/departments* – State housing finance agencies, public housing authorities and local housing departments can contribute from the outset by providing data on the location of existing affordable housing to the project sponsor. These agencies should also be deeply involved in planning activities for transit-supportive development. To facilitate implementation, they can prioritize transit-oriented projects in their funding decisions.
- *Private affordable housing developers* – TOD projects can be complex, as developers often must deal with significant infrastructure needs, site requirements, and a lengthy transit construction process, among other factors. In order to preserve and develop affordable housing near transit, the affordable housing development sector needs to have the capacity to undertake these types of projects.
- *The financial community* – Development activity cannot occur without financial resources. Lenders and investors of all types (public, private and philanthropic) can contribute by providing capital for TOD. Flexible financing terms are particularly important for complex TOD deals.

Other groups that should be involved include local housing advocates, community groups, the local business community, and social service providers, among others. The collaboration structure may vary; for example, some regions may opt to set up a formal council or organization, while others may choose to set up strategic partnerships centered on specific issues.

Key Takeaways and Next Steps

As regions move forward with transit projects and work to meet the FTA's standards, we urge them to give special consideration to the following principles:

- Coordination can be time-intensive, and property values may begin to increase (and affordability decline) early in the planning stage as a result of speculation. Therefore, ***timely engagement is crucial.***
- Focusing on the affordability of new development is not enough. ***Preservation of existing affordable housing (both subsidized and market rate) is necessary*** to avoid additional cost burden and potential displacement for current low- and moderate-income residents.
- Transit projects are meant to last for decades. To ensure that neighborhoods stay affordable, it is important to ***focus on long-term affordability.***

- Finally, local stakeholders should strive for inclusive communities that ***provide housing opportunities for vulnerable populations, including seniors, people with disabilities and people with very- and extremely-low incomes.*** These households often face mobility challenges and can greatly benefit from access to public transportation.

Enterprise commends the FTA for the important steps it has taken to promote the creation of communities of opportunity for people of all incomes. We stand ready to work with our partners throughout the country to assist them in meeting these new standards and implementing transit-oriented affordable housing and community development activities. Visit our TOD Program and Policy websites to learn more about our efforts in Transit-Oriented Development.

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Appendix: Definitions and Scoring Criteria

Definition of Legally Binding Affordability Restricted Housing

"A legally binding affordability restriction is a lien, deed of trust or other legal instrument attached to a property and/or housing structure that restricts the cost of housing units to be affordable to households at specified income levels for a defined period of time and requires that households at these income levels occupy these units. This definition, includes, but is not limited to, state or federally supported public housing, and housing owned by organizations dedicated to providing affordable housing. For the land use measure looking at existing affordable housing, FTA is seeking legally binding affordability restricted units to renters with incomes below 60 percent of the area median income and/or owners with incomes below the area median that are within ½ mile of station areas and in the counties through which the project travels."

Scoring Criteria for Affordable Housing Provisions under Land Use Criterion

Rating	**Proportion of legally binding affordability restricted housing in the project corridor compared to the proportion in the counties through which the project travels.**
High	Greater than 2.50 (i.e., the areas within ½ mile of the proposed stations have 2.50 times as much affordable housing than in the surrounding counties)
Medium-High	2.25 – 2.49
Medium	1.50 – 2.24
Medium-Low	1.10 – 1.49
Low	Less than 1.10

Scoring Criteria for the Affordable Housing Provisions under the Economic Development Effects Criterion

Project Stage – New Starts Full Funding Grant Agreement/Small Starts Construction Grant Agreement

Rating: High

- Comprehensive affordable housing plans have been developed and are being implemented that identify and address the current and prospective housing affordability needs along the corridor. The plans include efforts to preserve existing affordable housing (both legally binding affordability restricted housing and market-rate affordable housing). The plans also explicitly address the housing affordability and quality needs of very- and extremely-low income households.
- Financing commitments and/or sources of funding and robust financial incentives are secured and available at the local and/or regional level and along the proposed corridor to support affordable housing acquisition (including acquisition of land and/or properties intended to be converted to affordable housing), development and/or preservation consistent with adopted plans and policies. These commitments may include early phase or acquisition financing as well as permanent financing.
- Local policies and zoning codes support and encourage significant affordable housing development in transit corridors.
- Developers are actively working in the corridor to secure priority development sites and/or maintain affordability levels in existing housing units.

Rating: Medium

- Affordable housing plans have been developed and are being implemented that identify and address the current and prospective housing affordability needs along the corridor. The plans include efforts to preserve existing subsidized housing. The plans also explicitly address the needs of very- and extremely-low income households.
- Some financial incentives are available along the proposed corridor to support affordable housing acquisition (including acquisition of land and/or properties intended to be converted to affordable housing), development and/or preservation consistent with adopted plans and policies. These commitments may include early phase or acquisition financing as well as permanent financing.
- Local policies and zoning codes support affordable housing development in and near transit corridors to a moderate extent.
- Developers are starting to work in the corridor to secure priority development sites and/or maintain affordability levels in existing housing units.

Rating: Low

- Affordable housing plans and policies are in development or non-existent, or fail to address key elements such as length of affordability, preservation of existing affordable housing, and the needs of very- and extremely-low income households.
- Little or no financial incentives are available to support affordable housing development and preservation.
- Local policies and zoning codes support only limited affordable housing development in and near transit corridors.
- There is little or no affordable housing development/preservation activity in the corridor.

Project Stage – Engineering

Rating: High

- Plans and policies are in place in most of the jurisdictions covered by the project corridor that identify and address the current and prospective housing affordability needs along the corridor. The plans outline a strategy to preserve existing affordable housing (both legally binding affordability restricted housing and market-rate affordable housing). The plans also explicitly address the housing affordability and quality needs of very- and extremely-low income households.

- Financing commitments and/or sources of funding and robust financial incentives are identified and secured to support affordable housing acquisition (including acquisition of land and/or properties intended to be converted to affordable housing), development and/or preservation consistent with adopted plans and policies. These commitments may include early phase or acquisition financing as well as permanent financing.

- A strategy is in place to encourage jurisdictions to adopt local policies and zoning codes that support and encourage affordable housing development in transit corridors.

- Developers are actively working in the corridor to secure priority development sites and/or maintain affordability levels in existing housing units.

Rating: Medium

- Affordable housing plans are being prepared in most of the jurisdictions covered by the project corridor that identify and address the current and prospective housing affordability needs along the corridor. The plans outline a strategy to preserve existing affordable housing (both legally binding affordability restricted housing and market-rate affordable housing). The plans also explicitly address the housing affordability and quality needs of very- and extremely-low income households.

- Some financing commitments and/or sources of funding and have been identified and secured to support affordable housing acquisition (including acquisition of land and/or properties intended to be converted to affordable housing), development and/or preservation. These commitments may include early phase or acquisition financing as well as permanent financing.

- A strategy is in place to encourage jurisdictions to adopt local policies and zoning codes that support and encourage affordable housing development in transit corridors.

- Developers are starting to work in the corridor to secure priority development sites and/or maintain affordability levels in existing housing units.

Rating: Low

- Plans and policies are not in place or being prepared that identify and address the specific housing affordability needs along the corridor.

- Financing commitments and/or sources of funding have not been identified and secured to preserve and/or build new affordable housing consistent with adopted plans.

- There is no strategy to encourage jurisdictions to adopt land use policies and zoning codes that support and encourage affordable housing development in transit corridors.

- There is little or no affordable housing development/preservation activity in the corridor.

Ratings are based on assessment of the following:

- Evaluation of corridor-specific affordable housing needs and supplies.
- Plans and policies to preserve and increase affordable housing in region and/or corridor.
- Adopted financing tools and strategies targeted to preserving and increasing affordable housing in the region and/or corridor.
- Evidence of developer activity to preserve and increase affordable housing in the corridor.
- The extent to which the applicant's activities promote long-term affordability and the needs of very- and extremely-low income households.