



# Equipping Communities to Achieve Equitable Transit-Oriented Development

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## Introduction

Transit-oriented development (TOD) is uniquely positioned to positively impact low- and moderate-income (LMI) communities: it can connect workers to employment centers, create jobs, and has the potential to spur investment in areas that have suffered neglect and economic depression. Moreover, TOD reduces transportation costs, which can have a greater impact on LMI households since they spend a larger share of their income on transportation relative to higher-income households. This frees up household income that can be used on food, education, or other necessary expenses. Low-income people are also less likely to own personal vehicles and therefore more likely to depend exclusively on public transportation to get to and from work, making reliable access to transit a necessity for their economic success.

Most TOD projects, however, do not focus on LMI communities—the population that stands to benefit the most from increased access to transit. In fact, many TODs target

upper-income communities and seek to capitalize on the recent revival in urban living. In some cases, TOD can price LMI residents out of their neighborhoods and push them farther away from jobs and transit, since in order for a TOD to be successful, it will necessarily increase land and housing costs. When this happens, instead of benefitting LMI residents, TOD projects can have the opposite effect, dramatically disrupting low-income neighborhoods.<sup>1</sup>

Nonetheless, there are several tools and strategies that can help mitigate the potential negative impacts of TOD and maximize the benefits for LMI communities. Community development professionals, city officials, and advocates can use these anti-displacement tools and strategies to ensure that low-income residents can remain in their neighborhoods and enjoy the benefits of TOD. Through case studies, this article examines three types of strategies that communities can employ to ensure that equity concerns are integrated into TOD. The article explores the

advantages and challenges of utilizing TOD funds, non-profit developers, and community benefits agreements as tools to promote equitable TOD.

### **Denver's TOD Fund: Financing Affordable Housing over the Long Term**

In 2004, Denver-area voters approved a massive public investment in the region's transit system. When completed, the expansion will add 119 miles of new rail and 70 stations throughout the region, including 36 light rail stations in Denver, and will cost an estimated \$6 billion. Recognizing a unique opportunity to leverage this investment for urban redevelopment, the City of Denver has embarked on an ambitious strategy to finance and preserve affordable housing around the light rail stations.

Leading this effort is the Office of Economic Development (OED). Unlike many city economic development agencies which focus primarily on attracting businesses through incentives, Denver's OED is also responsible for managing all of Denver's affordable housing programs. This expanded portfolio of responsibilities provides the agency with direct knowledge of low-income communities and their concerns, and requires that the Department incorporate these concerns into its development strategies. "As an economic developer, I know that when we are growing the economy, we run the risk of displacement and gentrification," explained Andre Pettigrew, Denver's Director of Economic Development. "We have to be cognizant of making sure that we have a diversity of housing and employment options," he added.

With the expansion of regional transit, OED anticipated that the new investments had the potential to displace LMI residents. At the same time, they recognized the opportunity to improve the affordability of the Denver region by lowering the costs of transportation. Working with the MacArthur Foundation, the City of Denver decided to establish a unique TOD Fund, which would provide a new financing mechanism allowing for the acquisition and preservation of affordable housing along existing and new transit corridors. The City dedicated \$2.5 million to the Fund to match MacArthur's grant of \$2.25 million.

The TOD Fund has since grown to \$15 million due to new partners that have joined the project. Other investors in the Fund include U.S. Bank, Wells Fargo, Colorado Housing and Finance Authority, Rose Community Foundation and the Mile High Community Loan Fund. Two additional investors are key to the TOD Fund's success. Maryland-based Enterprise Community Partners serves as the financial manager of the Fund. The Urban Land Conservancy (ULC), a local Denver non-profit, acts as the sole borrower of the Fund and oversees land purchases. The OED is also leveraging federal funds, including the Neighborhood Stabilization Program (NSP), to maximize

the Fund's impact. "We are trying to make sure that in our neighborhoods, our NSP dollars work with our TOD Fund to get the ultimate leverage," said Mr. Pettigrew.

Over the next ten years, the TOD Fund's goal is to create or preserve 1,200 units of affordable housing located within one-half mile of rail stations and one-quarter mile of bus stops. The ULC will target three types of properties: existing federally-assisted rental properties; existing unsubsidized but below-market rate rental properties; and vacant or commercial properties to be converted to new affordable housing.

One challenge that the Fund will face relates to affordable units that may soon lose their subsidies. A recent study found that many federally assisted housing units located near transit are covered by contracts set to expire in 2012, at which point they would revert to market-rate rentals.<sup>2</sup> The Fund addresses this challenge by permitting the ULC to hold properties for up to five years, which allows time to secure long-term subsidies for affordable housing.

Currently, the biggest challenge for Denver is coping with the effects of the economic recession. Mr. Pettigrew concedes that there is a risk in committing a substantial amount of city funding to a specific project at a time when the city is cutting budgets and laying off workers. In fact, some members of the public questioned the timing of the project and its overall merit. Fortunately, the Fund had a strong ally in the City's Mayor, John Hickenlooper, who was able to provide the leadership to articulate the necessity of making this investment. It is also possible to view the recession as an opportunity to invest up front in the provision of affordable housing for the future. The recent decline in house prices means the Fund should be able to purchase more than they could have during the housing boom. At the same time, the recession has pushed Denver to be more strategic. "We are very mindful that we have to get the most out of these funds because there's just not that much money for this anymore," said Mr. Pettigrew.

Denver's success in launching a TOD Fund may not be replicated as easily in other cities. Denver has a long history rooted in regionalism. As the urban anchor, Denver has reached out and partnered with its suburban neighbors, which helped the success of the TOD Fund since several stations are located at the border between Denver and other cities. In addition, Denver's regional economy is in a period of consistent growth. As Mr. Pettigrew explained, "These significant public sector investments are triggering a level of business expansion and corporate attraction that is setting us apart." In addition, there are inherent challenges to building large coalitions, such as the one required to create the TOD Fund, since it can be difficult to bring groups together, redefine roles, and build trust simultaneously. Mr. Pettigrew suggested that in some cases,

"it could be valuable to bring a third-party facilitator to get people in the right problem-solving and sharing mode."

Still, other regions are looking toward Denver's TOD Fund as a model for coping with the need to preserve affordable housing around TOD. For example, the San Francisco Foundation, in partnership with Reconnecting America and the Nonprofit Housing Association of Northern California, is leading an initiative to create a property acquisition loan fund to facilitate affordable housing development around transit hubs in the Bay Area. The fund has received a commitment of \$10 million from the Metropolitan Transportation Commission and will be managed by The Low Income Investment Fund and its CDFI partners. Heather Hood, Initiative Officer, Great Communities Collaborative at The San Francisco Foundation said, "At a time when land values are depressed and lending is scarce, especially for affordable housing, this fund can serve a critical role as 'patient capital' for affordable TOD while city housing budgets, redevelopment agencies, the credit markets and bond institutions recover."

### Fruitvale Village: Nonprofit Led TOD

While Denver's case study demonstrates a tool for encouraging equitable development around new investments in transportation, an equally important challenge is shaping redevelopment around existing transit stations. Fruitvale Village, located in Oakland, CA, provides an

example of how local nonprofits can promote community development around transit stations and integrate affordable housing, commercial space, and social services with public transportation in a way that benefits local residents.

The Unity Council, a social-service and community advocacy agency, developed the Fruitvale Village project as part of their work promoting economic development in Fruitvale, a neighborhood they have stewarded since the 1960s. The BART regional rail system stops near the center of Fruitvale, which is also a major bus transfer center for the area. Home to the city's largest Latino population, Fruitvale is the most densely populated neighborhood in Oakland. As of the 2000 Census, half of Fruitvale residents earned less than \$30,000 annually.

In 1991, BART announced plans to construct a multi-level parking garage next to the Fruitvale station to serve commuters. While residents agreed that a garage was needed, they disagreed with BART's design proposal. Jeff Pace, the COO of the Unity Council, characterized the parking proposal as a "sort of apartheid that would divide the neighborhood." To identify possible alternative plans, the Unity Council held community charrettes—meetings in which residents met with the architects and planners to discuss different visions for the community.

Through the workshops, the Unity Council asked residents to identify strengths and weaknesses of their neighborhood and develop broad goals for the project.

*Fruitvale Village, located in Oakland, CA, integrates housing, retail, social services and public transportation*

*Photo credit: www.neighborhoods.org*



Workshop participants emphasized that the development should provide affordable housing, create jobs, and bring amenities and services to the neighborhood.<sup>3</sup> Based on the outcomes of the charrettes, the Unity Council proposed a mixed-income housing and jobs center that would support small businesses. "And we wanted it to be beautiful," Mr. Pace added, "so it was something the community could be proud of."

By 1995 the Unity Council, BART, and the City of Oakland had reached an agreement on the conceptual plans for Fruitvale Village. BART would build the multi-story parking garage at a location a few hundred feet west of their initial site, while the City passed a zoning ordinance prohibiting future parking construction around the Village. In addition to a diverse mix of private loans and creative capital financing, several large federal grants allowed the Unity Council to break ground on the project in 1999.

Phase I of Fruitvale Village was completed in 2004, and incorporates many of the elements of the Unity Council's vision for the community. The complex includes high-quality and affordable housing, including 68 units of HUD 202 low-income senior housing, 10 restricted-income rental units, and 37 market-rate rental units. More than 40 small businesses have made Fruitvale their home, creating jobs and supporting the local economy. In addition, a wide range of services are offered throughout the complex, including over 60,000 square feet of medical services, multiple financial services providers including a retail bank and a counseling center, educational services including a preschool and high school, and social services ranging from a library to a senior center. Finally, on-site job training programs offer members of the community an opportunity to gain valuable skills that will help them succeed in the workforce.

The Unity Council is currently assembling financing for Phase II, which will feature a dense, mixed-income housing development. Out of the 275 Phase II units, 183 will be for sale at market rates, while 92 will be designated as affordable rental units.

The development of Fruitvale Village was not without its obstacles. While the Unity Council was able to rent its housing units quickly, it had more difficulty finding tenants for its commercial space. When construction finished in 2004, twenty-five percent of the commercial space was vacant and cold shell, meaning it had not been built out yet. Several years passed before Fruitvale found tenants for that space and financing to pay for the build-out. Part of the challenge was the lack of foot traffic necessary to support retail shops. By adding the high school and a children's counseling clinic over the past five years, Fruitvale attracts hundreds of additional people every day. "There's now finally the critical mass that we need," said Mr. Pace.



Another challenge had to do with the timing of Fruitvale's opening. The financers compiled the project's pro-forma in the midst of the internet bubble, when the office-leasing market in the Bay Area was at its peak. After the bubble burst, the units could not support such inflated rents, which exacerbated the project's commercial vacancy.

The current real estate bust and credit crunch have had a smaller impact on Fruitvale than one might expect. "One of our advantages," said Mr. Pace, "is that now that Fruitvale is fully built and occupied, we're pretty well diversified." The social service providers receive funding from a range of federal, state, and local government sources. On top of that, the retail consumer market supports the development. "As a result, we've weathered the latest crisis fairly well," explained Mr. Pace. "Our main financing structure has tremendously benefited from the low-interest rates since 2008."

Mr. Pace also emphasized the importance of recognizing the interrelated forces at play in a TOD project. In any development, stakeholders will advocate for their own interests and push their own vision for the project, which can often lead to conflicting perspectives and entrenched silos. For example, the transit agency may only think about transportation efficiency while the redevelopment agency might concentrate on possibilities for investment; the housing agency may focus on maximizing housing options while the small merchants may deliberate over traffic flow and parking needs. "But you need to anticipate all of the uses of the site," explained Mr. Pace. This is particularly true for projects that aim to benefit LMI communities.

### **Longfellow Station: Community Benefits Agreements**

A smaller nonprofit organization may not have the resources to develop its own TOD project like Fruitvale Village. In this case, the nonprofit can work with a developer to integrate community concerns using a community benefits agreement, or CBA. A CBA is a private, legally-binding contract between a developer and a community coalition that codifies the commitments the developer has made regarding how the project will benefit the surrounding community. CBAs typically contain provisions related to affordable housing, living wages, local hiring, environmental justice, and resources for community services, although the specific nature of the CBA provisions are determined by the local community.<sup>4</sup> Some notable examples of CBAs in the 12th District include the Dearborn Street CBA in Seattle, the Bayview-Hunters Point CBA in San Francisco, the Oak to 9th CBA in Oakland, the Ballpark Village CBA in San Diego, and the LAX CBA in Los Angeles.

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More recently, CBAs have been used in conjunction with TOD projects to address the unique challenges that these types of projects can present in low-income neighborhoods. In Minneapolis, the Longfellow Station CBA is one of a small but growing number of CBAs that specifically address a TOD project. This expansive mixed-use re-development proposal, which is located next to a transit station, was driven by the construction of the Hiawatha Light Rail Transit through the Longfellow neighborhood in 2004.<sup>5</sup>

The Longfellow neighborhood is a largely middle-class neighborhood located in southeast Minneapolis. As such, their experience may not directly relate to lower-income communities with more acute fears of displacement and gentrification. Nevertheless, the 12 block stretch that runs along the light rail corridor is the most economically-disadvantaged part of Longfellow with the highest concentration of apartment buildings and rental units.

The developer, Capital Growth Real Estate, approached the Longfellow Community Council (LCC), a neighborhood advocacy group, in late 2005 to discuss the TOD proposal. The LCC was already concerned about how the expanded transit system would impact its community and had identified a CBA as a potential tool to ensure that residents would benefit from the new development. To address these concerns, the LCC hosted a series of meetings with the developer, the City's planning department, and members of the community to create a shared vision for the project, as well as for future development proposals in the area.

The negotiations process lasted almost two years and was not without contention. Melanie Majors, the Executive Director of the LCC, explained that towards the end of negotiating the CBA, the LCC attempted to incorporate deed restrictions into the agreement, so that if the developer sold the land, the new owner would have to abide by the CBA. In the end, LCC had to concede these concerns, and the deed restrictions were not included in the finalized CBA. As Ms. Majors explained, "While CBAs are structured as contracts, it's not as easy to hold either party's feet to the fire as if you had a loan from a bank, where there's collateral involved."

Nevertheless, the finalized CBA did include a number of provisions to protect residents from the potentially

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negative impacts of the development, while leveraging the benefits to their advantage.

To ensure that the area remains affordable, the Longfellow CBA requires that at least 30 percent of the units built be made affordable to low-income residents (meaning a family earning below 50 percent of the area median income would spend no more than 30 percent of their income on rent). This provision exceeds the City's requirement that 20 percent of units be reserved for affordable housing. The CBA also requires the developer to pay a living wage for all jobs created by the project, including both construction jobs in the short-term as well as other jobs in the long-term.

One of the key concerns of local residents was that the TOD would change the character of the neighborhood and hurt local businesses. The CBA emphasizes the community's preference for local businesses to occupy the majority of the commercial space by limiting the percentage of space occupied by national chains at 70 percent. It also requires that locally-owned businesses make up at least 30 percent of the commercial space, and prohibits "big box" stores because they would disrupt the residential character of the neighborhood. In addition, the CBA requires the developer to provide space for public art and exhibitions relating to the history of Longfellow to help integrate the development into the fabric of the community.

Because the project is still in a very early stage—groundbreaking has not yet taken place—it is too soon to make any conclusions about the CBA's efficacy. Further, the project has been scaled back due to the recession. So far, this has not impacted the developer's ability to fulfill its obligations as outlined in the CBA, although that is a possibility.

In general, a CBA is like any other tool in a community developer's toolkit; on its own it is not a panacea. CBAs' largest shortcoming is that they can take years to finalize, and can drain community resources without a definite payoff. "There is always a risk involved," explained Ms. Majors. "You could invest in a two-year process that might not pan out." An additional challenge is the high potential for staff turnover in a process of this length. It takes time to develop the relationships required to reach an agreement and changes in personnel can slow or derail the negotiations.

Ms. Majors also stressed the importance of managing expectations and defining success. A CBA can start out with the idealistic dreams of the community, but if expectations become unrealistic, the process may lead to disappointment. "Even in a good economy, not everything will be realized," she explained. Thus, it is vital that those who are spearheading a CBA process communicate realistic expectations to their constituents. In the case of the Longfellow Station CBA, it will take years to determine if all of the commitments will be fulfilled. Still, Ms. Majors and other local leaders see the CBA as a success. Through the formation of the CBA, the community became invested in TOD and the future of their neighborhood, the developer learned about the needs of the community, and the LCC built a model that can be applied to other TOD projects.

### Conclusion

TOD is in an important urban growth paradigm, and its recent widespread adoption signals a fundamental shift in the way we think about building and connecting neighborhoods. LMI communities stand to gain many benefits through TOD, but communities and advocates must be prepared to guide the planning and implementation processes toward inclusivity and equity. The tools described in this article are a first step in building equity provisions into TOD projects, but much more work needs to be done to test and improve these models. In addition, there is room to explore how other community development tools might be well placed to shape TOD. For example, Roger Lewis of the National Community Land Trust Network sees a clear role for community land trusts, which are a strategy used to create or preserve permanently affordable housing.<sup>6</sup> "Transit-oriented development drives us to creative solutions and forces us to work across sectors," he explained. "It's not just housing issues, not just transportation, not just environmental. They all need to be dealt with holistically."

Nevertheless, equity concerns are increasingly making their way into TOD planning. Karen Chapple, an urban planning professor at UC Berkeley, has described TOD's evolution this way. In the 1990s, she explained, TOD advocacy focused on creating space for TOD on the planning agenda as a viable form of development. In many respects, proponents have reached that goal: TOD is now a ubiquitous part of the planning landscape. Today, we have replaced the "what if" of TOD visioning with the "how" of TOD execution. The conversation can expand to include questions of equity and community involvement. Community development practitioners have an opportunity to harness the benefits of TOD in support of LMI communities, while ensuring that LMI residents remain in their neighborhoods after large-scale TOD projects are built. **CI**

# Endnotes

## Making the Connection: Transit-Oriented Development and Jobs

1. This article is an updated excerpt from the study *Making the Connection: Transit-Oriented Development and Jobs*, by Sarah Grady with Greg LeRoy, Good Jobs First, March 2006.
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## Linking Transit-Oriented Development, Families and Schools

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3. See: McKoy, Deborah L. and Jeffrey M. Vincent. 2008. Housing and Education: The Inextricable Link. In *Segregation: The Rising Costs for America*. Edited by James H. Carr and Nandinee K. Kutty. New York: Routledge
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## Stronger Transit, Better Transit-Oriented Development

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## Community Financial Access Pilot: Creating Templates for Expanding Financial Opportunities

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