

June 1, 2012

VIA ELECTRONIC MAIL (CEQA.Guidelines@ceres.ca.gov)

CEQA Guidelines Update
c/o Christopher Calfee
1400 Tenth Street
Sacramento, CA 95814

**Re: Comments and Request for Information on Revised Proposed Guidelines for SB 226
CEQA Streamlining**

Dear Mr. Calfee:

Thank you for the opportunity to provide additional comments on the proposed CEQA Guidelines the Governor's Office of Planning and Research ("OPR") has issued to implement Senate Bill 226. While we agree that infill development can offer many benefits, whether those benefits materialize and who will enjoy them hinges on the strength of environmental justice, health, and equity protections. To that end, we have provided a several recommendations. Yet, the revised Guidelines issued by OPR on May 1, 2012 do not include any of the provisions we recommended in the [February 24, 2012 comment letters](#) from our groups. Therefore, **we reiterate in full those comments**. In addition, **we request specific information about what OPR is doing to ensure environmental justice¹ in the development of the proposed CEQA Guidelines, and how the public will be offered ongoing opportunity for oversight and input within the final streamlining process.**

As we expressed in the February 24 letters and during meetings with OPR staff, we remain concerned that the Guidelines do not consider the potentially disproportionate impacts they may have on underserved communities already experiencing adverse conditions. Accordingly, the Guidelines fail to ensure environmental justice²; and they fail to advance equity in health and housing as intended by S.B. 226's mandate to promote the policies of Senate Bill 375 ("S.B. 375"),

¹ Under California law, "environmental justice" is "the fair treatment of people of all races, cultures, and incomes with respect to the development, adoption, implementation, and enforcement of environmental laws, regulations, and policies." Cal. Gov't. Code § 65040.12(e). *See also* guidance from the California Department of Justice Office of the Attorney General on CEQA and Environmental Justice, available at <http://oag.ca.gov/environment/ceqa/planning> and http://oag.ca.gov/sites/all/files/pdfs/environment/ej_fact_sheet_final_050712.pdf, accessed May 25, 2012.

² *Id.* From http://oag.ca.gov/sites/all/files/pdfs/environment/ej_fact_sheet_final_050712.pdf: "Fairness in this context means that the *benefits* of a healthy environment should be available to everyone, and the *burdens* of pollution should not be focused on sensitive populations or on communities that already are experiencing its adverse effects . . . Environmental justice cannot be achieved, however, simply by adopting generalized policies and goals. Instead, environmental justice requires an ongoing commitment to identifying existing and potential problems, and to finding and applying solutions, both in approving specific projects and planning for future development . . . In passing CEQA, the Legislature determined . . . '[M]ajor consideration [must be] given to preventing environmental damage, while providing a decent home and satisfying living environment for every Californian.' (Pub. Res. Code, § 21000, subd. (g).)"

the state planning priorities, and the bill's directive to protect the health of vulnerable populations. Cal. Pub. Res. Code § 21094.5.5(b).

Moreover, infill streamlining under these Guidelines risks contradicting S.B. 226's objective to reduce vehicle miles traveled ("VMT"). Provision of affordable housing is associated with reduced VMT.³ Because these Guidelines neither protect against the loss of affordable housing nor promote its production, streamlining is likely to lead to gentrification and displacement of the lower-income residents and residents of color who have lower than average vehicle miles traveled, lower rates of vehicle ownership and higher rates of transit usage.⁴

Per the comments in our February 24 letter, we urge you to address the following in the Guidelines that you submit to the Natural Resources Agency:

- **Appendix M Performance Standards should consider affordable housing needs**
 - No project that results in a net loss of affordable housing units within a project area should be eligible for streamlined review. Any affordable units demolished by an infill project must be replaced on at least a 1:1 basis at the same level of affordability and made available to the residents of the demolished units.
 - For residential projects, eligibility for CEQA streamlining should be reserved for developments that will include a substantial component of affordable housing that targets the lowest-income households.
- **Appendix M should account for VMT benefits of affordable housing**⁵
- **Appendix N should explicitly include health and housing impacts on vulnerable communities as environmental impacts**
 - Impacts include: exacerbation of or increased exposure to known environmental health hazards; disproportionate impacts on the health of environmental justice communities; health impacts of displacement and lack of affordable housing; net loss of affordable housing; and displacement of low-income residents and people of color.

³ See attached memo by Alex Karner and Deb Niemeier of UC Davis, May 24, 2012. Work by Karner and Niemeier shows that provision of affordable housing is associated with reduced VMT at the traffic analysis zone (TAZ)-level. Using 2005 travel demand modeling data from the San Francisco Bay Area they show that TAZs with greater units of available affordable housing have lower VMT, even when controlling for additional demographic and land use factors including income, race, accessibility and density.

⁴ Stephanie Pollack, Barry Bluestone & Chase Billingham, *Maintaining Diversity in America's Transit-Rich Neighborhoods: Tools for Equitable Neighborhood Change 12-13* (Dukakis Center for Urban and Regional Policy, Oct. 2010), available at http://nuweb9.neu.edu/dukakiscenter/wp-content/uploads/TRN_Equity_final.pdf.

⁵ See attached memo by Alex Karner and Deb Niemeier of UC Davis, May 24, 2012, which shows that provision of affordable housing is associated with reduced VMT at the TAZ-level.

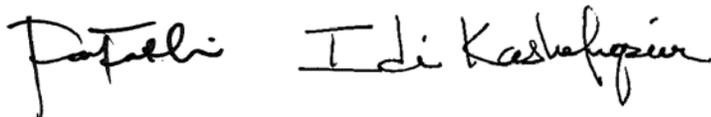
While we understand S.B. 226's and OPR's objective to streamline and simplify the standards for infill development, simplicity cannot come at the expense of disproportionately burdening low-income communities and communities of color or precluding them from the recognized benefits of infill development. Nor should they be implemented in a manner that risks increasing VMT based on the lack of affordable housing. Before you complete the next round of revisions and submission to the Natural Resources Agency, we urge you to undertake a more serious engagement of the environmental justice communities that stand to be most impacted by infill development and take steps to ensure that the environmental, social, and health benefits contemplated by infill development will extend to all Californians.

We also look forward to reviewing the information we are requesting about what OPR is doing to ensure environmental justice in the development of the proposed CEQA Guidelines.

Finally, please see the attached materials for additional resources that we gathered to aide OPR's work on these issues.

Thank you, in advance, for your consideration and your response to our request within the next 30 days. Please contact Parisa Fatehi-Weeks (pfatehi@publicadvocates.org, 415.431.7430 x305) if we can provide any further information.

Sincerely,



Parisa Fatehi-Weeks and Idin Kashefipour
Public Advocates Inc.

Laura Baker
Center on Race, Poverty & the Environment

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cc: Senator Mark DeSaulnier, Chair, Transportation and Housing Committee Assemblymember Paul Fong, Chair, Select Committee on Climate Change Assemblymember Warren Furutani, Chair, Asian Pacific Islander Legislative Caucus Assemblymember Ricardo Lara, incoming Chair, Latino Legislative Caucus Assemblymember Tony Mendoza, Chair, Latino Legislative Caucus
Assembly Speaker John A. Pérez
Senator Curren Price, Chair, Legislative Black Caucus
Senator Joe Simitian, Chair, Environmental Quality Committee
Senate President pro Tem Darrell Steinberg
Assemblymember Norma J. Torres, Chair, Housing and Community Dev. Committee
Senator Lois Wolk, Chair, Senate Governance and Finance

Attachments:

1. Responses to OPR's Evaluation of Comments Received
2. Displacement Analysis Examples and Resources for OPR's consideration
3. May 24, 2012 memo from Alex Karner and Deb Niemeier of UC Davis
4. February 24, 2012 comment letter

ATTACHMENT 1 Responses to OPR's Evaluation of Comments Received

The following are offered in response to OPR's Evaluation of Comments Received on the first draft of the proposed CEQA Guidelines.

1. OPR's response on "no net loss" of affordable units and the recommendation to address displacement

- a. OPR states that CEQA already requires evaluation of displacement but they provide no examples of such analyses and they support their assertion by citing *Muzzy Ranch Co. v. Solano County Airport Land Use Com.* (2007) 41 Cal. 4th 372, 383. *Muzzy* is not appropriate authority for this assertion. The case addressed a land use plan that restricted development around an air force base in order to prevent noise disturbances to future potential developments. (*Id.* at 379) The court determined that such a restriction would require a CEQA analysis because it may have a significant effect on the environment by displacing development to other areas without such zoning restrictions. (*Id.* at 383) The case did not address analysis of the environmental impacts due to the displacement of individuals from their homes. While we agree that environmental review *should* address the environmental impacts caused by gentrification and displacement, ambiguity in the caselaw requires a clear statement to this effect in the Guidelines.
- b. OPR also states that a "no net loss" rule could discourage currently substandard housing from being rehabilitated or improved. We disagree, as the purpose of creating a *net* loss standard is that housing improvements can be made as long as they create affordable housing units to replace any that were lost.
- c. Finally, OPR contends that a "no net loss" rule could discourage infill and make greenfield development more attractive. While we share OPR's goal of minimizing greenfield development, failure to build into the Guidelines protections and incentives for affordability is likely to *increase* pressure for greenfield development at the outer edges of metropolitan regions as low income residents are displaced from the urban core and forced to seek affordable housing at the fringes of the region. This will also increase VMT as these displaced residents commute long distances to jobs, social services, and religious and community institutions that are likely to remain in the core of the region. Our recommendation to use streamlining incentives to make it easier to develop *affordable* infill housing appropriately balances these concerns.
 - i. In the Bay Area, displacement of low-income communities of color to the exurbs is already happening. According to the Federal Reserve Bank of San Francisco, the share of the poor living in suburban tracts has increased across all racial groups, but the change is highest among Blacks. The share of the poor Black population living in the suburbs increased more than 7 percentage points, whereas the next highest group, Asians, increased 2 percentage points. The Bank's study also found that access to transit decreased for the population in poverty. While the percent of people living within 0.5 miles of a rail station did not change significantly for the total population, it did decrease 1.5 percentage points for the poor population. Furthermore, the percentage of poor people

living more than 4 miles from a rail station increased 3 percentage points. (See Matthew Soursourian, *Suburbanization of Poverty in the Bay Area*, January 2012, available at: <http://www.frbsf.org/publications/community/research-briefs/Suburbanization-of-Poverty-in-the-Bay-Area.html>)

2. OPR's questions about what a displacement analysis may entail

- a. In speaking with OPR staff about our recommendations, it became clear that additional information about what a displacement analysis may entail would be helpful. In Attachment 2, we have provided existing examples of such analyses from governmental agencies and academic institutions. These resources demonstrate that requiring a displacement analysis in the Guidelines would not require OPR to break new methodological ground.

3. OPR's response comments recommending an inclusionary housing requirement

- a. OPR states that because many jurisdictions have inclusionary housing ordinances, such a requirement should not be included in the Performance Standards. This response overstates the prevalence of local inclusionary ordinances and the degree to which any existing ordinances will be enforced in the future. Moreover, we believe that the Guidelines could be written in a way that allows projects in such jurisdictions to satisfy the requirement. Incentivizing projects that provide a substantial number of affordable units would go hand in hand with a parallel local ordinance. Further, failing to incorporate inclusionary requirements in the Guidelines could serve as a strong disincentive for local jurisdictions to adopt local inclusionary ordinances by pitting jurisdictions against their neighbors to promote infill development without consideration of affordable housing needs.
- b. OPR contends that because of varying local conditions, a statewide inclusionary requirement may not be effective. We would welcome the opportunity to partner with OPR and other stakeholders to find a solution to this challenge. For example, rather than setting a fixed percentage that applies to the entire state, OPR could create a matrix or a sliding scale that is based on local market conditions and local affordable housing need. Different market conditions could trigger a different type of requirement to qualify for the streamlining incentive. OPR should commit to engaging in a discussion and study of what forms a flexible inclusionary standard could take. The need for statewide applicability should not lead to a complete omission of this issue and disregard for the serious implications of the affordable housing crisis.
- c. Finally, OPR states that incentivizing development in transportation efficient locations will lead to increased affordability overall. As stated in both of our comment letters, a higher than average percentage of low-income residents are already living near transit and using it rather than spending money on vehicles. Any infill development that leads to displacement of these residents will actually lead to less affordability because they will be removed from transit efficient locations and forced to buy and maintain a vehicle. Transit oriented development will only benefit lower-income households if they can afford to live near that transit; otherwise they are likely to be displaced to the outer fringes of metropolitan regions and forced to spend an increased percentage of their income on transit and housing costs.

ATTACHMENT 2

Displacement Analysis Examples and Resources for OPR's consideration

In speaking with OPR staff about our recommendations, it became clear that additional information about what a displacement analysis may entail would be helpful. The following is a sampling of existing relevant analyses from governmental agencies and academic institutions. The analyses include the factors and data that should be considered indicators of gentrification or displacement risk.

1. Chapple, Karen, *Mapping Susceptibility to Gentrification: The Early Warning Toolkit*, Center for Community Innovation, August 2009, pp. 6-14. (available at: <http://communityinnovation.berkeley.edu/reports/Gentrification-Report.pdf>); *see also* Sprowls, Sharon et al., *Evaluation of California's Transit-Oriented Development (TOD) Housing and Infill Infrastructure Grant (IIG) Programs*, Housing California Report, April 2011. (available at: http://www.mitod.org/pdf/Final_TOD-IIG_Report_April2011.pdf) (using Chapple's displacement risk factors to analyze TOD in California)

Chapple's study identifies nineteen factors that help determine whether an area is likely to experience gentrification or not. Several studies of gentrification have used these factors to analyze displacement risks resulting from investment and development pressure. (*see* ABAG study, #2 below and St. Louis Study, #3 below) Factors that indicate a risk of displacement in a project area include:

- Percentage of workers using transit is greater than the regional average,
 - Percentage of non-family households is greater than the regional average,
 - Percentage of the building stock with 3+ units is greater than the regional average,
 - Percentage of renter occupied households is greater than the regional average, and
 - Percentage of households paying more than 30% of their income for rent is greater than the regional average.
 - Income diversity is greater than the regional average
 - Presence of public housing units higher than the regional average.
2. Association of Bay Area Governments, *Development Without Displacement, Development With Diversity*, December 2009, pp. 9-27. (available at: <http://www.bayareavision.org/initiatives/dwd-final.pdf>)

ABAG analyzed the impacts of displacement forces in the Bay Area associated with transit oriented development between 1990 and 2000. The study found that transit oriented development contributed to significant displacement of low-income residents and residents of color. Based on its analysis, ABAG suggested six strategies for preventing displacement. Several of these suggestions are mirrored in our recommendations to OPR for inclusion in the proposed guidelines.

- Understand neighborhood change and displacement potential.
 - Engage residents in creating a vision for the future.
 - Preserve existing units and act quickly to secure land for development of new affordable housing.
 - Protect areas sensitive to displacement from upzoning.
 - Retain and grow good jobs.
 - Plan for neighborhood activity centers (“social seams”) to support integration and secure other community benefits for current residents.
3. Shireen Malekafzali & Danielle Bergstrom, *Healthy Corridor for All: A Community Health Impact Assessment of Transit-Oriented Development Policy in Saint Paul, Minnesota*, PolicyLink: Technical Report 2011, pp. 62-84, 102. (available at: http://www.policylink.org/atf/cf/%7B97c6d565-bb43-406d-a6d5-eca3bbf35af0%7D/HEALTHY%20CORRIDOR%20TECHNICAL%20REPORT_FINAL_2012_0111.PDF)

Researchers analyzed both the extent of existing gentrification in an area and the displacement risk of a development project using indicators similar to those described the study above. The analysis showed a high risk of displacement in St. Paul’s Central Corridor resulting from increased transit investment, market demand, and new zoning policies. Based on this analysis, the report suggests codification of the commitment to affordable housing policies as a key policy to curtail the negative impacts of displacement in the project area.

4. Metropolitan Transportation Commission (MTC)/Association of Bay Area Governments (ABAG) Staff, *Alternative Scenarios Equity Analysis: Methodology Summary*, Memo, Dec. 1, 2011, pp. 5-6. (available at: http://apps.mtc.ca.gov/meeting_packet_documents/agenda_1780/6_Methodology_Summary_Memo_1201.pdf)

Displacement risk was measured based on the ratio of “over-burdened renters” in an area compared to proposed growth. Over-burdened renters were those who spent more than 50% of their income for housing. An area was considered at risk of displacement if more than 15% of housing units were occupied by over-burdened renters and projected growth in the area was greater than 30% of current conditions. The 30% growth threshold was based on local conditions, but could be adjusted based on the location of a particular project.

On the following pages:

ATTACHMENT 3

May 24, 2012 memo from Alex Karner and Deb Niemeier of UC Davis

ATTACHMENT 4

February 24, 2012 comment letter

MEMORANDUM

TO: Parisa Fatehi-Weeks, Public Advocates

FROM: Alex Karner and Deb Niemeier, Department of Civil and Environmental Engineering,
UC Davis

DATE: May 24, 2012

RE: Alternative scenarios, affordable housing, and vehicle-miles traveled in the Bay Area

A. Introduction

Under SB 375, California's metropolitan planning organizations (MPOs) must reduce per capita greenhouse gas (GHG) emissions, primarily by coordinating transportation and land use planning in an effort to pair compact growth with high quality transit. This coordination is embodied in the sustainable communities strategy – a new component of the regional transportation plan that provides not only a vision for the future transportation system but also signals the kinds of land uses needed to achieve reductions in vehicle-miles traveled (VMT).

The potential for gentrification and displacement to occur in urban spaces simultaneous with the pursuit of otherwise laudable environmental goals is now well-documented.¹ Recent work has identified ways in which the process of gentrification and the demographic changes it elicits actually work against environmental goals. These studies consistently find evidence of growing affluence in neighborhoods that receive improved transit service, including increasing proportions of college graduates, rising median incomes, higher automobile ownership, and reduced transit mode share.² The research on racial demographic effects is more mixed, with some studies concluding that local transit investments lead to a reduction in proportions of people of color,³ and others finding no evidence of changing racial demographics.⁴ As one example, an analysis of Canada's three largest cities found that while gentrification was associated with increases in non-motorized mode share, it was also associated with decreases in public transit and carpool use. Most problematically, the mode share for "auto as driver" was also associated positively with gentrification.⁵ Taken together, these studies suggest that merely producing dense, mixed use developments well-served by transit is not enough to reach the policy goals of reducing VMT and thus GHG emissions.

¹ Sarah Dooling, "Ecological Gentrification: A Research Agenda Exploring Justice in the City," *International Journal of Urban and Regional Research* 33, no. 3 (2009); Noah Quastel, "Political Ecologies of Gentrification," *Urban Geography* 30, no. 7 (2009).

² Matthew E. Kahn, "Gentrification Trends in New Transit-Oriented Communities: Evidence from 14 Cities That Expanded and Built Rail Transit Systems," *Real Estate Economics* 35, no. 2 (2007); Stephanie Pollack, Barry Bluestone, and Chase Billingham, "Maintaining Diversity in America's Transit-Rich Neighborhoods," (Dukakis Center for Urban and Regional Policy, 2010); Kara S. Luckey, "Assessing the Effectiveness of Approaches to the Allocation of Low-Income Housing Tax Credits in Proximity to Rail Transit" (paper presented at the 91st Annual Meeting of the Transportation Research Board, Washington, DC, 2012).

³ ———, "Approaches to the Allocation of LIHTCs".

⁴ Pollack, Bluestone, and Billingham, "Maintaining Diversity."

⁵ Martin Danyluk and David Ley, "Modalities of the New Middle Class: Ideology and Behaviour in the Journey to Work from Gentrified Neighbourhoods in Canada," *Urban Studies* 44, no. 11 (2007).

As part of its equity analysis for the current regional plan update, known as *Plan Bay Area*, the Metropolitan Transportation Commission (MTC) reports that there will be substantial displacement pressures on “communities of concern” in the Bay Area in future years.⁶ Specifically, MTC’s analysis identifies concentrations of overburdened renters in traffic analysis zones (TAZs)⁷ where greater than 15% of housing units are occupied by renters paying more than 50% of their income on housing. TAZs that meet these thresholds and are projected to grow by more than 30% by 2035 are considered at risk of increased displacement pressure. The MTC analysis results show that 30% to 40% of the base year’s overburdened renters in communities of concern are at risk compared to 7% to 10% in the remainder of the region.

MTC has also identified that the proposed transportation investment and land use strategies get only part of the way toward the 2035 GHG emissions reduction goal. There is a five percentage point gap remaining that MTC is proposing to address through a series of transportation policy measures. Despite MTC’s own analysis on displacement risk, discussions around bridging this gap have focused almost exclusively on achieving additional per capita GHG reductions through policy initiatives like the promotion of electric vehicles.⁸ In focusing on vehicle technology, MTC overlooks an important opportunity: affordable housing can be an effective tool for meeting GHG emissions reductions while simultaneously meeting a number of other objectives by reducing other VMT-related externalities including congestion costs, deaths and injuries from collisions, and public health costs like obesity.

The remainder of this memo uses travel modeling data produced by MTC to quantify differences in travel behavior by income categories. We argue that equitable housing distributions that provide options for residents of different income levels can be an effective VMT reduction strategy.

B. Income, automobile ownership and VMT

The Association of Bay Area Governments (ABAG) has noted that residents of affordable housing drive less and own fewer cars than those who do not live in affordable housing.⁹ Precisely how much less they drive can be identified with the travel demand modeling data developed for the alternative *Plan Bay Area* scenarios using low-income status as a proxy for affordable housing residence.¹⁰ Table 1 shows vehicle ownership and VMT per capita at the household level when looking at income effects for both 2005 and future years. Consistent with SB 375, all future scenarios suggest that households, on average, will own fewer vehicles and

⁶ MTC, “Plan Bay Area Equity Analysis Overview and Equity Analysis Scorecard,” <http://www.onebayarea.org/pdf/EquityAnalysisOverview.pdf>.

⁷ A unit of geography used to model travel approximately equivalent to a census tract.

⁸ See discussion at the May 11, 2012 joint meeting of the MTC Planning Committee and the ABAG Administrative Committee. Out of \$685 million budgeted to help MTC reach its 2035 GHG emissions reduction target, 60% is directed at electric vehicle subsidization.

⁹ Association of Bay Area Governments, “Myths & Facts About Affordable and High-Density Housing,” <http://www.abag.ca.gov/services/finance/fan/housingmyths2.htm>.

¹⁰ Five alternative scenarios were designed for Plan Bay Area comprising two transportation investment scenarios paired with two land use scenarios. The first two, Initial vision and Core capacity, assume unlimited resources for housing development in the Bay Area. The latter three are based upon realistic planning assumptions regarding the total amount of housing growth that can be accommodated in the region. Each varies slightly in precisely where growth is located. Further information is available at: <http://www.onebayarea.org/pdf/ScenarioAnalysisOverview.pdf>.

that VMT per capita across all income groups will decline. However, as expected, we find that vehicle ownership and VMT per capita increases as household incomes increase.

Table 1 Comparison of modeled scenarios – Automobile ownership and VMT per capita by income.

	Average vehicles per household				
	Income quintile 1 (< 26,000) ^a	Income quintile 2 (26,000 – 52,000)	Income quintile 3 (52,000 – 80,000)	Income quintile 4 (80,000 – 124,000)	Income quintile 5 (> 124,000)
Base year, 2005	1.010	1.533	1.821	2.10	2.15
Initial vision	0.947	1.447	1.738	2.01	2.09
Core capacity	0.917	1.445	1.742	2.01	2.08
Focused growth	0.948	1.493	1.795	2.06	2.11
Constrained core capacity	0.942	1.487	1.790	2.06	2.11
Outward growth	0.988	1.521	1.815	2.08	2.12
	Average VMT per capita				
Base year, 2005	8.78	13.27	17.13	19.15	19.65
Initial vision	8.09	12.18	15.40	17.30	18.20
Core capacity	7.91	12.22	15.48	17.26	17.99
Focused growth	7.76	11.94	15.07	17.02	17.83
Constrained core capacity	7.69	11.84	14.98	16.95	17.83
Outward growth	8.07	12.24	15.35	17.27	18.00

^aQuintile bounds are calculated for each scenario, so the values that define each category are approximate.

The empirical evidence of gentrification discussed earlier suggests that median income levels and vehicle ownership are likely to rise in areas where transit service improves, and these increases have been linked to increasing risk of gentrification and displacement.¹¹ In future years, MTC has identified that transit service improvements will be focused largely on priority development areas (PDAs) – those areas targeted to receive streamlined environmental review for housing projects with densities conducive to frequent transit service. Using data provided by MTC, we classified 195 TAZs as being part of a PDA and compared the median incomes for PDA and non-PDA areas.¹² Table 2 shows that median income across the PDAs increase faster than in the non-PDAs and faster than the entire region from the base year to each of the future year scenarios. The results are consistent with MTC’s equity analysis: PDAs will likely experience gentrification and increasing displacement risk as *Plan Bay Area* is implemented.

¹¹ Pollack, Bluestone, and Billingham, “Maintaining Diversity.”

¹² A TAZ was considered to be part of a PDA if greater than 50% of its area overlapped part a PDA classified as “planned” and “final” in the GIS layer (according to the attributes PlanStatus and ABAGStatus, respectively).

Table 2 Median income, 2000\$.

	PDA's	Non-PDA's	Entire region
Base year, 2005	43,800	68,200	65,000
Initial vision	48,000	67,000	64,400
Core capacity	50,000	68,000	65,000
Focused growth	48,310	68,000	65,000
Constrained core capacity	48,600	68,000	65,000
Outward growth	48,200	68,010	65,200

The gentrification literature discussed in the introduction also suggests that new residents in gentrifying areas will be less likely to take transit and more likely to own greater numbers of automobiles than previous residents. We can test this prediction by comparing low-income households to all other households in PDAs and non-PDA TAZs in terms of VMT per capita (Table 3). As we might expect, VMT per capita decreases from the base year when compared to each forecast scenario for both low-income and all other households. That is, households in PDAs have substantially lower VMT per capita than the rest of the region in both the base and forecast years. The critical aspect to this analysis, however, is that the rate at which low-income households reduce VMT per capita is slightly higher than all other households in both PDAs and non-PDAs in all future year scenarios (final row of Table 3). Automobile ownership results show similar, across the board reductions for PDAs, with low-income households owning fewer automobiles than all other households in both PDAs and the remainder of the region. Locating residents in PDAs is clearly an important strategy for achieving SB 375’s GHG targets, but the future year non-low income households generally do not reduce driving or automobile ownership as much as low-income households.

Table 3 Comparison of modeled scenarios – VMT per capita.

	VMT per capita (PDA's)		VMT per capita (other TAZs)	
	Low-income households ^a	All other households	Low-income households ^a	All other households
Base year, 2005	5.51	11.04	9.54	18.72
Initial vision	5.11	10.23	8.70	17.29
Core capacity	4.78	9.87	8.54	17.20
Focused growth	4.88	9.96	8.42	16.85
Constrained core capacity	4.94	9.89	8.40	16.82
Outward growth	5.07	10.26	8.64	17.05
	Average reduction relative to 2005 (%)			
	10.0	9.0	10.5	9.0

^aLow-income households classified according to the US Census definition¹³ based on household size and income threshold. Consistent with MTC practice, 200% of the threshold is used.

One caveat is that these results may not fully represent market dynamics that will result from improved transit service, since the allocations of different household types by income are established prior to running the travel model. In addition, representations of travel behavior are

¹³ US Census Bureau, “Poverty Data - Poverty Thresholds,” <http://www.census.gov/hhes/www/poverty/data/threshld/index.html>.

based upon cross-sectional analysis sometimes extending as far back as 1990.¹⁴ The gentrification literature argues that subsequent “waves” of gentrifying individuals bring with them different travel behaviors; these behaviors would tend to transcend classification based upon income alone to include difficult-to-quantify properties such as politics, ideologies and values.¹⁵ Later waves are potentially less inclined to reduce automobile ownership and VMT than are earlier waves. These factors are generally not included in a travel demand model. For this reason, the travel model results might underestimate the VMT per capita and automobile ownership figures expected to result in future years in gentrifying, transit rich areas.

C. Links between affordable housing and VMT

It seems self-evident that affordable housing should not just be placed anywhere. More equitable distributions of housing can be expected to lead to lower VMT per capita based on the land uses likely to surround mixed income communities and also because of the relationships between VMT and income noted above. We can quantify the equitability of a housing distribution using the Gini coefficient. The Gini coefficient is a well-accepted measure of population inequality which varies from a perfectly equal distribution of some good (zero) to a perfect concentration of that good with one individual or group (one).¹⁶ Those TAZs with more equitable housing distributions (where there are equal numbers of each household type by income) will have Gini coefficients closer to zero, while those with inequitable distributions will have Gini coefficients closer to one.

Table 4 summarizes the VMT per capita for each future year scenario and the base year according to quintiles of the Gini coefficient calculated at the household level.¹⁷ Each column represents the average VMT per capita for households representing 20% of the total in each scenario. Housing distributions become increasingly inequitable moving from left to right in the table. The results clearly indicate that TAZs with more equitable housing distributions have lower VMT per capita. Further analysis reveals that the TAZs with the highest Gini coefficients (most inequitable) disproportionately represent households in the highest income groups. For the initial vision scenario, the TAZs with the most inequitable housing distributions (i.e. Gini quintile 5) had an average of 51% of total households in the highest income category and only 10% in the lowest income category. TAZs that had the most equitable housing distributions (i.e. Gini quintile 1) had an average of 23% of households in the highest income category and 20% in the lowest.

To the extent that median incomes rise in PDAs and similarly transit rich areas in the urban core in forecast years, VMT per capita is likely to increase. Maintaining and improving the equitability of the housing distribution is one method that MPOs can use to ensure that per capita VMT remains as low as possible. These results indicate that developing more equitable distributions of affordable housing should be included alongside other methods proposed by MTC to meet its SB 375-mandated GHG reduction target.

¹⁴ MTC, “Travel Model Development: Calibration and Validation (Draft),” (Oakland, CA: Metropolitan Transportation Commission, 2011).

¹⁵ Danyluk and Ley, “Modalities of the New Middle Class: Ideology and Behaviour in the Journey to Work from Gentrified Neighbourhoods in Canada,” 2197-98.

¹⁶ World Bank, “Poverty Analysis - Measuring Inequality,” <http://go.worldbank.org/3SLYUTVY00>.

¹⁷ Quantities of housing types in each of four income categories based on ABAG modeling are used as input into MTC’s travel model for future years. Observed data on income distribution are used for the base year.

Table 4 VMT per capita by scenario and Gini coefficient quintile.

Increasingly inequitable housing distribution 

	Gini quintile 1	Gini quintile 2	Gini quintile 3	Gini quintile 4	Gini quintile 5
Base year, 2005	14.91	15.10	15.10	17.50	19.03
Initial vision	12.98	13.71	14.35	15.40	18.10
Core capacity	13.11	13.34	14.25	15.66	17.88
Focused growth	12.73	13.22	14.30	15.11	17.59
Constrained core capacity	12.66	13.25	13.93	15.12	17.66
Outward growth	12.85	13.65	14.25	15.70	17.77

One could argue that the differences identified in Table 4 are entirely the result of income effects. We would expect the same results if low-income housing units are disproportionately concentrated in TAZs with low Gini coefficients. To check this hypothesis, we estimated a preliminary spatial autoregressive error model of the logarithm of total VMT at the TAZ level. The modeling results are located in the appendix. The independent variables include, among others, the total number of housing units in the lowest two income categories; this allows us to estimate the effect of affordable housing provision on total VMT (and thus GHG emissions). The interpretation of the estimated coefficient on affordable housing shown in the appendix is that a one percent increase in housing units occupied by the lowest income groups is associated with a 0.07 percent decrease in TAZ-level VMT, all else equal. Said another way, the provision of affordable housing within a TAZ has a high probability of being independent of the income level within that same TAZ and the other variables included in the model. This result suggests that an equitable housing distribution results in lower VMT.

D. Conclusion

This memo and MTC’s own analysis indicate that gentrification and displacement of low-income residents are likely outcomes in areas expected to receive transit investments over the course of *Plan Bay Area*. We present evidence correlating inequitable housing distributions with higher VMT, suggesting that investment in affordable housing can help to meet SB 375’s GHG reduction goals while mitigating the risk of gentrification and displacement. Additional transportation policies proposed to achieve GHG targets should not be myopically focused on transportation technology. Strategies such as affordable housing provision can help to meet SB 375’s goals while mitigating other transportation externalities.

E. References

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Appendix

The travel data used to estimate the model shown in Table A 1 were obtained from MTC. Demographic data were also assembled from the 2005-2009 American Community Survey maintained by the US Census.

Table A 1 Spatial error model on the logarithm of total TAZ-level VMT for the 2005 base year.

Variable	Coefficient estimate	Standard error ^a
log(median income)	0.01700	0.00354***
log(housing units in the lowest two income categories)	-0.0647	0.00815***
log(total people of color)	-0.01859	0.00861*
log(total zero vehicle households)	-0.0240	0.00448***
log(total workers)	0.0985	0.01340***
log(total population)	0.993	0.01870***
log(total acreage)	0.0370	0.00519***
Peak transit accessibility ^b	-0.0371	0.00315***
Peak non-motorized accessibility ^b	-0.0475	0.00351***
Lambda (spatial error term)	0.1258	0.00256***
Number of observations = 1441		
Pseudo R ² (Nagelkerke) = 0.96		

^aSignificance is indicated by the following convention: p < 0.001 ***, p < 0.01 **, p < 0.05 *

^bTransit and non-motorized accessibilities are outputs from the travel demand model and are in relative units. They are included merely as controls.

February 24, 2012

VIA ELECTRONIC MAIL (CEQA.Guidelines@ceres.ca.gov)

CEQA Guidelines Update
c/o Christopher Calfee
1400 Tenth Street
Sacramento, CA 95814

Re: Comments on Proposed Guidelines for SB 226 CEQA Streamlining

Dear Mr. Calfee:

Thank you for the opportunity to comment on the proposed CEQA Guidelines the Governor's Office of Planning and Research has issued to implement Senate Bill 226 ("Proposed CEQA Guidelines" or "the Guidelines"). We represent organizations dedicated to ensuring that low-income communities and communities of color equally benefit from and are not disproportionately impacted by policy changes like those proposed in S.B. 226.

We appreciate the extensive work that OPR has undertaken to develop the Proposed CEQA Guidelines, but we are concerned that, in their current form, the Guidelines fail to follow S.B. 226's mandates to promote the policies of Senate Bill 375 ("S.B. 375"), the state planning priorities, and the bill's directive to protect the health of vulnerable populations. Cal. Pub. Res. Code § 21094.5.5(b). As explained in more detail below, each of these mandates calls for the Guidelines to address the needs of underserved Californians and promote equity in health and housing. Without consideration of these needs, CEQA exemptions for certain projects could negatively affect communities that are already overburdened with challenges, including adverse health impacts. Moreover, absent explicit safeguards for affordable housing in the Guidelines, many of S.B. 226's intended benefits could not only skip over low-income Californians, they could lead to the displacement of such communities from the areas targeted for infill development. Given the Guidelines' stated objectives to reduce vehicle miles traveled (VMT) and greenhouse gas emissions, it would be ill-advised to adopt guidelines that disadvantage low-income households and people of color who tend to have lower rates of vehicle ownership, lower vehicle miles traveled, and higher rates of transit usage.¹

¹ Stephanie Pollack, Barry Bluestone & Chase Billingham, *Maintaining Diversity in America's Transit-Rich Neighborhoods: Tools for Equitable Neighborhood Change* 12-13 (Dukakis Center for Urban and Regional Policy, Oct. 2010), available at www.northeastern.edu/dukakiscenter/documents/TRN_Equity_final.pdf.

I. S.B. 226 Calls For Proposed CEQA Guidelines to Promote Social Equity and Address Housing Needs of Californians at *All* Income Levels

A. Proposed CEQA Guidelines Must Address the Need to Maintain and Develop Affordable Housing in Order to Promote S.B. 375 Policies.

S.B. 226 makes clear that the CEQA Guidelines to be adopted by the Natural Resources Agency “shall promote” the implementation of the land use and transportation policies of S.B. 375 or the Sustainable Communities and Climate Protection Act of 2008. Cal. Pub. Res. Code § 21094.5.5(b)(1). S.B. 375 contains many provisions local governments must abide by with respect to affordable housing:

- Housing elements must make “adequate provision for the housing needs of all economic segments of the community.” Cal. Gov’t. Code § 65583(c).
- Housing elements must “assist in the development of adequate housing to meet the needs of extremely low, very low, low-, and moderate-income households.” *Id.* § 65583(c)(1)(C)(2).
- Housing elements must “[c]onserve and improve the condition of the existing affordable housing stock, which may include addressing ways to mitigate the loss of dwelling units demolished by public or private action.” *Id.* § 65583(c)(1)(C)(4).
- Transit Priority Projects cannot “result in any net loss in the number of affordable housing units within the project area.” Cal. Pub. Res. Code § 21155.1(b)(3).
- Transit Priority Projects must ensure that minimum percentages of housing be sold or rented to very low, low-, and moderate-income families and that developers provide legal commitments to ensure continued availability of affordable housing units, or payment of in-lieu fees for development of affordable housing. *Id.* § 21155.1(c).

B. Proposed CEQA Guidelines Must Promote State Planning Priorities by Explicitly Addressing Equity and Impacts on Vulnerable Communities.

S.B. 226 also states that OPR “shall promote . . . the state planning priorities specified in Section 65041.1 of the Government Code and in the most recently adopted Environmental Goals and Policy Report [“EGPR”]” issued by OPR. Cal. Pub. Res. Code § 21094.5.5(b)(2). The first of three state planning priorities is to promote equity, particularly in underserved areas. Cal. Gov’t. Code § 65041.1(a). Relevant sections of the state planning priorities include the following:

- The state planning priorities are intended to “promote equity, strengthen the economy, protect the environment, and promote public health and safety in the state, including in urban, suburban, and rural communities...” Cal. Gov’t. Code § 65041.1; EGPR, p. 5.

- State planning priorities shall be as follows: “To promote infill development and equity by rehabilitating, maintaining, and improving existing infrastructure that supports infill development ... particularly in underserved areas, and to preserving cultural and historic resources.” Cal. Gov’t. Code § 65041.1(a); EGPR, p. 5.

Guidelines that fail to protect lower-income residents from displacement and loss of affordable housing would run afoul of these provisions. Indeed, OPR itself concluded that “inequitable land use, where poor communities are isolated from jobs or education or bear the burden of incompatible land uses, creates pockets of poverty.” EGPR, p. 48. OPR further concluded that “equity is achieved when State and community resources are equally distributed to, and accessible by, all regimes and segments of the population.” *Id.* The Proposed CEQA Guidelines fail to address these state equity priorities and the needs of the communities they are intended to protect. In order to meet S.B. 226’s mandates, the Guidelines should be revised to explicitly reflect these priorities and needs as discussed below.

II. Proposed CEQA Guidelines Should Be Revised to Promote Equity and Serve Vulnerable Communities

A. Appendix M Performance Standards Should Consider Affordable Housing Needs Among Residential Infill Projects.

The Proposed CEQA Guidelines’ four performance standards applicable to all projects (i.e., renewable energy, active transit, transit station area plans, and soil and water remediation) and additional VMT performance standards for Residential projects fail to account for the statewide policy objective to maintain and develop affordable housing. While we understand OPR’s objective to employ the fewest standards necessary to promote a number of environmental objectives, simplicity cannot come at the risk of displacing low-income communities or precluding low-income communities from the recognized benefits of infill development. Accordingly, we propose that the following affordable housing provisions be included in the guidelines:

For all projects – Residential, Commercial, Office Buildings, or a Small Community Walkable Project – it should be made clear that no project can result in a net loss of affordable housing units within a project area. Any affordable units demolished by an infill project must be replaced on at least a 1:1 basis at the same level of affordability. Replacement housing also needs to be accessible to existing residents to avoid involuntary displacement.

For residential projects in particular, eligibility for CEQA streamlining should also be reserved for developments that will include a substantial component of affordable housing that targets the lowest-income households. Specifically, we recommend reserving CEQA streamlining for projects in which 20% of the units will be affordable to lower-income households (half at the very low income level and half at the low income level). In no event should a project qualify for CEQA streamlining if it provides less than 15% affordable units – 6% affordable to very low-income, 9% affordable to low-income. This standard would be

consistent with many local inclusionary policies and with California redevelopment requirements. Cal. Health & Safety Code § 33413(b)(2)(A)(i).

These changes are consistent with the land use and housing policies in S.B. 375, as well as the broader legislative and state planning priorities that S.B. 226 is intended to promote.

B. Appendix M Should Account for VMT Benefits of Affordable Housing Near Transit

Appendix M of the Proposed CEQA Guidelines should explicitly recognize affordable housing generation as a strategy to reduce VMT, and accurately credit VMT reductions from production of affordable housing. Both URBEMIS and CalEEmod, emissions inventory or modeling tools referred to in Footnote IV of Appendix M, significantly undervalue affordable housing as a trip reduction strategy. URBEMIS and CalEEmod cap the reduction credit for affordable housing at 4% irrespective of the depth of affordability. The recent City of San Diego affordable housing parking survey showed how this is significantly undercounting the driving reduction credit of dedicated affordable housing, especially for low and very-low income units.²

C. The Appendix N Checklist Should Also Consider as Environmental Impacts the Health and Housing Impacts of Infill Projects on Vulnerable Communities

Appendix N of the Proposed CEQA Guidelines should also reflect S.B. 226's mandates to promote equity and meet the housing and public health needs of California's vulnerable communities. Accordingly, the Appendix N checklist should require lead agencies to consider additional issues, including:

- Could the project create or exacerbate a known environmental health hazard?
- Would the project increase population exposure to a known environmental health hazard?
- Could the project disproportionately affect the human health of environmental justice communities?
- Displacement and lack of affordable housing can lead to grave health impacts including stress, depression, and anxiety; inability to afford necessities such as

² Wilbure Smith Associates, *San Diego Affordable Housing Parking Study* (Dec. 2011), available at <http://www.sandiego.gov/planning/programs/transportation/mobility/pdf/111231sdafhfinal.pdf>. See also, Barbara Lee, *Quantifying Greenhouse Gas Mitigation Measures: A Resource for Local Government to Assess Emission Reductions from Greenhouse Gas Mitigation Measures* 155-158, 176-178 (CAPCOA, Aug. 2010), available at <http://www.capcoa.org/wp-content/uploads/2010/11/CAPCOA-Quantification-Report-9-14-Final.pdf> (analyzing the use of high density housing and deed-restricted affordable housing as mitigation strategies to reduce VMT and GHG emissions).

health care, nutritious food, and utilities; and residential instability leading to poor educational attainment for children.^{3, 4}

- Would the project result in a loss of affordable housing?
- In addition to the existing questions on population growth and displacement in Section XIII, the checklist should ask: is the project likely to displace low-income residents or residents of color?

D. Notice of Exemption for a Project Qualifying for Streamlining Under the Proposed Guidelines Should Be Mandatory, Particularly for Environmental Justice Communities

Public participation is a cornerstone of the CEQA process. Although it is not entirely clear in the current draft, Section 15183.3(c)(2)(A) of the Proposed CEQA Guidelines advises a lead agency to file a Notice of Exemption in the event it determines a project would not cause new specific effects or more significant effects than previously analyzed, suggesting such a notice is optional. In order to ensure at least a minimum level of public participation, however, the Guidelines should *require* a Notice of Exemption be issued by a lead agency if it determines no environmental review is necessary. Notice should be mandatory so that residents impacted by the land use decision are informed about the project and can prepare an appropriate response in a timely manner. This is particularly true for communities facing barriers to participation, including Environmental Justice communities that have been historically divested from decision-making processes yet are the best equipped with on-the-ground information about the decisions' impacts.

* * * * *

Without considering their impacts on California's vulnerable residents, as S.B. 226 requires the Guidelines to do, CEQA streamlining may decrease opportunities for public participation and lead to adverse health impacts low-income communities of color. It also has the potential to decrease affordable housing options and displace low-income, low-VMT households to exurban areas where these households will be forced to drive more. Such an outcome would run directly counter to the objectives of S.B. 226 and S.B. 375. As you undertake the revision of the Proposed Guidelines, we hope that you actively engage with the residents that stand to be most impacted by your decisions and take steps to ensure that the environmental, social, and health benefits contemplated by infill development will extend to all Californians.

³ Rajiv Bhatia & Carolina Guzman, *The Case for Housing Impacts Assessment: The Human Health and Social Impacts of Inadequate Housing and Their Consideration in CEQA Policy and Practice* (San Francisco Department of Public Health, PHES Technical Research Report, May 2004), available at <http://www.sfphes.org/publications/reports/HIAR-May2004.pdf>.

⁴ Paula Braveman et al., *Where We Live Matters for Our Health: Links Between Housing and Health*, (Robert Wood Johnson Foundation, Issue Brief Series, May 2011), available at <http://www.rwjf.org/files/research/sdohseries2011housing.pdf>.

Thank you for your consideration of these important issues. Please contact Parisa Fatehi-Weeks (pfatehi@publicadvocates.org, 415.431.7430 x305) if we can provide any additional information.

Sincerely,



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cc: Senator Mark DeSaulnier, Chair, Transportation and Housing Committee
Assemblymember Paul Fong, Chair, Select Committee on Climate Change
Assemblymember Warren Furutani, Chair, Asian Pacific Islander Legislative Caucus
Assemblymember Ricardo Lara, incoming Chair, Latino Legislative Caucus
Assemblymember Tony Mendoza, Chair, Latino Legislative Caucus
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