

MTC, WHERE ARE OUR BUSES?



**CHALLENGING THE BAY AREA'S
SEPARATE AND UNEQUAL
TRANSIT SYSTEM**

MTC, Where Are Our Buses?

*“Reliable **public transportation** is the pathway to employment, education, health care, and other opportunities. What is at stake is whether the Bay Area will remain a highly segregated and polarized region or a region that promotes opportunity and well-being for all its members. Equity in transportation funding is key.”*

—Adrienne Bloch, attorney for Communities for a Better Environment and co-counsel in the *Darensburg v. MTC* case

This publication is presented by Communities for a Better Environment, Urban Habitat, and Public Advocates, Inc.

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INTRODUCTION

Around the Bay Area, residents, advocates, transit workers, and elected officials have joined forces. Their vision? Every person in the region has access to a world-class transit system regardless of race or financial situation. Their goal? End funding discrimination against East Bay bus riders by the Metropolitan Transportation Commission (MTC).

In this report, you will learn how MTC maintains a separate and unequal transit system through its funding decisions. You'll see the effect these decisions have on the daily lives of people of color and those with low incomes. You'll see how legal and community-based strategies are being used to change the system. And you'll learn ways that you can help support these efforts.



THE NEED FOR RELIABLE BUS SERVICE

Sylvia Darensburg's alarm clock rings before sunlight enters her East Oakland apartment window. Rushing out the door to catch the bus, she knows that for the rest of the day she will be one of thousands of East Bay residents relying on AC Transit to get to key destinations. Sylvia will ride two buses each way to get to her job as a medical assistant. She will ride two more to attend college classes after work, and two more

to get home at night. In total, she spends up to 4-5 hours a day on public transportation. And that doesn't include the time she spends waiting at bus stops.

"I depend on AC Transit for everything I need: groceries, work, and higher education," Sylvia emphasizes. "AC Transit used to run like clockwork." Now, however, routes have been cut and buses run less frequently,

even as she pays higher fares. Late buses have cost Sylvia jobs due to tardiness, and she has been forced to turn down many better-paying jobs because they are inaccessible by public transit. Many others share her frustration.

For many years, **Vivian Hain** struggled every morning to get her daughters from their low-income neighborhood in East Oakland to a magnet arts school



in Berkeley. “I send my daughters there because it’s a great public school where they can thrive and fulfill their potential,” she says.

At first, Vivian had to ride two buses for over an hour to get her children to school. But in 2003, the AC Transit bus that stopped at the school was cut due to budget shortfalls. With the school no longer accessible by bus, Vivian was forced to buy an old and deteriorating car to get there. When money for gas and repairs ran out, her daughters missed school. “It’s unfair that low-income families can’t send our kids to quality schools in wealthier neighborhoods because of the lack of public transportation,” argues Vivian.

Virginia Martinez and her family have lived in Richmond for over 17 years. Because of inadequate AC Transit bus service, her community is isolated from schools, jobs, grocery stores, and recreational opportunities. Her children have often had to walk home from school up to 30 blocks through high-crime areas. Her husband Mario has turned down better-paying jobs in nearby cities because of the high cost of public transportation.

For years, Virginia’s family could rarely go out at night because most buses stop running after 8 p.m. “We couldn’t go to the movies. I knew people who were stranded at the mall because the buses stopped running, and had to walk for miles in the dark to get back home,” she recalls.

Sylvia, Vivian, Virginia, and their families are not alone in facing inadequate bus service. Stories like theirs are repeated by thousands of residents living in low-income communities of color in the East Bay who depend daily on public transportation.

Why is this happening? The answer lies in funding decisions made by the Metropolitan Transportation Commission (MTC). As the regional agency in the Bay Area responsible for funding public transportation, MTC has chosen to provide substantially more funding to affluent and disproportionately white riders of BART and Caltrain than it provides to AC Transit bus riders who are largely low-income and people of color. In doing so, MTC maintains separate and unequal transit systems.

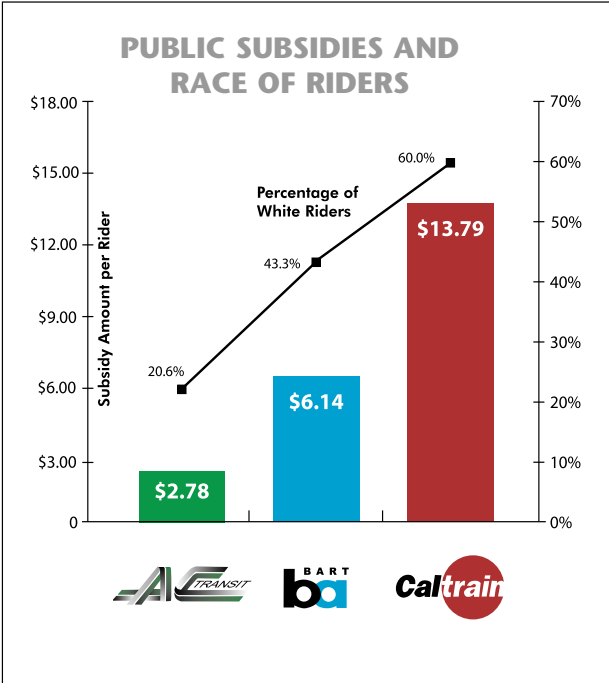


NOT ALL TRANSIT IN THE BAY AREA IS EQUAL

AC Transit provides daily bus service from North Richmond through Oakland and into southern Alameda County. Its passengers are overwhelmingly people of color and poor. Ninety percent of them do not own cars and depend solely on public transit to reach essential destinations, such as jobs, schools, grocery stores, and social services.

MTC distributes more than \$1 billion annually in federal and state transportation funds for the nine-county San Francisco Bay Area. Its funding decisions determine the levels and quality of service available to residents at the local level.

In the 1970s, AC Transit provided world-class and affordable bus service. But decades of under-funding by MTC have forced AC Transit to dramatically reduce bus service and increase bus fares, year after year. The people hit hardest are those trying to fight their way out of poverty: people of color, women, immigrants, the elderly,



Data from the National Transit Database, 1989-2003

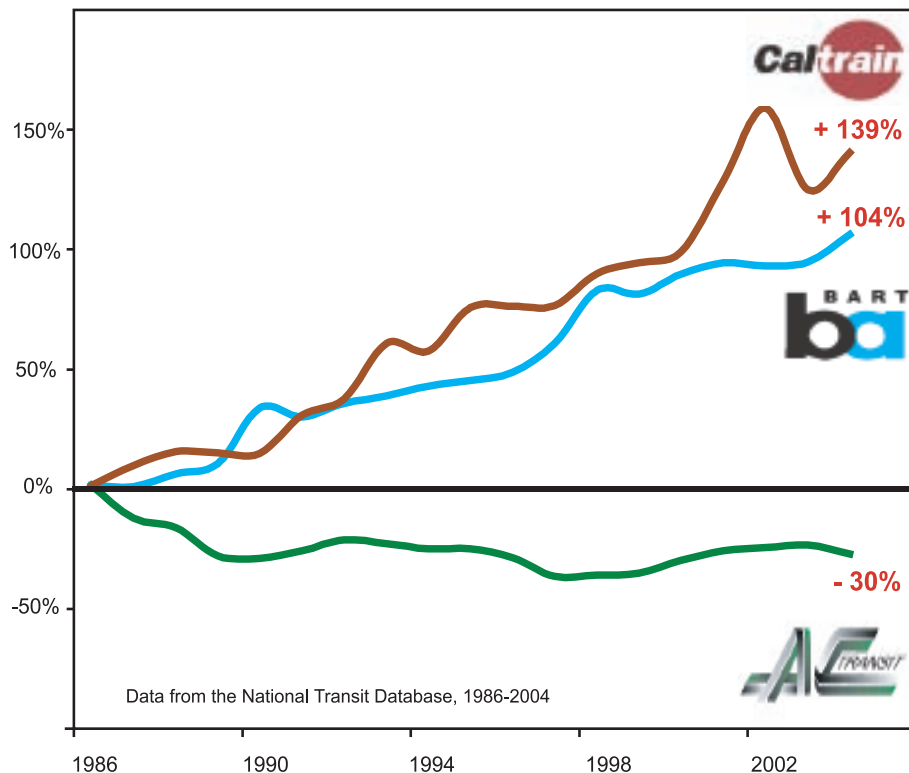
the disabled, the homeless, and children. For them, adequate bus service represents not only mobility to jobs and schools, but mobility up the economic ladder.

Despite the urgent needs of AC Transit bus riders, MTC has consistently channeled funds to expand expensive rail systems into the suburbs while underfunding urban bus service. In fact, as the chart on this page illustrates, BART and Caltrain service have more than doubled since 1986, while AC Transit service has fallen by about 30%. Unlike most AC Transit bus riders, rail passengers use public transit mostly to commute to work, and most have cars for meeting all their other transportation needs.

MTC's funding policies and practices contribute directly to stark inequities. As the chart on page 3 demonstrates, the higher the proportion of white passengers for each transit operator, the higher the public subsidy its passengers receive. AC Transit passengers, 20 percent of whom are white, receive a public subsidy per rider of \$2.78. BART riders, 43 percent of whom are white, receive more than double (\$6.14), and Caltrain

LEVELS OF SERVICE

BART and Caltrain Services Double While AC Transit Service Deteriorates



passengers, 60 percent of whom are white, receive nearly five times more (\$13.79).

MTC continues this pattern of discrimination despite the results of its own studies, which indicate

that these deluxe rail systems do not serve the “local-travel, blue-collar employment, and inner-city travel needs of minorities.” *

* Source: *BART Impacts on Travel by Ethnic Minorities* (November 1977), p. vi.

TAKING LEGAL ACTION

Numerous community campaigns are underway to win equity in transit funding. In April 2005, these efforts were boosted when a coalition of bus riders, labor, and environmental justice advocates filed a federal class action lawsuit, *Darensburg v. MTC*, to end MTC's discriminatory practices.

Brought as a class action on behalf of all current and future AC Transit riders of color, the litigation seeks to end MTC's racially discriminatory funding practices. The suit alleges that MTC's long-standing practice of channeling funds to benefit predominantly white rail riders at the expense of AC Transit bus riders of color violates federal and state civil rights laws. The suit seeks equity in MTC's funding allocation so that AC Transit's riders can receive the same first-class level of service that riders of BART and Caltrain enjoy.

The case was brought by three individual plaintiffs, bus riders Sylvia Darensburg (East Oakland),

17	UNITED STATES DISTRICT COURT	
18	NORTHERN DISTRICT OF CALIFORNIA	
19		Case No. C- 05-1597
20	SYLVIA DARENSBURG, VIRGINIA	COMPLAINT FOR INJUNCTIVE AND DECLARATORY RELIEF PURSUANT TO FOURTEENTH AMENDMENT TO THE UNITED STATES CONSTITUTION, 42 U.S.C. § 1983, TITLE VI OF THE CIVIL RIGHTS ACT OF 1964, 42 U.S.C. § 2000d, <u>ET SEQ., AND CAL. GOV. CODE § 11135</u> [CLASS ACTION]
21	MARTINEZ, and VIVIAN HAIN,	
22	individuals on behalf of themselves and all	
23	others similarly situated;	
24	AMALGAMATED TRANSIT UNION, LOCAL 192; and COMMUNITIES FOR A BETTER ENVIRONMENT,	
25	Plaintiffs,	
26	v.	
27	METROPOLITAN TRANSPORTATION COMMISSION,	
28	Defendant.	
	429827.2	COMPLAINT FOR INJUNCTIVE AND DECLARATORY RELIEF

Darensburg v. MTC complaint

Vivian Hain (Berkeley), and Virginia Martinez (Richmond). They were joined by two organizational plaintiffs, Communities for a Better Environment and the Amalgamated Transit Union Local 192. The plaintiffs are represented by Public Advocates, Communities for a Better Environment, and the law firms of Lief Cabraser Heimann & Bernstein, LLP, and Altshuler,

Berzon, Nussbaum, Rubin & Demain, LLP.

The filing of the *Darensburg* lawsuit represents an important tool in the long struggle for equity in Bay Area transportation funding. However, this action does not seek to replace, but rather to complement, the community activism that can generate a long-term solution.

VOICES FOR TRANSPORTATION JUSTICE



Rosa Parks leaving the Montgomery courthouse with her attorney, Charles Langford

When inequity is as deeply ingrained and insulated from democratic participation as it is at MTC, litigation can be an essential tool to initiate change. But organized constituencies supported by civil rights lawyers can both create the possibility of change and ensure that legal victories make a meaningful difference in people's lives.

Bay Area transit advocates are drawing on the lessons learned in the Montgomery Bus Boycott more than fifty years ago. While Rosa Parks and large numbers of her fellow bus riders mobilized in

boycotts, demonstrations, and acts of civil disobedience, NAACP lawyers filed lawsuits, such as *Gayle v. Browder*, challenging Jim Crow laws. In this way, litigation was tied to a broad range of other strategies primarily spearheaded by organized communities, not lawyers.

It will take the same sort of grassroots coalitions and coordination to achieve transportation justice in the Bay Area as it took in Montgomery in 1955. What follows are some examples of the heroic community efforts underway right now in the Bay Area.

"Transportation has always been at the heart of civil rights. Plessy v. Ferguson, which upheld the 'separate but equal' doctrine, was a transportation case. Rosa Parks sparked the modern civil rights movement while riding a bus. East Bay bus riders of color are continuing this legacy by demanding equal treatment from MTC."

—Richard A. Marcantonio, managing attorney, Public Advocates, and co-counsel in the *Darensburg v. MTC* case

VOICES FOR TRANSPORTATION JUSTICE:

STUDENTS FIGHT FOR FREE BUS PASSES

Most schoolchildren in the East Bay today do not have a free “yellow school bus” to ride to school as their parents did just a generation ago.

For tens of thousands of working families, paying for public transportation to get to school is a daily reality—and an expensive one. With rising bus fares and repeated service cuts, low-income youth find it increasingly difficult to attend class and participate in after-school activities and employment.

In 2005, Kids First/Real Hard, a youth organizing group in Oakland, surveyed Berkeley and Oakland high school students on their day-to-day transportation experiences. The survey revealed that nearly 60% of students had to use lunch money to pay for bus fare.

For years, young people and community leaders in the East Bay have urged MTC to provide funding for a free monthly bus pass for low-income youth. In 2001, advocates won a short-lived victory when they pressured MTC to fund a pilot program. But despite the program’s success in improving the mobility of youth, the level of funding MTC provided was not enough to continue the program beyond its first year. Since then, groups like Kids First and the Youth Transportation Coalition have helped lead the charge to win back free bus passes from MTC.

To support efforts to provide free bus passes for students, contact Elisabeth Jewel at (510) 849-4811 or Terrence Cheung with Contra Costa Supervisor John Gioia’s office at (510) 374-3231.



Devon Barney, Oakland
Kids First member

“Sometimes my mom doesn’t have enough money for me to catch the bus or to get to programs after school.”

—Fremont High School student

VOICES FOR TRANSPORTATION JUSTICE:

EAST BAY OFFICIALS CALL ON MTC TO ALLOCATE FUNDING FAIRLY



U.S. Congresswoman Barbara Lee



State Assemblymember Loni Hancock

A growing number of elected officials—more than thirty in the last year alone—have publicly urged MTC to treat AC Transit bus riders equitably in its funding decisions.

Since 2005, three cities (Oakland, Berkeley, and Richmond) and the County of Alameda adopted strong resolutions decrying the second-class levels of service low-income, predominantly minority bus riders must endure, and urging MTC to ensure those riders the higher levels of funding and service that MTC provides for wealthier, disproportionately white rail commuters.

In a June 6, 2005 opinion-editorial published in the *San Francisco Chronicle*, Congresswoman Barbara Lee emphasized the need for fairness in MTC’s funding decisions. “[R]egardless of whether the public transit pie is as large as we would like, MTC needs to serve up fair portions. Equity is paramount.”

This message was reinforced by a chorus of elected officials later that year. Eight elected officials co-signed a joint letter by Assemblymember Loni Hancock calling on MTC to “ensure that

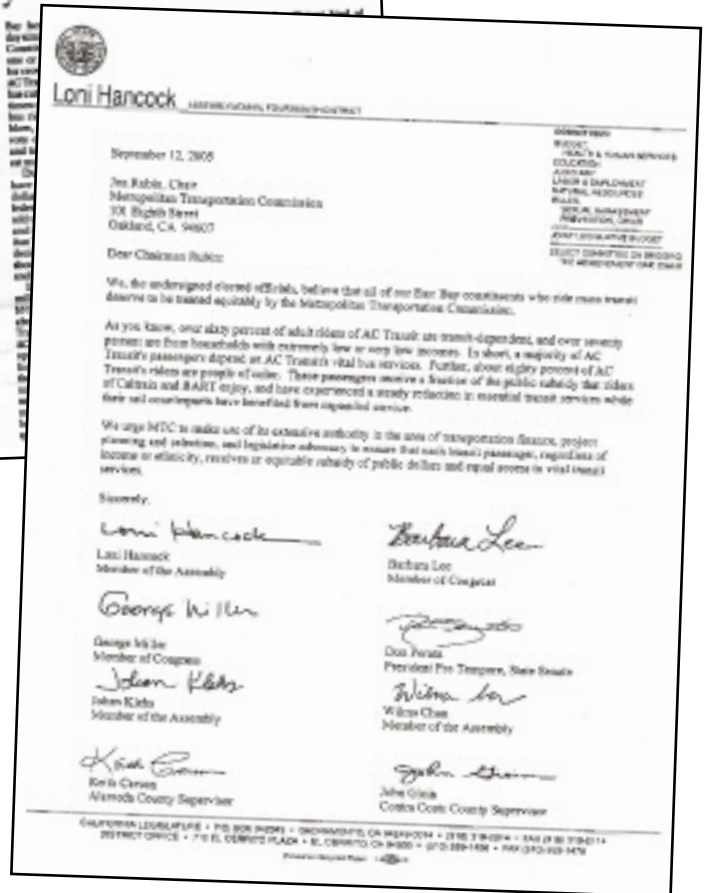
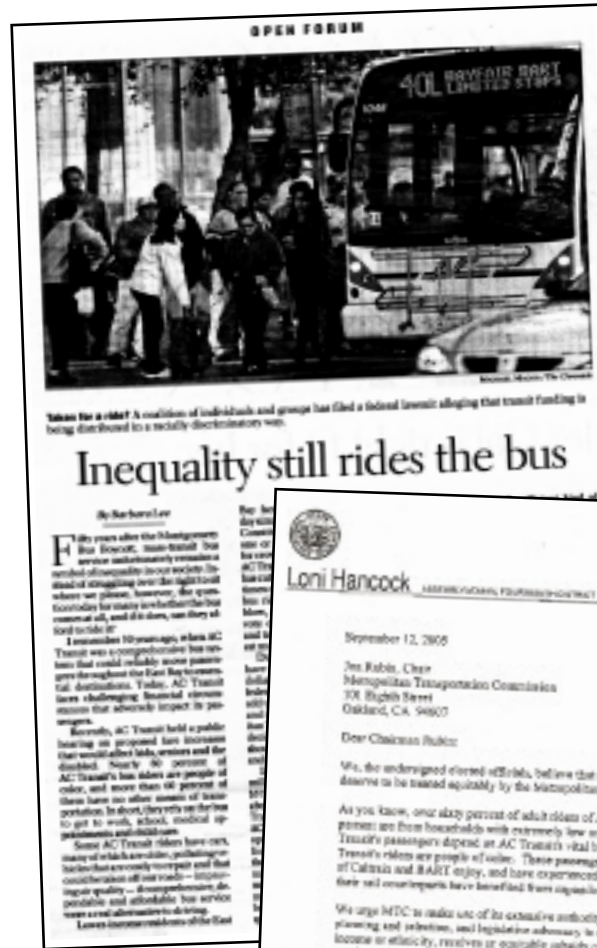
“I remember 30 years ago, when AC Transit was a comprehensive bus system that could reliably move passengers throughout the East Bay to essential destinations. Today, AC Transit faces challenging financial circumstances that adversely impact its passengers.”

—Rep. Barbara Lee

each transit passenger, regardless of income or ethnicity, receives an equitable subsidy of public dollars and equal access to vital transit services.” Co-signers included Representatives George Miller and Barbara Lee, Senate Pro Tem Don Perata, Assemblymembers Wilma Chan and Johan Klehs, and Supervisors Keith Carson and John Gioia. **To read the resolutions, visit www.publicadvocates.org.**



Alameda County Supervisor
Keith Carson



VOICES FOR TRANSPORTATION JUSTICE:

THE PUSH FOR ENVIRONMENTAL JUSTICE PRINCIPLES



The Minority Citizens Advisory Committee (MCAC) was created in 1974 as a result of a protest by the Mexican-American Legal Defense and Education Fund over the lack of meaningful minority participation in MTC's transportation planning process. The MCAC, whose members represent low-income people and communities of color from around the Bay Area, is charged with ensuring that the views and needs of minority communities are adequately reflected in MTC's policies.

In early 2004, the MCAC took on a bold new initiative, urging MTC to adopt an Environmental Justice Policy to ensure that the needs of low-income and minority communities are identified and addressed, and the benefits of public funding fairly distributed.

The MCAC faced no shortage of obstacles along the way. Despite heavy pressure from MTC staff, the members of the MCAC persisted and, in November 2004, forwarded four Environmental Justice Principles to MTC for adoption and implementation. (See sidebar on next page)

When the principles finally came before the full Commission on March 22, 2006, the Commission delayed again, adopting two of the four Principles, while rejecting two others that would require MTC to remedy identified inequities.

The MCAC and its community supporters continue to press MTC to stop the stalling and adopt and implement an Environmental Justice Policy that ends inequity, and not just study it.

MCAC'S ENVIRONMENTAL JUSTICE PRINCIPLES:

To ensure that Environmental Justice is effectively incorporated into all of the Metropolitan Transportation Commission's planning, decision-making, funding and operations, the Minority Citizens Advisory Committee urges the Metropolitan Transportation Commission to adopt and implement the following principles.

PRINCIPLES:

Principle #1 – Create an open and transparent public participation process that empowers low-income communities and communities of color to participate in decision making that affects them.

Principle #2 – Collect accurate and current data essential to defining and understanding the presence and extent of inequities, if any, in transportation funding based on race and income.

Principle #3 – MTC should change its discretionary investment decisions and actions to mitigate identified inequities.

Principle #4 – Ensure that adverse or potentially adverse disproportionate project impacts on low-income and/or minority communities are addressed and mitigated by project sponsors prior to MTC project or funding approval.



VOICES OF TRANSPORTATION JUSTICE:

URBAN HABITAT AND THE TRANSPORTATION JUSTICE WORKING GROUP



Oakland rally by TJWG celebrating the 50th Anniversary of the Montgomery Bus Boycott

In 2003, Urban Habitat, a long-standing environmental justice organization in Oakland, convened the Transportation Justice Working Group (TJWG), a coalition of transit advocates from labor, faith, grassroots, policy organizations, and academia, that seeks to win equitable funding for public transportation services that benefit low-income communities of color.

Since its establishment, the TJWG has won key policy victories, including preventing Governor Schwarzenegger from cutting \$22 million in vital AC Transit funds in 2004 and blocking the elimination of discounted monthly bus passes for youth that ride AC Transit in 2005. The TJWG has also drawn attention to the broken promises of MTC's Lifeline Program. MTC created Lifeline in

2001 to address a \$2.7 billion gap in transit funding for low-income residents, but has under-funded it so severely that the gap has actually increased since then.

The TJWG has also provided support to MTC's Minority Citizens Advisory Committee in its development and adoption of four Environmental Justice Principles and helped fend off repeated efforts by MTC to weaken the language of the proposed policy.

On December 5, 2005, the TJWG celebrated the 50th Anniversary of the Montgomery Bus Boycott with a spirited rally at Frank Ogawa Plaza in Oakland. Urban Habitat marked the occasion by releasing the new edition of its journal, *Race, Poverty & the Environment*, devoted entirely to questions of transportation justice.

Long-standing members of the TJWG include Urban Habitat, Low-Income Families' Empowerment Through Education (LIFETIME), Building Opportunities for Self Sufficiency (BOSS), the Transportation Defense and Education Fund (TRANSDEF), the Transportation and Land Use Coalition (TALC), and SEIU Local 790.

For more information about the Transportation Justice Working Group and to read *Race, Poverty & the Environment*, go to www.urbanhabitat.org.

“To ... address environmental justice, [MTC] need[s] to ... [i]dentify residential, employment, and transportation patterns of low-income and minority populations so that their needs can be identified and addressed, and the benefits and burdens of transportation investments can be fairly distributed.”

—Department of Transportation
executive order

DARENSBURG V. MTC: THE PLAINTIFFS

“Like many AC Transit riders, Darensburg depends completely on the bus service for all her family’s transportation needs. Like Rosa Parks, she has been pushed too far and she is ready to fight back[.]”

—Paterson, Eva “End Race Discrimination in Public Transport Today.” *Race, Poverty & the Environment*, 12.1 (2005/2006): 19



“Now bus riders will get their day in court to demonstrate how MTC has neglected our basic transportation needs.”

Sylvia Darensburg, lead plaintiff in *Darensburg v. MTC*



“It’s unfair that low-income families of color can’t send our kids to quality schools in wealthier neighborhoods because of the lack of public transportation.”

Vivian Hain, plaintiff in *Darensburg v. MTC*



Communities for a Better Environment (CBE) is a twenty-eight year old environmental health and justice organization that works with urban communities directly affected by pollution. CBE helps empower communities by providing organizing skills, and legal, technical, and scientific resources that assist them in taking control of decisions that affect their health and quality of life. CBE believes that to achieve a society based on environmental,

social, and economic justice, communities must build a broad social movement from the bottom up. Transportation specifically affects public health, access to medical care, access to employment, and education opportunities. CBE has been involved in transportation and transportation justice issues for many years and brings this litigation on behalf of its members who are directly impacted by MTC's inequitable funding decisions.



Amalgamated Transit Union (ATU) Local 192 is part of the largest labor organization representing transit workers in the U.S. and Canada. Founded in 1892, the ATU today has over 180,000

members in 273 local unions in 46 states and nine provinces. Chartered in 1901 in Oakland, Local 192 was the first ATU local in California.

ATU Local 192 is deeply committed to fighting discrimination in transit and has a proud history of standing up and speaking out on issues that affect its members and the community. Local 192 brings this litigation to defend the rights and interests of its members and their families, who depend on AC Transit service for their everyday transportation needs.

DARENSBURG V. MTC: THE LEGAL TEAM

The lawyers for the plaintiffs are accomplished advocates for justice who have won significant victories, securing rights to transportation, affordable housing and quality schools for low-income people and people of color in California and nationally.

Bill Lann Lee served as the nation's top civil rights official as Assistant Attorney General in the



Clinton Administration Department of Justice and is a partner at Lief Cabraser Heimann & Bernstein, LLP. At the NAACP Legal Defense Fund, Mr. Lee represented the LA Bus Riders Union in their successful lawsuit against

the Los Angeles MTA. Mr. Lee and his colleague, Daniel Hutchinson, serve as lead counsel in the *Darensburg* lawsuit, representing the individual plaintiffs and class members.

Adrienne Bloch is Senior Attorney at Communities for a Better Environment, a leading environmental justice organization in California with offices in



Huntington Park and Oakland. Ms. Bloch represents CBE in the *Darensburg* lawsuit.

Richard Marcantonio is an experienced litigator who has successfully defended the rights of lower-income communities and people of color in affordable



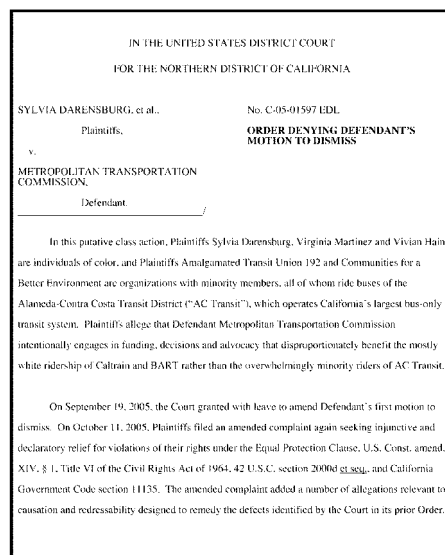
housing, housing discrimination, and transportation cases. He is a managing attorney at Public Advocates, a public interest civil rights law firm that challenges the systemic causes of poverty and discrimination by defending and expanding civil rights through

advocacy, litigation, and partnership with low-income communities, people of color, and immigrants. With his colleagues, Guillermo Mayer, Elisabeth Voigt, and Angelica Jongco, Mr. Marcantonio represents the individual plaintiffs and class members in the *Darensburg* lawsuit.

Linda Lye, who served as a law clerk for U.S. Supreme Court Justice Ruth Bader Ginsburg, is an associate with the San Francisco firm of Altshuler, Berzon, Nussbaum, Rubin & Demain. With her colleagues, Partners Peter Nussbaum and Dan Purtell, Ms. Lye represents ATU Local 192 in the *Darensburg* lawsuit.



LAWSUIT MILESTONES



Court order denying MTC's second motion to dismiss the case

In the first year of the lawsuit, East Bay bus riders defeated back-to-back efforts by MTC to deny them their day in court. Federal Magistrate Judge Elizabeth Laporte denied MTC's attempts to dismiss the suit, ruling that the plaintiffs can pursue their discrimination claims and proceed into the fact-finding stage known as discovery. After reviewing more than 250,000 pages of internal MTC documents, plaintiff counsel expect to seek court certification allowing the plaintiffs to represent the class of AC Transit bus riders in 2007. A trial date has not yet been set.

Already the plaintiffs have demonstrated a variety of ways in which MTC causes AC Transit to cut service and increase bus fares. Here are some examples:

- In 2001, an MTC study found alarming gaps in 80% of AC Transit's "lifeline" bus routes that serve people of color and low-income communities, but

took no steps to remedy the situation. Today, these safety-net gaps are even greater, after a 14% cut in AC Transit service in 2003 and a 17% bus fare increase in 2005.

- While MTC estimated the regional cost of alleviating these significant service gaps at \$2.7 billion over 25 years, it has doled out only a tiny fraction of the needed funds—a mere \$10 a year for each person living in poverty in the Bay Area.
- In 2001, MTC approved six new BART and Caltrain projects, at a cost of over \$7 billion, while approving only \$192 million of the \$1.28 billion requested by AC Transit.
- In 2005, MTC successfully lobbied Congress to deny AC Transit direct access to key Welfare-to-Work transit funds, costing AC Transit millions of dollars a year and jeopardizing important late-night and weekend service.

WHAT YOU CAN DO

Join forces with other AC Transit bus riders and help organize a bus riders' coalition in the East Bay. For more information, contact **AJ Napolis, Associate Director of Urban Habitat at (510) 844-1190, aj@urbanhabitat.org**.

Call on MTC to adopt and implement all of the Minority Citizens Advisory Committee's Environmental Justice Principles. Contact **Steve Heminger, MTC's Executive Director, at (510) 817-5810, sheminger@mtc.ca.gov**.

Also contact the MTC Commissioner that represents your local area. You can locate him or her by visiting **www.mtc.ca.gov**.

Get involved in the Transportation Justice Working Group, a coalition of transit equity advocates, researchers, grassroots organizations, and labor seeking to develop and promote an equity-first agenda for public transit in the San Francisco Bay Area. For more information, contact **Lila Hussain, Housing and Transportation Associate at Urban Habitat, at (510) 839-3716, lila@urbanhabitat.org**.

Host a briefing for your organization's members on transportation justice issues facing the Bay Area. Contact **Guillermo Mayer of Public Advocates at (415) 431-7430, gmayer@publicadvocates.org**.

Work with your local elected officials to consider pursuing legislation to improve funding for AC Transit bus riders, and urge the MTC Commissioners from your district to treat AC Transit bus riders equitably.

Media inquiries may be directed to **Richard Marcantonio of Public Advocates at (415) 431-7430, rmarcantonio@publicadvocates.org, Adrienne Bloch of Communities for a Better Environment at (510) 302-0430, ext. 16, abloch@cbecal.org, or AJ Napolis of Urban Habitat at (510) 844-1190, aj@urbanhabitat.org**.

NOTES:

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