



Francis Scott Key Equity Bridge and the Rule of Law

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The Baltimore Transit Equity Coalition (BTEC) has monitored and reported instances of structural racism in public transportation, apparent and unseen since within hours of the cancellation of the Red Line light rail transit project in 2015.

The construction of the replacement for the Francis Scott Key (FSK) Bridge has given the entire region an object lesson in the unseen imposition of structural racism in public transportation. BTEC challenges the residents and leaders of the region to demand a remedy.

The cast of suspects includes Maryland Transit Administration (MTA), Maryland Transportation Authority (MDTA), the State Highway Administration (SHA), the Environmental Protection Agency (EPA) and the Federal Highway Administration (FHWA).

The following is what is not apparent. Through the State Highway Administration (SHA), MDTA received a “categorical exclusion” (CE) as provided in the National Environmental Protection Act (NEPA) of 1969. The CE permits the Maryland Department of Transportation (MDOT) agencies to begin planning and subsequently constructing an FSK replacement bridge without submitting an Environmental Impact Study (EIS), a detailed analysis of any harm to the environment that may result from the construction of the new bridge.

A CE may be awarded if the new bridge project’s right of way or environmental impacts are not significantly more harmful than the impacts preceding the collapse of the bridge. The agencies are attesting that no

more damage will be done by the new bridge than with the original structure.

BTEC sees the matter differently. While NEPA may issue a CE, Title VI of the 1964 Civil Rights Act guarantees that no members of the law's protected classes are excluded from the benefits that may be provided by the new bridge. Protected classes include people who may be distinguished based on race, color, national origin, education, income, head of household status, access to cars, gender identity, etc.

BTEC proposed that the new bridge be designed before construction to be able to accommodate light rail transit (LRT) at some time in the future. That is, the bridge will be ready for the LRT in the future when regional LRT planning and construction is ready for the bridge. As an example, the Woodrow Wilson Bridge spanning the Potomac between Oxon Hill, Maryland and Alexandria, Virginia was built in 1961 and reconstructed in 2014 with accommodation for pedestrians/bicyclists and future rail transit. The Washington Area Metropolitan Transportation Authority (WMATA), a triple-jurisdiction regional transportation authority is now considering rail transit on the Wilson Bridge and the bridge is ready.

The agencies responsible for the construction of the FSK replacement bridge have rejected the BTEC proposal for designing accommodation for rail transit in the future. As a result, the new bridge will serve drivers and riders of cars, vans, and trucks, only vehicular traffic. The plans call for no LRT nor mass transit such as emissions-free buses, and no safe bicycle and walking paths.

Title VI may be violated if the engaged agencies are building a bridge that will not share its benefits with the tax-paying residents of the region and the near-bridge communities who do not have access to cars. LRT is a defense against climate change, further environmental degradation of the bay and the river, and the adverse health effects of vehicular-emitted pollution on the residents of the communities in the vicinity of the bridge.

Residents near the bridge without access to cars constitute 30 – 40 percent of the inhabitants. They will be unlawfully excluded from sharing the

benefits of the newly constructed bridge which will again cater only to drivers and riders of cars, vans, and trucks.

The construction of the bridge is accompanied by the rush to return the Port of Baltimore to its commercial importance as a major port and employer. It is this rush for the port to resume maximum revenue-generating status that is cited by many to justify an open violation of Title VI.

BTEC has noted in its letter to the agencies that designing accommodation for LRT in the future and consultation with the residents of the near-bridge communities as required by Title VI will not contribute significant costs to the design and construction process. Instead, such accommodation will permit the region to convert a tragic crisis into a once-in-a-lifetime opportunity.

To correct for this disparity in benefits offered by the bridge project, the responsible agencies should incorporate accommodation for LRT in the future along with pathways for bicycle and pedestrian use as these features reduce inequities in transportation access unlike the bridge project's car-exclusive design.

Consider the following scenario. When the State, region, and Baltimore County succeed in the future in building a long-desired light rail spur from Bayview, the eastern terminus of the Red Line LRT, to Sparrows Point, the explosive economic growth and community economic development at Trade Point Atlantic will characterize the corridor.

The oft-proven mantra in the transportation industry declares that "Development follows rail." Transit-oriented development (TOD) attracted by LRT on the bridge will transform eastern Baltimore County in Essex, Dundalk, and Turner Station, then will cross the bridge to South Baltimore City bringing jobs and opportunities urgently needed in the underdeveloped communities in Curtis Bay, Brooklyn, and Mt. Winans, etc. and on into Anne Arundel County.

This expansion of economic and community development attracted by LRT is BTEC's vision shared by many. A reliable, equitable, reduced commute

times, environmentally protective public transportation system triggering transformation of the regional economy will be anchored by light rail transit.

But first we must respect the rules of law. Demand respect for Title VI. Otherwise, the bridge will be known henceforth as the “Francis Scott Key Equity Bridge.”

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