

November 2015

*Driven Out of Town ... Driven to Eviction?*

## "Tech Buses" Drive Displacement

by Patrick Monette-Shaw

Problems with the trial of "tech" shuttle buses — a.k.a., the "Google buses" — have cropped up all over the City, including on the West Side. And the "trial" may rapidly worsen if the program is made permanent by the SFMTA and Board of Supervisors.

It's now gotten personal. And I'm angry. I'm 64-½, walk using a cane, and rely on public transportation.

During the past three weeks, I've had to exit Muni buses in the middle of traffic lanes at least ten times at the northeast corner of Van Ness Avenue and California Street coming home from work at 5:30 p.m. when tech shuttle buses — sometimes two shuttles at a time! — are parked in the Muni bus red zones unloading tech workers who likely don't care whether Muni riders have to disembark in the street.

It happened again tonight, Thursday, October 22 at 7:10 p.m. at the same corner. There was a purple commercial bus in a Muni red zone forcing me to disembark in a traffic lane.

I'm tired of having to walk around, or in front of, tech buses to reach the sidewalk! And I'm tired of worrying about my safety while disembarking Muni in the roadway.

The MTA and City haven't conducted a full Environmental Impact Report (EIR), which is desperately needed before making the shuttle bus program permanent!

### Illegal Trial Period of "Tech Shuttles"

Despite a slew of negative media stories about the impacts of the tech buses (a.k.a., the "Google buses"), San Francisco went ahead anyway with a so-called "information collection" trial period for the buses to operate using red zones reserved for Muni buses.

#### **Budget and Legislative Analyst Report**

A report titled "[Impact of Private Shuttles](#)" was presented to the Board of Supervisors on March 31, 2014 by the Board's Budget and Legislative Analyst (BLA) — Harvey Rose's outfit — which had been asked by Supervisors to analyze the impact of private shuttle buses on the City's infrastructure costs, traffic delays, pedestrian safety, and housing costs.

Notably, the March 2014 BLA report clearly indicated a full Environmental Impact Report (EIR) is needed for the private shuttle bus program *before* it is made permanent. The report noted no comprehensive assessment has been completed by either the MTA or other City agencies.

The MTA and the Planning Department wrongly determined that a "pilot program" allowing the tech shuttles to use some Muni bus stops for an 18-month trial didn't require an EIR, and that the pilot program was exempt from California's CEQA environmental review requirements because it would be an information collection and evaluation period, which is utter nonsense. One goal of EIR review is to explore ways to mitigate adverse impacts of proposed projects.

The BLA report identified many problems with the private commuter shuttle buses. In particular, it noted:

*"In other words, all use of City bus zones by private shuttles to date has been in violation of the California Vehicle Code [emphasis added]. In 2014, Muni's on-time performance declined from 60% to 54%, as private shuttle buses increased."*



**Tech Buses Devour Muni Bus Stops:** Why should Muni riders have to risk their safety embarking and disembarking from Muni buses in traffic lanes, while well-heeled tech workers enjoy the "luxury" of embarking from, and disembarking onto, red-zone sidewalks? Tech buses have **worsened** Muni's on-time performance, along with safety!

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**"All over the City, including on the West Side, various problems identified with the trial period of 'tech' shuttle buses — a.k.a., the 'Google buses' — may worsen if the SFMTA and Board of Supervisors make the program permanent."**

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**"The March 2014 BLA report clearly indicated a full EIR is needed for the private shuttle bus program before it is made permanent."**

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Elsewhere in the BLA report, troubling data was reported, including:

- Seven “tech” companies that provide regional shuttle for their employees are responsible for approximately 131 shuttle buses in the City each weekday, they make at least 273 runs each day that involve approximately 9,030 boarding’s daily for an estimated 4,105 individual employees. But the BLA’s March 2014 report noted the actual number of shuttles, trips, boarding’s, and passengers is probably much higher, since not all shuttle providers have been willing to share this information with public agencies. I have to wonder if tech companies are taking Airbnb’s lead in refusing to provide data to San Francisco city officials!

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SFMTA is aware of 17 employers who sponsor regional shuttle service and 20 employers that sponsor intra-city shuttle services, but there are probably many more who do, since service providers are not required to register or report their activities to the SFMTA. SFMTA may not have full data on 30 of the known operators and an untold number of other operators. SFMTA’s data about all shuttle providers — not just the seven tech companies — shows there are about 35,000 passenger boarding’s on shuttles on the average weekday.

- MTA staff apparently reported to the BLA that regional and intra-city private shuttles make an estimated 4,121 stops in over 200 bus zones each weekday. California Vehicle Code §22500(i) prohibits shuttles from using red bus zones, and San Francisco’s own Transportation Code §303 provides for a \$271 fine for red zone violations. If §303 was enforced for every single shuttle stop made, it would amount to \$1.1 million in fine revenue *each day* (4,121 times \$271). Instead, the fees for tech buses using Muni red zones was set to a ridiculously low \$1.06 per stop during the 18-month trial period, which was later increased to \$3.67 per stop. The BLA report noted that between January 1, 2011 and February 25, 2014 there were 13,385 citations issued for vehicles illegally stopping in bus zones, but only 45 of those (0.3%) were issued to shuttle bus operators.
- The 45-foot long regional shuttle buses — which typically have 52 to 81 seats, and weigh between 54,000 pounds to 62,00 pounds (27 tons to 31 tons) when fully loaded — cause more wear and tear on our roadways than even 18-wheel semi-trailers. A typical bus (whether Muni’s or private shuttles) places 7,774 times more stress per trip on our roadways than an SUV places. This means street damage caused by one large shuttle bus driving along a hypothetical one-mile-long lane is equivalent to 4,700 passenger vehicles driving over the same lane. Clearly, heavier shuttle buses contribute to faster roadway deterioration, and shorten the lifetime of roadways.
- No comprehensive formal study has been performed on the impact of shuttles on pedestrian and bicycle safety or Muni passengers with disabilities, including Muni passengers forced to board in traffic lanes when shuttle buses are parked in red zones, shuttles are parked in bike lanes, shuttles don’t yield to pedestrians, or shuttles block traffic lanes for ambulances or fire engines, among other issues.
- Complaints have been filed with the SFMTA between FY 2011–2012 and March 2014 reporting private shuttle buses were driving on restricted streets. The San Francisco County Transportation Authority reported in a 2011 study that there were six weight-restricted streets private shuttle buses had been using, indicating that shuttle operators have been unlawfully driving on restricted streets. It’s not known whether this problem has been completely resolved.
- The BLA report noted a February 2014 analysis by graduate students at UC–Berkeley found that 40% of shuttle riders would move closer to their Peninsula jobs if shuttle bus services were discontinued, suggesting the shuttle buses have a major impact on the demand for San Francisco’s housing stock and the displacement contributing to our housing crisis. Another Berkeley graduate student determined that rental prices within a half-mile radius of Google shuttle stops increased at a faster rate than rental prices elsewhere.

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The BLA noted this student’s research shows a “correlation,” but not “causation,” but the BLA did report that it

appears neighborhoods with shuttle stops are in demand and now command higher rents than adjacent areas. A journalist who studied how home properties have appreciated near shuttle bus stops showed there's a higher concentration of properties that appreciated by at least 70% in neighborhoods with multiple regional shuttle stops.

- Among other policy options contained in its March 2014 report, the BLA proposed one policy option would be for the Board of Supervisors to place a ballot measure before voters to impose a special tax on some, or all, shuttle providers to raise funds for local public transportation, street repair, affordable housing, and other shuttle bus impacts.

Between June 2014 and July 2015, the number of shuttle bus stop events in San Francisco increased by 46%, from 2,032 to 2,978. According to the SFMTA, there are now 203 shuttles in operation in San Francisco, traveling 118 routes.

Unfortunately, the March 2014 BLA report made not one mention of the impacts of Google buses on Muni's on-time performance statistics. But a February 3, 2015 PowerPoint presentation for an SFMTA Board of Directors workshop noted Muni's on-time performance dropped to just 54% in the five quarters between first quarter FY 2013–2014 and first quarter FY 2014–2015 ending September 30, 2014.

A report by San Francisco's City Controller reviewing data between October and December 2014 reported Muni showed up late 56% of the time.

It's not yet known whether MUNI's on-time performance may have worsened between September 2014 and September 2015, or whether the goal to improve on-time performance may have been reversed. San Francisco voters passed Proposition "E" in November 1999 setting performance standards for Muni buses to have at least an 85% on-time record. So as of first quarter FY 2014–2015 ending September 30, 2014, Muni's on-time performance was 31% lower than voters mandated 15 years earlier in 1999, and has worsened considerably during Mayor Lee's tenure.

To the extent Muni's on-time performance slumped to just 54% may have been due, in part, to increases in the number of Google buses, Muni riders are concerned that should the shuttle bus program be made permanent and even more tech buses increase throughout the City, Muni's on-time performance may decline even further. This simply isn't acceptable.

Sadly, in the 19 months since the BLA presented its report, the Board of Supervisors hasn't taken up the recommended ballot measure to tax shuttle bus operators to mitigate any of the adverse impacts caused by the tech buses.

The SFMTA Board should rescind permission for shuttles to operate in public bus zones that are in violation of California's Vehicle Code. A full, comprehensive EIR should evaluate:

- Air quality impacts and degradation of street infrastructure.
- Impacts if hundreds of other companies start private shuttle service if the trial period is made permanent.

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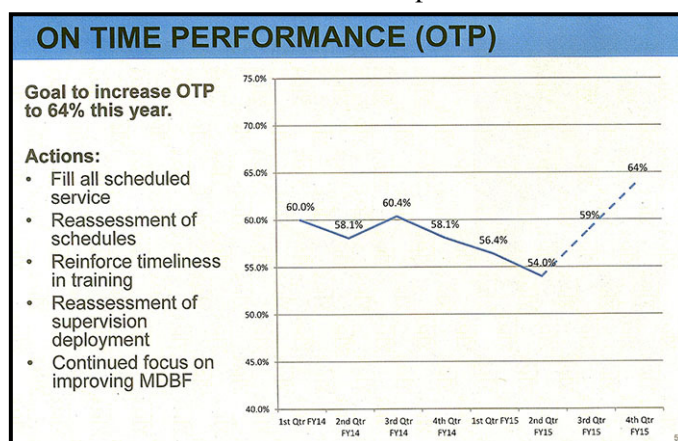
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Over five quarters, Muni's on-time performance slumped another 6%. How much lower has it sunk since the first quarter of FY 14–15 that ended in September 2014? It's supposed to be at 85%!

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- Transit inequity — well-heeled riders on luxury buses segregated from “low-class” Muni riders.
- Impacts of private shuttle buses on property prices, rent costs, evictions, and displacement of low- to middle-income residents and businesses, as asserted in recent academic studies.

## CEQA Appeal Rejected by Board of Supervisors

After the Planning Department and SFMTA decided to exempt the shuttle bus program from California’s Environmental Quality Act (CEQA) processes to determine impacts and explore potential mitigation measures, an appeal was filed with San Francisco’s Board of Supervisors.

On February 21, 2014 Tim Redmond [published](#) an article on 48Hills.org indicating that a group of activists had filed the appeal with the Board of Supervisors regarding MTA’s proposal to allow tech buses to use Muni’s red zones, with a \$1 per stop fee. Redmond’s article explored the “wink-and-nod policy” the MTA had with “tech firms to allow them — and nobody else — to break the law [against stopping in Muni red zones] with impunity.”

The activists who filed the appeal accused shuttle operators of using public infrastructure unfairly, blocking traffic, and making it harder for the elderly and disabled to get on and off Muni buses when the shuttles block curb access. The appeal was filed after City officials, tech company representatives, and SFMTA agreed to an 18-month pilot program scheduled to start in August 2014 assessing shuttle operators to pay just \$1 per stop at a Muni red zone.

Redmond’s article reported that Bauer’s vice president for sales and marketing, Michael Watson, e-mailed Muni in January 2014 asking that bus-zone tickets be dismissed because “as I assume you know, we have had a ‘handshake agreement’ [a.k.a., ‘wink-wink’] with SFMTA for many years that allowed [Bauer] to use the stops under a ‘Muni first’ condition.” Bauer is a shuttle bus operator that contracts with many of the tech companies.

As the photo on page one of this article shows, Muni is not first, Bauer charter buses are! Bauer’s formal name is “*Bauer’s Intelligent Transportation*.”

Watson asked Muni’s Shuttle Pilot Program manager Carli Paine in January 2014 how Bauer should go about getting future citations waived and a refund for citations it had already paid. Redmond reported Google goes beyond what Bauer is doing, since Google had hired Barbary Coast Consulting, a prominent lobbying firm [founded by San Francisco political operative and registered lobbyist Alex Clemens in 2003], to try to get the City and the Police Department to stop issuing parking tickets altogether.

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**“ Why the Board of Supervisors determined private shuttle buses should be exempt from a full environmental review when TEP wasn’t exempt made no sense at all. ”**

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The Board of Supervisors foolishly and ironically [rejected the CEQA appeal](#) on April 1, 2014, April Fool’s day, in an 8-to-2 vote to approve an 18-month pilot project trial period, with only Supervisors David Campos and John Avalos voting against it. Stupidly, Supervisor Wiener who is a lawyer and should know the CEQA review is required, voted for not conducting a meaningful EIR.

Also ironically, the Board of Supervisors should have known SFMTA had required a full environmental review of its Transit Effectiveness Project (TEP) for municipal buses. Why the Board of Supervisors determined private shuttle buses should be exempt from a full environmental review when TEP wasn’t exempt made no sense at all, but may have been done for purely political reasons and the sheer wealth of the tech companies providing shuttle services for their employees.

Undeterred, within a month following the Board of Supervisors denial of the appeal, the Coalition for Fair, Legal, and Environmental Transit filed a lawsuit in San Francisco Superior Court on May 1, 2014.



## The Superior Court Lawsuit for Full CEQA Review

Despite the BLA's March 2014 report calling for a full EIR, the Board of Supervisors approved an 18-month pilot trial program and denied the CEQA appeal before the Board of Supervisors contesting SFMTA's and the Planning Department's decision to categorically exempt the shuttle bus program from CEQA review, both of which had wrongly claimed the trial pilot project only consists of information collection and resource evaluation activities.

Although various members of the Board of Supervisors and San Francisco's City Attorney have repeatedly screeched that a mere City ordinance (the Sunshine Ordinance) cannot "trump" the City's Charter, both the Board of Supervisors and the City Attorney have wrongly permitted Muni's shuttle bus trial period project to proceed, despite provisions in law that say a local jurisdiction's laws may not "trump" State law.

In Superior Court case #CPF-14513627 (*Coalition for Fair, Legal and Environmental Transit vs. CCSF*), City Attorney Dennis Herrera and his underlings must know that our Charter City cannot adopt a change like this in conflict with State law. An opening Court brief [filing](#) in this case clearly states:

*"A Charter City, such as San Francisco, may not enact an ordinance in conflict with state law over matters that are of statewide concern." And "As to matters which are of statewide concern, home rule charter cities remain subject to and [are] controlled by applicable general state laws regardless of the provisions of their charters."*

In other words, various San Francisco agencies and the Board of Supervisors had no legal basis for allowing the shuttle bus pilot project to proceed. Collectively, they should have known the Shuttle Project was preempted by State law, since §22500(e)(i) of California's Vehicle Code makes it unlawful for — and prohibits — private vehicles of any sort to stop in red bus zones, which are reserved solely for "common carriers."

That the Board of Supervisors failed to order a CEQA review constitutes a direct conflict between State law and local ordinances, and the various Board of Supervisors who just so happen to be lawyers — Supervisors David Campos, Jane Kim, Scott Wiener, and possibly other Supervisors — had to have known local ordinances must yield to State law.

It's unclear whether the so-called "moderate" Supervisors collectively know what "yield" means — as in "yield right-of-way" — on a number of issues, including bicyclists blowing stop signs and refusing to yield to pedestrians, and shuttle buses failing to yield to pedestrians, too.

The lawsuit notes the tech shuttle buses are similar in size to the entire CalTrain system or an entire medium-sized transit agency, but absolutely no environmental impact review of the tech shuttles has been conducted to date under CEQA.

The lawsuit notes there is plenty of expert evidence in the record that indicates the Shuttle Pilot Program has many unmitigated environmental impacts, including, but not limited to:

- Air pollution and related cancer risks due to the fact that virtually all of the shuttle buses operate using diesel fuel rather than cleaner fuels;
- Interference with the flow of Muni buses in red zones in violation of State law;
- Pedestrian safety impacts from shuttle buses blocking Muni zones, forcing Muni passengers to board and disembark in traffic lanes;
- Interference with bicycle lanes often blocked by shuttles; and
- Displacement of low-income communities by higher-paid workers commuting on the private shuttles.

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**"The Board of Supervisors and the City Attorney have wrongly permitted Muni's shuttle bus trial period project to proceed, despite provisions in law that say a local jurisdiction's laws may not 'trump' State law. Various San Francisco agencies should have known the Shuttle Project was preempted by State law, since §22500(e)(i) of California's Vehicle Code makes it unlawful for — and prohibits — private vehicles of any sort to stop in red bus zones."**

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Adverse impacts have been documented not only by independent experts, but also by the City's own Budget and Legislative Analyst. By refusing to conduct any CEQA review of the Shuttle Project, the City entirely exempted the project from all CEQA reviews, claiming the Class 6 exemption for "Information Collection."

But the Class 6 exemption doesn't apply on its face, because the project goes far beyond mere information collection. The lawsuit contends the Class 6 exemption is also improper because there is "fair argument" based on expert evidence that the project will have significant adverse environmental impacts.

A CEQA review would provide an orderly process to review environmental impacts, and require the City to identify and implement feasible mitigation measures and alternatives. CEQA doesn't permit a replacement of CEQA requirements with "alternative environmental review procedures," such as the "CEQA-light" 18-month trial period the Board of Supervisors adopted. The lawsuit notes at the same time the City exempted the Shuttle Project from any CEQA review, it is conducting a full CEQA review of Muni's Transit Effectiveness Project. Why should private shuttle buses be exempt from the same CEQA review that municipal buses are? Don't they cause the same environmental impacts?

The lawsuit notes that the number of private commuter shuttles operating in San Francisco has grown dramatically in recent years, and the City expects this rapid growth will continue.

The standard of review in actions challenging CEQA exemptions involves whether there was a prejudicial abuse of discretion. Clearly, the MTA, Planning Department, and Board of Supervisors abused their collective discretion granting the Class 6 exemption for the 18-month trial pilot program. The City's attempt to avoid CEQA review under the Class 6 "information collection" provision is completely improper. Class 6 is a very limited exemption for basic data collection, experimental management, and resource evaluation.

The mere fact that data is being collected does not mean the project is an "information collection" activity. The Class 6 exemption is inapplicable to the Shuttle Project, because it goes far beyond the scope of mere information collection, and is not just about collecting data.

Obviously, the Shuttle bus project contributes to pedestrian and bicyclist safety risks, since the intensity of transit services is a well-known, established spatial risk factor for pedestrian injuries.

One San Francisco pedestrian died from a shuttle bus accident. Will my death certificate read: "Cause of Death: Spatial risk"?

The lawsuit also notes that substantial numbers of people will face displacement, since rents are rising much faster near private shuttle stops than elsewhere in the City. Even the BLA report in March 2014 noted commuter shuttle buses are impacting displacement, and causing rents to soar. Sensibly, the lawsuit calls for a full CEQA review to analyze ways to potentially mitigate the adverse effects of making the shuttle bus program permanent.

On April 24, 2015 Ms. Vaughan published another [article](#) on 48Hills.org, noting that the housing crisis that has been disrupting San Franciscans had moved to another piece of valuable real estate — bus stops — and a battle over San Francisco's bus stops ensued. She noted that the Superior Court lawsuit had "lingered for months, with an army of lawyers from Morrison and Foerster ... in defense of the real parties to the lawsuit ... using whatever roadblocks they could to draw out the lawsuit."

She noted that "private, for-profit corporations could do a world of good if they took their billions and built workforce housing and helped create a world-class regional transit system available to everybody."

Instead we have a lawsuit that has languished for 19 months that is merely seeking redress of ordering a full CEQA EIR to determine impacts of the shuttle bus program and potential ways to mitigate the impacts.

The *San Francisco Chronicle* [reported](#) on October 19, 2015 that tech companies in San Francisco received \$34 million in tax breaks last year due to Mayor Lee's pandering to multibillion-dollar companies at the expense of small businesses and city residents who are increasingly priced out of San Francisco. Add in the \$8.3 million Airbnb is spending to defeat Prop "F" on November's ballot to tighten short-term rentals, and you have \$42 million the tech companies could have spent to build workforce housing to mitigate the displacement of long-term San Franciscans their employees are causing!

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One obvious mitigation that should be explored by City officials is that to the extent the shuttle buses have contributed to the loss of housing in San Francisco, the tech firms causing the displacement should be required to fund workforce housing.

### ***On-Going Media Coverage***

On June 2, 2014, Adrian Covert published an [Op-Ed](#) in the *San Francisco Examiner*, wrongly asserting that a group of activists who had filed a lawsuit in Superior Court calling for a full environmental impact report on the 18-month trial period were “anti-tech.” Covert wrongly asserted the CEQA reviews are normally reserved for permanent building and programs. But he failed to note that the pilot program is the precursor leading up to a permanent program, and Covert further wrongly failed to note that the “information collection” focus of the pilot program is ***not*** grounds for an exemption from a full CEQA review.

A few weeks later, Susan Vaughn — who is among the “Coalition for Fair, Legal, and Environmental Transit,” which includes SEIU Local 1021, filed the lawsuit against Apple, Inc. and others, including the SFMTA named as a real party in interest — published a [rebuttal](#) to Covert’s nonsense in the *Examiner* on June 18, 2014. She noted the plaintiffs in the lawsuit are ***not*** “anti-tech.” Vaughn noted Covert should know the lawsuit filed against the shuttle bus pilot program rests on important legal foundations. Vaughn — chair of the San Francisco Group of the San Francisco Bay Chapter Sierra Club — wrote:

*“For one thing, it is illegal for the private shuttles to pull into public bus stops. Case law also indicates that you cannot base a California Environmental Quality Act pilot program on an illegal activity. Furthermore, there is a fair argument — the CEQA standard for triggering an environmental impact report — that the shuttles pose environmental impacts that must be assessed and mitigated.”*

She also noted:

*“A full EIR can collect the information, assess environmental impacts and call for mitigation. If the EIR concludes that there is a link between the shuttles and displacement, the EIR can require the operators of those shuttles to mitigate for displacement impacts in ways that [SFMTA’s] pilot [program] cannot.”*

On March 5, 2015 Vaughn and Bruce Oka — a former member of the MTA Board of Directors until Mayor Ed Lee unceremoniously removed him from MTA’s board without any prior notice or thanks for Oka’s many years of service — published a joint [Op-Ed](#) in the *Examiner*, noting:

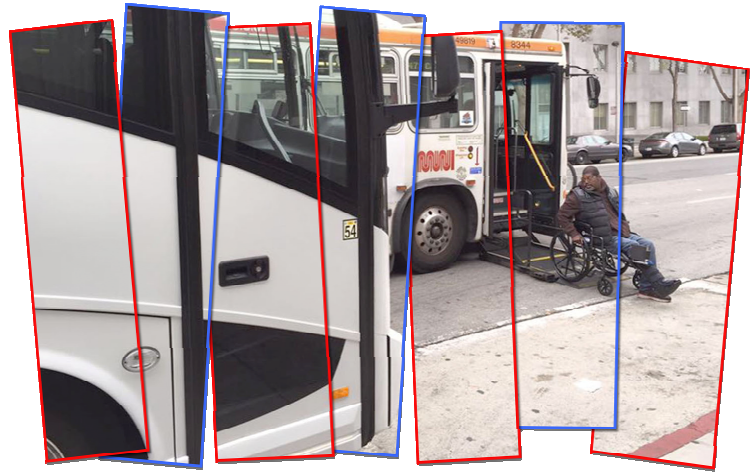
*“In December, a Republican Assemblyman from Orange County introduced a bill specific to San Francisco. That bill, AB61, would privatize Muni bus stops by making it legal for corporate shuttle buses — the ‘Google’ buses — to operate in public bus stops upon agreement with local transit authorities.”*

Why would an Orange County Republican propose a bill specifically naming San Francisco? Why is Orange County meddling in our home rule affairs? What’s in it for him? Campaign contributions from Ron Conway and Google?

Vaughn and Oka noted Muni drivers will tell you shuttle vehicles pull illegally into public bus stops, obstructing service for senior citizens and people with disabilities.

The pair noted illegal stops in Muni bus zones could also be hindering Muni’s on-time performance. They noted the decline to Muni’s on-time performance to just 54% over the 15-month period ending in first quarter FY 2014–2015, and

**“Vaughn and Oka noted Muni drivers will tell you shuttle vehicles pull illegally into public bus stops, obstructing service for seniors and people with disabilities.”**



**Disregard for Disabled Muni Riders:** The SFMTA’s “Evaluation Report” mentions not one word about how dangerous it’s become for Muni’s disabled riders forced to embark and disembark from Muni buses in traffic lanes, and makes no mention of safety risks for seniors and people with disabilities!

pointedly asked whether tech buses are further slowing Muni, and at what cost. They also noted that people who are disabled are excluded from the private shuttles, because the charter buses rarely have wheelchair lifts to their single bus doors. [Charter buses may not have to comply with ADA access regulations, or if they *are* required to comply with the ADA, they haven't done so. Have you ever seen a wheelchair-user board a Bauer or Google bus?]

Vaughan's April 24, 2015 [article](#) reported "As foes of the Google Bus deal take their case to court, a [proposed] state bill, AB 61, would legalize the privatization of public bus stops." [AB 61 was subsequently not passed.] Vaughan noted:

*"The crisis that has been disrupting San Francisco housing, and driving out the lower and middle classes for some years now, is moving to another piece of valuable real estate — public bus stops."*

Vaughan noted that the then-five current members of SFMTA's Board of Directors adopted a policy in 2014 to forego an environmental impact report. [Note: The SFMTA Board is comprised of seven members, all of whom are appointed by, and serve at the pleasure of, Mayor Lee. As of October 2015, only six of the seven seats are filled.]

It's not too surprising to see just how far puppet Mayor Ed Lee is willing to go to hand his tech billionaire friends a little help from City Hall to prevent a full EIR report. While not too surprising, it is, in fact, sickening to see how corrupt Lee may have become.

On June 19, 2015 Dan Raile published a [report](#) on Pando.com that the list of defendants named in the shuttle bus lawsuit filed in May 2014 by the Coalition for Fair, Legal, and Environmental Transit and SEIU Local 1021 had been narrowed to the City, the Board of Supervisors, the Planning Department, the SFMTA and Mayor Ed Lee, since Apple, Genentech, Google, and various shuttle operator companies had successfully argued in Court that they should be removed from the case entirely, and were. Raile noted the pilot program is set to end on January 31, 2016, at which point it may be made a permanent program.

On September 9, 2015 Joe Fitzgerald-Rodriquez [reported](#) in the *San Francisco Examiner* that filings from SFMTA show the commuter shuttle pilot program is now approaching permanency. This is surprising, since the lawsuit anti-shuttle advocates filed to compel a full EIR has not been settled. The lawsuit is scheduled to first be heard on November 13.

In response to public records requests Vaughan had placed, e-mail records received reveal City planners repeatedly referred to making the program permanent on a "tight schedule," and that in an effort of adhere to the tight schedule, some data of the program were made on an "educated guess" basis by planners, rather than relying on real data. SFMTA claimed it disagreed that the program was being "fast tracked."

So now we have the City, SFMTA, the Mayor, and the Board of Supervisors making "educated guesses" about important City policies? Goes right along with Mayor Lee's flippant comment in *Time Magazine* in January 2014 that "everyone assumed the middle class was moving out" of the City to explain the dearth of affordable housing built during his tenure.

I, for one, don't believe that any shortcuts MTA planners are taking are *not* shortcuts being used for purely political reasons to help the Mayor's tech donors. Do you?

SFMTA continues to press for a categorical exemption from CEQA to avoid analyzing many adverse environmental impacts, including accelerating displacement of San Franciscans from their current housing. Fitzgerald-Rodriquez reported opponents of the shuttle program contend the program will accelerate displacement of residents, and that Vaughan believes the proposal is being railroaded through.

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## **Evictions and the Tech Buses: Who Pays for the Damage?**

The *San Francisco Examiner* [reported](#) on September 21, 2015 that the Coalition for Fair, Legal, and Environmental Transit that filed a Superior Court challenge to require a full EIR of the tech shuttle bus program, recently linked evictions to the proximity of shuttle bus stops based on research by San Francisco's Anti-Eviction Mapping Project.

"Where the 'Google buses' go, evictions follow," the *Examiner* reported. We have the plaintiffs in this lawsuit — including Vaughan, and activists Sara Shortt, Cynthia Crews, and Alysabeth Alexander — along with Erin McElroy of the Anti-Eviction Mapping Project, to thank for researching and publicizing the correlation between the tech buses and increasing evictions.

A map by the Anti-Eviction Mapping Project shows no-fault evictions between 2011 and 2013 happened within four blocks of tech bus stops in San Francisco. Evictions in those areas were reportedly up 69% between 2011 and 2013. It's not yet known how many more evictions are tied to the number of shuttle stops increases that have occurred between 2013 and 2015, but it's interesting to note the increases since 2011 correlate to Mayor Ed Lee's assumption to office and during his tenure. A full EIR could reveal just how many more evictions in these areas occurred during the past two years.

The *Examiner* reported not only that evictions were up, but also that public records show the SFMTA is working "hand-in-hand with the Planning Department to exempt the City from conducting environmental impact reports, which may include community displacement effects."

While SFMTA spokesperson Paul Rose claims a goal of the shuttle bus pilot program is to take cars off the roads, and claims the pilot program is working, Erin McElroy from the Anti-Eviction Mapping Project notes that's a misdirection, since the issue isn't about taking cars off the road, it's about whether the shuttle buses drive up rents and lead to evictions in the process. McElroy is correct in asserting that the issue is more about evictions and displacement than about taking cars off the road, given San Francisco's severe housing crisis.

On balance, it is also about whether the shuttle buses take cars off the road. For her part, Vaughan notes:

*"If the shuttles are contributing to sprawl, as many believe, then they are only taking the cars of people who work for tech companies who can afford to live in San Francisco off the road. That's a pretty narrow segment of the population."*

The City is fighting the Superior Court lawsuit on the mistaken belief that there's no correlation between housing and transportation. That's complete nonsense coming from the City, too. Of course there's "correlation" between the two. There always has been.

A day after this *Examiner* article, Tim Redmond [reported](#) on 48Hills.org on September 22 an article titled "Who pays for the damage the tech boom has done to SF?"

Redmond noted the number of private shuttle bus stops in the City increased 46% in the past year, the impacts of the pilot program are important, and the City is getting closer to turning the so-called "pilot" program into a permanent one.

Redmond frets that the way the City is moving, the pilot program will be adopted without a full environmental impact report. Putting tech shuttles in the context of a new report outlined in TechCrunch suggests one-third of rent costs in San Francisco are due to venture capital accruing to tech companies.

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**"The Coalition for Fair, Legal, and Environmental Transit that filed the Superior Court challenge to require a full EIR, recently linked evictions to the proximity of shuttle bus stops based on research by San Francisco's Anti-Eviction Mapping Project."**

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**"Evictions in those areas were reportedly up 69% between 2011 and 2013. It's not yet known how many more evictions are tied to the number of shuttle stop increases that have occurred between 2013 and 2015."**

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**"Redmond noted the number of private shuttle bus stops in the City increased 46% in the past year."**

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Redmond observed there has been little legislative action to figure out how responsible parties causing massive displacement should pay — in advance, during, and after the impact of their actions — which an environmental impact report ought to cover, including not just what the impacts might be, but what alternatives and mitigations might be identified, who ought to pay to mitigate them, and how much it should cost.

### Questionable Preliminary “Evaluation Report”

On October 5, 2015 SFMTA released a premature [Evaluation Report](#) regarding the shuttle program trial period. The 18-month program is scheduled to run through the end of January 2016, so why a premature and preliminary report was released four months early is not known, but some suspect the report is designed to squash the lawsuit in Superior Court demanding a full EIR before the shuttle program is made permanent.

There’s plenty of questionable data in it. The Evaluation Report claims on page 25 that of 28 shuttles using the Muni bus stop at Van Ness and California Street per hour, that there were zero blocked Muni buses per hour. That claim is either an outright lie, or simply false information, as I can attest from my daily experience. If it’s not an outright lie, I have to wonder if this is one of many “educated guesses” Muni admitted to making in their e-mails.

The Evaluation Report appears to be chock-full of similar “educated guess” data.

I’m not sure how the SFMTA may be counting “blocked Muni buses,” but in my book, when a Muni bus cannot pull into a red zone bus stop and has to let Muni passengers disembark in traffic lanes, they have been blocked by a shuttle bus. This happens way too frequently at that intersection, and did at 7:10 p.m. on October 22 and at 5:35 p.m. on Monday, October 26 when shuttle bus riders got disembark onto the sidewalk as the photo illustration below shows.

The report also says on page 23 that before the pilot trial period, there were 0.8 blocked Muni vehicles per hour at Van Ness and California Street (among other intersections), but that during the preliminary trial period there were zero blocked Muni vehicles. This is more nonsense. All you have to do is stand on the southeast corner of the Van Ness – California Street intersection between 5:00 p.m. and 6:00 p.m. to witness shuttle buses blocking Muni buses from being able to pull into the bus stop. In my book, this is another lie.

On page 22 of the Evaluation Report, Muni claims that prior to the pilot study, there were ten shuttle buses per hour at Van Ness and California Street, and during the pilot study it nearly tripled, to 28 shuttle buses per hour. I can almost predict that if the shuttle program is made permanent and other commercial carriers decide to enroll in the program, that the number of shuttle buses at that intersection will likely double to 60 shuttle stops hourly.

Likewise, the report noted shuttles participating in the permit program made 17,000 boarding’s on an average weekday during the study trial period (a boarding is one person riding a shuttle in one direction, with origin or destination in San Francisco), for a total of 356,998 boarding’s per month. The report noted that assuming that most people board the shuttle twice each day, it means an average of 8,500 people ride a permitted shuttle daily.

SFMTA’s new report appears to directly contradict the BLA and Harvey Rose’s initial estimates in 2014.

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**“ The Evaluation Report claims on page 25 that of 28 shuttles using the Muni bus stop at Van Ness and California Street per hour, that there were zero blocked Muni buses per hour. That claim is either an outright lie, or simply false information. ”**

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**“ Muni claims that prior to the pilot study, there were ten shuttle buses per hour at Van Ness and California Street, and during the pilot study it nearly tripled, to 28 shuttle buses per hour. If the shuttle program is made permanent the number of shuttle buses at that intersection will likely double to 60 shuttle stops hourly. ”**

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**Lie’s in the SFMTA “Evaluation Report”?:** Although SFMTA brazenly claimed there were zero shuttle buses blocking Muni buses at Van Ness Avenue and California Street during the evaluation period, there’s plenty of photographic evidence it occurs multiple times daily, like in this photo taken at 5:35 p.m. on Monday, October 26, 2015.

It's not known if Muni's preliminary Evaluation Report looked only at the seven tech companies using shuttle buses that were presented in the BLA's March 2014 analysis. If it is, this is a huge surge in volume — nearly double — over the estimates in the 2014 BLA report presented to the Board of Supervisors prior to the trial program being approved to start. The BLA had noted there were 9,030 boarding's daily for an estimated 4,105 individual employees, ostensibly employees of tech companies.

The 2014 BLA report noted that MTA staff had reported that overall (not just tech shuttle buses), regional and intra-city private shuttles make an estimated 4,121 stops in over 200 bus zones each weekday. But the SFMTA Evaluation Report claimed there were only 2,978 average daily stop events. The discrepancy between the two reports may be due to the methodology for data collection Muni used during the pilot study.

Muni admits in the premature Evaluation Report that field data collection efforts during the trial period observed shuttle and Muni activity at just 20 shuttle zone locations — 10 in the morning (between 6:45 a.m. and 9:15 a.m.) and 10 in the evening (between 5:30 p.m. and 8:00 p.m.) during commute periods.

To the extent the Evaluation Report collected data in just 10 zones during the morning commute period and 10 zones during the evening commute period, it appears Muni collected data at just 5% of all zones during each commute period, and then started making “educated guesses” about the data to measure impacts.

A 5% sample size is ridiculously small! Muni claimed on page 18 of the report that it used this small sample size to develop a “reasonable sample of total stop-events made by commuter shuttles on a typical day.” From there, Muni staff may have extrapolated using an “educated guess” basis.

While the MTA's Evaluation Report claims only 124 bus stop zones were established for the Pilot Program, MTA staff had previously reported to the Budget and Legislative Analyst there were over 200 bus zones involved. How did MTA manage to have 80 fewer bus stops between the two reports?

The Evaluation Report did note the frequency of shuttles (measured by stop-events) at the observed bus zones increased nearly 80% from June 2014 to June 2015, which is odd, since the Pilot Program didn't start until August 2014. The average shuttle vehicles per hour per stop jumped from 7.87 in June 2014 to 14.12 per hour per stop in June 2015.

Not too surprisingly, on October 8, just three days after the preliminary Evaluation Report was published, the lawyer representing the Mayor and other City defendants in the lawsuit — Deputy City Attorney Audrey Pearson — presented the Evaluation Report to the Superior Court during her [deposition](#) brief.

The legal brief shows in footnote 2 on page 3, that the Evaluation Report shows that 12 months into the pilot project, the City still doesn't have real-time data flowing from shuttle operators, shuttle operators have failed to provide data regularly and accurately, and SFMTA staff may have naively expected a more concerted compliance from shuttle providers to ensure data was submitted properly.

It must be hard to justify a CEQA exemption using the Class 6 “information collection” provision when more than a year into a pilot program intended to collect “information,” the data intended to be collected is still not being collected.

Maybe that's why SFMTA staff continue making “educated guesses” about the shuttle program's adverse impacts. Why does the shuttle provider's foot-dragging on providing data regularly or accurately sound eerily similar to Airbnb's and Uber's refusal to provide City officials with reliable — or any — data? Is this a conspiracy to withhold providing data by so-called “sharing economy” companies?

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**“ Muni admits in the premature Evaluation Report that field data collection efforts during the trial period observed shuttle and Muni activity at just 20 shuttle zone locations — 10 in the morning and 10 in the evening. ”**

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**“ Muni claimed it used this small sample size to develop a ‘reasonable sample of total stop-events made by commuter shuttles on a typical day.’ From there, Muni staff may have extrapolated using an ‘educated guess’ basis. ”**

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**“ The legal brief reports the Evaluation Report shows that 12 months into the pilot project, the City still doesn't have real-time data flowing from shuttle operators, shuttle operators have failed to provide data regularly and accurately, and SFMTA staff may have naively expected more concerted compliance from shuttle providers to ensure data was submitted properly. ”**

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It sounds distinctly like this:

“Dear City Hall Public Officials,

You should have known when we weren’t willing to pay our share of taxes for several years we also aren’t interested in sharing data with you, either.

After all: We don’t care. We’re the ‘sharing economy.’ We don’t have to.

Love,  
Airbnb, and Our Friends Who Operate the ‘Google Buses’”

The Evaluation Report reported that daily shuttle stop-events increased 30% in the first 14 months since the 18-month pilot program began in August 2014. It’s not know how much more of an increase in stop-events will occur before the end of the pilot program, nor how much more the stops will increase if the program is made permanent and more shuttle bus operators join the program.

Muni’s Evaluation Report obviously didn’t assess any of the CEQA environmental impacts or the loss of affordable housing. And the only way that assessment will get done is if the plaintiffs in the lawsuit in Superior Court prevail, and the Court orders San Francisco to conduct a full CEQA review, which would serve as a referendum against the Board of Supervisors refusal to do so.

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**“ It must be hard to justify a CEQA exemption using the Class 6 ‘information collection’ provision when more than a year into a pilot program intended to collect data, the data is still not being collected. Maybe that’s why SFMTA staff continue making ‘educated guesses’.”**

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### **Take Action: Attend Meetings, Lodge Complaints, and Take Photos!**

Part of the preliminary Evaluation Report released on October 5 included data concerning the number and types of complaints MTA has received regarding the shuttle bus program. The report pooh-poohed the small number of complaints filed so far. You can file complaints by either calling the MTA, or calling the City’s 3–1–1 call center.

Photos of the tech shuttle buses blocking Muni access to the red zone bus stops are especially, and urgently, needed. If you can help document blocking of bus stops, the more photos that can be submitted showing passengers boarding on to, and disembarking from, Muni buses in the street while the tech shuttles are idling in bus zones, the better! It would be helpful to note the date, time, and location of any such photos.

If you can attend to testify about the shuttle bus pilot project, oral and written testimony, including photographic evidence, is sorely needed for two important meetings scheduled before the SFMTA:

- A hearing on MTA’s preliminary Evaluation Report is on the [agenda](#) for the SFMTA’s CAC (Citizens’ Advisory Council) meeting November 5 at 5:30 p.m. in the 7th floor Union Square Conference Room at One South Van Ness.
- The permanent shuttle bus program will reportedly be on the agenda for the SFMTA Board of Directors meeting on Tuesday, November 17, 2015 at 1:00 p.m. in Room 400 at City Hall.

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**“ The only way an assessment of environmental impacts or the loss of affordable housing will get done is if the plaintiffs in the lawsuit in Superior Court prevail, and the Court orders San Francisco to conduct a full CEQA review, which would serve as a referendum against the Board of Supervisors refusal to do so.”**

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The trial of the lawsuit filed by the Coalition for Fair, Legal, and Environmental Transit is scheduled for November 13, 2015 in Department 608 at 9:00 a.m. in the Courthouse on the corner of McAllister and Polk streets.

“Without a comprehensive environmental review, we’ll never know the link between luxury shuttle buses in the heart of San Francisco — and sprawl into the countryside beyond,” says Ms. Vaughan.

The City’s pretense that “Google buses” are *not* contributing to the displacement of residents and the loss of affordable housing in San Francisco, and are *not* worsening pedestrian and Muni passenger safety, needs to stop! That’s magical thinking on the part of the City, albeit untrue.

*Monette-Shaw is an open-government accountability advocate, a patient advocate, and a member of California’s First Amendment Coalition. He received the Society of Professional Journalists–Northern California Chapter’s James Madison Freedom of Information Award in the Advocacy category in March 2012. Feedback: <mailto:monette-shaw@westsideobserver.com>.*