



Washington State Senate

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Senator Phil Fortunato
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June 1, 2017

Peter Rogoff, Chief Executive
Sound Transit
401 S. Jackson Street
Seattle, WA 98104

Dear Mr. Rogoff,

I am writing to you with concern regarding Resolution 2017-20 passed by the Sound Transit Board at the hearing on May 25, 2017. The resolution allows for a surplus parcel valued at \$18.5 million known as the "Roosevelt Station- Central Transit-Oriented Development Site" to be sold to non-profits at a significant discount for affordable housing. According to the resolution and the briefing by staff, the property could be transferred for a third or half of its full market value of \$18.5 million or a net loss of \$10 million. The resolution further notes that Sound Transit "must either buy out the FTA interest or obtain joint development approval from the FTA" for its \$16 million interest. In essence, the Sound Transit Board is taking property purchased for construction with taxpayer money and funneling it to non-profits at a bargain basement discount. To make matters worse, as a consequence of this waste of taxpayer funds, millions in federal investments will have to be paid back or transferred. This is social engineering insanity. You cannot rightly take taxpayer dollars from transportation to make yourself feel generous elsewhere. This is a misappropriation of public trust.

My concerns are two-fold: this policy is of dubious legality and not prudent. First, I do not believe that the grant agreement currently in force with the federal government will permit this. The 2015 FTA Master Grant Agreement imposes the federal grant rules that Sound Transit must follow to maintain eligibility for federal grants. Section 21 (Real Property) (pp 55--60) contains that rule that Sound Transit must sell property for the highest price. Section 21(L)(3) states: "Sale: If it sells Project property, the Recipient agrees to use proper sales procedures to ensure the highest possible return." (p.60) Section 21(I)(2) requires that fair market value be determined by appraisal methods approved by FTA. These provisions appear to me to preclude the exact action that Sound Transit authorized in Resolution 2017-20.

Moreover, it is technically true that RCW 81.112.350 requires a transfer of surplus property at no cost, sale, or long-term lease first to qualified entities that agree to develop affordable housing on the property. However, it is also important to note that the requirement is not absolute. The RCW

contains a provision (not cited in the resolution) that compliance is not required if it "is in conflict, as determined by the relevant federal agency, with provisions of the applicable federal transit administration master grant agreement, federal transit administration full funding grant agreement with the regional transit authority . . . necessary to establish or maintain eligibility for a federal grant program." Because in my view a conflict exists, I am forwarding a copy of this letter to the FTA for its review.

Though I have not had a chance to review it, I am also concerned about the legality of acquiring property by eminent domain for construction of a transportation project and then using that property for another purpose like affordable housing. I believe the proper course would be to sell the property at fair market as opposed to transferring it for a social non-economic purpose. This seems to undermine the letter and spirit of the eminent domain law and is worth further consideration.

Second, even assuming the resolution was legal; it is simply not a good idea. Right now, constituents and taxpayers in my district are irate at car tab bills that have doubled or tripled due to the collection of the new ST3 motor vehicle excise tax. I can only imagine that when they learn that the funds collected are not even being used for transit-related projects but rather to pay for affordable housing, this will strike them as particularly egregious. While I understand that sub-area equity may technically prohibit Pierce County generated tax funds for this purpose, I am aware that the ST3 authorizing resolution contains some language that allows flexibility to Sound Transit in determining subarea equity. As it already stands, the 31st Legislative District receives virtually no ST3 benefit, yet we pay a full load on taxes.

The bottom line is that the timing and perception of the resolution will widen the resentment of non-King County taxpayers. Further, with uncertain construction and funding costs, it makes no fiscal sense to turn down federal money and not attempt to receive the full value of property for taxpayers who have invested in it. I find it ironic that in recent debates in the legislature that Sound Transit has warned that any dollar reduction in its funding means that projects will be delayed or abandoned, yet apparently it has the flexibility to give away \$10 million for housing.

I understand that the Board will be able to undertake a future vote once the RFP is received from the non-profits for the Roosevelt station property. I would respectfully request that you do not proceed with the sale.

Sincerely,

A handwritten signature in blue ink, appearing to read "P. Fortunato".

Sen. Phil Fortunato
31st Legislative District

Cc: Elaine Chao, Secretary US Department of Transportation