Senator Glazer sent a letter expressing concern about AB 2923. When considering the facts, his letter provides a guide to how AB 2923 has changed to respond to the various concerns that have been raised from cities. Marching through each of questions that Senator Glazer has raised:

1. **What problem does AB 2923 solve?**

If jurisdictions have zoned well, the bill won’t apply to them. An amendment has been added that jurisdictions that come close to meeting the baseline (i.e., lowest) TOD standards will be exempt from any BART approved TOD zoning standards.

AB 2923 address the issue that Transit-oriented development on undeveloped BART land adjacent to BART stations faces serious challenges, including:

1. Projects take too long from BART action to construction, including:
   1. Pleasant Hill Station: Planning started in 1975, with general plan amendments in 1979. Now, 43 years later, the two prime parcels are still vacant. Construction for these parcels will finally be complete in 2019.
   2. Walnut Creek Station: 22 years from negotiation authorization until scheduled construction completion in 2022. This project was downzoned at the ballot and is being built with way too much parking, limiting project affordability.
   3. Fruitvale Station Phase II, Oakland: 25 years from negotiating authorization until scheduled completion in 2019.
   4. Ashby Station, Berkeley: 14 years from negotiation authorization until completion in 2011.
2. Projects get scaled back and squeezed (e.g., Ashby BART was built for resource organization for those with disabilities -- two floors of housing were eliminated, and the city required the parking as if it were a non-transit accessible project – diminishing affordability for non-profit occupants. Today, parking is never more than 30% occupied.)
3. Projects are not worth proposing – (e.g., BART ceased work on a TOD in El Cerrito when the city voted to cut a floor from what would have been an adjacent 4-story apartment building due to concerns about views. There was no reasonable basis to believe that the discussed 4-story construction on the BART property would be approved.)

The letter misunderstands BART’s TOD process. Immense work and consensus is required before a project application can be submitted. Most projects today can’t even make it to the application stage. Given BART’s process, broad public engagement, planning, design, and negotiation must take place before an application can be submitted for consideration by a city. This requires financing a parking replacement plan; establishing improved bus, taxi, bicycle, and pedestrian access; and top-notch public spaces and urban design for places that will be vital transit hub and community space for the surrounding community. Where there is little or no chance of success (i.e., most stations), BART has chosen not to go through all of these steps and submit applications.

Many jurisdictions have built low and moderate density projects near BART. It does not count as success to build just anything on the land that is so extraordinarily accessible to 5 county area in the most congested corridors of the region does. BART needs to be delivering, not single-family homes, but diverse and affordable communities that are consistent with the extraordinary accessibility of these sites. BART’s experience is clearly that this will not happen without additional authority.

1. **AB2923 clearly establishes why BART is uniquely qualified for a measure of land use authority distinct from other transit agencies and special districts.**

The bill explicitly states that BART is unique as a transit agency in that it is governed by a directly electedboard of directors, granting the people of the San Francisco Bay Area a greater measure of input on BART’s decisions than the constituents of other agencies have on their agencies. BART is also unique because of the number of daily rail passengers it serves. (420,000 daily riders -- far more than any other rail agency in the state.) Specifically, the bill states: “Because of BART’s unique status, the Legislature, pursuant to this act, intends to solely grant BART an exception to the principle that cities and counties must be reserved land use authority by granting BART a measure of limited land use authority over the parcels owns in the immediate vicinity of its stations.”

Putting this matter into context, BART already has full land use and permitting authority to build transportation facilities, including stations, tracks, maintenance facilities, parking structures, etc. Research has shown that quality transit-oriented development is essential for a financially sustainable, well-functioning transit. Adjacent development, like parking facilities, function to provide a reliable base of daily customers with convenient access. For this reason, in other states such as New York, transit-oriented development would be classified a transit function.

1. **Does AB 2923 promote collusion with developers?**

This concern is unfounded given the care that BART has given to community concerns on these TOD projects historically, in no small part because these decisions are being made by a directly elected board, that is accountable to residents living around these stations. Nonetheless, out of an abundance of caution, the bill has removed any application of the bill to apply to newly purchased BART land. So concern about “collusion” is not only unfounded, it is not relevant to the bill.

1. **Will this somehow change BART community engagement so that it takes place only in BART’s Oakland headquarters?**

Recent amendments mean that TOD projects are ineligible for streamlining unless the heights are within one story of what is locally zoned around the station. Thus, projects that go meaningfully beyond local zoning will still need to be locally approved in the jurisdiction’s own discretionary process.

BART has a long tradition of holding meetings for projects in the community and will continue to do so. There is nothing in the bill that changes BART’s commitment to work collaboratively with jurisdictions This has always been a part of the TOD process. In fact, priorities for collaborative decision-making are spelled-out in BART’s TOD Guidelines published in 2017.

AB 2923 codifies some of this engagement with numerous amendments, including requirements to meet with jurisdictions during or before scoping meetings for CEQA that will be done on the TOD zoning standards (i.e., at the very beginning of when the concepts for specific TOD project are being conceived).

1. **AB2923 fails to solve all the state’s housing challenges**

Glazer is correct that real estate cycles, high construction costs, and labor shortages make it harder to deliver transit-oriented development. These challenges will continue. That is not a reason to wait until we have a comprehensive solution to all housing challenges. Rather, this is even more reason to improve certainty in the process today, particularly in the very most accessible sites in state.

At present, BART TOD projects are in discussion over the course of multiple economic cycles and multiple political cycles. AB 2923 should make it possible for a TOD project that is planned and financed within a single economic cycle which addresses one of the many causes of delay.