

**Reinvent Albany • Regional Plan Association
Permanent Citizens Advisory Committee to the MTA (PCAC)
American Institute of Architects New York
Brooklyn Center for Independence of the Disabled
Center for Independent of the Disabled New York (CIDNY)
Citizens Budget Commission • Citizens Committee for New York City • Common Cause/NY
CUNY Institute for Urban Systems • Environmental Advocates of New York
League of Women Voters of the City of New York
League of Women Voters of New York State
New York Lawyers for the Public Interest
NYPIRG Straphangers Campaign • Riders Alliance • StreetsPAC
TransitCenter • Transportation Alternatives
Tri-State Transportation Campaign**

November 15, 2019

Via Email

Board of Directors
Metropolitan Transportation Authority (MTA)

Re: Promptly Appoint Traffic Mobility Review Board and Follow Open Meetings Law

Dear Members of the MTA Board,

As organizations that recognize the importance of a strong, fully-funded public transportation system, we look forward to working with you as you advance and implement the Central Business District Tolling Program now that you have made the first important step of awarding the initial contract.

As such, we write to ask you to ensure the Traffic Mobility Review Board (TMRB):

1. is promptly appointed, with sufficient time to develop recommendations for the MTA Board regarding potential Central Business District (CBD) tolling charges, including any credits or exemptions; and
2. operates in accordance with the Open Meetings Law (Article 7 of Public Officers Law).

Public Authorities Law §553-k says the TMRB is to be appointed by the MTA Board and must develop recommendations on CBD tolling by no earlier than November 15, 2020 – one year from today. It is also charged with “reviewing” the MTA 2020-2024 Capital Program.

We believe the TMRB is subject to the Open Meetings Law (OML) based on our review of case law and advisory opinions from the Committee on Open Government (COOG). Specifically, the TMRB is considered a public body under section 102(2) of OML, performs a necessary step in the government decision-making process¹ and is created by statute.²

Importantly, COOG issued a December 2018 advisory opinion saying an advisory body similar to the TMRB, the MTA Sustainability Advisory Working Group, was subject to the Open Meetings Law after concerns that it was not meeting in public. That opinion is attached for your reference.

The Open Meetings Law requires that voting and deliberation by a public body be carried out *only* at a meeting during which a quorum has physically convened, or during a meeting which is held by videoconference. (The public is required to be able to attend in either case, with advance notice of the time and place of the meeting.)

It should also be noted that the Freedom of Information Law (FOIL) applies to certain materials provided by the MTA to the TMRB, such as statistical or factual information, or final agency policy determinations, as well as materials under discussion by the TMRB at its open meetings.

In sum, we urge you to immediately appoint the TMRB, and ensure that the body follows the Open Meetings Law. The public interest is best served when the public can understand the reasoning behind government decision-making.

Thank you for your consideration. Should you wish to discuss this matter further, please contact Rachael Fauss, Senior Research Analyst, Reinvent Albany at rachael@reinventalbany.org or 518-859-5307, or Lisa Daglian, Executive Director, PCAC, at ldaglian@mtahq.org or 212-878-7077.

Sincerely,

(signatories on following page)

Cc. Governor Andrew Cuomo
Mayor Bill de Blasio
New York State Legislature
Kristin O'Neill, Committee on Open Government

¹ OML-AO-3726 <https://docs.dos.ny.gov/coog/otext/o3726.htm>

² See *MFY Legal Services v. Toia* 402 NYS 2d 510 (1977), and *Smith v. CUNY*, 92 NY2d 707; 713-714 (1999)

John Kaehny
Executive Director
Reinvent Albany

Tom Wright
Chief Executive Officer
Regional Plan Association

Lisa Daglian
Executive Director
Permanent Citizens Advisory Committee to
the MTA (PCAC)

Benjamin Prosky, Assoc. AIA
Executive Director
American Institute of Architects New York

Joseph G. Rappaport
Executive Director
Brooklyn Center for Independence of the
Disabled

Susan Dooha
Executive Director
Center for Independent of the Disabled New
York (CIDNY)

Andrew Rein
President
Citizens Budget Commission

Peter Kostmayer
Chief Executive Officer
Citizens Committee for New York City

Susan Lerner
Executive Director
Common Cause/NY

Robert E Paaswell, PhD, D.M. ASCE
Executive Director
CUNY Institute for Urban Systems

Peter Iwanowicz
Executive Director
Environmental Advocates of New York

Catherine Gray
Co-President
League of Women Voters of the City of New
York

Laura Bierman
Executive Director
League of Women Voters of New York State

McGregor Smyth
Executive Director
New York Lawyers for the Public Interest

Jaqi Cohen
Campaign Director
NYPIRG Straphangers Campaign

John Raskin
Executive Director
Riders Alliance

Eric McClure
Executive Director
StreetsPAC

David Bragdon
Executive Director
TransitCenter

Danny Harris
Executive Director
Transportation Alternatives

Nick Sifuentes
Executive Director
Tri-State Transportation Campaign