

SENATE THIRD READING
SB 51 (Durazo)
As Amended July 8, 2021
2/3 vote. Urgency

SUMMARY

Makes changes to the Roberti Act (the Act) to encourage the sale of homes owned by Caltrans, located within the State Route 710 corridor in the El Sereno neighborhood of the City of Los Angeles (Los Angeles), for low- and moderate-income rental housing, as well as other changes.

Major Provisions

- 1) Includes the following legislative findings:
 - a) The sale of property located within the State Route 710 corridor in the City of Los Angeles to a housing-related entity will promote the preservation and creation of affordable housing consistent with Section 54235 of the Government Code;
 - b) Offering surplus residential properties to a housing-related entity at low cost will advance the public purpose of preserving affordable housing; and,
 - c) It is the intent of the Legislature that the Department of Transportation engage stakeholders on regulations proposed pursuant to Government Code Section 54237.10, as added by this act, before they are submitted to the Office of Administrative Law.
- 2) Specifies that the sales price of a property sold pursuant to the Act shall not be less than the original acquisition price paid by the Department of Transportation without adjustment for inflation.
- 3) Requires the Department of Transportation to file proposed emergency regulations with the Office of Administrative Law to implement the changes made to the Act by this bill six months after the bill is enacted. Provide that the emergency regulations are effective for two years after the effective date of this bill or until permanent regulations are adopted, whichever is first.
- 4) Amends the Roberti Act order of sale for SR 710 surplus residential properties in Los Angeles to provide that, after surplus residential properties have been offered for sale to the present tenants who meet specified requirements, properties will be disposed of as follows:
 - a) First, the property must be offered at fair market value to any other present tenants who have occupied the property for five years and are in good standing with all rent obligations current and paid in full;
 - b) Then, if a property is a historic site it must first be offered to the city in which the property is located or to a nonprofit entity dedicated to rehabilitation and maintaining historic structures, as specified; and
 - c) Finally, the properties must be offered to housing-related entities, at the original acquisition price the department paid.

- 5) Requires a housing-entity that purchases a property to do all of the following:
 - a) Cause the property to be used for low- and moderate- income rental or ownership housing for at least 55 years, as follows:
 - i) The purchase and operation of the property must be subject to a recorded covenant that requires the property to remain available to low- and moderate- income households for no less than 55 years;
 - ii) The affordability covenant must remain in effect if a property is sold;
 - iii) A housing-entity must transfer title of a property to the City of Los Angeles if the housing-related entity is no longer able to maintain ownership; and,
 - iv) A housing entity must comply with monitoring requirements if any, as determined by the Department of Transportation.
- 6) Require the first right of occupancy for a property to be offered to the present occupants.
 - a) Require the rental amount to be in accordance with income certification if the current occupants qualify as low- or moderate- income. Provides that if the current tenants' income exceeds the limits for low- and moderate- income the rent for those occupants shall be no more than the current rent, or adjusted no higher than the current market rates for the area.
- 7) Requires any new units added to a property to be used for low- and moderate- income rental housing; and,
- 8) Provides relocation assistance as required under existing law.
- 9) Provides that the Public Facilities under the Northeast Los Angeles Community Plan shall be considered analogous to the Low Medium I land designation and any future development on subject sites may be consistent with RD1-1XL zone.
- 10) Amends the Surplus Land Act as follows:
 - a) Adds to the list of "exempt surplus land," surplus land that a local agency has entered into an exclusive negotiated agreement before September 30, 2021 for a housing development, which may have ancillary commercial ground floor uses, that restricts 100 percent of the residential units to persons and families of low- or moderate- income, with an affordable sales price or an affordable rent for a minimum of 55 years for rental housing and 45 years for ownership housing; and
 - b) Provides that if a local agency issued a competitive request for proposals as of September 30, 2019, that included at least 100 residential units and at least 25 percent of the total units are restricted to lower income housing, and other factors specified, then the property is not subject to changes made to the Surplus Land Act made by AB 1468 (Ting).
- 11) Require as a condition of selling a property to an HRE, the HRE must provide an enforceable obligation to meet certain labor standards including pay prevailing wage.

12) Includes an urgency clause.

COMMENTS

Background: Beginning in the 1950s, Caltrans began acquiring property by eminent domain to extend the State Route (SR) 710 freeway through Alhambra, El Sereno, South Pasadena, and Pasadena. Local political opposition stalled the project, at which point Caltrans began renting the residential properties. Caltrans currently owns over 400 properties in the SR 710 corridor, including 330 homes and 103 multi-family housing units. Additionally, six nonprofits currently reside in properties owned by Caltrans within this corridor.

Property management of the homes in the SR 710 corridor has created long-standing tension between SR 710 corridor tenants and Caltrans. Over the years, tenants argued that Caltrans inadequately maintained the homes and failed to make appropriate improvements. Caltrans argued that the homes were being rented on a temporary basis and were expected to be razed to make way for freeway construction; hence, homes were kept up to health and safety standards, but long-term improvements were not a reasonable expense of public funds.

In 2018, the Los Angeles County Metropolitan Transportation Authority (LA Metro) and Caltrans identified a transportation alternative that would not require demolition of these homes. As such, many of these properties are no longer needed for the transportation project and are now surplus. Caltrans has begun dispensing of properties and is currently continuing to sell excess properties.

The Roberti Act: The Roberti Act outlines the sequence; also known as the "waterfall" for selling off surplus properties owned by Caltrans. Single-family homes must be offered for sale as follows: 1) at fair market value to the former owners, 2) present occupants who have occupied the property two years or more who are low- or moderate- income, 3) present occupants who have occupied the units for five or more years whose incomes do not exceed 150 percent of the area median income (AMI). Properties not purchased by a current or former owner are offered to housing related private or public entity at a reasonable price. Housing-related entities (HRE) are required to offer the property as a limited-equity cooperative with first right of refusal for occupancy to existing occupants, unless that is infeasible in which case the housing can be offered to low- and moderate-income households.

This bill creates an alternative process for the sale of surplus properties to HREs in the City of Los Angeles. For those properties, after Caltrans offered them for sale per the current process, the property would be available for purchase by a HRE. Existing law requires an HRE to pay a reasonable price for the property and when a property is sold a portion of the equity goes into an affordable housing trust fund. As alternative to this process, an HRE would be required to record a 55-year affordability covenant on the property and ensure that if it is sold it is sold to the City of Los Angeles and the affordability is maintained. In addition, any new units added to a property, like an additional detached unit (ADU), must be restricted to low- and moderate-income households.

Sales price: The Roberti Act requires properties to be sold at the fair market value. For low- and moderate-income households, the price must be affordable. The properties cannot be sold for less than what Caltrans originally paid for the home. The price falls between the ceiling – the fair market value—and the floor – the original purchase price. While promulgating regulations for the sale of these properties, Caltrans determined it was legally obligated to adjust its original

purchase prices for inflation to determine a minimum sales price for affordable sales. This inflation-adjusted minimum was sometimes above what a tenant could actually afford. However, this adjustment was not described in the Roberti regulations and, in a 2018 lawsuit brought by some affordable price buyers, the court ruled this adjustment was an unenforceable underground regulation. Caltrans subsequently implemented the inflation adjustment through emergency regulations. This bill clarifies that the sales price floor is the original acquisition price not adjusted for inflation.

Surplus Lands Act (SLA): Under the state Surplus Land Act, if land is no longer needed or is not being held for exchange, a local agency must follow certain procedures prior to disposal of this "surplus" land. Prior to disposing of surplus land, local agencies must make a written offer to sell or lease surplus land for the purpose of developing low- or moderate-income housing to "housing sponsors" upon written request, as well as any local public entity within the jurisdiction where the surplus land is located. AB 1486 (Ting) Chapter 664, Statutes of 2019 exempt a housing development that restricts 100 percent of units to low- or moderate-income households, with at least 75 percent of units restricted to low-income, for at least 55 years, with a maximum affordable sales price or rent level that does not exceed 20 percent below median market rents or sales prices for the neighborhood in which the development is located.

AB 1486 specifies that projects where the local agency has entered into an exclusive negotiation by September 30, 2019 may follow the SLA as it existed before AB 1486 went into effect. SB 51 grandfathers-in additional projects for which a local agency has issued a competitive request for proposals by September 30, 2019, so long as the proposal includes a residential component of at least 100 units with at least 25 percent restricted to lower income households. The bill clarifies that if a property is not disposed of pursuant to a disposition and development agreement by a certain date, the property shall be subject to the AB 1486 process. This change will allow San Diego Metropolitan Transit System (MTS) and the City of Chula Vista to move forward with their collaborative effort to jointly develop a property at and adjacent to MTS's E Street Trolley Station in Chula Vista. This collaborative effort has been ongoing since 2018, with competitive proposals received in 2019. This project will bring a combination of jobs and affordable housing to this important transit corridor. This will help achieve MTS's transit ridership goals while also meeting many important housing, climate action, and economic development goals for the South Bay region.

According to the Author

"SB 51 addresses an urgent crisis in my district while also providing a model for affordable housing development that aligns with Governor Newsom's Executive Actions to foster housing innovation on excess state land and rapidly increase housing options. This bill provides a pathway to homeownership while allowing for the sale of Caltrans properties to qualified Housing Related Entities, such as affordable housing developers and local government and nonprofit housing entities at the Caltrans original purchase price in exchange for a guarantee of providing fifty-five years of affordable and moderate-income housing.

The fundamental change of this bill to the rules on how these properties are sold by the State is that the purchase price for Housing-Related Entities (HREs) is established at the original Caltrans price in exchange for 55 years of affordability. SB 51 allows an HRE to buy the property at the original price in exchange for remodeling, preserving affordability, and maintaining them. This bill protects against displacement. Current tenants will continue to have a first right of occupancy, regardless of which entity purchases the property.

Not only is this critical for the community, it is also fiscally prudent. Right now Caltrans is required to fix the homes in order to sell the properties, as most of these homes would not meet habitability standards. Caltrans is also incurring significant costs every day to prevent the homes from being occupied. These homes, in their current condition, are hazardous and not safe for living in.

Residents renting apartments and homes in the 710 corridor deserve fair treatment and stable housing. SB 51 will provide a long-term solution for healing, and building wealth and equity in the community through homeownership, focused on the primary goal of expanding and preserving affordability for all these properties while protecting the rights of tenants."

Arguments in Support

According to the City of Los Angeles, this bill will reduce impediments in existing law for public housing-related entities such as Housing Authority of the City of Los Angeles to take ownership, rehabilitate and utilize the properties for affordable housing.

Arguments in Opposition

United Caltrans Tenant Association (UCTA) are opposed to SB 51 because it removes the requirement that properties in the El Sereno portion of the 710 corridor be offered first for sale as a housing cooperative.

FISCAL COMMENTS

According to the Assembly Committee on Appropriations:

1) Caltrans:

- a) Unknown, potentially major foregone revenues (SR 710 Rehabilitation Account and State Highway Account) due to prohibiting adjustments to Caltrans original purchase prices for inflation when calculating sales prices for any residential or unimproved properties in the SR 710 corridor. Lower property sales prices, based on the original acquisition prices, would result in an unknown reduction of revenues available to rehabilitate homes sold to income-qualified occupants and to fund local transportation projects, as specified in the Roberti Act.
- b) Potential future Caltrans cost reductions, likely in the range of \$9 million to \$10 million annually (SR 710 Rehabilitation Account and State Highway Account), to the extent the bill accelerates the sales of properties in the SR 710 corridor and alleviates administrative costs for staff to manage the properties and the sales program, as well as in capital costs for property maintenance and repair.
- c) Likely minor one-time costs (State Highway Account) in 2021-22 for Caltrans to adopt emergency regulations. Caltrans is in the process of amending its Affordable Sales Program (ASP) regulations for Roberti Act property sales as a result of recent litigation to permanently adopt inflation-adjusted pricing, which would no longer be applicable under the bill's provisions prohibiting inflation adjustments to original acquisition prices.

2) Department of Housing and Community Development (HCD):

- a) Caltrans has an interagency agreement with HCD to assist with program design and administration. HCD indicates it could incur costs of approximately \$640,000 (General Fund (GF)) annually for 3.0 staff positions related to program design, regulation development, and sales activity with ongoing monitoring, if it enters into a revised interagency agreement.
 - b) HCD indicates it would incur costs of \$95,000 (GF) each year for two years for 0.5 staff position to update the SLA guidelines and related technical assistance materials.
- 3) Local costs are not reimbursable by the state because local agencies have the authority to levy fees to cover these costs."

VOTES

SENATE FLOOR: 32-0-7

YES: Allen, Atkins, Becker, Borgeas, Bradford, Caballero, Cortese, Dahle, Dodd, Durazo, Eggman, Gonzalez, Hertzberg, Hueso, Jones, Laird, Leyva, McGuire, Melendez, Min, Newman, Nielsen, Ochoa Bogh, Pan, Portantino, Roth, Rubio, Skinner, Umberg, Wieckowski, Wiener, Wilk

ABS, ABST OR NV: Archuleta, Bates, Glazer, Grove, Hurtado, Limón, Stern

ASM HOUSING AND COMMUNITY DEVELOPMENT: 8-0-0

YES: Chiu, Seyarto, Gabriel, Kalra, Kiley, Maienschein, Quirk-Silva, Wicks

ASM APPROPRIATIONS: 16-0-0

YES: Lorena Gonzalez, Bigelow, Bonta, Calderon, Carrillo, Chau, Megan Dahle, Davies, Fong, Gabriel, Eduardo Garcia, Levine, McCarty, Berman, Luz Rivas, Robert Rivas

UPDATED

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