SENATE COMMITTEE ON APPROPRIATIONS
Senator Anthony Portantino, Chair
2021 - 2022 Regular Session

SB 51 (Durazo) - Surplus residential property: sale procedures: City of Los Angeles

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Urgency: Yes
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Policy Vote: TRANS. 15 - 0
Mandate: No
Consultant: Mark McKenzie

Bill Summary: SB 51, an urgency measure, would make a number of changes to the Roberti Act, which governs the sale of surplus residential property in the State Route (SR) 710 corridor. Among other things, this bill would revise the priorities and procedures governing the sales of SR 710 properties within the City of Los Angeles, as specified, and require properties sold to housing-related entities in Los Angeles to be offered in as-is condition at the price originally paid by the Department of Transportation (Caltrans). The bill would also prohibit the original acquisition price from being adjusted for inflation in all Roberti Act property sales, require Caltrans to adopt emergency regulations to implement changes to the Act, and authorize Caltrans to delegate monitoring of affordability covenants, as specified.

Fiscal Impact:
- Likely minor one-time costs in 2021-22 for Caltrans to adopt emergency regulations. Staff notes that Caltrans is currently in the process of amending its Affordable Sales Program (ASP) regulations for Roberti Act property sales as a result of recent litigation in order to permanently adopt inflation-adjusted pricing, which would no longer be applicable under the bill's provisions prohibiting inflation adjustments to original acquisition prices. (State Highway Account)

- Unknown, potentially major foregone revenues related to provisions prohibiting adjustments to Caltrans original purchase prices for inflation when calculating sales prices for any residential or unimproved properties in the corridor. Lower property prices for property sales based on the original purchase price would result in an unknown reduction of revenues available to rehabilitate homes sold to certain income-qualified occupants and to fund local transportation projects, as specified in the Roberti Act. (SR 710 Rehabilitation Account and State Highway Account)

- Potential future Caltrans cost reductions, 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 capital costs for property maintenance and repair. (SR 710 Rehabilitation Account and State Highway Account)

Background: Under existing law, whenever Caltrans determines that real property acquired for highway purposes is no longer necessary, that property may be sold or exchanged upon terms, standards, and conditions established by the California Transportation Commission (CTC). If a proposed state highway route location is rescinded, existing law requires Caltrans to sell any excess real property acquired for the rescinded route location and use the proceeds to fund the state highway project that is proposed as the alternative to the rescinded route. Proceeds from the sales of Caltrans surplus property are currently dedicated to transportation-related debt service, partially offsetting General Fund payments.

Caltrans currently owns approximately 460 properties in the SR 710 corridor, including 330 homes and 103 mutifamily housing units. These properties were originally purchased in the corridor beginning in 1953 with the intent to eventually remove the structures and construct an extension to the existing SR 710 freeway to close 4.5 mile unconstructed gap between SR 10 in Los Angeles to SR 210 in Pasadena, but the project was mired in considerable controversy over the years and was never built. In November of 2018, Caltrans released the Final Environmental Impact Report for the corridor and selected the Transportation System Management and Transportation Demand (TSM/TDM) as the final direction for the corridor, which includes traffic light and intersection improvements, among other fixes for local roads. This decision, which was also recognized as the Locally Approved Alternative by the Los Angeles County Metropolitan Transportation Authority (METRO), effectively eliminated the tunnel and surface expressway alternatives from future consideration. Subsequent legislation restricted Caltrans from pursuing freeway gap closure. These actions alleviate the need to retain the properties in the corridor for freeway purposes.

Existing law, the Roberti Act, establishes priorities and procedures for the disposition of surplus residential properties in the SR 710 corridor. Under the act, Caltrans must offer surplus single-family residences in the following priority order:

- First, at the appraised fair market value to a former owner who currently occupies the residence.
- Second, at an “affordable price” to a current low- or moderate-income occupant who has occupied the property for at least two years. The “affordable price” must not be less than Caltrans’ original purchase price or greater than the fair market value.
- Third, at an “affordable price” to a current occupant with household income of up to 150% of the area median income who has occupied the property for at least five years.
- Fourth, to housing-related public and private entities that provide affordable housing at a “reasonable price” necessary to make the housing affordable to present tenants and households of low or moderate income, on the condition that the purchasing entity rehabilitate and develop the property as limited-equity cooperative housing with first right of occupancy to present tenants. If cooperative housing is not feasible, the purchasing entity must use the property for low- and moderate-income rental or owner-occupied housing, with the first right of occupancy to present tenants. The “reasonable price” must not be less than Caltrans’ original purchase price or greater than the fair market value.
- Lastly, at fair market value with priority given to occupants, then to previous occupants, and then to persons who intend to be owner-occupants.

With respect to properties offered to income-qualified buyers, as noted in the second and third priorities above, Caltrans must provide repairs required by lenders and government housing assistance programs prior to the sale or provide the occupants with a replacement dwelling.

Proceeds from the sale of property pursuant to the Roberti Act are deposited into the SR 710 Rehabilitation Account, which is used to fund the rehabilitation of surplus SR 710 single-family homes being sold to certain low- and moderate-income occupants. Once the balance in that Account reaches $500,000, additional proceeds are deposited into the State Highway Account to fund transportation projects in Pasadena, South Pasadena, Alhambra, La Canada Flintridge, and the 90032 postal ZIP Code (El Sereno), as specified. L.A. METRO must submit a proposed program of projects to be funded with these proceeds, and CTC has final authority to approve these local projects.

Proposed Law: SB 51, an urgency measure, would make a number of changes to the Roberti Act. Specifically, this bill would do the following:

- Revise the priorities and procedures governing the sale of surplus residential properties in City of Los Angeles to require the properties to be offered for sale as follows, after they have been offered to present tenants who meet specified requirements in existing law:
    - 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;
    - 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. The property must be offered in existing as-is condition at a “reasonable price” to rehabilitate and maintain the property as a historic home for public and community access and use, as specified.
    - Finally, the property must be offered to a housing-related entity in the existing as-is condition at the price paid by Caltrans for original acquisition, and without an adjustment for inflation.

- Impose the following requirements on surplus residential properties in Los Angeles that are sold to housing-related entities:
    - Require the housing-related entity to cause the property to be used for low- and moderate- income housing for at least 55 years, subject to a recorded covenant.
    - Require any new units added to a property to be used for low- and moderate-income rental housing.
    - Require the affordability covenant to remain in effect if a property is sold.
    - Require the housing-related entity to provide first right of occupancy for a property to be offered to the present occupants and requires the rental amount to be in accordance with income certification if the current occupants qualify as low or moderate income. 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.
    - Require the housing-related entity to comply with monitoring requirements if any, as determined by Caltrans.
    - Require the housing-related entity to provide relocation assistance, as required.

- Authorize Caltrans to designate in regulations or delegate by agreement, a public agency to conduct affordability covenant monitoring responsibilities, and authorizes the monitoring entity to charge the property owner a fee to recover monitoring costs.

- Require Caltrans to adopt emergency regulations by June 1, 2022 to implement the bill's changes to the Roberti Act. The emergency regulations shall remain in effect for two years after adoption, or upon adoption of permanent regulations.
- Specify that the price of any property sold pursuant to the Roberti Act must not be less than the price paid by Caltrans for the original acquisition of the property, and prohibit the original purchase price from being adjusted for inflation.
- Require Caltrans to offer to sell unimproved property within the SR 710 corridor in Los Angeles at the original acquisition price to a housing-related entity for affordable housing purposes before selling the property pursuant to specified provisions.

Related Legislation: SB 9 (Durazo), which died on the inactive file on the Senate Floor last year, would have made changes to the Roberti Act to encourage the sale of homes owned by Caltrans for low- and moderate-income rental housing similar to this bill. SB 9 would have applied to all residential properties in the SR 710 corridor (not just those limited to Los Angeles in this bill), and would have also made specified changes to the Surplus Land Act.

SB 7 (Portantino), Chap. 835/2019, among other things, required Caltrans to offer surplus nonresidential property it owns in the SR 710 corridor at fair market value based on its current use, if it is sold to a city or nonprofit organization.

SB 580 (Liu), Chap. 709/2016, made specified changes to the Roberti Act governing the sale of surplus residential properties in the SR 710 corridor to specify procedures for the sale of historic homes, and to allow for the resale of certain properties purchased by a public housing entity, under specified circumstances..

SB 416 (Liu), Chap. 468/2013, made numerous changes to the Roberti Act, including a requirement that properties sold at fair market value be offered in as-is condition, and requiring proceeds from residential property sales be deposited into the SR 710 Rehabilitation Account and State Highway Account for SR 710 property rehabilitation purposes and local transportation projects, as specified.

Staff Comments: The Roberti Act generally requires residential properties to be sold at the fair market value. For low and moderate income households, however, the price must be "affordable," which cannot be less than what Caltrans originally paid for the property, or more than fair market value. If sold to a housing related entity, current law requires Caltrans to sell it at a "reasonable price," which is best suited to using the property as affordable housing and must fall between the original purchase price and the fair market value.

Caltrans is currently in the process of amending its ASP regulations related to SR 710 property sales to clarify the minimum sales price of the properties and to address lessons learned during the first phase of sales, in which 42 properties in the corridor were offered for sale in December of 2016. During Phase I, Caltrans set the minimum sales price at the original acquisition price, adjusted for inflation, and was subsequently sued over the inflation adjusted pricing. The initial lawsuit resulted in the Department adopting emergency regulations to implement the inflation adjusted pricing. A subsequent lawsuit promptly challenged the emergency regulations. Caltrans prevailed in that lawsuit in October 2020 and is now in the process of amending the regulations to permanently adopt the inflation adjusted pricing.

This bill would reverse this action by explicitly prohibiting Caltrans from adjusting the original purchase price for inflation when offering surplus properties for sale pursuant to the Roberti Act. This provision would result in unknown foregone revenues (future revenue decreases) by lowering the minimum sales price for property sales in the SR 710 corridor, thereby reducing the funding available for rehabilitation of properties offered for sale to specified lower income purchasers or for specified local transportation projects. Staff notes, however, that lowering the minimum sales price is also likely to expedite the sales of many properties, thereby increasing the supply of affordable housing and ensuring properties sold to housing-related entities in Los Angeles remain affordable for 55 years. In addition, as more properties are sold, the bill would also ultimately reduce Caltrans costs for ongoing affordable sales program administration as well as capital obligations for maintenance of properties owned by the Department. Caltrans notes that it currently spends approximately $9-10 million annually for maintenance and repairs of SR 710 properties, and dedicates 28 PY of staff to manage the properties and administer the sales program.

Staff notes that Caltrans currently has an interagency agreement with the Department of Housing and Community Development (HCD) to assist with program design and administration. HCD notes that it could incur costs of approximately $640,000 annually for 3.0 staff time related to program design, regulation development, and sales activity with ongoing monitoring, if it enters into a revised interagency agreement. Staff notes that HCD has been involved in these activities under the current agreement. As such, while the current agreement may require amendments as a result of the bill, it appears these noted costs would be incurred regardless of the bill.

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