
UNFINISHED BUSINESS

Bill No: SB 51
Author: Durazo (D), et al.
Amended: 7/8/21
Vote: 27 - Urgency

SENATE TRANSPORTATION COMMITTEE: 15-0, 2/1/21

AYES: Gonzalez, Bates, Allen, Becker, Cortese, Dahle, Dodd, Melendez, Min,
Newman, Rubio, Skinner, Umberg, Wieckowski, Wilk

NO VOTE RECORDED: Archuleta, McGuire

SENATE APPROPRIATIONS COMMITTEE: 4-0, 2/4/21

AYES: Portantino, Bates, Laird, Wieckowski

NO VOTE RECORDED: Bradford, Jones

SENATE FLOOR: 32-0, 2/12/21

AYES: 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

NO VOTE RECORDED: Archuleta, Bates, Glazer, Grove, Hurtado, Limón, Stern

ASSEMBLY FLOOR: 63-10, 7/12/21 - See last page for vote

SUBJECT: Surplus residential property

SOURCE: Author

DIGEST: This bill makes changes to the Roberti Act to encourage the sale of homes owned by Department of Transportation (Caltrans) for low- and moderate-income housing in the City of Los Angeles and makes changes to the Surplus Land Act.

Assembly Amendments make various changes related to the sale of Caltrans' surplus residential properties in the City of Los Angeles, including, but not limited to: requiring Caltrans to file emergency regulations within six months of the bill's

enactment; providing for owner-occupied affordable housing; specifying workforce requirements on construction projects on these properties; and requiring the City of Los Angeles to submit a report to the Legislature. Amendments also add provisions amending the Surplus Lands Act to grandfather-in additional projects.

ANALYSIS:

Existing law:

- 1) Allows Caltrans, whenever it determines that any real property acquired by the state for highway purposes is no longer necessary, to sell or exchange it in the manner and upon terms, standards, and conditions established by the California Transportation Commission.
- 2) Provides, under the Roberti Act, for the disposal of excess residential properties in the unconstructed portion of the SR 710 corridor. According to this exception, excess residential properties in this corridor are to be sold in the following priority order:
 - a) First, homes presently occupied by their former owners must be offered for sale to the occupant at fair market value.
 - b) Second, homes are to be offered to present occupants that have lived in the property for at least two years and who are persons and families of low or moderate income at an affordable price, but not less than the acquisition price or more than fair market value;
 - c) Third, homes must be offered for sale to present occupants that have lived in the home for more than five years and whose household income does not exceed 150 percent of the area median income at an affordable price, but not less than the acquisition price or more than fair market value;
 - d) Then, homes not sold under these terms must then be offered to housing-related entities (HREs) for a price which is best suited economically to using the property for low- or moderate-income housing or, if the property is a historic home, it may be offered to a nonprofit entity dedicated to maintaining it for public access; and,
 - e) Any excess homes not sold pursuant to these provisions are then to be sold at fair market value with first priority given to purchasers who are present occupants, second to former tenants in good standing, and then to purchasers who will be owner occupants.

- 3) Establishes, as set forth in regulations, an Affordable Rent Program by which Caltrans considers affordability when adjusting rents for current residential tenants who are economically disadvantaged.
- 4) Establishes the Surplus Lands Act and defines “surplus land” as land owned in fee simple by any local agency for which the local agency’s governing body takes formal action in a regular public meeting declaring that the land is surplus and is not necessary for the agency’s use.
- 5) Specifies exemptions to the Surplus Lands Act, including but not limited to, land that is put out to open, competitive bid by a local agency for specified affordable housing purposes.
- 6) Exempts, from the additional Surplus Land Act requirements enacted by AB 1486 (Ting, Chapter 664, Statutes of 2019), the disposition of a surplus property for which a local agency has entered into an exclusive negotiating agreement or legally binding agreement to dispose of the property as of September 30, 2019.

This bill:

Order of sale for SR 710 surplus residential properties in LA

- 1) Amends the Roberti Act order of sale for SR 710 surplus residential properties in LA 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, as specified;
 - 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.
 - c) Finally, the properties must be offered to housing-related entities, at the original acquisition price the department paid;

Conditions of sale for SR 710 surplus residential properties in LA

- 2) Specifies that properties be sold in the existing “as-is” condition.

- 3) Requires a housing-entity that purchases a property to either cause the property to be used for low- and moderate- income rental housing for at least 55 years, or, for a single family residence, sold for owner-occupied affordable housing for a term of at least 45 years. Requires any new units added to a property to be used for low- and moderate- income rental housing. Requires the affordability covenant to remain in effect if a property is sold. Requires the housing-entity to comply with monitoring requirements if any, as determined by Caltrans.
- 4) Requires the first right of occupancy for a property to be offered to the present tenants and requires the rental amount to be in accordance with income certification if the current tenants qualify as low or moderate income.
- 5) Provides that if the current tenants' income exceeds the limits for low- and moderate- income the rent for those occupants shall be no less than the current rent, or adjusted no higher than the current market rates for the area.
- 6) Requires an HRE to comply with specified requirements regarding the payment of prevailing wage.

Other provisions

- 7) Sets the original acquisition price of a property, not adjusted for inflation, as the minimum price of property sold under the Roberti Act.
- 8) Requires the Department of Transportation to adopt emergency regulations to implement the changes made to the Roberti Act by this bill within six months of its enactment.

Surplus Land Act

- 9) Amends the Surplus Land Act to provide that if a local agency issued a complete request for proposals as of September 30, 2019, that included at least 100 residential units and at least 25% 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 1486 (Ting).

Comments

- 1) *Purpose.* 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.”

- 2) *Caltrans-owned properties in the SR 710 corridor.* Beginning in the 1950s, Caltrans began acquiring property by eminent domain for the purpose of extending the SR 710 freeway through Alhambra, El Sereno, South Pasadena, and Pasadena. Local opposition stalled the project, at which point Caltrans began renting the residential properties. Caltrans currently owns over 400 properties in the corridor, most of them single-family homes.

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.

While, over the past fifty years, alternative concepts have been proposed and evaluated to build the SR 710 freeway between I-10 and I-210, community

members, particularly residents of Pasadena, have opposed the freeway project because of concerns about the impact of the freeway on their community.

In 2018, the Los Angeles County Metropolitan Transportation Authority and Caltrans identified transportation system management and transportation demand management as a transportation alternative to the freeway gap closure. This solution does not require demolition of these homes. Legislation in 2019 restricted Caltrans from pursuing freeway gap closure, clarifying that these properties are no longer needed for a transportation project and are now surplus. Caltrans has begun disposing of properties. So far, it has sold 22 parcels in the SR 710 corridor across El Sereno in LA, Pasadena, and South Pasadena.

- 3) *SB 51 amends the process for the sale of Caltrans properties in LA with the intent to increase opportunities for affordable housing.*

Order of sale. The Roberti Act sets out the priority order in which residential surplus properties may be sold in the SR 710 corridor. This bill amends the order of sale in LA to ensure all present tenants of five or more years the opportunity to buy the property before it is offered to a housing related entity. It preserves first right of occupancy for current tenants. Under current law, a residence purchased by a HRE must be developed as cooperative housing and offered for rent only if the cooperative is not feasible. According to information provided by the author's office, no such coops have been formed since the 1980s. SB 51 instead requires a HRE to offer the residence as affordable rental housing or, if the residence is single family, the HRE may sell the residence for affordable owner-occupier housing. SB 51 does not affect the order of sale in Pasadena and South Pasadena.

- 4) *Sales Price and Conditions.* 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. 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. The price falls between the floor (the original purchase price) and the ceiling (fair market value). This bill clarifies that the sales price floor is the original acquisition price not adjusted for inflation.

As an additional condition of sale, this bill also requires an HRE to commit to various workforce protections on any project, including paying prevailing wage.

- 5) *Surplus Land Act (SLA) exemptions for ongoing projects.* The SLA spells out the steps local agencies must follow to dispose of land they no longer need. AB 1486 (Ting, 2019) expanded SLA requirements with the intent of promoting the use of surplus lands for affordable housing. Among other changes, AB 1486 created new SLA exemptions for affordable housing developments that meet specified criteria.

SB 51 was amended in the Assembly to include clean-up to AB 1486. 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 additionally grandfathers-in projects for which a local agency has issued a competitive request for proposals by September 30, 2019, so long as the proposals include a residential component of at least 100 units with at least 25% restricted to lower income households. This change will allow San Diego Metropolitan Transit System (MTS) and the City of Chula Vista to move forward with their 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.

Related/Prior Legislation

SB 381 (Portantino, 2021) makes changes to the Roberti Act to encourage the sale of homes owned by Caltrans for low- and moderate-income rental housing in the State Route 710 corridor in South Pasadena.

FISCAL EFFECT: Appropriation: No Fiscal Com.: Yes Local: Yes

According to the Assembly Appropriations Committee:

Caltrans:

- 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...
- 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.

- 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.

Department of Housing and Community Development (HCD):

- 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.
- 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.

SUPPORT: (Verified 7/14/21)

None received

OPPOSITION: (Verified 7/14/21)

None received

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