
SENATE COMMITTEE ON TRANSPORTATION

Senator Lena Gonzalez, Chair

2021 - 2022 Regular

Bill No: SB 51

Hearing Date: 2/1/2021

Author: Durazo

Version: 12/7/2020

Urgency: Yes

Fiscal: Yes

Consultant: Amy Gilson

SUBJECT: Surplus residential property: sale procedures: City of Los Angeles

DIGEST: This bill 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 the El Sereno neighborhood of City of Los Angeles (LA).

ANALYSIS:

Existing law:

- 1) Allows Caltrans to acquire any real property that it considers necessary for state highway purposes.
- 2) 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.
- 3) Requires Caltrans, to the greatest extent possible, to offer to sell or exchange excess real property within one year from the date that it determines the property is excess.
- 4) Generally requires state and local agencies, prior to disposing of excess lands, first to offer property for sale or lease to local public agencies, housing authorities, or redevelopment agencies within whose jurisdiction the property is located. Requires Caltrans to give priority first to entities agreeing to use the land for low- or moderate-income housing then to entities for open-space purposes, school facilities construction, enterprise zone purposes, and infill opportunities, in that order.

The Roberti Act

- 5) Provides an exception from these provisions for the disposal of excess residential properties in the unconstructed portion of the SR 710 corridor, i.e., the portion of SR 710 addressed in this bill. 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 private and public entities 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.
- 6) Directs 50 percent of the revenue collected by Caltrans from rental of historic property that is located in a freeway right-of-way corridor to be deposited in the Historic Property Maintenance Fund to pay for costs associated with maintenance and operation of the historic properties.
- 7) As set forth in regulations, establishes an Affordable Rent Program by which Caltrans considers affordability when adjusting rents for current residential tenants who are economically disadvantaged.

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 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.
 - 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 cause the property to be used for low- and moderate- income housing for at least 55 years, subject to a recorded covenant. 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 occupants and requires the rental amount to be in accordance with income certification if the current occupants 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 more than the current rent, or adjusted no higher than the current market rates for the area.

Other provisions

- 6) Sets the original acquisition price of a property, not adjusted for inflation, as the minimum price of property sold under the Roberti Act.
- 7) Requires the Department of Transportation to adopt emergency regulations by June 1, 2022 to implement the changes made to the Roberti Act by this bill.

COMMENTS:

- 1) *Purpose.* According to the author, “Seventy years ago, through a process of eminent domain, the State of California displaced families and altered the community of El Sereno for a freeway expansion. Community opposition delayed the SR 710 project, requiring Caltrans to begin renting out the homes. Within the SR 710 corridor, tenants have experienced years of mismanagement, which have particularly affected the El Sereno neighborhood where homes are in a state of worsening disrepair and vacancies have proliferated. For over five decades, Caltrans bought properties without regard for the families in the corridor, disrupting the economic, social and cultural fabric of this predominately Latino community. As the future of the 710 has been decided, El Sereno has been disproportionately and acutely impacted by neglect, traffic, congestion and vacancies. With over 100 homes currently vacant and many in poor condition, we have an opportunity to repair and improve the housing in this neighborhood, and significantly increase long-term affordable housing.

We must actualize the goals of affordable housing in California, a top priority for policymakers. It is critical that affordable housing be preserved and expanded in the 710 corridor and that Caltrans tenants be able to remain safely in their homes with the ability to buy or continue to rent. Residents renting apartments and homes in the 710 corridor deserve fair treatment and stable housing. SB 51 seeks to provide a long-term solution for healing, focused on the primary goal of expanding and preserving affordability for all these properties while protecting the rights of tenants. The residents of El Sereno deserve a fair process. This bill will move ownership away from Caltrans, secure long-term affordability, and create more affordable options in the corridor, while ensuring current Caltrans tenants are protected by rules on affordable housing and increasing the number of affordable housing units.”

- 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 political 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.

- 3) *The SR 710 extension project is not moving forward, so the Caltrans properties along this corridor are now surplus.* 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. Last year, legislation restricted Caltrans from pursuing freeway gap closure. As such, many of these properties are no longer needed for the 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.

- 4) *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. Under current law, single-family homes must be offered to (1) 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), (4) a housing-related private or public entity, (5) any present tenants, and finally, (6) former tenants.

This bill amends the order of sale in LA to provide all present tenants of five or more years the opportunity to buy the property before it is offered to a housing related entity, even if they are above the income threshold in current law. It

preserves first right of occupancy for current tenants. Under current law, a residence purchased by a housing-related entity 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 housing-related entity to offer the residence as affordable rental housing. SB 51 does not affect the order of sale in Pasadena and South Pasadena.

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).

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.

SB 51 aims to make it easier for Caltrans to sell the El Sereno properties by allowing a housing-related entity to buy a property at the original price in exchange for fixing them up and keeping them affordable. For a property sold to a housing-related entity in LA, a sale subject to the new SB 51 provisions, Caltrans would be required to offer the property at acquisition price without adjusting for inflation. For their part, the purchasing housing-related entity would be required to record a 55-year affordability covenant on the property and ensure that, if it is sold, that it is sold to LA 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.

- 5) *Urgency.* SB 51 is an urgency measure. It is a reintroduction of SB 9 (Durazo, 2020), with a couple differences. SB 9 included unrelated amendments to the Surplus Lands Act and dealt with the entire SR 710 corridor. SB 51 has been

narrowed to El Sereno in LA. SB 9 did not receive any “no” votes, but died in the Senate on concurrence when the midnight deadline passed. According to information provided by the author, intervening months, vacant Caltrans homes in El Sereno have been occupied by “reclaimers” and there is an urgent need to facilitate the shift from Caltrans ownership to affordable housing.

RELATED LEGISLATION:

SB 9 (Durazo, 2020) — This bill would have made changes to the Roberti Act to encourage the sale of homes owned by Department of Transportation (Caltrans) for low- and moderate-income rental housing and makes changes to the Surplus Land Act. This bill died on the inactive file in the Senate.

SB 7 (Portantino, Chapter 835, Statutes of 2019) — This bill restricted the California Department of Transportation (Caltrans) from considering a freeway or tunnel as a feasible alternative for State Route (SR) 710 between Interstate (I-) 10 and I-210, and makes other changes related to the SR 710 corridor.

AB 29 (Holden, Chapter 791, Statutes of 2019) — Restricts the California Department of Transportation (Caltrans) from considering a freeway or tunnel as a feasible alternative for State Route (SR) 710 between Interstate (I-) 10 and I-210, and redefines, as of January 1, 2024, which portions of SR 710 are included in the state freeway and expressway system to exclude the section of SR 710 generally between I-10 and I-210.

SB 400 (Potantino, Chapter 568, Statutes of 2017) — This bill prohibits the California Department of Transportation (Caltrans) from increasing the rent of tenants who are participants in Caltrans’ Affordable Rent Program and residing in surplus residential properties within the State Route (SR) 710 corridor.

SB 416 (Liu, Chapter 468, Statutes of 2013) — This bill made a number of changes to the Roberti Act, which governs the sale of surplus property in the SR 710 corridor, including authorization for the Department of Transportation (Caltrans) to sell properties in an “as-is” condition to specified income-qualified persons. The bill also required the proceeds from the sale of those properties to be deposited into a newly created continuously appropriated fund, rather than the State Highway Account, for purposes of providing repairs to remaining properties until the last property is sold.

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

POSITIONS: (Communicated to the committee before noon on Thursday,

January 28, 2021.)

SUPPORT:

None received.

OPPOSITION:

None received.

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