

Date of Hearing: April 15, 2021

ASSEMBLY COMMITTEE ON HOUSING AND COMMUNITY DEVELOPMENT

David Chiu, Chair

AB 512 (Holden) – As Amended March 30, 2021

SUBJECT: Surplus unimproved property: sale procedures: City of Los Angeles: City of Pasadena: City of South Pasadena

SUMMARY: Requires Caltrans, prior to selling an unimproved property within the State Route 710 corridor in the cities of Los Angeles, Pasadena, and South Pasadena, to offer to sell the property at the original acquisition price to a housing related entity (HRE) for affordable housing purposes. Specifically, **this bill:**

- 1) Requires the sales price of an unimproved property to be the original acquisition price paid by Caltrans that has not been adjusted for inflation and to be sold in existing “as is” condition.
- 2) Requires a HRE to do all of the following for each unimproved property:
 - a) Cause the property to be used for low- and moderate- income rental housing for a term of 55 years;
 - b) Record a covenant against the property requiring that the property remain available and affordable for rent by lower income and moderate income households for a term of no shorter than 55 years; and
 - c) Comply with monitoring requirements as determined by Caltrans.
- 3) Requires that if a property is sold prior to the expiration of the affordability covenants, the HRE must transfer title of the property to a city in which the property is located which must then transfer the title and operations to the successor HRE.
- 4) Requires any new properties added to a property sold subject to this bill to be used only for low- or moderate- income rental housing.
- 5) Authorizes Caltrans to designate in regulations, or delegate by agreement, a public agency to monitor compliance with affordability covenants. Authorizes a monitoring entity to charge a property owner a fee to cover the cost of monitoring.
- 6) Exempts any unimproved properties that Caltrans has leased out for agricultural or recreational purposes.
- 7) Provides that a special statute is necessary and that a general statute cannot be made applicable within the meaning of Section 16 of Article IV of the California Constitution because of the unique housing needs in the City of Los Angeles, City of Pasadena, and City of South Pasadena.

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.
- 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 as follows:
 - 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;
 - 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;
 - d) Homes offered to income-qualified buyers are to be offered at an affordable price, but not less than the acquisition price or more than fair market value;
 - e) 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; and,
 - f) 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 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.

FISCAL EFFECT: Unknown.

COMMENTS:

Author's statement: "The history of the 710 North corridor has included injustice, conflict, and slow action on the part of the state. When the state purchased land and homes 60 years ago, it displaced many people and bifurcated a community all in service of constructing a freeway. Now that a freeway is off the table, it is time to rebuild the community. The future of the 710 North corridor is housing construction and revitalizing neighborhoods. However, Caltrans' work to sell the homes and land has been slow due to the cost of the houses and bureaucratic process. The Roberti Act is complicated but was created to establish a process of fairness and affordability that allows the community to remain intact as much as possible. That complication has led to frustration and lack of access for some looking to purchase or build in this area. That is why we must continue revisiting this code section to ensure that it is meeting the needs of the current day tenants, cities, and Caltrans. This bill is a step in that direction by lowering the price of land to incentivize the construction of affordable housing in an area that is badly in need of it."

Background: Beginning in the 1950s, Caltrans began acquiring properties 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). Single family homes and all other surplus properties are then offered for sale to a 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 only for the sale of unimproved surplus properties to HREs in the cities of Los Angeles, Pasadena, and South Pasadena. A HRE would not be required to offer the property first to existing tenants as a limited-equity cooperative. An HRE would record a 55 year affordability covenant on the property and develop it into affordable housing for 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.

AB 512 vs. SB 51 (Durazo): This committee recently heard and passed out SB 51 (Durazo) which creates an alternative process for selling surplus properties owned by Caltrans in the City of Los Angeles. AB 512 applies to Caltrans properties in the City of Los Angeles, however it only applies to unimproved properties, while SB 51 applies to both improved and unimproved properties. SB 51 passed out of this committee unanimously and is currently on the Assembly Floor.

REGISTERED SUPPORT / OPPOSITION:

Support

None on file.

Opposition

None on file.

Analysis Prepared by: Lisa Engel / H. & C.D. / (916) 319-2085