ASSEMBLY THIRD READING
AB 512 (Holden)
As Amended May 24, 2021
Majority vote

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.

Major Provisions

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) States that it is the intent of the Legislature to require a skilled and trained workforce on potential affordable housing developments.

8) Provides that a special statute is necessary and that a general statute cannot be made applicable within the meaning of California Constitution Article IV, Section 16, because of the unique housing needs in the City of Los Angeles, City of Pasadena, and City of South Pasadena.

COMMENTS

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% 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.

According to the Author
"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."

Arguments in Support
According to supporters, AB 512 will allow for the creation of affordable housing along the 710 corridor and facilitate vibrant communities.

Arguments in Opposition
No opposition on file.

FISCAL COMMENTS

According to the Assembly Appropriations Committee:

1) Estimated ongoing costs of $747,000 (General Fund (GF)) annually to the Department of Housing and Community Development (HCD) for four staff to monitor the affordability covenants and long-term affordability requirements, assist Caltrans in drafting and updating required monitoring requirements, provide technical assistance to housing-related entities, build and update maps of transferred properties and provide legal and technical support.

2) Unknown, potentially major foregone revenues (GF) related to provisions requiring Caltrans to sell unimproved surplus properties at their original purchase price, with no inflation adjustment, rather than at fair market value. Lower property prices would result in an unknown reduction of revenues, the amount of which will depend on the fair market value of each property at the time of sale and which properties are sold. Revenues from these sales go to the General Fund to pay for bond debt.

VOTES

ASM HOUSING AND COMMUNITY DEVELOPMENT: 8-0-0
YES: Chiu, Seyarto, Gabriel, Kalra, Kiley, Maienschein, Quirk-Silva, Wicks

ASM APPROPRIATIONS: 13-0-3
YES: Lorena Gonzalez, Calderon, Carrillo, Chau, Fong, Gabriel, Eduardo Garcia, Levine, Quirk, Robert Rivas, Akilah Weber, Holden, Luz Rivas
ABS, ABST OR NV: Bigelow, Megan Dahle, Davies

UPDATED

VERSION: May 24, 2021

CONSULTANT: Lisa Engel / H. & C.D. / (916) 319-2085 FN: 0000777