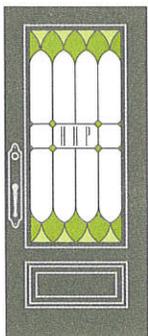


Heritage Housing Partners

August 13, 2014

Mr. Brent L. Green
Chief, Caltrans Division of Right of Way and Land Surveys
ATTN: Affordable Sales Program
California Department of Transportation
1120 N Street, MS 37
Sacramento, CA 95814



RE: Notice of Proposed Rulemaking: Affordable Sales Program

Dear Mr. Green:

Heritage Housing Partners (HHP) is a non-profit affordable housing developer based in Pasadena that focuses on promoting long-term affordable homeownership through the preservation of existing historic homes and the construction of new, contextual single-family residences. HHP's mission is to provide first-time, low- and moderate-income households with affordable ownership opportunities that result in overall neighborhood revitalization.

HHP appreciates this opportunity to provide comments on the proposed rules and regulations for the Affordable Sales Program. The majority of our comments focus on issues regarding eligible income levels and clarifications for definitions listed in Title 21 Public Works Division 2. Department of Transportation Chapter 9.5. Affordable Sales Program. Listed below are our comments on the current proposed rules and regulations that we would like to see addressed in the final rules and regulations.

(1) §1476. Proposed Rules Lack Definition for “Persons and Families of Low or Moderate Income”.

Proposed Rules §1476 Definitions lacks a definition for “Persons and Families of Low or Moderate Income”, yet this term is referenced in a subsequent Proposed Rules §1477(2) and elsewhere.

Roberti Bill §54236 (i) through (j) provides a definition for this term, but it is convoluted and makes reference to additional external sources (California Health & Safety Code §50093 and §50079.5).

Therefore, we suggest that Caltrans revise the Proposed Rules to include a definition of “Persons and Families of Low or Moderate Income” that summarizes, re-states, and clarifies the intended definition for “Persons and Families of Low or Moderate Income”. Given the importance of this definition, a clear and internally

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Mr. Brent L. Green

August 13, 2014

Page 2 of 6

consistent definition should be contained within the Proposed Rules, and references to external statutes, etc. should be avoided.

(2) §1476(h). “Affordable Housing Cost” Definition Does Not Provide Standards for “Persons and Families of Moderate Income”.

Proposed Rules §1476(h) includes a proposed definition for “Affordable Housing Cost” that relies solely on 25 CCR § 6924. This section only applies to affordable housing costs for “lower income households” and “very low income households”. This section does not provide direction regarding affordable housing costs for “moderate income households”.

Roberti Bill §54237(a)(2) and §54237(d) require that housing opportunities be provided to low- and moderate-income households. Any program implementation of the Roberti Bill must include clear direction as to how moderate-income households will be qualified to purchase a home based on a definition of “Affordable Housing Cost” that is appropriately tailored to their economic needs.

Therefore, we request that Caltrans revise the Proposed Rules to include a definition of “Affordable Housing Cost” that includes specific reference to moderate-income households. Further, we request that Caltrans refrain from referencing external sources in their definition of “Affordable Housing Costs”. Given the importance of this definition, a clear and internally consistent definition should be contained within the Proposed Rules, and references to external statutes, etc. should be avoided.

(3) §1476(h). “Affordable Housing Cost” Share as a Percentage of Income Needs Clarification.

The Proposed Rules lack direct and clear guidance regarding appropriate Affordable Housing Cost Share as a percentage of Eligible Buyers’ annual income. Proposed Rule §1476(h) makes external reference to 25 CCR § 6924; however, as discussed in a previous comment, this reference provides no guidance for moderate-income households. Further, 25 CCR §6924(a) sets the Affordable Housing Cost share at 25% of gross income; however, this relatively low percentage is typically applicable to lower income households.

This 25% housing cost share is quite low based our HHP’s experience with typical affordable housing programs, especially those that are intended to support affordable homeownership production, such as the Proposed Rules. For example, our experience indicates that Affordable Housing Cost shares of 30% to 40% of the gross household income are more typical for affordable homeownership programs in California (i.e., Redevelopment LMI Funds; CalHome; BEGIN; etc.). If the Affordable Housing Cost share remains limited to 25% of gross income, the

Mr. Brent L. Green

August 13, 2014

Page 3 of 6

financial feasibility of providing affordable homeownership opportunities through Caltrans' proposed program will be severely limited.

We note that 25 CCR § 6924(c) provides Caltrans with the "permit (for) modification of this standard on the basis of economic or financial feasibility or other grounds."

Therefore, we request that Caltrans review existing affordable homeownership programs in California and revise the Proposed Rules related to Affordable Housing Cost share such that: 1) specific standards for moderate income households are included; and 2) assumptions for lower income households are revised to be consistent with the majority of California affordable homeownership programs.

(4) §1478(i)(1). Clarify Procedure to Determine "Feasibility" of Limited Equity Housing Cooperative.

Roberti Bill §54237(d) allows purchase priority to "housing-related public and private entities", with the requirement that the entity shall "cause the property to be rehabilitated and developed as limited equity cooperative housing...except where the development of cooperatives is not feasible..." Similar language is included in the Proposed Rules at §1478(i)(1).

It is not clear how the feasibility of development of cooperative housing will be considered. Limited equity coops are an unusual form of ownership in California, and specifying this as the preferred form of ownership will make accessing mortgage credit for prospective homebuyers more difficult than if other, more conventional forms of ownership were utilized. Therefore, HHP suggests that Caltrans consider and establish a process to address how it will evaluate whether a limited equity cooperative is feasible or infeasible.

We request that Caltrans revise the Proposed Rules to establish a reasonable process for evaluation of feasibility in regards to the rehabilitation and development of property as a limited equity housing cooperative.

(5) Clarification of First Rights of Refusal for Occupancy of Rehabilitated or Newly Developed Units.

Roberti Bill §54237(d) allows purchase priority to "housing-related public and private entities" with the requirement that the entity shall "cause the property to be rehabilitated and developed as ...housing with the first right of occupancy to present occupants."

The Proposed Rules should clarify how Caltrans intends this to work. For example, does this section mean that "present tenants" (meaning present as of the time of

Mr. Brent L. Green

August 13, 2014

Page 4 of 6

sale of the property? or present as of the time of the adoption of the Roberti legislation?) who choose not to purchase the housing they occupy will still have the first right to occupy that same housing unit which has been purchased and rehabilitated by another party? A more workable solution might be to offer any displaced Caltrans residential occupant the opportunity for priority consideration for any housing unit rehabilitated or developed as a result of the Program.

Displaced occupants offered this first right of occupancy (i.e., priority consideration) would still need to meet program and credit eligibility requirements for any affordable housing that is being offered. Caltrans should also establish proper record-keeping to ensure that subsequent developers of affordable housing developed under Roberti Bill §54237(d) would be able to notify previously displaced Caltrans residential tenants of housing availability and/or verify that applicants requesting priority consideration under the first right of occupancy offer are eligible for the benefit.

(6) Caltrans' Responsibility to Deliver Legal Parcels to Buyers.

Many properties that may be sold through the proposed surplus property process are currently classified as right of way and are no longer individual legal parcels as recognized by the County of Los Angeles. Mapping required to re-establish these parcels would be a significant technical burden and cost to prospective property purchasers.

We request that Caltrans affirms in the Proposed Rules that it will take necessary actions to re-map all legal parcels prior to a notice of sale.

(7) §1479(a) & (b). Clarification of References to "Housing-Related Public and Private Entities".

Proposed Rules §1479(a) & (b) both refer to "Housing-related public and private entities". The double reference suggests that "Housing-related public and private entities" will be notified of excess property availability at the same time that current occupants of the excess properties are being notified.

We request that Caltrans clarify the reason that "Housing-related public and private entities" are mentioned in both sections. Also please clarify how the "Housing-related public and private entities" will receive notice about the sales of the properties?

(8) Confirm Relocation Benefits Paid by Caltrans & Delivery of Properties With Tenants Vacated.

Roberti Bill §54238.3 requires that relocation benefits be paid to certain eligible occupants of surplus property. Caltrans Proposed Rules FAQ (VI.3) further explain

Mr. Brent L. Green

August 13, 2014

Page 5 of 6

the proposed amount of the relocation benefit and that Caltrans will be responsible for paying this benefit to eligible recipients. Further, Proposed Rules FAQ VI.2 suggests that new owners of surplus properties will be required to evict tenants if future development plans do not involve tenant retention.

Since the FAQ is not part of the Proposed Rules, we request that Caltrans clarify all details about the relocation benefit program in the Proposed Rules, including Caltrans' responsibility for management and funding of all aspects of the relocation benefits.

In addition, we request that Caltrans require tenants to vacate their units as a condition of receiving relocation benefits.

(9) Local Control of "Rehabilitation Account"; Local Control for Implementation of Affordable Housing Production.

Roberti Bill §54237.7 governs the establishment of a "Rehabilitation Account", but no guidance for operations of this Account is provided in the Proposed Rules.

We suggest that Caltrans provide for local control of the Rehabilitation Account. For example, sales proceeds from the sale of properties located in Pasadena should go into a Pasadena sub-account; sale proceeds from the sale of Alhambra properties should go into an Alhambra sub-account; and so on. Since the purpose of the Rehabilitation Account is to provide funding for transportation improvements within the 710 Corridor, and it is also likely that each city within the Corridor will have different objectives and priorities for the kinds of improvements they wish to make, our suggestion is to establish sub-accounts for each city, and give each city control over the deployment of applicable funds within their sub-account.

In the same vein, HHP suggests that the implementation of the affordable housing program under Roberti be done by each city with regard to the production of affordable units within each city's borders. We suggest this for two reasons. First, each city already has housing staff and programs unique to that city; those city staffs are already familiar with State and Federal affordable housing rules and regulations, and it is preferable to have experienced staff implement the Roberti affordable housing program. Second, the inventory of housing stock along the 710 Corridor varies greatly. In Pasadena, for example, the land parcels and the single-family houses are large. In South Pasadena, Alhambra, and El Sereno, the properties and houses tend to be smaller. The affordable housing program that derives from the Roberti bill should take into account these differences in inventory, as well as different zoning, different neighborhood contexts, and the like. Having each city implement the Roberti affordable housing program within

Mr. Brent L. Green

August 13, 2014

Page 6 of 6

their borders is more likely to create a better development outcome than a "one size fits all" approach administered by a State or regional agency.

(10) Disposition of Non-Residential Properties.

The Rules focus on the disposition of residential properties. The Rules should also provide detailed procedures for the disposition of non-residential property, both properties currently leased by non-residential tenants and vacant, non-leased land.

Thank you for the opportunity to comment on the Rules and Regulations.

Sincerely,

A handwritten signature in blue ink, appearing to read "Charles E. Loveman, Jr.", with a large, stylized flourish at the end.

Charles E. Loveman, Jr.
Executive Director