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California State Senate

SENATOR
CAROL LIU
TWENTY-FIFTH SENATE DISTRICT

COMMITTEES
BUDGET AND FISCAL REVIEW
BUDGET AND FISCAL REVIEW SUBCOMMITTEE NO. 1 ON EDUCATION
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HUMAN SERVICES
JOINT COMMITTEE ON ARTS
PUBLIC SAFETY
SELECT COMMITTEE ON AGING AND LONG TERM CARE
CHAIR
TRANSPORTATION & HOUSING

DATE: September 2, 2014

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

FROM: Senator Carol Liu, 25th District

RE: Regulations proposed to implement, interpret, and make specific Sections 54235 through 54238.7 of the Government Code

As the Senator representing the 25th District, through which various of the proposed North State Route 710 alternatives being considered pass, I am pleased for this opportunity to submit supplemental comments on Caltrans' proposed regulations to implement Sections 54235 through 54238.7 of the Government Coe, commonly known as the Roberti Bill, as amended by my legislation, SB 416.

First to amplify on the comments presented on my behalf at the Pasadena public hearing, I reiterate the point made in that statement. The Roberti Bill contains some very explicit direction that I understand Caltrans feels bound to follow, but at the same time there is flexibility in the law that I urge Caltrans to exercise to the fullest extent possible in order to accommodate tenants and past tenants of the properties way who have served as the virtual custodians of these properties. Over the last several decades, they have lived with uncertainty and questionable Caltrans management practices, and in many cases, they have invested their own money to maintain these properties, which they call home. They deserve your fullest consideration.

Second, I applaud the efforts of the various tenants groups to consolidate their views and find common ground in commenting upon the regulations. I urge Caltrans to fully consider their recommendations. I ask that you give very careful consideration to the proposed amendments to the regulations as submitted by the United Tenants Association and attached for reference to my comments.

Overall, I fully support the approach the United Tenants have put forth. If Caltrans has any concern over the specific changes the tenants propose, I urge you to amend the regulations to, at a minimum, advance the concept of the tenants' proposed redrafted language.

- I agree that Caltrans should sell residential properties in the order of priority listed in the Roberti bill. Affordable transactions are likely to be the most complex and starting with them may reveal issues that can be reconciled through amendments to the regulations or legislation.

- Caltrans should **not** be the first lien holder on the mortgage. This will only interfere with the tenants' ability to obtain a loan. If Caltrans is to truly exit the property management business, then the department needs to leave default on the conditions of the loan to the lender and fashion a different role for itself in the process. With all due respect, Caltrans has not been a good real estate manager; I wouldn't expect any more success serving in the role of a bank.

- Resale restrictions must be reduced to 15 years. I also agree with the United Tenants' recommendation that restrictions for those over 60 years old be reduced by five years and for tenants over 65, the reduction should be ten years.

- With the exception of Historic Covenants, all covenants should expire upon death and conveyance of a property through inheritance. A person who is not a party to this transaction should not be forced to become an occupant/caretaker or landlord/caretaker for a property that he had no choice in acquiring.

- With the exception of Historic Covenants, the sales contract should allow for repairs and improvements without restriction. Any other approach would be unreasonable, especially since homes can be sold "as is."

- I also hope that Caltrans will adopt a more liberal interpretation of income to allow more tenants to fall within the 150% income limit. Please recall that the Roberti Bill was first enacted in 1979 -- a different time, a different economy – and that no one expected Caltrans to retain ownership of these homes through the last century and well into the next.

I will be anxious to see more detail provided on future transactions with affordable housing entities. In concept and based on past legislation that I authored, I would like to see a preference for city affordable housing entities to purchase the homes not purchased by tenants. It is also important that any entity purchasing the homes to maintain as affordable housing enable those tenants who wish to do so, to remain as tenants in their homes.

Finally, I hope there will be substantial amendments to the current proposed regulations. As such, I urge Caltrans to provide for a 30-day comment period and an additional public hearing in the El Sereno, South Pasadena, or Pasadena before the regulations are finalized.

Thank you for your consideration.

Proposed revisions to draft Caltrans Affordable Sales Regulations:

TITLE 21 PUBLIC WORKS
DIVISION 2. DEPARTMENT OF TRANSPORTATION
CHAPTER 9.5. AFFORDABLE SALES PROGRAM

§ 1475 Purpose and Scope

(a) *Article XIX of California Constitution provides that the Department of Transportation ("Department") may utilize its funds and assets to mitigate adverse environmental effects which impact upon persons and communities caused by the planning, acquisition of property, or construction of public transportation projects. In 2009, the Office of the California Attorney General issued a formal opinion determining that it was proper to use the Department's funds and assets to preserve affordable housing that might otherwise be lost if the property were rented or sold at higher market rates.* In 1979, the Legislature passed Senate Bill 86, known as the "Roberti Act," and these regulations implement that Act. The Legislature has found and declared that the sale of certain surplus residential properties by the Department of ~~Transportation (Department)~~ *at higher market rates* will result in the loss of decent and affordable housing for persons and families of low- and moderate-income, ~~and~~ in the displacement of large numbers of ~~such~~ persons and families, *and the disruption of local communities.. These impacts would be adverse environmental effects that the Department is authorized and directed to prevent. In addition, the sale of certain properties will result in the saving of Department funds otherwise required for the maintenance, upkeep, repair, management, and rehabilitation of aging properties, and the avoidance of future liability associated with the Department's continued ownership of the properties.* Pursuant to Government Code sections 54235 through 54238.7, the Department is required to dispose of such properties in a manner that will preserve, upgrade and expand the supply of housing available to affected persons and families of low or moderate income, *and to avoid unnecessary disruptions of local communities.* This article sets forth the regulations used by the Department for the sale of surplus residential properties under Government Code sections 54235 et seq. The regulations specified herein and the governing statutes are collectively known as the "Affordable Sales Program."

(b) Pursuant to Government Code section 54238 .3, the regulations in this article are limited in effect to surplus residential properties acquired *and retained by the Department* for State Route 710 (SR 710), in Los Angeles County.

ADD:

(c) Pursuant to Government Code section 54236(b) and (c), at this time, properties in the following categories will not be deemed "surplus residential properties" subject to the provisions of the Roberti Act, but may be sold under the provisions of generally applicable law:
(1) Parcels of land currently lacking habitable structures, including leased or rented parcels;
(2) Parcels of land with habitable structures currently utilized for non-residential purposes; and
(3) Parcels of land with structures that are not currently occupied due to health and safety reasons and for which the Department presently lacks funds to address. The Department shall publish a list of the properties within the SR 710 corridor which have been determined, at this time, not to be sold as "surplus residential properties."

(d) Surplus residential properties currently utilized for residential purposes will be offered for sale chronologically in the order of priority listed in Government Code section 54237(a). The sales of all properties in a specific sub-category shall be completed before any sales commence in the next category, as follows:
(1) First, all sales of single-family residences to persons and families who are the former owners of the single-family residences they presently occupy will be completed.
(2) Second, all sales of single-family residences to persons and families of low or moderate income who have occupied their single-family residences for two years or more will be completed.
(3) Third, all sales of single-family residences to persons and families whose income does not exceed 150 percent of the area median income who have occupied their single-family residence for five years or more will be completed.
(4) Fourth, all sales of single-family residences to occupant and non-occupant persons and families, public entities, and housing-related private entities will be completed, with first priority given to present tenants and second priority to former tenants.
(5) Fifth, all sales of residential properties containing two or more residential units to occupant and non-occupant persons and families, public entities, and housing-related private entities will be completed, with first priority given to present tenants and second priority to former tenants.
(6) Sixth, all sales of surplus residential properties not sold under categories (1) through (5) above shall be sold individually.

(e) The following properties are hereby determined to be "surplus residential properties" within the terms of the Roberti Law:

Properties in the City of Los Angeles

(1) In the City of Los Angeles, the following properties are ***occupied single-family residences*** *presently occupied and utilized for residential purposes:*

Item	Caltrans Parcel	Street No.	Street Name	City
1				
2				
3				
. . .				

(2) In the City of Los Angeles, the following properties contain ***two or more residential units****, and some or all of the units are presently occupied and utilized for residential purposes:*

Item	Caltrans Parcel	Street No.	Street Name	City
101				
102				
. . .				

(3) In the City of Los Angeles, the following surplus residential properties are ***vacant single-family residences*** *and* ***vacant properties with two or more residential units****, but which fully comply with all state and local laws for habitable residential units:*

Item	Caltrans Parcel	Street No.	Street Name	City
131				
132				
133				
. . .				

Properties in the City of South Pasadena

(4) In the City of South Pasadena, the following properties are ***occupied single-family residences*** *presently occupied and utilized for residential purposes:*

Item	Caltrans Parcel	Street No.	Street Name	City
151				
152				
153				
. . .				

(5) In the City of South Pasadena, the following properties contain ***two or more residential units****, and some or all of the units are presently occupied and utilized for residential purposes:*

Item	Caltrans Parcel	Street No.	Street Name	City
351				
352				
. . .				

(6) In the City of South Pasadena, the following surplus residential properties are ***vacant single-family residences*** *and* ***vacant properties with two or more residential units****, but which fully comply with all state and local laws for habitable residential units:*

Item	Caltrans Parcel	Street No.	Street Name	City
401				
402				
403				
. . .				

Properties in the City of Pasadena

(7) In the City of Pasadena, the following properties are ***occupied single-family residences*** *presently occupied and utilized for residential purposes:*

Item	Caltrans Parcel	Street No.	Street Name	City
451				
452				
453				
. . .				

(8) In the City of Pasadena, the following properties contain ***two or more residential units****, and some or all of the units are presently occupied and utilized for residential purposes:*

Item	Caltrans Parcel	Street No.	Street Name	City
501				
502				
. . .				

(9) In the City of Pasadena, the following surplus residential properties are ***vacant single-family residences*** *and* ***vacant properties with two or more residential units****, but which fully comply with all state and local laws for habitable residential units:*

Item	Caltrans Parcel	Street No.	Street Name	City
521				
522				
. . .				

(f) *During the time the Department is determining which occupied residential properties are to be sold as surplus residential property and is calculating the terms of such sales under the Affordable Sales Program, and until a determination is made and the property is sold, the monthly rental rate on each dwelling unit shall not be increased, but the monthly rental rate may be decreased to accurately reflect the income of a tenant in the Affordable Rental Program.*

NOTE:
Authority cited:
Calif. Const. Article XIX; Govt. Code §§ 54235, 54236, 54237, 54237.3, 54237.5, 54237.7, 54237.8, 54238, 54238.3, 54238.4, 54238.5, 54238.6, 54238.7; *Attorney General's Opinion 07-801 (December 30, 2009)*
Reference cited:
Govt. Code §§ 54235, *54236, 54237*, 54238.3 & 54238.4

§1476 Definitions

(a) Housing-related private entity means an "Eligible Sponsor" as defined in California Code of Regulations, Title 25, section 7303 *and determined eligible by the Department pursuant its regulations.*

(b) Housing-related public entity means a Public Housing Agency (PHA) as defined in Code of Federal Regulations, Title 24, section 5.100.

(c) Principal place of residence means the place where one actually lives for the greater part of time, or the place where one remains when not called elsewhere for some special or temporary purpose and to which one returns frequently and periodically, as from work or vacation. There may be only one personal place of residence for any individual.
Evidence that a location is the individual's "principal place of residence" includes, but is not limited to, the following elements, a compilation of which lends greater credibility to the determination that a particular place is the principal place of residence, whereas the presence of only one element may not support such a determination:
(1) The subject premises are listed as the individual's place of residence on any motor vehicle registration, driver's license, voter registration, or with any other public agency, including federal, state and local taxing authorities.
(2) Utilities are billed to and paid by the individual at the subject premises.
(3) All of the individual's personal possessions have been moved into the subject premises.
(4) A homeowner's tax exemption for the individual has not been filed for a different property.
(5) The subject premises are the place the individual normally returns to as his/her home, exclusive of military service, hospitalization, vacation, family emergency, travel necessitated by employment or education, or other reasonable temporary periods of absence.

(d) Occupant, notwithstanding any other provision of law, means a person or persons who is in occupancy, is of majority age, and is listed on *or may be added to* the lease or rental agreement *prior to the date a prospective buyer responds to a Conditional Offer Prior to Sale.*

(e) Reasonable price means a decision reached jointly between a buyer and seller of property, reflecting a judgment influenced by the economic realities of the marketplace and the relative bargaining powers of the parties and is a price that provides the best ~~total~~ *agreed* value for *both buyer and seller* in consideration of availability, delivery time, fitness for purpose, payment terms, quality, quantity, and service. In no instance shall "reasonable price" be less than the price originally paid by the Department.

(f) Surplus residential property means land and structures owned by the Department that have been determined to be excess pursuant to Streets and Highways Code section 118.6, *and the regulations the Department has adopted pursuant to that section,* and are developed *and utilized* as single-family or multifamily housing, but does not include property held by the Department for the purpose of exchange.

*[**COMMENT**: Does Caltrans have the "excess property regulations" it is **required** to adopt by Streets and Highways Code section 118.6? It appears from the C.C.R. that Caltrans did so in 1973, but then repealed all these regs in 1981, when it began generally avoiding the A.P.A.]*

(g) Limited equity housing cooperative means a corporation as defined in Health and Safety Code section 50076.5.

(h) Affordable housing cost means that amount as defined in California Code of Regulations, Title 25, section 6924.

*[COMMENT: This H.C.D. Regulation (25 CCR 6924) only applies to "lower-income" and "very low-income" households. Caltrans has not drafted or cross-referenced to any definition of "affordable housing cost" for moderate-income or 150-percent-of-median-income households. The latter category **only** exists in the Roberti Law, and hence no H.C.D. Regulations are written for it. Caltrans may independently define "affordable housing cost" for this unique category. We have suggested a method for doing so in new subdivision (n) and in Section 1477(a)(3).]*

(i) Affordable price means the price that would be yielded from applying the market interest rate over a fully amortized 30-year term to the purchasing household's **affordable housing cost**, less the cost of property taxes and assessments, fire and casualty insurance covering replacement value of property improvements, property maintenance and repairs, utilities, and homeowner association fees but under no circumstances shall it be more than fair market value nor less than the price paid by the Department.

(j) Fair market value means fair market value as of the date the offer of sale is made by the selling agency pursuant to the provisions of this article and shall reflect the existing *"as-is"* condition of the property, taking into account any repairs required to make the property safe and habitable.

(k) Gross income means income as defined in California Code of Regulations, Title 25, section 6914.

*[COMMENT: This HCD Regulation (25 CCR § 6914) requires income to be determined looking **forward in time** 12 months from the date of determination, but Caltrans has generally looked backwards in time to a prior year. Caltrans' past practices and Right of Way Manual sections would appear to violate 25 CCR § 6914.]*

(l) Good standing means tenants or occupants who are current in rent obligations, and in full compliance with the terms and conditions of the lease or rental agreement *as of the date the tenant or occupant is required to respond to a Conditional Offer Prior to Sale sent by the Department.*

(m) Former tenants in good standing means tenants who were current in rent obligations, in full compliance with the terms and conditions of the lease or rental agreement at the time of vacancy, and whose tenancy was not terminated for cause. *Former tenants who voluntarily moved from a residential unit as a result of health or safety conditions or the lack of disability accommodations at their unit or pursuant to a settlement agreement or a compromise of pending litigation shall be deemed former tenants in good standing.*

***(n) Net Adjusted Gross Income** means the number shown on the final line of the first page of a federal income tax return minus the following required or periodic payments for family members which reduce a person or family's available yearly income:*
(1) Medical expenses, such as doctors, hospitals, medicine, medical care, and similar expenses;
(2) Disability expenses, such as rehabilitative therapy and devices, prosthetics, mobility assistance devices, wheelchairs, and similar expenses;
(3) Health insurance premiums or co-payments;
(4) Professional union or organization dues required as a condition of employment;
(5) Rental insurance for the unit occupied;
(6) Job training, continuing education, and college or university expenses;
(7) Student loan payments; and
(8) Utility bills exceeding one hundred dollars ($100) per month.

NOTE:
Authority cited:
Govt. Code §§ 54235, 54236, 54237, 54237.3, 54237.5, 54237.7, 54237.8, 54238, 54238.3, 54238.4, 54238.5, 54238.6, 54238.7.
Reference cited:
Govt. Code §§ 54236 & 54237; Sts. & Hy. Code § 118.6; 25 C.F.R. § 7303; 24 C.F.R. § 5.100; Health & Saf. Code § 50076.5; Cal. Code Regs., tit. 25, § 6924; Cal. Code Regs., tit. 25, § 6914.

§1477 Conditional Offer Prior to Sale
(a) Prior to sale, the Department shall make a Conditional Offer Prior to Sale to sell surplus residential property, subject to the following order of priority pursuant to Government Code sections 54237(a) and (d):

(1) *First, all* single-family residences presently occupied by their former owners who are tenants in good standing shall be offered to those former owners at the appraised fair market value.

(2) *Second, all* single-family residences shall be offered at an affordable price or fair market value at each buyer's option to the present occupants who are in good standing who have occupied the property two years or more, and who are persons and families of low or moderate income, if the present occupants have not had an ownership interest in real property in the last three years.

(3) *Third, all* single-family residences shall be offered at an affordable price or fair market value at each buyer's option to the present occupants who are in good standing who have occupied the property five years or more , and whose household *Net Adjusted Gross Income* does not exceed 150 percent of the area median income if the present occupants have not had an ownership interest in real property in the last three years.

(4) *Fourth, all* other surplus residential properties and all properties described in paragraphs 1, 2, or 3 of this Subdivision that are not purchased by the former owners or the present occupants shall then be offered to housing-related public and private entities, *present tenants, and former tenants* at a reasonable price, *with first priority given to present residential tenants and second priority given to former residential tenants.*

NOTE:
Authority cited:
Govt. Code §§ 54235, 54236, 54237, 54237.3, 54237.5, 54237.7, 54237.8, 54238, 54238.3, 54238.4, 54238.5, 54238.6, 54238.7.
Reference cited:
Govt. Code §§ 54237 & 54237.3

§1478 Conditions of Conditional Offer Prior to Sale

(a) For *single-family* residences offered to occupants, the Conditional Offer Prior to Sale shall be made to all occupants shown on the existing Rental Agreement for purchase in the entirety. No offers shall be made that excludes any otherwise qualified occupants.

(b) Sales Price Determination:
(1) For income-qualified buyers, the Department shall use the criteria listed in California Code of Regulations , Title 25 , section 6910 et seq., as the sales price determination.

(2) For all other households not proposing to purchase as income-qualified purchasers according to California Code of Regulations, Title 25 , section 6910 et seq., the Department shall use fair market value as the sales price determination.

(i) Pursuant to Government Code section 54237.3, effective January 1, 2014 (SB 416), existing occupants who are income-qualified purchasers shall be offered

(3) For housing-related public ~~and private~~ entities, the Department shall use reasonable price as the sales price determination. *Such public entities may purchase more than one property.*

(4) For housing-related private entities, the Department shall limit the purchase to a single property for each such entity and shall use reasonable price as the sales price determination.

(c) The Department shall verify income and employment for buyers whose purchase price is based on affordability. *To protect privacy, the Department shall not take possession of any physical or electronic copies of any person's or family's tax return or similar income or employment information, but shall merely review tax and employment documents in a place and manner convenient to the buyer and which will protect the privacy of such documents and information.*

(d) Purchase funds must come from sources other than the Department; the Department will not lend or otherwise finance purchases of the surplus property. *Restrictions associated with a Director's Deed imposed on a property will be written in such a manner as to not interfere in any way with a purchaser who is a natural person in obtaining a loan to purchase and/or repair the property. Such a lender's right to have its loan secured by the property will be superior to the Department's rights under the Director's Deed restriction. The restrictions associated with the Director's Deed shall be in the form of a "Silent Trust Deed" lower in priority than the lender's trust deed, but including the specific dollar amount by which the price was reduced below fair market value. The amount owed on the "Silent Trust Deed" shall not require any payment as long as the purchaser remains in compliance with the Director's Deed restrictions.*

The amount owed on the "Silent Trust Deed" shall decrease six (6) percent per year until the term of the Director's Deed restrictions expires. When the term of the "Silent Trust Deed" expires the Department shall execute and record a Full Reconveyance of its rights to the property in the manner required by Civil Code section 2941. Upon the death of an income-qualified purchaser the affordability restrictions shall terminate, and upon the tender of a certified copy of a death certificate to the Department of all purchasers of a property, the Department shall record a Full Reconveyance as described above.

(e) For single-family residences sold below fair market value to income-qualified purchasers, the Department's obligation to make repairs required by lenders and government housing assistance programs is limited to the Federal Housing Administration's (FHA) Minimum Property Standards pursuant to Code of Federal Regulations , Title 24, section 200.926.

(f) All other surplus residential properties sold under the Affordable Sales Program will be sold for fair market value. *Pursuant to the provisions of Government Code section 54237.3, at the option of an income-qualified purchaser, the property shall be sold in an "as-is" condition, with the fair market value price reduced by the amount the Department will save in not making required repairs, and in such case there shall be no affordability restrictions placed on the property as a condition of the Director's Deed.*

(g) All properties sold are without warranty.

(h) For all property sold at below fair market value:

(1) There shall be a Director's Deed restriction limiting the subsequent sale of the property as defined in Government Code section 54237(b) and the rent of the property to an affordable rent as defined in this section. The duration of the restriction shall be for *thirty (30) years starting* ~~commencing~~ from the date of recordation of the Director's Deed *when the purchaser is a public or private entity. When the purchaser is a natural person, the duration of the restriction shall be fifteen (15) years commencing from the date of recordation of the Director's Deed except as follows: For purchasers who are existing tenants and at least one buyer is a natural person of sixty (60) years of age or older the term of the restriction shall be no more than 10 years. For purchasers who are existing tenants and at least one buyer is a natural person of (65) sixty-five years of age or older the term of the restriction shall be no more than five (5) years.*

(2) Property sold to a local public agency is subject to Streets and Highways Code section 118(a) (2).

(3) When purchasers obtain loans to finance the purchase or repair of the property, the rights of the lender to the property as security will be superior to all rights of the Department to enforce the affordability restrictions.

(i) For *multi-family residential properties* sold to housing-related public and private entities:
(1) The purchasing entity shall cause the property to be rehabilitated and developed as a limited equity cooperative housing with first right of occupancy to present occupants, except where the development of a cooperative or cooperatives is not feasible, *in which case* the purchasing

agency shall cause the property to be used for low- and moderate-income rental or owner-occupied housing, with first right of occupancy *and purchase* to the present tenants.
(2) *The purchasing entity shall enter into binding agreements with all occupants to ensure their continued occupancy during the transition from the Department ownership to the purchaser, during any period of repair or rehabilitation, and thereafter.*
(3) The purchasing entity shall not use the property as security for borrowed funds which are not used directly for the physical repair and rehabilitation of the property. Borrowed funds shall not be used to pay the salary or other compensation of persons associated with the purchasing entity.
(4) The purchasing entity shall enter into binding contract terms with the Department to prohibit and prevent the saddling of the property with excessive loans or liens in the future, or the use of future loan proceeds for payments to any person associated with the management of the purchasing entity.
~~(2)~~ *(5)* The Department shall solicit proposals or bids for such sales.
(6) No more than one property shall be sold to any one private entity.

(j) For property sold at fair market value to *natural* persons who will be owner occupants, the purchaser(s) must declare intention to reside in or on the property, and maintain it as their principal place of residence.

NOTE:
Authority cited: Govt. Code §§ 54235, 54236, 54237, 54237.3, 54237.5, 54237.7, 54237.8, 54238, 54238.3, 54238.4, 54238.5, 54238.6, 54238.7.
Reference cited: Govt. Code § 54237; Cal. Code Regs., Title 25, §§ 6910 et seq.; 24 C.F.R. § 200.926; Sts. & Hy. Code §§ 104.5 & 118.

§1479 Notice of Conditional Offer Prior to Sale
(a) Present occupants:
(1) The Department shall give written notice of the Conditional Offer Prior to Sale by certified mail, return receipt requested, to the present occupants and to housing-related public and private entities.
(2) *Because Certified Mail is a less reliable form of delivery than First Class Mail — many people refuse to sign for anything, or some mailing addresses do not conform to the addresses in the Department's records, or residents are absent from home during the day, or residents cannot travel to a post office during their working hours to sign for the notice — a second written notice of the Conditional Offer Prior to Sale will be sent simultaneously by First Class Mail.*
(3) In the event both the Certified and First Class envelopes are both returned undelivered, the Department shall hand-deliver the Conditional Offer Prior to Sale to the residential unit, and all response dates shall be calculated from the date of the actual physical delivery.

(b) Housing-related public and private entities and ~~person or~~ persons who are not occupants but who intend to be owner occupants: The Department shall give written notice of the Conditional Offer Prior to Sale by publishing the notice in at least one newspaper of general circulation within the *specific* city ~~or county~~ in which the property is located , pursuant to Government Code section ~~6061.~~ *6064 (once a week for four successive weeks).*

NOTE:
Authority cited:
Govt. Code §§ 54235, 54236, 54237, 54237.3, 54237.5, 54237.7, 54237.8, 54238, 54238.3, 54238.4, 54238.5, 54238.6, 54238.7.
Reference cited:
Govt. Code §§ *6064*, 54237 & 54237.3.

§1480 Term of Conditional Offer Prior to Sale
(a) The Conditional Offer Prior to Sale to present occupants shall remain open for ~~60~~ *120* days from the *final* date of mailing *or hand-delivery, as applicable.* The Conditional Offer Prior to Sale to housing-related public and private entities and/or persons who are not occupants but who intend to be owner occupants, shall remain open for ~~60~~ *120* days from the *final* date of publication.

NOTE:
Authority cited:
Govt. Code §§ 54235, 54236, 54237, 54237.3, 54237.5, 54237.7, 54237.8, 54238, 54238.3, 54238.4, 54238.5, 54238.6, 54238.7.
Reference cited:
Govt. Code §§ 54237 & 54237.3.

§1481 Acceptance of Conditional Offer Prior to Sale
(a) Acceptance of the Conditional Offer Prior to Sale must be made in writing to the Department, *either by First Class Mail or by Certified Mail (return receipt requested),* to the address identified in the Conditional Offer Prior to Sale, *or by other means,* and ~~received~~ *mailed or deposited with a delivery service* no later than ~~60~~ *120 days* from the *final* date of mailing *or hand delivery* of the ~~notice~~ Conditional Offer Prior to Sale or the *final* date of publication, as applicable.

NOTE:
Authority cited:
Govt. Code §§ 54235, 54236, 54237, 54237.3, 54237.5, 54237.7, 54237.8, 54238, 54238.3, 54238.4, 54238.5, 54238.6, 54238.7.
Reference cited:
Govt. Code §§ 54237 & 54237.3.

§1482 Acceptance Must Include Evidence of Income and Occupancy; Burden on Buyer
(a) The burden is on the buyer to show eligibility for purchase based on affordability *and length of occupancy. A buyer's statement under penalty of perjury as to the length of occupancy shall be accepted as prima facie evidence of such occupancy.* The buyer(s) shall provide documentation of income and family composition. Income from all occupants 18 years of age or older *as of the date the documentation is provided* shall be included as part of household income. Documentation may include but is not limited to Internal Revenue Service Form W-2, state or federal income tax returns and forms, pay stubs, and any other financial documentation relevant to income. *To protect privacy, the Department shall not take possession of any physical or electronic copies of any person's or family's tax return or similar employment or income*

information, but shall merely review tax and employment documents in a place and manner convenient to the buyer and which will protect the privacy of such documents and information.

NOTE:
Authority cited:
Govt. Code §§ 54235, 54236, 54237, 54237.3, 54237.5, 54237.7, 54237.8, 54238, 54238.3, 54238.4, 54238.5, 54238.6, 54238.7.
Reference cited:
Govt. Code §§ 54237 & 54237.3.

§1483 Incomplete or Insufficient Documentation is Grounds for Denial
(a) Buyers that submit initial responses to the Conditional Offer Prior to Sale that are deemed to be incomplete or insufficient shall be notified of the *specific* incompleteness or insufficiency of the response within 10 working days of the Department receiving the response, *and be notified by First Class Mail and email of precisely which document(s) or information are missing.* Such buyers will be granted an additional 30 days to provide *the specifically requested* additional required documentation. *The requested additional* documentation must be ~~received~~ *transmitted* no later than ~~90~~ *thirty (30) days from the date of mailing of each request for specific missing information.* ~~Conditional Offer Prior to Sale.~~ Failure of the buyer to respond satisfactorily and timely shall be deemed a rejection of the offer. *One further extension of time of thirty (30) days may be granted for good cause. No buyer's response shall be deemed incomplete, insufficient, or untimely unless the specific missing information is requested by the Department in the manner set forth in this section.*

NOTE:
Authority cited:
Govt. Code §§ 54235, 54236, 54237, 54237.3, 54237.5, 54237.7, 54237.8, 54238, 54238.3, 54238.4, 54238.5, 54238.6, 54238.7.
Reference cited:
Govt. Code §§ 54237 & 54237.3.

§1484 Failure to Respond Within ~~60~~ *120 Days* of Notice Deemed Rejection of Offer.
(a) Failure to respond to the Conditional Offer Prior to Sale or a response received after ~~60~~ *120* days from the *final* date of notice or publication, as applicable, shall be deemed a rejection of the offer.

NOTE:
Authority cited:
Govt. Code §§ 54235, 54236, 54237, 54237.3, 54237.5, 54237.7, 54237.8, 54238, 54238.3, 54238.4, 54238.5, 54238.6, 54238.7.
Reference cited:
Govt. Code §§ 54237 & 54237.3.

§1485 Determination of Eligibility and Qualifications; Qualified Buyers Ranked by Priority
(a) The Department shall review the documentation supplied by, and determine the eligibility of

each respondent within 60 days of receipt of full documentation. When two or more respondents have equal eligibility for a particular property, each respondent's relative priority for purchasing the property will be ranked according to the respondent who best qualified *in terms of the respondent with longer duration at the property, lower income, and larger family size, and who* was the earliest to respond with full documentation to the Conditional Offer Prior to Sale.

NOTE:
Authority cited:
Govt. Code §§ 54235, 54236, 54237, 54237.3, 54237.5, 54237.7, 54237.8, 54238, 54238.3, 54238.4, 54238.5, 54238.6, 54238.7.
Reference cited:
Govt. Code §§ 54237 & 54237.3.

§1486 Offer to Enter into Contract for Sale to be Made According to Priority Ranking; 30 Days to Accept

(a) Upon determining the respondent with the highest priority to purchase, the Department shall send the respondent a Contract for Sale via First Class Mail. To accept the Contract for Sale, the respondent shall sign and *mail* ~~return~~ the Contract for Sale within 30 days from the date of the Department's mailing of the Contract for Sale.

NOTE:
Authority cited:
Govt. Code §§ 54235, 54236, 54237, 54237.3, 54237.5, 54237.7, 54237.8, 54238, 54238.3, 54238.4, 54238.5, 54238.6, 54238.7.
Reference cited:
Govt. Code §§ 54237 & 54237.3.

§1487 Upon Acceptance, Buyer has ~~90~~ *120* Days to Close Escrow

(a) Upon acceptance of an Offer to Enter into a Contract of Sale, the buyer has ~~90~~ *120* days to close escrow. The Department may, however, at its sole discretion, and upon the buyer showing good cause, grant a 30-day extension giving the buyer additional time to close escrow.

NOTE:
Authority cited:
Govt. Code §§ 54235, 54236, 54237, 54237.3, 54237.5, 54237.7, 54237.8, 54238, 54238.3, 54238.4, 54238.5, 54238.6, 54238.7.
Reference cited:
Govt. Code §§ 54237 & 54237.3.

§1488 Surplus Residential Properties Not Subject to Sale Under Government Code section 54237(a) through 54237(d)

(a) For surplus residential properties not sold pursuant to Government Code section 54237(a) through 54237(d), the Department shall sell the property according to the following priority:
(1) To present tenants at fair market value;
(2) To eligible former tenants at fair market value; and
(3) Pursuant to Streets and Highways Code sections *118, 118.1, or 118.6 and Department*

regulations adopted pursuant to those sections, with preference given to the highest responsive bidder who will be an owner occupant.

NOTE:
Authority cited:
Govt. Code §§ 54235, 54236, 54237, 54237.3, 54237.5, 54237.7, 54237.8, 54238, 54238.3, 54238.4, 54238.5, 54238.6, 54238.7; *Streets & Highway Code §§ 118, 118.1, 118.6 [Department required to adopt "excess property" regulations].*
Reference cited:
Govt. Code §§ 54237 & 54237.3; *Streets & Highway Code §§ 118, 118.1, 118.6.*

§ 1489 Duty of Purchaser Upon Noncompliance

(a) Pursuant to Government Code section 54238, in the event a purchaser of surplus residential property does not comply with terms, conditions, and restrictions imposed pursuant to Section 54237 of this article, a state agency which sold the property may require that the purchasers pay the state the difference between the actual price paid by the purchaser for the property and the fair market value of such property~~,~~ at the time of the ~~agency's determination of noncompliance~~, *original sale to the purchaser* plus 6 percent interest on such amount for the period of time the land has been held by the purchaser. Such interest shall be compounded annually. The terms described in this Subdivision exist to ensure that such properties will remain available to persons and families of low or moderate income, *but that the purchaser receives and owns the amount of equity in the property above the amount of the Department's share as a result of repairs, improvements, and natural increases in value. The Department's interest in and monitoring of the property shall terminate upon the expiration of the affordability restrictions. The rights of the Department to enforce the affordability restrictions shall not be superior to the rights of any lender who provided financing for purchase of the property.*

NOTE:
Authority cited:
Govt. Code §§ 54235, 54236, 54237, 54237.3, 54237.5, 54237.7, 54237.8, 54238, 54238.3, 54238.4, 54238.5, 54238.6, 54238.7.
Reference cited:
Govt. Code §54238.

§ 1490 Monitoring

(a) All properties sold at below fair market value shall be monitored at least annually for the duration of the Director's Deed restriction to ensure affordable housing availability.
(b) *Buyers under this Affordable Sales Program will be entitled to take any or all of the following actions and not be deemed in violation of any Director's Deed or affordability restriction:*
(1) Re-finance all or some of the loans secured by the property;
(2) Make any repairs or aesthetic or landscaping changes to the property or structures;
(3) Make the property or structures more accessible or usable by disabled persons;
(4) Make any improvements to the property or structures, including ones involving mechanics liens or similar liens;
(5) Add air conditioning, heating, windows, roofs, insulation or other energy-saving measures;

(6) Transfer title of the property into their living trust as part of an estate plan;
(7) Transfer title of the property upon their death to heirs or devisees pursuant to a trust, will, estate plan, or decision of a probate court; or
(8) Freely use or direct the use of insurance proceeds or governmental grants or loans to address any impacts of fire, flood, wind, earthquake, earth movement, utility line mis-function, vehicle accident, damage from air born material, or any other calamity or natural disaster.

NOTE:
Authority cited:
Govt. Code §§ 54235, 54236, 54237, 54237.3, 54237.5, 54237.7, 54237.8, 54238, 54238.3, 54238.4, 54238.5, 54238.6, 54238.7.
Reference cited:
Govt. Code § 54237.

§ 1491 Appeals of Department Determinations
(a) *Any aggrieved person or entity may appeal any determination made by the Department or its employees under the Affordable Sales Program as to one or more of the following decisions:*
(1) That a present occupant is not, or former occupant was not, in "good standing;"
(2) That a present occupant has not occupied the property for the duration required;
(3) That a present occupant is not income-qualified to purchase a property;
(4) That the income of a person or family is determined correctly;
(5) That the sales price to be offered to a present or former occupant is calculated correctly;
(6) The proper number of years by which a property will be deed restricted;
(7) Which features of the property which be subject to historic covenant restrictions;
(8) Whether or not a purchaser has timely responded to Conditional Offer Prior to Sale;
(9) Whether or not a purchaser has provided sufficient information to the Department; or
(10) Whether a public or private entity is qualified to purchase property.

(b) *Such appeals shall be made in a letter sent to Andrew Nierenberg, District 7, Deputy Director for Right of Way Management, at 100 S. Main Street, Los Angeles, California 90012. The appeal letter shall be post marked or submitted to a delivery service within fifteen (15) days of the date of the adverse decision appealed. The appeal letter shall set forth all pertinent facts and legal authority in support of the appellant's claims. Items may be attached to the letter. The letter shall include the appellant's address, email, and telephone information.*

(c) *A decision on the appeal will be made within thirty (30) days of the date of the appeal. The decision will be made by either the District 7 Assistant Director for Real Property Management or by another Department employee designated for that purpose. An informal meeting and discussion of the issues may be ordered by the Assistant Director to occur during that thirty (30) day period, and the appellant shall be notified by telephone and email of the time and place of the meeting not less than seven (7) days before the meeting. The decision on the appeal shall be in writing, shall address all points in the appeal, and shall be mailed to appellant by First Class Mail. The decision shall be final as to the Department. A further aggrieved person or entity may thereafter file and serve a civil lawsuit in the Superior Court within ninety (90) days of the decision on the appeal.*

NOTE:
Authority Cited:
Code of Civil Procedure §§ 1085, 1094.5; Streets and Highway Code §§ 118.6.

§ 1492 Right-of-Way Manual and Department Internal Rules Inapplicable
No provisions of the Department's publication known as the Right-of-Way Manual nor any other rule or guideline of the Department not adopted pursuant to the Administrative Procedures Act shall be applied to any aspect of the Affordable Sales Program described in these regulations.

NOTE:
Authority Cited:
Administrative Procedures Act, Government Code §§ 11340 to 11361;
City of South Pasadena v. Department of Transportation, Los Angeles County Superior Court case number, BC331628, judgment entered on April 5, 2007.

§ 1493 Accommodations for Disabled Persons
(a) *The Department is committed to respecting the needs of disabled persons as protected by state and federal law.*
(b) *Any natural person who is disabled as defined in state or federal law or in regulations adopted under such laws may request an accommodation and partial adjustment or partial waiver of the requirements and deadlines set forth in the Affordable Sales Program.*
(c) *The Department shall use its best efforts to accommodate the needs of disabled persons by providing additional time to meet deadlines, by providing information in different formats, by accepting information in different formats, and by taking any other action deemed necessary to accommodate the needs of a disabled person seeking to purchase property.*

NOTE:
Authority Cited:
Americans With Disabilities Act of 1990, Title 42 United States Code §§ 12101, et seq.,
Rehabilitation Act of 1973, Title 29 United States Code §§ 701, et seq.
Fair Housing Act, Title 42 United States Code §§ 3601, et seq.