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Monday, April 13, 2014

Jennifer S. Lowden
Assistant Chief, Division of Right of Way & Surveys
ATTN: Affordable Sales Program
California Department of Transportation
1120 N Street, MS 37 Sent by (fax) to (916) 654-6378
Sacramento, California A 95814 emailed: Affordable_Sales_Program@dot.ca.gov

RE: Proposed Affordable Property Sales Regulations
New Regulation Section 1476 - Definition of "Affordable Housing Cost"

Dear Ms. Lowden:

Draft Regulation 1476 uses a calculation of "35 percent times ***150 percent*** of area median income" to define "Affordable Housing Cost" for persons and families above "moderate income" (120% of area median income) and below "150 percent of area median income." This formula conflicts with the definitions of "affordable" in all state and federal regulations. These limit the definition of "affordable housing cost" to **thirty percent of monthly income.** In low and moderate income categories state and federal regulations use a factor which is ten (10) percentage points **lower than the income category** itself. Caltrans proposes to use a one hundred and fifty percent (150%) factor in defining "affordable housing costs for a 120%-150% income category. The use of this 150% factor violates the Roberti Law at Government Code § 54236(b), which includes a **monthly limit**, and recites the state and federal regulations:

> **(b)** As used in this article, the term "**affordable price**" means, in the case of a purchaser, other than a lower income household, the price for residential property **for which the purchaser's monthly payments will not exceed that portion of the purchasing household's adjusted income** as determined in accordance with the regulations of the United States Department of Housing and Urban Development, issued pursuant to Section 235 of the National Housing Act; and, in the case of a purchaser that is a lower income household, the price for residential property **for which the purchaser's monthly payments will not exceed that portion of the purchasing household's adjusted income**

> as determined in accordance with the regulations of the United States Department of Housing and Urban Development issued pursuant to Section 8 of the United States Housing Act of 1937.

Caltrans has **failed to place a *monthly* income limit** in its proposed definition of "affordable housing cost" definition in proposed Regulation 1476.

This definition in draft Regulation 1476 (a) is inconsistent with Government Code § 54236(b), which incorporate by reference Health & Safety Code sections 50093 and 50079.5. These sections define levels of 80 percent and 120 percent of area median as "low" and "moderate" income, respectively. The factor in Section 50052.5(b) in defining "affordable housing cost" is ten percentage point below for the income levels.

Caltrans in proposed Regulation 1476, has failed to apply this 10% difference for families between 120 and 150 percent. Caltrans has created a factor in its wholly new formula which would exclude existing tenants from being able to purchase their home under the Roberti Law by setting the "affordable housing cost" too high.

Draft Regulation 1476 is loosely based on Health & Safety Code section 50052.5. **But Section 50052.5 is not mentioned anywhere in the Roberti Law**, and is more restrictive than Health & Safety Code sections 50093 and 50079.5, which are cited in the Roberti Law. Caltrans is proposing to **create a new formula not found in Section 50052.5,** but which will increase the defined "affordable housing cost" and may prevent some existing Caltrans tenants from purchasing their homes.

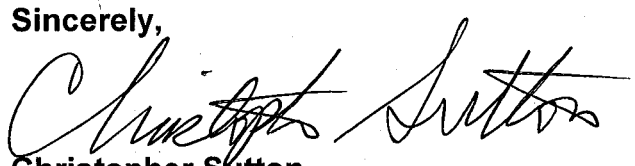
The definitions of "**Affordable Housing Cost**" in Health & Safety Code Section 50052.5 include some definitions useful in implementing the Roberti Law, but only to the extent they do not conflict with the goals and terms of the Roberti Law. Section 50052.5 does not contain any definition for "Affordable Housing Cost" for persons and families whose income is between 120% and 150% of area median income, which is a Roberti Law income category.

Many Caltrans tenant families fall within this income range, and they could be penalized by the formula Caltrans proposes in draft Regulation 1476 and prevented from purchasing, despite the more generous income standard in Government Code section 54236(b). The below table summarizes the limited number of formulas from Section 50052.5 and how they compare with draft Regulation 1476 and section 54236(b):

Income Category	Defined % of Area Median Income	Maximum "Affordable Housing Cost" in Section 50052.5(b)	Compared to draft Regulation Section 1476	Changes needed to comply with Roberti Law, GC § 54236(b)
Extremely Low income	**30 percent** area median H&S § 50106	30 percent times **30 percent** of the area median income	Same	Limit monthly housing cost to 30% of income
Very Low Income	**50 percent** area median H&S § 50105	30 percent times **50 percent** of the area median income	Same	Limit monthly housing cost to 30% of income
Low Income	**80 percent** area median § 50079.5(a)	30 percent times **70 percent** of the area median income	Same	Limit monthly housing cost to 30% of income
Median Income	LA SMSA § 50079.5(c)	None set	Not utilized	No change needed
Moderate Income	**80.1 to 120%** area median § 50093	35 percent times **110 percent** of the area median	Same	Limit monthly housing cost to 30% of income
150% of Area Median Income	Not defined in § 50052.5, but in Roberti Law, GC § 54237(a)(3)	Not defined in section 50052.5	Caltrans Reg: "35 percent times **150 percent** of area media"	1. Limit monthly housing cost to 30% of income; 2. Calculate cost using **140 percent**.

Please amend draft Regulation 1476 to limit the "Affordable Housing Cost" to a costs that results in monthly payments of no more than thirty percent (30%) of monthly adjusted income as required by Government Code section 54236(b) in the Roberti Law.

Sincerely,



Christopher Sutton
Attorney for Caltrans Tenants of the 710 Corridor and several individual tenant families