

California Department of Transportation

DIVISION OF RIGHT OF WAY AND LAND SURVEYS
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NOTICE OF MODIFICATIONS TO TEXT OF PROPOSED REGULATIONS

Pursuant to the requirements of Government Code section 11346.8(c), and section 44 of Title 1 of the California Code of Regulations, the Department of Transportation (Caltrans) is providing notice of changes made to proposed regulations in sections 1475, 1476, 1477.3, and 1483 which was the subject of a regulatory hearing on April 26, 2024. The text of the regulations and proposed modifications are attached to this notice.

Caltrans will accept written comments on the proposed changes between July 26, 2024, and August 11, 2024. All written comments should be submitted to Caltrans at the following address:

Mail: Division of Right of Way and Land Surveys
Attn: Carolyn Dabney - SR 710 Sales Program
California Department of Transportation
1120 N Street, MS 37
Sacramento, CA 95815

Email: Carolyn.Dabney@dot.ca.gov

All written comments received by August 11, 2024, which pertain to the indicated changes will be reviewed by Caltrans and will be summarized and responded to in the Final Statement of Reasons as part of the compilation of the rulemaking file. Please limit your comments to the modifications to the text.

State Route 710 Sales Program Proposed Modified Text

The below proposed regulations have been modified to address comments received during the public comment period. Proposed modified text is shown in bold underline or double strikethrough:

KEY:

Modified text = **bold underline**

Modified deleted text = ~~double strikethrough~~

§ 1475. General.

(a) **Application.** This chapter only applies to properties purchased by the Department for the purpose of closing the SR-710 North Gap between SR-10 and SR-210 in Los Angeles County.

(b) **Limitation.** Nothing in this chapter limits the Department's discretion regarding when to sell its properties, except as specified by statute. Nothing in this chapter creates, expands, or confers any right or entitlement to purchase property that does not already exist in law.

(c) **Time Extensions.** The Department may extend any time to perform an action provided for in this chapter upon a finding of good cause in furtherance of Government Code section 54238.4 and upon notice to the persons or entities affected by the extension by written correspondence.

(d) **CTC Approval Required.** All sales under this chapter are subject to approval by the California Transportation Commission.

(e) **Lender Limitations.** Except as otherwise provided in this chapter, a lender shall not have or anticipate an interest in or stand to gain financially from any Surplus Residential Property other than in the lender's capacity as a mortgage lender.

(f) **Historical Covenants.** In addition to the Use and Resale Restrictions described in §§ 1481.1, 1483.1, 1484.1, and 1485.1, the Department shall impose historical covenants to preserve and maintain properties with architectural, historical, or cultural significance to comply with the California Environmental Quality Act (CEQA). If the Department determines a historical covenant is required for a property, then the Department will provide a historical covenant with the applicable sales contract. If a buyer fails to sign applicable historical covenants, then the sales contract is void.

(g) This chapter does not apply to the qualification criteria to obtain a loan. The eligibility criteria discussed in this chapter has no relation to the qualification criteria that a lender may require.

(h) **Disqualification.** The Department ~~may~~ shall permanently disqualify all ~~Tenants or~~ Occupants in a household from purchasing a Surplus Residential Property under this chapter if they knowingly provide false information regarding household income or household size, or participate in any strategy to manipulate household income,

household size, or eligibility criteria. The Department will provide a written disqualification notice identifying the reason for the disqualification and will include information regarding the process for obtaining a review of the disqualification. An Occupant may request to have the disqualification reviewed and reconsidered within 30 days from the postmarked date of the written notice by providing a written explanation along with supporting documentation, if any, to refute the disqualification. The review will be conducted by an impartial designee from the Department's District 7 and/or Headquarter staff. The designee may be a committee. The designee shall review and consider:

- 1). All material upon which the Department based its original determination;
- 2). Any written or relevant documentation submitted by the Occupant; and
- 3). Any further information which the Department in its discretion, obtains by request, investigation, or research to ensure a fair and full review.

A final determination will be provided in writing to the Occupant within 60 days from receipt of the Occupant's written explanation and will include, if the disqualification is upheld, a statement indicating administrative remedies have been exhausted and judicial review may be sought.

Note: Authority Cited: Section 54237, Government Code.

Reference: Sections 54236, 54238.3 and 54238.4, Government Code; Sections 5024, 5024.5 and 21000 through 21189.70.10, Public Resources Code; Section 118, Streets and Highways Code.

§ 1476. Chapter Definitions.

(a) **Terms.** This chapter uses the definitions of the following terms:

(1) "Above-Moderate Income Households" mean persons or families whose income exceeds that of Moderate-Income Households but does not exceed 150 percent of area median income adjusted for family size. "Area median income" is defined in Health and Safety Code § 50093.

(2) "Affordable Housing Cost" is defined in § 1481.2(c)(4).

(3) "Affordable Price" is defined in § 1481.2(c)(1).

(4) "Affordable Rent" means rent calculated in a manner consistent with Government Code § 54236(g) and 25 Cal. Code Regs. § 6922.

(5) "CalHFA" means the California Housing Finance Agency, a public instrumentality and political subdivision of the State of California created by the Zenovich-Moscone-Chacon Housing and Home Finance Act, division 31 of the Health and Safety Code.

(6) "Decent, Safe, and Sanitary" means meeting all the minimum requirements listed in 2 Cal. Code Regs. § 1872.

(7) "Department" means the California Department of Transportation.

(8) “Fair Market Value” means the most probable price that real property should bring in a competitive and open market under all conditions requisite to a fair sale in accordance with Government Code § 54236(f), the buyer and seller each acting prudently and knowledgeably, and assuming such price is not affected by undue stimuli. Included in this definition is the consummation of a sale of the real property as of a specified date with title passing from seller to buyer under conditions whereby:

(A) the buyer and seller are typically motivated; and

(B) the buyer and seller are well informed or well advised, and each is acting in what they consider their best interest; and

(C) a reasonable time is allowed for exposure of the real property in the open market; and

(D) payment is made in cash in United States dollars or in terms of a financial arrangement comparable thereto; and

(E) the sale price represents the normal consideration for the property unaffected by special or creative financing, sales concessions, or Use and Resale Restrictions.

(9) “Fair Market Value at Time of Purchase” means the appraised Fair Market Value for a property offered at an Affordable Price. It shall be determined by a California certified Real Estate appraiser and is subject to review and acceptance by the Department for compliance with the Uniform Standards of Professional Appraisal Practice. The appraisal shall be updated at the opening of escrow if it is more than six months old.

(10) “Housing-Related Private Entity” is defined in § 1485.

(11) “Housing-Related Public Entity is defined in § 1483(b).

(12) “Lower Income Households” has the meaning set forth in Health and Safety Code § 50079.5. Lower Income Households are typically characterized as having incomes not exceeding 80% of area median income adjusted for family size.

(13) “Minimum Sales Price” is the price the Department paid for the property without any inflation adjustment, and no property shall be sold pursuant to this article for less than the Minimum Sales Price.

(14) “Moderate Income Households” has the same meaning as “middle-income families” set forth in Health and Safety Code § 50093. Moderate Income Households are typically characterized as having incomes exceeding that of Lower Income Households but not exceeding 120% of area median income adjusted for family size.

(15) “Net Appreciation” is the difference between the subsequent Fair Market Value sales price and the Fair Market Value at Time of Purchase minus 20% of the difference for each full calendar year of ownership with nothing owed after five years of ownership. Net Appreciation is due and payable to CalHFA upon resale of the property pursuant to § 1481.1(c).

(16) “Net Equity” is the difference between the Fair Market Value at Time of Purchase and the Affordable Price paid for a Surplus Residential Property. Net Equity is due and payable to CalHFA upon resale of the property pursuant to § 1481.1(c), upon the Net Equity Maturity Date, or when the Surplus Residential Property ceases to be owner-occupied.

(17) “Net Equity Maturity Date” is the date that is 45 years from the close of escrow date for Surplus Residential Properties sold at Affordable Prices under this chapter.

(18) “Occupant” means a person 18 years or older who uses the Surplus Residential Property as their Principal Place of Residence and who is listed on the lease or rental agreement with the Department as of the date of the letter described in § 1478(a)(1).

(19) “Persons and Families of Low or Moderate Income” has the meaning set forth in Health and Safety Code § 50093.

(20) “Principal Place of Residence” means the place which is a person’s primary home. A person’s temporary absence from their primary home does not effect a change with respect thereto. On the other hand, if a person moves to another place, other than as a mere transient or sojourner, the person shall be treated as having changed the location of their primary home.

(21) “Priority X”, where “X” is a number 0 to 9, is specified in §§ 1477.1, 1477.2 and 1477.3.

(22) “Reasonable Price” means the price that is best suited to the economically feasible use of the property as Decent, Safe, and Sanitary housing at Affordable Rents or when used for affordable homeownership, at a price that will not exceed the Affordable Housing Cost calculated in a manner consistent with the provisions of Health and Safety Code § 50052.5 as implemented by 25 Cal. Code Regs. § 6924. When used in Priority 4, “Reasonable Price” means the price best suited to the economically feasible use of the property as a historic home for public and community access and use. The Reasonable Price may not be less than the Minimum Sales Price.

(23) “Single-Family Residence” means a Surplus Residential Property that is either used as a dwelling unit for one family or intended by the Department to be used as a dwelling unit for one family.

(24) “Surplus Nonresidential Properties” means real property including land and structures owned by the Department that are not Surplus Residential Property.

(25) “Surplus Residential Property” means real property including land and structures owned by the Department that:

(A) the Department has determined to be excess pursuant to Streets and Highways Code § 118.6; and

(B) the Department has determined to be no longer necessary for the Department’s use; and

(C) were developed as single-family or multifamily housing but do not include property being held by the Department for the purpose of exchange.

(26) "Tenant" means an Occupant of a Surplus Residential Property who is a signatory to the lease or rental agreement as of the date of the letter described in § 1478(a)(1).

(27) "Use and Resale Restrictions" means the terms, conditions, and restrictions imposed by the Department for properties sold for less than Fair Market Value. Use and Resale Restrictions run with the land and are equitable servitudes. They apply to the entirety of the property, including every unit of a multi-unit property and every new unit added to a property.

(b) **Plurals and Possessives.** The definitions provided in (a) apply to the plural and possessive forms of the defined terms.

Note: Authority Cited: Section 54237, Government Code.

Reference: Sections 54236, 54237, 54239.1, 54239.4 and 54239.5, Government Code; Section 3517, Civil Code.

§ 1477.3. Priority of Sale for Properties in the City of South Pasadena.

(a) **Surplus Residential Properties.** All Surplus Residential Properties in the City of South Pasadena must be offered for sale in this order:

(1) Single-Family Residences to Occupants who are former owners of the Single-Family Residence at Fair Market Value. This is Priority 0 and is governed by § 1480.

(2) Single Family Residences to the Occupants at either an Affordable Price or Fair Market Value. This is Priority 1 and is governed by §§ 1481 through 1481.4.

(3) Single Family Residences to the Occupants at either an Affordable Price or Fair Market Value. This is Priority 2 and is governed by § 1482.

(4) Surplus Residential Properties to the Tenant at Fair Market Value. This is Priority 6 and is governed by § 1486.

(5) Unoccupied SB 381 Properties to the City of South Pasadena at the Minimum Sales Price. This is Priority 4SP and is governed by § 1484.3.

(6) Surplus Residential Properties to the City of South Pasadena at a Reasonable Price. This is Priority 3 and is governed by §§ 1483 through 1483.1.

(7) Surplus Residential Properties to a Housing-Related Private Entity at a Reasonable Price. This is Priority 5 and is governed by §§ 1485 through 1485.1.

(8) Surplus Residential Properties to the Tenant at Fair Market Value. This is Priority 6 and is governed by § 1486.

(9) Surplus Residential Properties to a former Tenant at Fair Market Value. This is Priority 7 and is governed by § 1487.

(10) Surplus Residential Properties to any buyer pursuant to Streets and Highways Code § 118. This is Priority 8 and is governed by § 1488.

(b) **Surplus Nonresidential Properties.** All Surplus Nonresidential Properties in the City of South Pasadena, except those described in § 1477.4, must be offered for sale in this order:

(1) To current Tenants at Fair Market Value. This is Priority 9 and is governed by § 1489.

(2) To the City of South Pasadena at a Reasonable Price if the property is unimproved. This is Priority 3 and is governed by §§ 1483 through 1483.1.

(3) To a Housing-Related Private Entity at a Reasonable Price if the property is unimproved. This is Priority 5 and is governed by §§ 1485 through 1485.1.

(4) To any buyer pursuant to Streets and Highways Code § 118. This is Priority 8 and is governed by § 1488.

Note: Authority Cited: Sections 54237 and 54239.4, Government Code.

Reference: Sections 54237, 54237.3, 54239.1 and 54239.4, Government Code.

§ 1483. Priority 3: Housing-Related Public Entities.

(a) **Offer at Priority 3.** When Priority 3 is specified as the next priority by § 1477.2 (a)(5) then all unoccupied Surplus Residential Properties, including unoccupied SB 580 properties located in the City of Pasadena and identified in § 1484.2, shall be offered to the City of Pasadena at the Minimum Sales Price.

When Priority 3 is specified as the next priority by § 1477.2(a)(6) or 1477.3(a)(6), then all Surplus Residential Properties not already sold shall be next offered to a Housing-Related Public Entity at a Reasonable Price pursuant to this section. Single-Family Residences identified in § 1481.4 cannot be sold at Priority 3 until after all Priority 1 and 2 sales have closed escrow.

When Priority 3 is specified as the next priority by § 1477.2(b) and § 1477.3(b), then all Surplus Nonresidential Properties not already sold shall next be offered to the city in which the property is located at a Reasonable Price pursuant to this section.

(b) **HREs.** The Housing-Related Public Entities who may purchase at Priority 3 are the City of Pasadena, the City of South Pasadena, and the County of Los Angeles.

(c) **Soliciting Interest.** The Department will provide to each Housing-Related Public Entity identified in (b) a written list of Surplus Residential Properties and, if applicable, Surplus Nonresidential Properties to be offered for sale within its jurisdictional boundaries. For each such Surplus Residential Property on the list, the Department will provide the following information:

(1) The address; and

(2) The Reasonable Price, which for Priority 3, is set at the Minimum Sales Price; and

(3) A copy of the current lease or rental agreement, if any; and

(4) Copies of all repair records for the prior three years; and

(5) Copy of the Use and Resale Restrictions.

(d) **Response.** If a Housing-Related Public Entity wants to purchase any of the properties identified on the list provided to it pursuant to (c), then it shall notify the Department in writing of the properties from the list it wants to purchase within 30 calendar days from the postmarked date of the letter sent pursuant to (c).

(e) **Sales Contracts.** The Department will send a sales contract to a Housing-Related Public Entity for each property identified by the entity pursuant to (d), subject to the following:

(1) Properties identified pursuant to (d) shall be on the list provided to the entity pursuant to (c).

(2) The sales contract shall be executed and returned to the Department within 60 calendar days of the date the Department sends the contract.

(3) If the County of Los Angeles identifies a property that is also identified by the City of Pasadena or the City of South Pasadena, then the Department will first offer the property to the City of Pasadena or the City of South Pasadena. If the City of Pasadena or the City of South Pasadena does not purchase the property, it will then be offered to the County of Los Angeles.

(f) **Escrow.** Upon execution of the sales contract, the Housing-Related Public Entity will have 120 calendar days to close escrow. Upon written request, the Department will provide an additional 30 calendar days to close escrow. The City of Pasadena must also comply with Government Code § 54239.5(b)(4) before closing escrow on the purchase of unoccupied Surplus Residential Properties under § 1477.2 (a)(5).

(g) **Closing Costs and Escrow Fees.** The purchasing Housing-Related Public Entity shall pay all closing costs and escrow fees.

(h) **No Warranty.** Any Priority 3 sale is “as-is” and without warranty.

Note: Authority Cited: Section 54237, 54237.10, 54239.4 and 54239.5, Government Code.

Reference: Sections 54236, 54237, 54239.4 and 54239.5, Government Code.