

AB 2065

Surplus Land Act

Assemblymember
Phil Ting
19TH DISTRICT



SUMMARY

California is facing an affordable housing crisis and unused public land has the potential to promote affordable housing development throughout the state. AB 2065 will strengthen provisions in existing law that guarantee affordable housing developers get first priority to purchase surplus land from local governments and agencies.

BACKGROUND

Across California, local agencies control significant amounts of unused land that have remained dormant for decades, but are strategically located next to public transit, schools, and job opportunities. Currently, the City and County of San Francisco owns 35 properties designated as surplus. California's surplus land laws already require such land to be prioritized for purposes of affordable housing, but lack of clarity within the law prevents surplus land from being more effectively utilized.

Enacted in 1968, the Surplus Land Act requires all local agencies to prioritize affordable housing, as well as parks and open space, when disposing of surplus land. Before local agencies may dispose of surplus land, they are required to give notice to local public entities and organizations involved in affordable housing development. If a preferred entity expresses interest, the parties must enter into good faith negotiations to determine a sales price or lease terms.

In 2014, the act was amended to better define a qualified proposal for affordable housing, prioritize proposals providing the most units at the deepest affordability, provide more realistic timeframes to make offers and negotiate, and require that any housing developed on surplus public land provide at least 15% of the units affordable to lower income households.

While the 2014 amendments helped clarify the surplus land act, local agencies have attempted to circumvent this statute. In Oakland, the city council argued that a parcel of land was not subject to the Surplus Land Act because the land was formerly owned by a Redevelopment Agency. San Jose has taken the stance that as a charter city, they have plenary power over their municipal affairs and are not required to follow the requirements of the Surplus Land Act, despite existing law clearly specifying that the Surplus Land Act applies to charter cities. These conflicts have delayed the sale of surplus sites and reduced the number of sites available for affordable housing development.

Surplus land can provide valuable opportunities to create new affordable housing within communities. This bill clarifies procedures for the sale of surplus land which will help address California's urgent need for affordable housing.

THIS BILL

Specifically, this bill would close loopholes in existing law by

- Providing clarity that "local agency" includes schools, sewer, water, utility, local and regional park districts, joint powers authority, successor agencies, housing authorities, or any other political subdivision of the state
- Defining "surplus" land as any publicly-owned land not needed for the public agency's governmental operations
- Establishing that public land is "surplus property" when a public entity initiates action to dispose of it
- Streamlining the notification process regarding the availability of public land by changing the requirement of a "written offer to sell or lease" to a "notice of availability"
- Clarifying that granting priority to affordable housing proposals refers to agencies negotiating exclusively with affordable housing developers for 90 days
- Specifying that negotiations shall be limited to sales or lease price, to restrict local agencies from using negotiations to circumvent existing planning and permitting procedures
- Clarifying the existing 15% minimum affordability requirement applies whenever surplus public land is being used for housing development

SUPPORT

Nonprofit Housing Association of Northern California (Sponsor)
California Housing Partnership Corporation
EAH Housing
Housing Leadership Council of San Mateo County

STAFF CONTACT

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