

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

§ 1475 Purpose and Scope

- (a) 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) 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. 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. 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 for State Route 710 (SR 710), in Los Angeles County.

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 §§ 54235, 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.
- (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 the lease or rental agreement.

(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 value 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 are developed as single-family or multifamily housing, but does not include property held by the Department for the purpose of exchange.

(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.

(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.

(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.

(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.

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) 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) 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) 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 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) 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 at a reasonable price.

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.
 - (3) For housing-related public and private entities, the Department 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.
- (d) Purchase funds must come from sources other than the Department; the Department will not lend or otherwise finance purchases of the surplus property.
- (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.
- (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 for 30 years commencing from the date of recordation of the Director's Deed.
 - (2) Property sold to a local public agency is subject to Streets and Highways Code section 118(a)(2).
- (i) For property 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, 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 to the present tenants.

(2) The Department shall solicit proposals or bids for such sales.

(j) For property sold at fair market value to 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., tit. 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: 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.

(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 city or county in which the property is located, pursuant to Government Code section 6061.

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.

§1480 Term of Conditional Offer Prior to Sale

(a) The Conditional Offer Prior to Sale to present occupants shall remain open for 60 days from the date of mailing. 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 days from the 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, mailed by certified mail, return receipt requested, to the address identified in the Conditional Offer Prior to Sale and received no later than 60 days from the date of mailing of the notice or the 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. The buyer(s) shall provide documentation of income and family composition. Income from all occupants 18 years of age or older 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.

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 incompleteness or insufficiency of the response within 10 working days of the Department receiving the response. Such buyers will be granted an additional 30 days to provide additional required documentation. Additional documentation must be received no later than 90 days from the date of mailing of the Conditional Offer Prior to Sale. Failure of the buyer to respond satisfactorily and timely 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.

§1484 Failure to Respond Within 60 Day of Notice Deemed Rejection of Offer.

- (a) Failure to respond to the Conditional Offer Prior to Sale or a response received after 60 days from the 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 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 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 Days to Close Escrow

- (a) Upon acceptance of an Offer to Enter into a Contract of Sale, the buyer has 90 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.
 - (3) Pursuant to Streets and Highways Code section 118.6, 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. Reference cited: Govt. Code §§ 54237 & 54237.3.

§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, 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.

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.

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.