

Date of Hearing: September 10, 2021

ASSEMBLY COMMITTEE ON HOUSING AND COMMUNITY DEVELOPMENT

David Chiu, Chair

SB 381 (Portantino) – As Amended September 7, 2021

**SENATE VOTE:** 39-0

**SUBJECT:** Surplus residential property: priorities, procedures, price, and fund: City of South Pasadena.

**SUMMARY:** Makes changes to the Roberti Act (the Act) to encourage the sale of homes owned by the California Department of Transportation for low- and moderate-income housing in the State Route 710 corridor in South Pasadena. Specifically, **this bill:**

- 1) Amends the Act order of sale for SR 710 surplus residential properties in South Pasadena to provide the following priorities for single-family surplus residential properties, including locally-designated historical homes and historic homes:
  - a) After the property is offered pursuant to the existing requirements of Government Section 54237 (a) to (c) the property shall be offered to present occupants who have occupied the property for at least five years and who are in good standing with all rent obligations current for fair market value as defined; and
  - b) Next, that if a property is a historic home it must next be offered for sale to the City of South Pasadena (the City) at the original acquisition price not adjusted for inflation.
- 2) Requires the City to use the proceeds from the sale of any historic properties to construct or acquire affordable housing units within the City of South Pasadena.
- 3) Requires the City to ensure the production or acquisition of three affordable housing units for every one historic property unit that is removed.
- 4) Requires the City prior to closing escrow on the sale of a historic property to provide proof to the Department of Housing and Community Development (HCD) that it has the zoned capacity to replace the historic structure with three affordable units.
- 5) Requires the City to ensure that the construction or replacement of the units begins by December 31, 2025.
- 6) Requires the City to provide HCD with documentation of the rezoned sites and gives HCD the authority to ensure the units are constructed or replaced.
- 7) Requires the City to report outcomes of sale of historic properties, investment in new units, and units produced in its annual progress report (APR).
- 8) Provides that if the City does not sell a surplus property within two years of purchasing it from CalTrans than the property must be offered as affordable housing to low or moderate income households.

- 9) Provides that as a condition of sale of a property to a HRE, the HRE must agree to ensure that prevailing wage are paid to any construction workers who perform work on a site. Includes provisions to ensure enforcement of this requirement.
- 10) Requires Caltrans to adopt, emergency regulations to implement these provisions within 60 days of the effective date of this bill.
- 11) Includes an urgency clause.

**EXISTING LAW:**

- 1) Requires the Department of Transportation (Caltrans), to the greatest extent possible, to offer to sell or exchange excess real property within one year from the date that it determines the property is excess.
- 2) Requires, generally, state and local agencies, prior to disposing of excess lands, first to offer property for sale or lease to local public agencies, housing authorities, or redevelopment agencies within whose jurisdiction the property is located. Requires Caltrans to give priority first to entities agreeing to use the land for low- or moderate-income housing then to entities for open-space purposes, school facilities construction, enterprise zone purposes, and infill opportunities, in that order.

*The Roberti Act:*

- 1) Provides an exception from these provisions for the disposal of excess residential properties in the unconstructed portion of the SR 710 corridor, i.e., the portion of SR 710 addressed in this bill. According to this exception, excess residential properties in this corridor are to be sold in the following priority order:
  - a) First, homes presently occupied by their former owners must be offered for sale to the occupant at fair market value;
  - b) Second, homes are to be offered to present occupants that have lived in the property for at least two years and who are persons and families of low or moderate income at an affordable price, but not less than the acquisition price or more than fair market value;
  - c) Third, homes must be offered for sale to present occupants that have lived in the home for more than five years and whose household income does not exceed 150 percent of the area median income at an affordable price, but not less than the acquisition price or more than fair market value;
  - d) Then, homes not sold under these terms must then be offered to housing-related private and public entities for a price which is best suited economically to using the property for low- or moderate-income housing or, if the property is a historic home, it may be offered to a nonprofit entity dedicated to maintaining it for public access; and,

- e) Any excess homes not sold pursuant to these provisions are then to be sold at fair market value with first priority given to purchasers who are present occupants, second to former tenants in good standing, and then to purchasers who will be owner occupants.

### **FISCAL EFFECT:**

According to the Assembly Committee on Appropriations:

#### 1) Caltrans:

- a) Unknown costs to Caltrans, likely exceeding \$4 million (SR 710 RA and State Highway Account (SHA)) over several years, to inspect and repair single-family homes, including historic homes, in the SR 710 corridor in the City of South Pasadena.
- b) Unknown foregone revenues (SR 710 RA and SHA) from requiring reduced prices, and a redirection of proceeds from the sale of surplus properties to present occupants, to the City of South Pasadena for reinvestment into low- and moderate-income housing. This provision would result in an unknown reduction of funds available to rehabilitate homes under the Affordable Sales Program and to fund local transportation projects, as specified in the Roberti Act. However, expanding the account's size from \$500,000 to \$1.2 million, as proposed in the bill, may offset this loss to the extent Caltrans can retain a greater amount of funds received from other cities.
- c) By requiring Caltrans to sell a small group of homes in South Pasadena at 2016 appraised values, this bill could lower the sales price below fair market value for up to 5 homes. Based on the difference in 2016 and 2021 appraisals of these homes, this bill would result in a loss of up to \$1.95 million for the SR 710 RA and local transportation improvements.
- d) Potential future Caltrans cost reductions, likely in the range of \$9 million to \$10 million annually (SR 710 RA and SHA), to the extent the bill accelerates the sales of properties in the SR 710 corridor and alleviates administrative costs for staff to manage the properties and the sales program, as well as capital costs for property maintenance and repair.
- e) Likely minor one-time costs (SHA) in fiscal year 2021-22 for Caltrans to adopt emergency regulations. Caltrans is in the process of amending its Affordable Sales Program regulations for Roberti Act property sales as a result of recent litigation in order to permanently adopt inflation-adjusted pricing, which would no longer be applicable under the bill's provisions prohibiting inflation adjustments to original acquisition prices.

#### 2) Department of Housing and Community Development (HCD):

- a) Caltrans has an interagency agreement with HCD to assist with program design and administration. HCD indicates it could incur costs of approximately \$386,000 (GF) annually for 2.0 staff positions related to program design, regulation development, and sales activity with ongoing monitoring, if it enters into a revised interagency agreement.
- b) HCD indicates it would incur costs of \$87,000 (GF) each year for two years for 0.5 staff position to update the SLA guidelines and related technical assistance materials.

**COMMENTS:**

*According to the author:* “SB 381 would allow for more local control over the disposition of the state-owned properties along the SR 710 corridor and put the City of South Pasadena in a much better position to safeguard and champion the interests of their community. SB 381 seeks to expeditiously provide existing and qualified Caltrans tenants the opportunity to purchase while at the same time allowing the City and their housing partners to acquire and renovate the unoccupied properties. This bill allows for an economically viable solution for the city as SB 381 would require Caltrans to sell those properties at original acquisition price and will enable them to opportunity to shape and restore housing for decades to come. A common goal shared by everybody is to get Caltrans out of the property management business and this bill helps execute that goal.”

*Background:* Beginning in the 1950s, Caltrans began acquiring property by eminent domain to extend the State Route (SR) 710 freeway through Alhambra, El Sereno, South Pasadena, and Pasadena. Local political opposition stalled the project, at which point Caltrans began renting the residential properties. Caltrans currently owns over 400 properties in the SR 710 corridor, including 330 homes and 103 multi-family housing units. Additionally, six nonprofits currently reside in properties owned by Caltrans within this corridor.

Property management of the homes in the SR 710 corridor has created long-standing tension between SR 710 corridor tenants and Caltrans. Over the years, tenants argued that Caltrans inadequately maintained the homes and failed to make appropriate improvements. Caltrans argued that the homes were being rented on a temporary basis and were expected to be razed to make way for freeway construction; hence, homes were kept up to health and safety standards, but long-term improvements were not a reasonable expense of public funds.

In 2018, the Los Angeles County Metropolitan Transportation Authority (LA Metro) and Caltrans identified a transportation alternative that would not require demolition of these homes. As such, many of these properties are no longer needed for the transportation project and are now surplus. Caltrans has begun dispensing of properties and is currently continuing to sell excess properties.

*The Roberti Act:* The Roberti Act outlines the sequence; also known as the “waterfall” for selling off surplus properties owned by Caltrans. Single-family homes must be offered for sale as follows: 1) at fair market value to the former owners, 2) present occupants who have occupied the property two years or more who are low- or moderate- income, 3) present occupants who have occupied the units for five or more years whose incomes do not exceed 150 percent of the area median income (AMI). Properties not purchased by a current or former owner are offered to housing related private or public entity at a reasonable price. Housing-related entities (HRE) are required to offer the property as a limited-equity cooperative with first right of refusal for occupancy to existing occupants, unless that is infeasible in which case the housing can be offered to low- and moderate-income households.

This bill amends the order of sale in the City of South Pasadena. After the first three priorities established in the Roberti Act as described above, the fourth priority is present occupants who have occupied the property for at least five years and whose household income exceeds 150 percent of the area median. The fifth priority is present occupants who have occupied the property for at least five years and are in good standing with all rent current, regardless of income. The sixth priority is the City of South Pasadena.

For properties offered to the City of South Pasadena, the City may sell the property to a housing-related entity for the purposes of providing low- or moderate-income housing. The author notes that there are 68 properties on the 710 corridor that would be impacted by this bill.

SB 381 does not affect the order of sale in the City of Los Angeles or in Pasadena. A different bill, SB 51 addresses the sale of SR 710 properties in the City of Los Angeles.

*Sales Price and Conditions.* This bill aims to make it easier for Caltrans to sell the South Pasadena properties by allowing the city to buy a property at the original price without inflation adjustments. All properties sold would be required to record a 55-year affordability covenant on the property. In addition, any new units added to a property, must be restricted to low- and moderate-income households. If the residence is offered as rental housing, first right of occupancy is reserved for current occupants.

*Rezoning:* This bill was amended recently to require that when the City sells a historic surplus site it must identify a site in its boundaries to provide three replacement housing units affordable to very low, low, or moderate-income families. Prior to selling the historic home, the City must provide HCD evidence that there is additional zoning capacity in the city to accommodate the three replacement units. HCD has authority to enforce the requirement to rezone and provide replacement units. The City must provide documentation in its housing element annual progress report of actions taken to rezone to replace historic surplus sites, acquisition or rehabilitation of sites to meet the requirement to replace historic sites on a three to one basis, and any other documentation HCD requires to establish compliance with replacement and rezoning requirements.

*Other 710 bills:* This is the third bill that this committee has heard related to the sale of properties on the 710 freeway – AB 512 (Holden), SB 51 (Durazo), and SB 381 (Portantino). These three bills differ and overlap in a few ways.

- AB 512 (Holden) applies to Los Angeles, Pasadena, and South Pasadena and would require Caltrans, to offer to sell unimproved properties at the original acquisition price to a housing related entity (HRE) for affordable housing purposes. This bill is pending hearing in Senate Transportation Committee.
- SB 51 applies to properties in the El Sereno neighborhood of the City of Los Angeles, SB 381 differs from SB 51 by compressing the timeline for Caltrans to adopt emergency regulations and for current tenants to consider purchasing their residence. Both bills ensure that current tenants in good standing, as specified, have the opportunity to purchase their residence before it is offered to a third party. This bill was signed earlier by the Governor.

*Arguments in Support:* The City of South Pasadena supports this bill because it gives the City the authority to purchase the 68 residential properties owned by Caltrans at the original acquisition price paid by Caltrans. The City could develop the properties into affordable housing through a city approved non-profit HRE.

*Arguments in Opposition:* Individuals are opposed to this bill for various reasons including that the bill would allow properties to become affordable rentals after original owners and current tenants are offered an option to purchase.

**REGISTERED SUPPORT / OPPOSITION:**

**Support**

City of South Pasadena  
Heritage Housing Partners  
Individuals(5)

**Opposition**

South Pasadena Residents

**Analysis Prepared by:** Lisa Engel / H. & C.D. / (916) 319-2085