

**Metropolitan Transportation Commission and the Association of Bay Area Governments
Joint MTC Legislation Committee and
ABAG Legislation Committee**

May 10, 2019

Agenda Item 7c6

AB 1486 (Ting): Surplus Lands Act Expansion and Revision

Subject: AB 1486 would revise the Surplus Lands Act (SLA) – the state law that requires local agencies to prioritize affordable housing, as well as parks and open space, when disposing of land no longer necessary for the agency’s use – and other state laws related to making surplus public land available for affordable housing development.

Background: Enacted in 1968 and revised in 2014, the SLA requires that prior to disposing of surplus land, local agencies—including cities, counties and districts—give right of first refusal to other local governments or organizations that agree to use sites for low- and moderate-income housing developments or parks and open space. Top priority is given to affordable housing development proposals with at least 25 percent of the units reserved for families earning 80 percent area median income or below. Specifically, local agencies are required to give notice of available surplus property to relevant public entities and interested affordable housing developers and if a preferred entity expresses interest within 60 days, the parties must enter into good faith negotiations. If no agreement on sales price or lease terms is reached after 90 days, the local agency may proceed with disposing of the land through other avenues. The California Department of General Services is similarly required to prioritize affordable housing development when disposing of land no longer necessary for the state’s use.

AB 1486 would revise the Surplus Lands Act and related law as follows:

- Expand the scope of the SLA so that the provisions apply to parcels owned by successors to redevelopment agencies and provide that land would be presumed to be “surplus” when a local agency takes an action to dispose of it.
- Revise and clarify surplus land disposal process requirements.
- Permit that 100 percent affordable housing be allowed on surplus land, regardless of local zoning; Provision would not apply to exempt surplus land (e.g., protected open space) or land ineligible for affordable housing financing programs and the project would remain subject to environmental review.
- Require that the Department of Housing and Community Development (HCD) create and maintain a statewide inventory of local surplus public lands sourced from local land inventories.
- Expand HCD’s enforcement mandate to include SLA compliance.

Issues:

It is widely recognized that one of the barriers to low-income and workforce housing production in the Bay Area is a lack of available and affordable land. Public lands have been identified as an opportunity to address this issue. For example, a 2018 MTC Workforce Housing Action Plan memorandum identified nearly 700 acres of Bay Area public lands suitable for housing near transit estimated to have capacity for roughly 35,000 housing units (see Attachment A).¹

AB 1486 would expand the scope of public lands required to be considered for affordable housing, making it easier for local agencies and organizations seeking to develop affordable housing to identify land purchase opportunities. However, staff has a number of concerns that we believe should be addressed, detailed below:

- *Negotiations Scope:* Narrowing negotiations to sales and lease price, as proposed by AB 1486, would limit a local agency's ability to incorporate other important considerations such as a project's financial viability into the negotiation. Staff recommends the bill be amended to ensure that these and other valid topics are not prohibited in the scope of negotiations.
- *Redevelopment Agency Successors:* The Housing Legislative Working Group (HLWG) raised that first offering to affordable housing developers parcels owned by successors to redevelopment agencies may impede a successor agency from disposing of land consistent with ABX1 26 (2011), including the mandate to pay for existing obligations to the various taxing agencies in the redevelopment area. Staff recommends working with the author to ensure that the bill would not limit successor agency's ability to comply with existing asset disposal requirements.
- *100% Affordable Housing, Notwithstanding Local Zoning:* The HLWG expressed concerns that AB 1486 might result in development in areas that are inappropriate for housing. Staff recommends that the provision permitting residential use for 100 percent affordable housing developments be amended to limit the allowance to those projects that have received local subsidies, and therefore would not be in locations deemed inappropriate.

Recommendation: Support if Amended

Bill Positions: See Attachment B

Attachments: Attachment A: Attachment A: Public Land Suitable for Housing Near Transit
Attachment B: Bill Positions



Therese W. McMillan

¹ MTC in 2016 took steps to increase awareness of the SLA by conditioning certain One Bay Area Grant (OBAG) 2 eligibility on the adoption of a resolution confirming SLA compliance. As of December 2017, all general law cities and counties that were recommended for OBAG 2 county program funding had met this requirement.

Public Land Suitable for Housing Near Transit

Public Land by County		
County	Parcels	Acres
Alameda	153	248
Contra Costa	121	103
Marin	2	6
Napa	1	1
San Francisco	21	23
San Mateo	62	62
Santa Clara	84	234
Solano	20	11
Sonoma	6	11
TOTAL*	470	698

Top 10 Public Landowners		
Landowner	Parcels	Acres
Bay Area Rapid Transit District (BART)	91	229
Santa Clara Valley Transportation Authority (VTA)	26	178
State of California	17	42
City/County of San Francisco	18	26
San Mateo County Transit District (SamTrans)	11	18
Union City Community Redevelopment	6	15
County of Santa Clara	7	15
City of Oakland	19	10
City of San Jose	5	8
Suisun City	17	8
TOTAL*	217	548

*Totals may not sum due to rounding

Source: MTC Workforce Housing Action Plan

Bill Positions on AB 1486 (Ting)

Support

NonProfit Housing Association of Northern California (Sponsor)
Bay Area Housing Advocacy Coalition
California Apartment Association
Greenbelt Alliance
Habitat for Humanity
California Hamilton Families
Oakland Tenant Union
Southern California Association of NonProfit Housing
Tenderloin Neighborhood Development Corporation Transform

Oppose (Unless Amended)

Association of California Healthcare Districts
Association of California Water Agencies
California Association of Sanitation Agencies
California Land Title Association
California Municipal Utilities association
California Special Districts Association
California State Association of Counties
Desert Recreation Districts
Irvine Ranch Water District
Mesa Water District
Orange County Water District
Rural County Representatives of California
Santa Margarita Water District
Stege Sanitary District
Urban Counties of California