

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

July 12, 2019

Agenda Item 5c

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.

Background: In May, MTC and ABAG adopted a “support if amended” position on AB 1486. MTC and ABAG supported the policy of expanding the scope of public lands required to be considered for affordable housing and making it easier for local agencies and organizations seeking to develop affordable housing to identify land purchase opportunities. However, there were a number of concerns that needed to be addressed, as described in the May Commission item and Joint MTC and ABAG Legislation Committee memo (Attachment A). As detailed in the chart below, two of our concerns have been incorporated into amendments. Staff believes the bill will be amended to address the remaining concerns but have not yet received confirmation on the language. We will provide an update at your meeting on July 12th.

Issue	Concern Addressed	Notes
<i>Broader Negotiations:</i> Expand negotiations scope beyond sales and lease price to ensure other valid topics, such as a project’s financial viability, are allowed.	✓	Sole remaining limitation: Negotiations may not disallow residential use of the site, except for public health or safety
<i>Require Local Support for Zoning Override:</i> Tie provision allowing 100% affordable housing, regardless of zoning, to local subsidy.	✓	Provision removed from the bill
<i>Redevelopment Agency Successors:</i> Ensure the bill does not limit a successor agency’s ability to comply with existing asset disposal requirements.	Pending confirmation	Awaiting written confirmation on language
<i>No Lookbacks:</i> Ensure AB 1486 changes only apply to land disposals initiated after the bill’s effectiveness date.	Pending confirmation	Awaiting written confirmation on language

Discussion: 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. AB 1486 would expand the scope of public lands required to be considered for affordable housing, provide clarity as to how local agencies should prioritize affordable housing development when disposing of excess public land, and make it easier for

local agencies and organizations seeking to develop affordable housing to identify land purchase opportunities. The bill would also provide the Department of Housing and Community Development with new tools to enforce the longstanding SLA mandate.

AB 1486 has the potential to support the Bay Area in addressing the region's chronic housing shortage and two of our amendment recommendations have been incorporated into the bill. However, as of the writing of this memo, two issues remain outstanding. Staff will provide an update at your meeting on July 12th.

Recommendation: If we receive confirmation by July 12th that the outstanding issues related to redevelopment agency successors and the lookback provisions will be addressed, we will recommend a "support" position.

Bill Positions: See attached

Attachments: **Attachment A:** AB 1486 May Meeting Materials (Commission Cover Memo and Joint MTC Legislation Committee and ABAG Legislation Committee Memo)
Attachment B: AB 1486 (Ting) Bill Positions (as of 6/21/19)


Therese W. McMillan

Metropolitan Transportation Commission

May 22, 2019

Agenda Item 9b. vi.

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

- Subject:** Position on AB 1486 (Ting): Surplus Lands Act Expansion & Revision
- Background:** On May 10, the Legislation Committee reviewed legislation and recommended a “support if amended” position on AB 1486 with the following requested amendments:
- 1) Expand negotiations scope beyond sales and lease price to ensure that valid topics such as a project’s financial viability are not prohibited in the scope of negotiations.
 - 2) Ensure that the bill would not limit a successor to a redevelopment agency’s ability to comply with existing asset disposal requirements, as mandated in ABX1 26.
 - 3) Amend the provision permitting residential use for 100 percent affordable housing developments to limit the allowance to those projects that have received local subsidies.
 - 4) Pursue amendments to ensure that the proposed changes not disrupt the sale of the Oakland Coliseum property, by clarifying that the bill would only apply to land disposals initiated after the effective date of the bill.
- Issues:** None.
- Recommendation:** The Commission is requested to adopt a “support if amended” position on AB 1486.
- Attachments:** May 10 Legislation Committee summary sheet. Note: The charts in Attachment A to the staff memo reflect 2016 tax accessor’s data. The charts do not reflect land transfers and/or developments that have been initiated since the data was initially collected.

Reviewed:



Therese W. McMillan

**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.

Joint MTC Legislation Committee and ABAG Legislation Committee

May 10, 2019

Page 2 of 2

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.

Bill Positions on AB 1486 (Ting)
(6/27/19)

Support

East Bay Housing Organizations (Co-Sponsor)
NonProfit Housing Association of Northern California (Co-Sponsor)
Bay Area Council
Bay Area Housing Advocacy Coalition
Bay Area Regional Health Inequities Initiative
Building Industry Association of the Bay Area
California Apartment Association
California Coalition for Rural Housing
California Community Builders
California Housing Consortium
California Housing Partnership
California Rural Legal Assistance Foundation
California YIMBY
Chan Zuckerberg Initiative
Community Legal Services in East Palo Alto
EAH Housing
East Bay Asian Local Development Corporation

Enterprise Community Partners, Inc.
Greenbelt Alliance
Habitat for Humanity California
Habitat for Humanity East Bay/Silicon Valley
Hamilton Families
Midpen Housing Corporation
North Bay Leadership Council
Related California
San Diego Housing Federation
San Francisco Foundation
San Francisco Housing Action Coalition
Silicon Valley At Home
Silicon Valley Community Association
Southern California Association of Nonprofit Housing
Tenderloin Neighborhood Development
TMG Partners
Transform
Urban Displacement Project, UC Berkeley
Western Center on Law & Poverty, Inc.

Oppose

Association Of California Healthcare Districts
Association Of California Water Agencies
California Association Of Sanitation Agencies
California Municipal Utilities Association
California Special Districts Association
California State Association Of Counties
Cambria Community Services District
Central Contra Costa Sanitary District
Chino Valley Independent Fire District
Coachella Valley Water District
Costa Mesa Sanitary District
Crestline Sanitation District
Cucamonga Valley Water District
Denair Community Services District
Desert Recreation District

Dublin San Ramon Services District
East Contra Costa Fire Protection District
Eastern Kern County Resource Conservation District
El Dorado Hills Community Services District
Fallbrook Public Utilities District
Fresno Mosquito And Vector Control District
Garberville Sanitary District
Georgetown Divide Public Utility District
Goleta Sanitary District
Goleta West Sanitary District
Greenfield County Water District
Helix Water District
Humboldt Bay Municipal Water District
Ironhouse Sanitary District

Oppose, cont.

Irvine Ranch Water District
Kern County Cemetery District
Leucadia Wastewater District
Mckinleyville Community Services District
Merced County Mosquito Abatement District
Mesa Water District
Montara Water And Sanitary District
Mt. View Sanitary District
North County Fire Protection District
North Tahoe Fire Protection District
Northern Salinas Valley Mosquito Abatement District
Oceano Community Services District
Ojai Valley Sanitary District
Orange County Cemetery District
District Orange County Mosquito And Vector Control District
Orange County Water District
Palo Verde Cemetery District
Rainbow Municipal Water District
Reclamation District 1000
Rural County Representatives Of California
San Bernardino Valley Water District
San Juan Water District
San Marcos; City Of
San Ramon Valley Fire Protection District

Sanitation Districts of Los Angeles County
Santa Clara County
Santa Margarita Water District
Silveyville Cemetery District
Solano County
Solano Irrigation District
South Coast Water District
Stallion Springs Community Services District
Steger Sanitary District
Tahoe City Public Utility District
Templeton Community Services District
Three Valleys Municipal Water District
Town Of Discovery Bay Community Services District
Tulare Mosquito Abatement District
Tulare Public Cemetery District
Urban Counties Of California
Valley Center Municipal Water District
Ventura Port District
Visalia Public Cemetery District
Vista Irrigation District
West County Wastewater District
West Side Recreation & Park District
Yucaipa Valley Water District