#PublicLand4PublicGood

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TransForm Let’s Get Moving Conference
May 7, 2016
State Surplus Land Act

• “Enacted in 1968, the Surplus Land Act requires local agencies – such as cities and transit agencies – to prioritize affordable housing, as well as parks and open space, when disposing of surplus land.” (Source: Public Counsel, 2015 Affordable Housing Law Alert)
AB 2135 (Ting)
Local Surplus Land

- NPH-sponsored legislation, signed into law at the end of the state legislative session in 2014

- Strengthens affordable housing’s Right of First Refusal (ROFR) when local agencies and special districts dispose of publicly-held land (“right to negotiate”)

- Codifies a critical best practice that ensures equitable development and increases transit ridership
Background
State Surplus Land Statute

• Surplus Land – “land owned by any agency of the state, or any local agency, that is determined to be no longer necessary for the agency’s use, except property being held by the agency for the purpose of exchange” Gov’t. Code § 54220

• Local agency – general and charter cities, school districts, and transit agencies Gov’t. Code § 54221(a)

• Now clearly applies to both for-sale and leased surplus land Gov’t. Code § 54223
New Provisions
State Surplus Land Statute

• Local agencies can write down the cost of land as a way of providing additional subsidy to build more deeply income-targeted projects Gov’t. Code § 54226

• Writing down land costs is in line with optimal transportation use goals Gov’t. Code § 54220(c)

• Payment period may exceed 20 years, provided that it doesn’t exceed the term of affordability for the units

• More information on AB 2135 at nonprofithousing.org
New Provisions

Applying State Statute to Local Jurisdictions

- Preferred entities must provide at least **25% of the units** affordable to lower-income households in developments with ten or more units.

- If sold to a non-preferred entity, at least **15% of the units** must be affordable to lower-income households; this does not run afoul of the Palmer decision because it is a condition of sale, not a condition of project approval.
New Provisions

Applying State Statute to Local Jurisdictions

• Any sale or lease at **or less than fair market value** is consistent with the agency’s purpose

• **Extends from 60 to 90 days** the good faith negotiation period

• When there are competing offers from affordable housing developers, **priority** goes to project with **greatest number of affordable units at the deepest level of affordability**
Enforcement
Making Sure the Surplus Land Statute is Followed

• Push cities and counties to adopt local ordinances and transportation authorities and school districts to adopt resolutions that reflect and commit them to following the state statute

• Request notification for when surplus land becomes available for disposition from local jurisdictions, agencies, authorities, and special districts; Public Records Act requests

• Complaint-driven process
THANK YOU

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