



NON-PROFIT HOUSING ASSOCIATION  
OF NORTHERN CALIFORNIA

The Voice of  
Affordable Housing

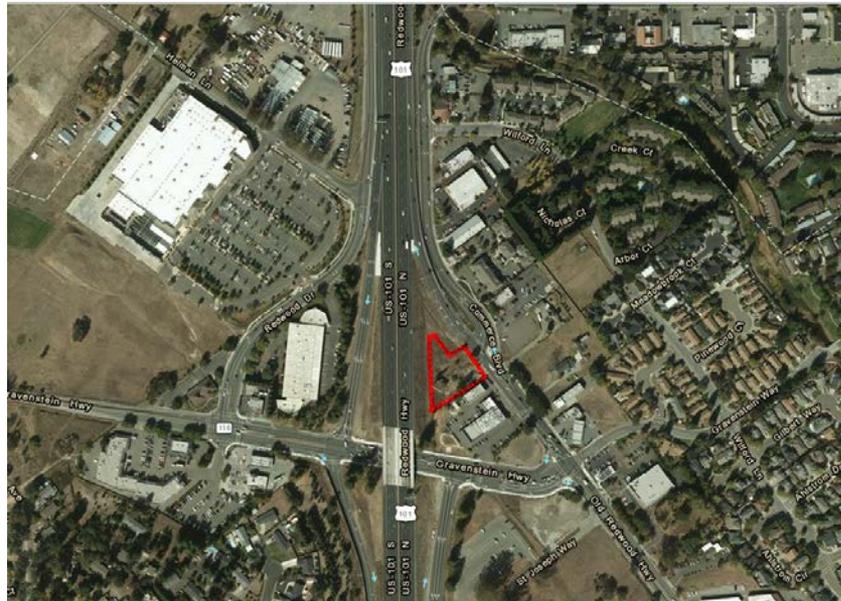
# #PublicLand4PublicGood



Michael Lane  
TransForm Let's Get Moving Conference  
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# 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](https://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



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**THANK YOU**

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