

Public Land for the Public Good:

How to Build Affordable Housing Through the Surplus Land Act (CA)

The Surplus Land Act (SLA) Process:

The SLA process begins when a local public agency in California decides to sell or to lease land that is no longer needed for the agency's own operations. The SLA promotes using the land for affordable housing.

What is a Local Public Agency?

Examples of local agencies include cities, counties, housing authorities, special districts, etc. §54221(a).

How to Use This Chart:

If you're one of the entities listed above, or an advocate who is trying to maximize affordable housing opportunities in your region, use this chart to understand how the SLA applies to land that is being sold or leased.

Step 1: Before a Local Agency decides to sell or lease land, they must determine if the land fits the definition of "disposal" under the Surplus Land Act §54222(d). Land that fits this definition includes surplus land for sale or for lease for a period longer than 15 years.

Step 2: When the Local Agency decides to sell or lease land that it owns, it must declare the land as SURPLUS or EXEMPT SURPLUS with written findings/information at a regular public meeting (§54221(b)(1)), or by written notice for certain types of exempt surplus land (§54221(b)(4)). The California Department of Housing and Community Development (**HCD**) is responsible for overseeing this process.

2A. Land is Declared Surplus

The Local Agency sends a Notice of Availability to certain interested parties, groups or entities, including affordable housing developers and HCD (§ 54222).

If land is declared surplus, please view the flow chart on the back of the page.

2B. Land is Declared Exempt Surplus

After declaring land to be EXEMPT SURPLUS, the Local Agency must submit the determination and written findings to HCD at least 30 days prior to disposition.

The Local Agency may sell or lease the land consistent with the requirements of the appropriate exemption.

End of path



The Local Agency sends a Notice of Availability

This notice is sent to preferred entities including affordable housing developers, local government, school districts, park districts, and HCD (§ 54222).

No Response is Received Within 60 Days

The Local Agency can offer the land to other interested purchasers. The Local Agency must record covenants to ensure that if 10+ housing units are developed, at least 15% of the total housing units must be sold or rented at affordable costs (§54233).

The Local Agency reports certain information (re: notices sent, negotiations, and affordable housing covenants) to HCD for review (§ 54230.S(b){I}).

End of path

End of path

The Local Agency sells or leases the land by entering into a binding agreement that includes affordable housing covenants if applicable (§§ 54222.5, 54233.5).

Response(s) Received Within 60 Days

The Local Agency prioritizes the proposals for affordable housing (§54227) and negotiates with various affordable housing groups or advocates for **at least 90 days** (§542223(a)).

Parties Do Not Reach an Agreement

HCD Does Not Respond to the Local Agency or Provides the Local Agency With a Determination Letter Signaling Compliance With the SLA

Parties Reach an Agreement

The Local Agency reports certain information (re: notices sent, negotiations, and affordable housing requirements) to HCD for review (§ 54230.S(b){I}).

HCD Responds to the Local Agency Within 30 Days With a Findings Letter Stating That the Agency's Process Violates the SLA (§ 54230.5(b)(2)(C))

Within 60 days of HCD's notice, the Local Agency can correct the SLA issues or explain in writing why it believes the sale or lease complies with the SLA (§ 54230.5(b)(3)(A)(i),(ii)).

HCD provides the Local Agency with a Determination Letter that says either all SLA issues are corrected or a written explanation has been accepted

Local Agency Fined by HCD if Land Sold or Leased

If the Local Agency sells or leases the land before correcting the violation, HCD will fine the local agency 30% of the greater of the sale price or the fair market value for the first violation and 50% for any subsequent violations. Third parties can sue to enforce these penalties (§54230.5(a){I}).

The Attorney General may take action to enforce the SLA.

Third-Party Enforcement:

If low-income individuals, affordable housing developers, advocacy groups, or other interested parties believe the Local Agency violated any step of the SLA, they may sue the Local Agency to get them to follow the rules (AKA compliance) or seek financial penalties. (§54230.S(a){I})

HCD provides the Local Agency with a Notice of Violation for either:

- Failure to correct the SLA issues with no written explanation or
- HCD disagrees with the explanation.

HCD may refer the case to the Attorney General (§ 54230.5(b)(3)(B)). Prior to taking any action, the Local Agency must hold an open and public meeting to review and consider the substance of the Notice of Violation.