

Surplus Land Act (Part 2)

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Overview of Presentation

- Brief Recap and Timeline of Legislative Changes
- Key Changes in HCD's Final Updated Guidelines
 - Leases
 - Agency's Use
 - Administrative Declarations
 - Participating in Negotiations
 - Enforcement and Penalties

Brief Recap & Timeline of Legislative Changes

- **Pre-2019:** “Original” Surplus Land Act
- **2019:** AB 1486 Signed Into Law
- **January 1, 2020:** Effective Date of AB 1486
- **April 2021:** HCD Publishes Initial Guidelines
- **Late 2023:** AB 480 and SB 747 Signed Into Law
- **January 1, 2024:** Effective Date of AB 480 and SB 747
- **February 2024:** HCD Publishes Draft Updated Guidelines
- **August 1, 2024:** HCD Publishes Final Updated Guidelines

Issuance of HCD's Final Updated Guidelines

- HCD published draft version on February 23, 2024
 - 30-day public comment period
- HCD published final version on August 1, 2024
- HCD also published a redline between the February draft and the August final
 - Need for redline between April 2021 Guidelines vs. August 2024 Guidelines

Changes to the Guidelines

Leases

- AB 480 and SB 747 clarified that the Act only applies to leases of more than 15 years and in which development or demolition will occur
- The Final Updated Guidelines:
 - Incorporate this clarification (up from 5 years in 2021 Guidelines)
 - Clarify that renewal terms and extension options count toward total years
 - Make a lease with a purchase option a disposition on execution
 - Define development
 - Define demolition

Changes to the Guidelines

Agency's Use

- AB 480 and SB 747 expand definition of “agency’s use” to include certain district and port lands
- The Final Updated Guidelines:
 - Incorporate new “agency’s use” definition
 - Require that an agency that plans to dispose of land for the agency’s use (and thus not follow surplus procedures) provide supporting documentation to HCD at least 30 days prior to disposition
 - Provide that, in cases where an agency will only use a portion of land for the agency’s use, the agency must comply with the Act when disposing of the portion of land not being used for the agency’s use, even if revenue generated on that portion of the land is used to support the development on the portion of land that qualifies as agency’s use



Changes to the Guidelines

Administrative Declarations

- AB 480 and SB 747 authorized agencies to declare certain categories of exempt surplus land publishing a 30-day notice
- The Final Updated Guidelines:
 - Add significant procedural detail to the 30-day notice requirements:
 - Cite applicable exemption and include findings/reasons the land meets the exemption
 - Include a contact name and email address
 - Publish online or in newspaper
 - Provide copy of notice to all priority offer recipients under the Act

Changes to the Guidelines

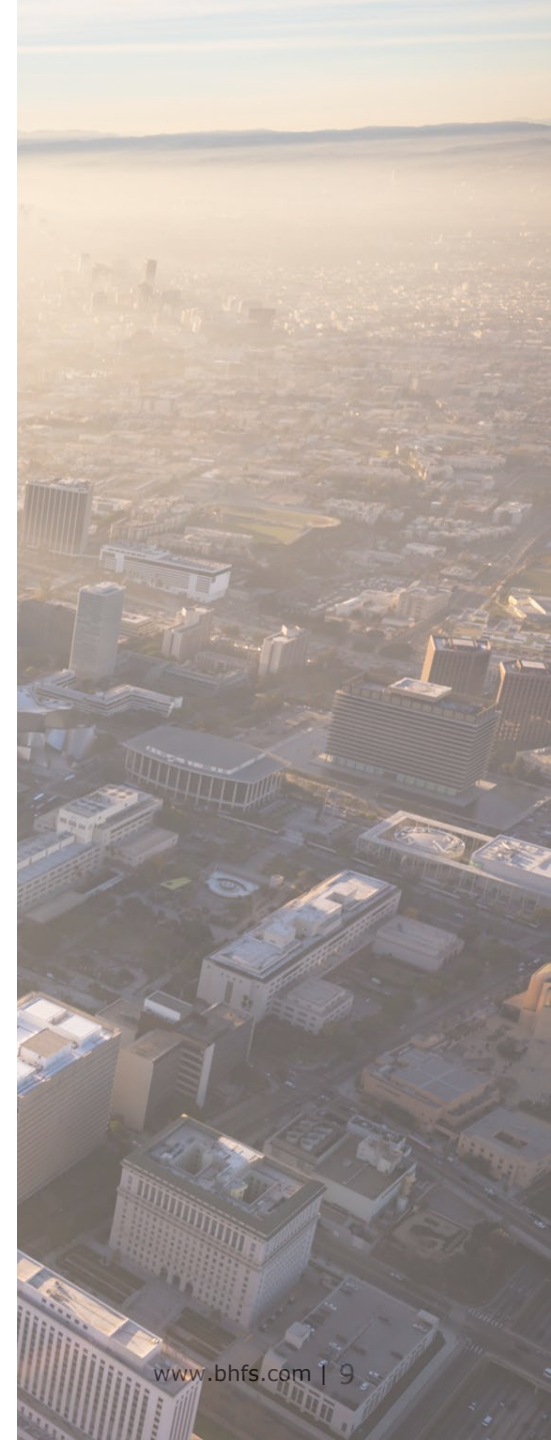
Negotiation Process

- AB 480 and SB 747 identified certain activities that do not constitute “participating in negotiations”
- The Final Updated Guidelines:
 - Prohibit soliciting or accepting offers until the agency has first sent out notices of availability and completed negotiations (if applicable)
 - Require agencies to “establish and document” that good faith negotiations have taken place with each respondent

Changes to the Guidelines

Enforcement and Penalties

- AB 480 and SB 747 made minor amendments to the enforcement and penalty provisions
- The Final Updated Guidelines:
 - Update HCD's review process
 - Require agencies to respond to Findings Letters
 - Require agencies to agendize Notices of Violation
 - Elaborate on private rights of enforcement
 - Clarify penalty calculations
 - Authorize election for penalties to be deposited into Building Homes and Jobs Trust



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Thank you

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