Introduction to New Surplus Land Act

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Overview of Presentation

- Pre-AB 1486 Act
- AB 1486 + Issuance of HCD Guidelines
- SB 747 and AB 480
- Updated HCD Guidelines
Pre AB 1486 Act

• Surplus land was defined as no longer necessary for agency use, with no requirement to identify surplus land beforehand

• Generally seen as inapplicable to leases

• Limited enforcement mechanisms
AB 1486

- Redefined “surplus land”
- Created new term – “exempt surplus land”
- Established detailed (and onerous) offer and negotiation process
- Enacted enforcement mechanisms and remedies for violations
- Authorized issuance of HCD guidelines
SB 747 and AB 480

• Purpose – to address concerns in the post-AB 1486 world
• Result – both bills passed
SB 747 and AB 480 – Key Changes

• **Streamlined Exemption Declaration**: Agencies can now publish a 30-day notice to declare certain land exempt surplus, removing the requirement for a public meeting finding.

• **Lease Clarification**: The Act applies only to leases over 15 years involving development or demolition, contrasting with previous HCD Guidelines.

• **Expanded "Agency's Use" Definition**: Ports using land for logistic, broadband, or waste disposal purposes, and certain district land for commercial or revenue purposes, are not considered surplus.
SB 747 and AB 480 – Key Changes

• **Enhanced "Valid Legal Restrictions" Definition:** Further criteria define legal restrictions barring housing, qualifying parcels as exempt surplus.

• **New Exempt Surplus Categories:** Includes land sold for development with minimum affordable housing quotas, transfers to community land trusts, and land under airport or transportation agency control.

• **HCD Oversight Requirements:** HCD must maintain an online repository of notices of availability and interested housing developers, enhancing transparency.

• **Exclusion of Pre-Negotiation Activities:** Activities like obtaining appraisals or issuing proposals are not considered negotiation participation, offering clarity to agencies.
SB 747 and AB 480 – Key Changes

• **Clear Limitations on Act's Scope**: Affirms agencies' rights to fair market value, land use decisions, and exemption from the Act in case of conflict with other laws.

• **Penalty Exemption for Non-Substantive Violations**: Non-substantive violations won't incur financial penalties, aiming to focus on substantive breaches affecting affordable housing.

• **Defined "Disposition Value"**: Clarifies how financial penalties are calculated, ensuring consistency in determining sale or lease value.

• **Extended ENA Deadline**: Extends the deadline for utilizing Exclusive Negotiating Agreements, providing agencies with more time to adhere to pre-AB 1486 rules.
Other Takeaways

• Economic Opportunity Law and conflicts with law argument

• Endorsement of HCD Guidelines
What’s next?

- Updated Surplus Land Act Guidelines
Thank you

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