



AGENDA

August 7, 2024

CLOSED SESSION

5:00 p.m.

City Council Chambers

311 Vernon Street

Roseville, California

www.roseville.ca.us

A. CLOSED SESSION CALL TO ORDER

B. CLOSED SESSION ROLL CALL

C. CLOSED SESSION PUBLIC COMMENTS

D. CLOSED SESSION

D.1. Conference with Legal Counsel – Anticipated Litigation

Pursuant to Government Code Section 54956.9(d)(2)

Significant exposure to litigation – one case

CONTACT: M. Sheidenberger 916-774-5325 msheidenberger@roseville.ca.us

E. CLOSED SESSION ADJOURNMENT



COUNCIL COMMUNICATION

CC #:

File #:

Title: Conference with Legal Counsel – Anticipated Litigation

Contact: M. Sheidenberger 916-774-5325 msheidenberger@roseville.ca.us

Meeting Date: 8/7/2024

Item #: D.1.

ATTACHMENTS:

Description

Notice of Violation

**DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT
DIVISION OF HOUSING POLICY DEVELOPMENT**

2020 W. El Camino Avenue, Suite 500
Sacramento, CA 95833
(916) 263-2911 / FAX (916) 263-7453
www.hcd.ca.gov



December 4, 2023

Melissa Anguiano, Economic Development Director
Economic Development Department
311 Vernon Street
Roseville, CA 95678

Dear Melissa Anguiano:

RE: City of Roseville's Disposition of the Property at 6382 Phillip Road – Notice of Violation

The California Department of Housing and Community Development (HCD) issues this Notice of Violation (NOV) regarding the City of Roseville's (City) proposed disposition of approximately 236.26 acres of land located at 6382 Phillip Road in Roseville (Property).

HCD must notify a city if HCD finds that the city has taken an action in violation of the Surplus Land Act (SLA). Additionally, HCD may notify the Office of the California Attorney General that a city has violated the SLA. (Gov. Code, § 65585.1, subd. (a).) By entering into contracts to dispose of the Property without first complying with the procedural requirements of the SLA (Gov. Code § 54220 et seq.), the City violated the SLA and continues to violate it absent a cure or correction.

The City has 60 days from the date of this NOV to cure or correct the violations noted herein. If the City does not cure or correct all such violations by February 4, 2024, and elects to proceed with the disposition of the Property, a penalty will be assessed to the City equal to 30 percent of the final sales price. (Gov. Code, § 54230.5, subd. (a)(1).) HCD may also pursue additional remedies authorized under Government Code sections 65585 and 65585.1.

Background

On July 17, 2023, HCD contacted the City after receiving a third-party complaint of a potential violation of the SLA. The City submitted SLA documents concerning the project on August 8, 2023, as requested by HCD.

HCD staff met with City representatives on August 22, 2023, and learned that on November 18, 2020, the City entered into an Exclusive Right to Negotiate Agreement (ERNA) with PDC Sacramento LPIV, LLC (Buyer) for the development of an industrial

park. On March 3, 2021, the City approved an Option and Purchase and Sale Agreement (PSA) with the Buyer.

The City provided HCD a scanned copy of seven letters that notified various public entities about the availability of the Property, each dated November 21, 2019. HCD informed the City that, while a notice for the Property was issued in November 2019, before AB 1486's January 1, 2020 effective date, the Property remained subject to the SLA as amended by AB 1486. This is because the City took action to dispose of the Property by entering into the ERNA and PSA well after AB 1486 went into effect.

The City's Violation of the SLA

On November 18, 2020, the City entered into the ERNA for the development of an industrial park. As of the effective date of the ERNA, the City, as fee simple owner of the Property, was subject to the SLA and was obligated to issue a Notice of Availability (NOA) for the purpose of developing low- and moderate-income housing to HCD and the list of housing sponsors pursuant to Government Code section 54222. Alternatively, the City could have declared the Property "exempt surplus land" pursuant to Government Code section 54221, subdivision (f)(1).

Although the City provided HCD with copies of letters that notified various public entities about the availability of the Property, the City has not provided HCD with evidence that required NOAs were sent to affordable housing developers or HCD for purposes of developing low- and moderate-income housing, in violation of Government Code section 54222.

Further, the SLA, as amended by AB 1486, anticipated that the disposition of certain properties would be subject to the prior version of the SLA if certain specified requirements were met. To qualify for this "grandfathering" provision, the City would have needed to enter into an exclusive negotiation agreement (ENA) or other legally binding agreement to dispose of the Property by September 30, 2019. (Gov. Code, § 54234, subd. (a)(1).) By failing to enter into such an agreement by that date, the City did not qualify for the grandfathering provision. Indeed, the City could not have met the September 30, 2019 deadline of entering into an ENA or other legally binding agreement because it issued its notice in November 2019. Therefore, the City's disposal of the Property was subject to the SLA, as amended by AB 1486.

As far as HCD is aware, the City took no further action to dispose of the Property until entering into the ERNA in November 2020, nearly one year after AB 1486's amendment of the SLA went into effect. As a result, the City violated the SLA on November 18, 2020, when the City entered into the ERNA; again on March 3, 2022, when it entered into a PSA with the Buyer; and again when it agreed to subsequent amendments to the PSA on November 17, 2021 and October 19, 2022 – all without following the statutory procedures in place for disposing of surplus land. (See., e.g., Gov. Code, §§ 54221 [requiring local agencies to declare the land surplus or exempt surplus], 54222 [setting

forth NOA requirements], 54223 [requiring local agencies to enter into good faith negotiations].)

Conclusion and Next Steps

As explained above, HCD finds that the City violated the SLA by selecting a developer in 2020 and entering into a PSA without first complying with the requirements of the SLA in place in 2020. Since then, the City failed to take the necessary steps to come into compliance with the SLA by either issuing an NOA to all required entities or declaring the property “exempt surplus land.”

As discussed above, under Government Code section 54230.5, subdivision (a)(1), the City has 60 days from the date of this NOV to cure or correct the violations noted herein. The City may have multiple avenues it can pursue to comply with the SLA, and HCD invites the City to further discuss these options. In the meantime, HCD urges the City to suspend any further actions to dispose of the Property.

If the City or its representatives have any questions or need additional TA regarding the applicability of the SLA, please contact Lisa Krause, Senior Housing Policy Specialist, at lisa.krause@hcd.ca.gov.

Sincerely,

A handwritten signature in blue ink, appearing to read 'D. Zisser', with a long horizontal stroke extending to the right.

David Zisser
Assistant Deputy Director
Local Government Relations and Accountability