

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

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June 3, 2022

Grace E. Lee
Sr. Economic Development Specialist
City of Garden Grove - Community & Economic Development Department
13802 Newhope Street
Garden Grove, California 92843

Dear Grace Lee:

RE: Written Comments Regarding the City of Garden Grove's Surplus Land Disposition Documentation for the Property at 3017 West 5th Street, Santa Ana, CA 92703 (APNs 198-291-03, 04, 05, 06, 08 and 198-282-01, 02, 03).

Thank you for submitting your surplus land disposition documentation, on behalf of the City of Garden Grove (City), for review by the Department of Housing and Community Development (HCD). We received your documentation on May 6, 2022. This letter constitutes HCD's written comments pursuant to Government Code section 54230.5, subdivision (b)(2)(C), of the Surplus Land Act (SLA), for the property located at 3017 West 5th Street in the City of Santa Ana (Property).

As described below, the City was required to submit a description of good faith negotiations conducted with responding entities. (Gov. Code, § 54230.5, subd. (b)(1).) However, the descriptions submitted by the City do not adequately verify that good faith negotiations were completed, and HCD requests that the City provide additional documentation no later than August 4, 2022.

The City's Submittal Does Not Adequately Describe Good Faith Negotiations

According to your letter and included documents, a Resolution declaring the Property to be surplus was adopted by the City Council on February 25, 2020 (though HCD is still in need of a signed Resolution), and a Notice of Availability (NOA) was sent to all the required entities on March 12, 2020. After the required 60-day period, ten entities, eight of which are affordable housing developers, expressed interest in purchasing the Property. The City has also enclosed a draft affordability covenant to be recorded against the Property.

Government Code section 54223, subdivision (a), states:

After the disposing agency has received a notice of interest from the entity desiring to purchase or lease the land on terms that comply with this article,

the disposing agency and the entity shall enter into good faith negotiations to determine a mutually satisfactory sales price and terms or lease terms. If the price or terms cannot be agreed upon after a good faith negotiation period of not less than 90 days, the land may be disposed of without further regard to this article, except that Section 54233 shall apply.

(Emphasis added.)

In addition, Government Code section 54230.5, subdivision (b)(1), requires local agencies to submit to HCD a “description of...negotiations conducted with any responding entities.”

According to the documentation provided, the City ended the SLA process when the City of Santa Ana informed the City on March 7, 2022, by letter, that Santa Ana wanted to preserve a portion of the Property as open space. However, once an NOA has been issued, the City is not permitted to withdraw that NOA if the City has received notices of interest. (SLA Guidelines Section 202, subd. (a)(2)(D)(iii).)

The City’s documentation does not indicate whether the City solicited interest from the responding entities as to their continued interest in the Property given the change in Santa Ana’s approach to the Property before ending the process. Therefore, the descriptions of negotiations submitted by the City do not adequately verify that good faith negotiations were completed.

HCD’s 30-Day Response Period Begins Upon Receipt of the City’s Complete Submittal

On June 2, 2022, HCD met with City staff to discuss the City’s incomplete disposition documentation. During that meeting, the City indicated that it would submit additional documentation to HCD relating to the SLA’s 90-day good faith negotiation requirement.

According to Government Code section 54230.5, subdivision (b)(1):

A local agency may submit this information after it has sent notices of availability required by Section 54222 and concluded negotiations with any responding agencies. A local agency shall not be liable for the penalty imposed by subdivision (a) if the Department of Housing and Community Development does not notify the agency that the agency is in violation of this article within 30 days of receiving the description.

(Emphasis added.)

However, Section 500, subdivision (c)(2), of the SLA Guidelines, which reiterates the requirement that HCD provide written findings to the local agency within 30 days of the receipt of the local agency’s submittal, states that “HCD’s 30-day response period will not begin to run until HCD receives the Complete Submittal.” Therefore, HCD’s 30-day review period will begin to run once HCD receives additional, complete documentation from the

City.

Conclusion

HCD appreciates the City of Garden Grove's collaboration in providing adequate documentation of compliance with the SLA amidst unique and challenging circumstances. Specifically, HCD looks forward to receiving the City's complete description of good faith negotiations with responding entities as soon as possible but no later than August 4, 2022.

The City or its representatives may send any questions to publiclands@hcd.ca.gov.

Sincerely,

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

David Zisser
Assistant Deputy Director
Local Government Relations and Accountability