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**Subject:** RE: Interpretation of Surplus Lands Act (AB 1486, Ting, 2019)  
**Date:** Tuesday, April 28, 2020 2:56:12 PM  
**Attachments:** [image003.png](#)  
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[image005.png](#)

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**Warning:  
External  
Email**

Kevin,

In order not to have to comply with the current version of the Surplus Land Act (“SLA”), the land that is the subject of the City of Chula Vista’s transaction would have to qualify as “exempt surplus land” under Government Code section 54221(f)(1). Alternatively, the City would not have to comply with the current version of the SLA if Government Code section 54234 applies to the transaction. Government Code sections 54221(f)(1) and 54234 are copied below for your reference.

Please send any additional questions to [publiclands@hcd.ca.gov](mailto:publiclands@hcd.ca.gov).

**54221** (f) (1) Except as provided in paragraph (2), “exempt surplus land” means any of the following:

(A) Surplus land that is transferred pursuant to Section 25539.4.

(B) Surplus land that is (i) less than 5,000 square feet in area, (ii) less than the minimum legal residential building lot size for the jurisdiction in which the parcel is located, or 5,000 square feet in area, whichever is less, or (iii) has no record access and is less than 10,000 square feet in area; and is not contiguous to land owned by a state or local agency that is used for open-space or low- and moderate-income housing purposes. If the surplus land is not sold to an owner of contiguous land, it is not considered exempt surplus land and is subject to this article.

(C) Surplus land that a local agency is exchanging for another property necessary for the agency’s use.

(D) Surplus land that a local agency is transferring to another local, state, or federal agency for the agency’s use.

(E) Surplus land that is a former street, right of way, or easement, and is conveyed to an owner of an adjacent property.

(F) Surplus land that is put out to open, competitive bid by a local agency, provided all entities identified in subdivision (a) of Section 54222 will be invited to participate in the competitive bid process, for either of the following purposes:

(i) A housing development, which may have ancillary commercial ground floor uses, that restricts 100 percent of the residential units to persons and families of low or

moderate income, with at least 75 percent of the residential units restricted to lower income households, as defined in Section 50079.5 of the Health and Safety Code, with an affordable sales price or an affordable rent, as defined in Sections 50052.5 or 50053 of the Health and Safety Code, for a minimum of 55 years for rental housing and 45 years for ownership housing, and in no event shall the maximum affordable sales price or rent level be higher than 20 percent below the median market rents or sales prices for the neighborhood in which the site is located.

(ii) A mixed-use development that is more than one acre in area, that includes not less than 300 housing units, and that restricts at least 25 percent of the residential units to lower income households, as defined in Section 50079.5 of the Health and Safety Code, with an affordable sales price or an affordable rent, as defined in Sections 50052.5 and 50053 of the Health and Safety Code, for a minimum of 55 years for rental housing and 45 years for ownership housing.

(G) Surplus land that is subject to valid legal restrictions that are not imposed by the local agency and that would make housing prohibited, unless there is a feasible method to satisfactorily mitigate or avoid the prohibition on the site. An existing nonresidential land use designation on the surplus land is not a legal restriction that would make housing prohibited for purposes of this subparagraph. Nothing in this article limits a local jurisdiction's authority or discretion to approve land use, zoning, or entitlement decisions in connection with the surplus land.

(H) Surplus land that was granted by the state in trust to a local agency or that was acquired by the local agency for trust purposes by purchase or exchange, and for which disposal of the land is authorized or required subject to conditions established by statute.

(I) Land that is subject to Sections 17388, 17515, 17536, 81192, 81397, 81399, 81420, and 81422 of the Education Code and Part 14 (commencing with Section 53570) of Division 31 of the Health and Safety Code, unless compliance with this article is expressly required.

(J) Real property that is used by a district for agency's use expressly authorized in subdivision (c).

(K) Land that has been transferred before June 30, 2019, by the state to a local agency pursuant to Section 32667 of the Streets and Highways Code and has a minimum planned residential density of at least one hundred dwelling units per acre, and includes 100 or more residential units that are restricted to persons and families of low or moderate income, as defined in Section 50093 of the Health and Safety Code, with an affordable sales price or an affordable rent, as defined in Sections 50052.5 and 50053 of the Health and Safety Code, for a minimum of 55 years for rental housing and 45 years for ownership housing. For purposes of this paragraph, not more than 20 percent of the affordable units may be restricted to persons and families of moderate income and at least 80 percent of the affordable units must be restricted to persons and families of lower income as defined in Section 50079.5 of the Health and Safety Code.

**54234.** (a) (1) If a local agency, as of September 30, 2019, has entered into an exclusive negotiating agreement or legally binding agreement to dispose of property, the provisions of this article as it existed on December 31, 2019, shall apply, without regard to the changes made to this article by the act adding this section, to the disposition of the property to the party that had entered into such agreement or its successors or assigns, provided the disposition is completed not later than December 31, 2022.

(2) The dates specified in paragraph (1) by which the disposition of property must be completed shall be extended if the disposition of property, the local agency's right or ability to dispose of the property, or a development project for which such property is proposed to be transferred, is the subject of judicial challenge, by petition for writ of mandate, complaint for declaratory relief or otherwise, to the date that is six months following the final conclusion of such litigation.

(b) (1) With respect to land held in the Community Redevelopment Property Trust Fund pursuant to Section 34191.4 of the Health and Safety Code, or that has been designated in a long-range property management plan pursuant to Section 34191.5 of the Health and Safety Code, either for sale or retained for future development, this article as it existed on December 31, 2019, without regard to the changes made to this article by the act adding this section which take effect on January 1, 2020, shall apply to the disposition of such property if both of the following apply:

(A) An exclusive negotiating agreement or legally binding agreement for disposition is entered into not later than December 31, 2020.

(B) The disposition is completed not later than December 31, 2022.

(2) If land described in paragraph (1) is the subject of litigation, including, but not limited to, litigation challenging the disposition of such property, the right or ability to dispose of the property, or a development project for which such property is proposed to be transferred, the dates specified in paragraph (1) shall be extended to the date that is six months following the final conclusion of such litigation.

(c) Nothing in this section shall authorize or excuse any violation of the provisions of this article as it existed on December 31, 2019, in the disposition of any property to which such provisions apply pursuant to subdivision (a) or (b).

Thank you,



**Harrison Anixter**

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**From:** Kevin Pointer <kpointer@chulavistaca.gov>  
**Sent:** Monday, April 27, 2020 3:55 PM  
**To:** Olmstead, Zachary@HCD <Zachary.Olmstead@hcd.ca.gov>  
**Cc:** PublicLands@HCD <publiclands@hcd.ca.gov>  
**Subject:** Interpretation of Surplus Lands Act (AB 1486, Ting, 2019)

Good afternoon Deputy Director Olmstead,  
Early last year, the City of Chula Vista initiated a solicitation for developer proposals of city-owned public lands for the purposes of developing a mixed-use, transit-oriented development. Affordable housing was among the allowable and prioritized land uses for the property. The solicitation was initiated prior to the effectiveness of AB 1486. Given that AB 1486 was not effective at the time the City of Chula Vista initiated the solicitation, notice the property as surplus lands was not provided to HCD or developers who have notified HCD of their interest in developing affordable housing on surplus lands. The City advertised the solicitation broadly to the development community, including to affordable housing developers. Some of the proposals received included the development of affordable housing.

A councilmember has requested I ask HCD the following:  
Could the City of Chula Vista continue with this solicitation, selecting a development proposal received, and be deemed to have satisfied the requirements of AB 1486 given that: 1) AB 1486 was not effective when the solicitation was initiated; 2) the solicitation was broadly advertised to developers, including to affordable housing developers; and, 3) the City received proposals that include affordable housing?

Will you or the appropriate HCD staff please provide a response to this councilmember's question?

Additional information regarding the solicitation is available on the City's project webpage for reference:

<https://www.chulavistaca.gov/businesses/development-opportunity> [chulavistaca.gov]

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