



January 23, 2015

Heidi Sykes
California Department of Transportation
1120 N Street, MS #28
Sacramento, CA 95814

Thank you for submitting the standardized regulatory impact assessment (SRIA), the summary (Form DF-131), and other related documents for the Affordable Sales Program Regulations as required in California Code of Regulations, title 1, section 2002(a)(1). Finance agrees that the proposed regulations meet the major regulations threshold based on the impacts calculated.

The Affordable Sales Program regulations will allow Caltrans to sell roughly 400 excess residential properties from the highway 710 connector program in Southern California. Currently, a mix of affordable renters and market-rate tenants occupies these properties, although in many instances the rates are lower than for comparable properties due to the uncertainty of length of tenure. The rents go in part to the local area government, with the remainder allocated to transportation bond debt repayments, thus lowering General Fund obligations for the state. The underlying statutes direct Caltrans to allocate sales revenue to specified transportation projects in the region. The proposed regulations lay out the order of eligibility, the conditions for sale, and how to calculate prices for qualified buyers. Thus the impacts stem from the revenues the state receives and the benefits the buyers receive if they do not have to pay fair market value. There are also contingencies for the penalties and difference the state receives if the sale conditions are violated in the future.

Finance generally concurs with the methodology used to estimate the annual impacts under the affordable sales program. However, the analysis is incomplete with respect to the impacts on affordable price purchasers and the fiscal impacts.

Caltrans derived estimates of the number of properties that will be sold at an affordable price to qualifying tenants, and proposed safeguards such as a 30-year deed restriction on resale and penalties for noncompliance with sale restrictions (such as rental instead of owner occupancy, or early resale). The estimates rely on the assumptions that tenants will be able to qualify for a mortgage under these conditions, they are able to get mortgage financing, and they choose to purchase the property with the restrictions. However, the 30-year deed restriction and noncompliance penalties that benefit the state impose significant risk on the potential purchaser, and there is a large shift in benefits to the purchaser at that 30-year mark. For example, if there were a change in family situation, or a job opportunity out of the area before 30 years have elapsed, the purchaser would have to repay the state the difference between their purchase price and the fair market value, plus penalties of 6 percent a year over the length of their ownership. After the 30 years have elapsed, the tenant would receive the entire resale value, while the state would receive nothing. These conditions would likely decrease the number of affordable price purchasers, since it would not only discourage potential purchasers, it would make it difficult for banks to offer mortgages.

Writing all the contingencies into the regulation would be unreasonable, but the state does need some safeguards. There are other alternatives, however, that would preserve the incentives for

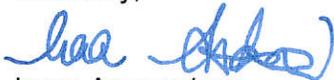
affordable price purchase while allowing the state to be reimbursed under second sale at fair market value. For example, the appreciation could be allowed to accrue to the purchaser and the state at the same proportions of purchase price and fair market value: a purchase at \$200,000 of a \$1 million property would imply the purchaser receives 20 percent of any subsequent sale (assuming it is sold at a price above the first-sale fair market value), and the state receives 80 percent of the subsequent sale (or, at a minimum, \$800,000). Under such conditions, the risks would be easier to assess for potential affordable price purchasers and banks, and would still meet the requirements of statute.

There is also a question regarding the impacts of a second sale of an affordable price property if the borrower defaults and the mortgage issuer liquidates the property. The property is unlikely to remain an affordable price property, and a lender is likely to sell the property at a price closer to the fair market value. However, the regulation is silent on whether the lender would return any of the sales proceeds to the state. If the lender is able to keep the proceeds, they receive a benefit, while the state does not. The SRIA assumes that the safeguards are enough that second sales would only happen after the 30-year deed restriction expires. This requires either much stronger justification, or the SRIA must also address the impacts that occur after a second sale.

The discussion of the fiscal impacts of the regulation, and the resulting statewide impact on businesses and individuals, is also incomplete. The current rents relieve some obligations from the General Fund. The sale of the properties thus would have impacts on individuals and businesses across the state through the tax burdens needed to absorb the impact on the General Fund. After the sales occur, the proposed regulations imply benefits to the local economy at the expense of costs to the rest of the state. While the SRIA does include the impact of additional transportation spending on the local economy, the SRIA must also discuss the impacts to the General Fund.

These comments are intended to provide sufficient guidance outlining revisions needed in this analysis. As the first public comment period has already passed, the SRIA, a summary of our comments, and your responses to them must be circulated during an additional public comment period through the Office of Administrative Law. If any significant changes to the proposed regulations result in revisions to the economic impacts in the report, Caltrans is reminded that the revised economic impacts must be reflected on the Standard Form 399 for the rulemaking file submittal to the Office of Administrative Law. A copy of the SRIA, Form DF-131, and our comments have been posted on Finance's website, and you may request that we post your response and a revised SRIA (if any) as well. Please let us know if you have any questions regarding our comments.

Sincerely,



Irena Asmundson
Chief Economist

Cc: Ms. Panorea Avdis, Governor's Office on Business and Economic Development
Ms. Debra Cornez, Office of Administrative Law
Mr. Brian P. Kelly, California State Transportation Agency
Mr. Brian Annis, California State Transportation Agency
Mr. Malcolm Dougherty, California Department of Transportation

Mr. Brent Green, California Department of Transportation
Ms. Jennifer Lowden, California Department of Transportation
Ms. Kara Sutliff, California Department of Transportation