



December 7, 2020

Director Gustavo Velasquez  
California Department of Housing and Community Development  
2020 West El Camino Ave.  
Sacramento, CA 95833  
Submitted via email to: [publiclands@hcd.ca.gov](mailto:publiclands@hcd.ca.gov)

**RE: Surplus Land Act Draft Guidelines [As Issued November 13, 2020]**

Dear Director Velasquez:

The Cosumnes Community Services District (CSD) submits this letter in response to the California Department of Housing and Community Development (HCD) request for public comment on draft guidelines for the Surplus Land Act (SLA). **Our district is respectfully opposed to the draft guidelines unless they are amended to address several serious concerns, as outlined below.**

The Cosumnes CSD serves an estimated 190,680 south Sacramento County residents in a 157 square mile area. Its award-winning parks and recreation services – including the operation of 99 CSD parks – operate exclusively within the Elk Grove community. It provides fire protection and emergency medical services for the cities of Elk Grove and Galt and unincorporated areas of south Sacramento County.

The Cosumnes CSD owns vacant land received through land dedications and purchases that were made to provide parks, recreation, and fire and emergency medical services. With 99 parks and several more under construction, park development is based on available funds and collection of various financing sources including impact fees, Landscape & Lighting District funds, Quimby fees, Community Facilities District (CFD) funds, and lease revenue from vacant land. To offset costs the Cosumnes CSD may enter into leases with public and private agencies for use of vacant land. The land is generally zoned open space or parkland and is not leased out, nor intended, for housing purposes. Additionally, the Cosumnes CSD will choose to lease, rather than sell, the land with the intent that the land may still potentially be used for governmental purposes in the future. Forcing the Cosumnes CSD to submit to the Surplus Land Act for leases of surplus land could irrevocable impact the Cosumnes CSD's ability to generate adequate public funds or protect the land's potential future governmental use.

The Cosumnes CSD is opposed to the guidelines as currently drafted because:

1. **Section 102(i)** of the draft guidelines provides an inaccurate definition for “disposition of surplus land” that has no basis under the law. HCD fails to provide any support for the conclusion that “disposition of surplus land” includes sale **or lease** of local agency-owned land formally declared surplus:
  - a. Not a single statute referenced by the guidelines defines “dispose” or “disposition” nor addresses whether an agency leasing surplus land for non-housing purposes constitutes a disposition under the SLA.
  - b. The plain text of the SLA, Cal. Government Code §§ 54220 – 54234, does not define “dispose” or “disposition” to include leasing.
  - c. We can find no precedent or example of any California Appellate Court making the determination that a public agency leasing surplus land is a “disposition” of that surplus land.

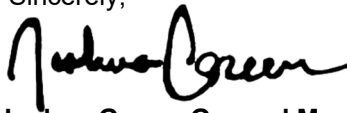
- d. The California Legislature excluded leasing from the definition of “dispose,” by amending AB 1486 in the legislative process to specifically remove any use of the phrase “lease” or “leasing” in conjunction with disposition of surplus land and removed any definition provided for “dispose.”
2. **Section 103(b)(3)** of the draft guidelines, covering surplus land exemptions, fails to include a specific classification for exempt surplus land found in the SLA pursuant to Government Code section 54221(f)(1)(J), which plainly states that real property that is used by a district for agency’s use expressly authorized in 54221(c) is exempt surplus land. This omission must be corrected by revising the HCD guidelines to include a discussion of the exempt surplus land classification permitted under section 54221(f)(1)(J).
3. **Section 400(e)** of the draft guidelines, requiring an agency to provide HCD with written findings and a “notice of exemption determination” at least 30 days prior to disposition of exempt surplus land, has no basis under the SLA.

Under the draft guidelines, attempting to lease land in support of an agency’s governmental function would trigger the requirements for the disposal of surplus land. The guidelines would also make it more difficult to protect an agency’s land for critical governmental use and planning purposes.

Our opposition is not a challenge to the demand for affordable housing, but rather a validation of the need for local flexibility when it comes to proper governmental land use management.

For these reasons, the Cosumnes CSD respectfully requests HCD amend the SLA Draft Guidelines to correct the aforementioned issues.

Sincerely,



**Joshua Green, General Manager  
Cosumnes Community Services District**

CC: Alyssa Silhi, Legislative Representative, California Special Districts Association [advocacy@csgda.net]