

**Alternative Suggestions that are based on the Spirit of the Roberti Law,
the Administrative Procedure Act, the Carol Liu Law and the California
Constitution.**

Comments Submitted by United Caltrans Tenants (UCT)

Tuesday 7/15/14

Introduction and Perspective:

The following is a collective statement from United Caltrans Tenants (UCT). It is unwavering in its perspective but unfinished in its content because we have been forced to present this prematurely within an unjust 45-day comment period.

UCT was formed nearly 2 years ago by tenants from all three 710 Corridor cities but mainly from El Sereno. UCT arose in response to the Caltrans' notice that many tenants' rents would be raised at a brutal 10% every six months. Which, by the way, is still an ongoing injustice that Caltrans should stop doing - so far another unused opportunity by Caltrans to do the right thing and show good faith. The second major issue driving UCT's formation was the lack of property maintenance, vacant property neglect, disrespect, bullying and abuse - in a nutshell, Caltrans' overall slumlord property management practices. We from UCT will not go into all the issues that fall under these 2 general categories - there are too many and this is not why we are here today. Suffice it to say that the following United Caltrans Tenants comments are related to Caltrans' Regulations Proposal, and represent the wishes of tenants from the El Sereno, South Pasadena and Pasadena areas. We are here to uphold the spirit of fairness and protections of community that the Roberti Law embodies. This is our statement:

A. The Spirit and Intent of the Roberti Law and APA Law.

The Roberti Law states:

- SECTION 54235 The Legislature further finds and declares that the sale of surplus residential property pursuant to the provisions of this article will directly serve an important public purpose.
- Wherefore, the Legislature intends by this article to preserve, upgrade and expand the supply of housing available to persons and families of low or moderate income.
- The Legislature further intends by this article to mitigate the environmental effects, within the meaning of Article XIX, of the California Constitution, caused by highway activities....

UCT's proposal is based on the Roberti Law's spirit of providing affordable housing and in not only mitigating (alleviating) the environmental impact (the damage done to communities by the initial acquisition of the 710 Corridor houses) but in making

sure that the 3 communities affected by that initial purchase do not suffer any additional trauma and destruction.

UCT's proposal is also based on the fact that we, as renters, are major stakeholders on the sale of our homes. We tenants, and former tenants have a right to a comment period that would allow us **meaningful participation throughout this entire process**. We partly base this right on the Administrative Procedure Act (APA) current law, that was designed to guarantee, the public meaningful participation. The APA law was established with the following stated reasons:

- 11340-11342.4 *"The language of many regulations is frequently unclear and unnecessarily complex... The language is often confusing to the persons who must comply with the regulations.*
- *The complexity and lack of clarity in many regulations put small businesses, [the public] which do not have the resources to hire experts to assist them, at a distinct disadvantage."*

A 45-day comment period is the minimum required by law, but is not enough in our situation. UCT consists of mostly working class tenants and former tenants with families. To develop a responsible alternative to the proposed regulations without the help of lawyers we need minimally 120 days. Caltrans' refusal to reconsider this request so far can be seen as not only discriminatory but it is in violation of the APA (Administrative Procedure Act) intent and unconstitutional.

As such, our comments are a draft document that needs more attention and development-therefore an additional 58-day extension is warranted.

B. The State of California is a not for Profit Corporation: We also base our proposals on the common notion and fact that the State of California was created by the people to insure an equitable distribution of resources and to allow for the meaningful participation of civil society in the state's decision making process.

As a non-profit State we hold to the constitutionally based nature of the Attorney Generals' opinion (Office of Atty. General Edmund G. Brown Jr., Opinion Number 07-801 issued December 30, 2009), which states:

"Therefore, we conclude that, although the Constitution generally prohibits the Department of Transportation from selling or renting real property that it has acquired with motor vehicle fuel and use tax revenues for less than that property's fair market value or fair rental value, below-market sales or rentals of such properties are constitutionally permissible as a limited exception to this general prohibition if the property qualifies as "surplus residential property" under the affordable-housing legislation known as the Roberti Law."

UCT Initial Proposal's Main Points

1. On the 45-day Regulation Setting Comment Period

In the *spirit* of the Roberti Law and the APA, tenants as major stakeholders, have a right to a comment period that would allow them meaningful participation. A 45-day comment period, is the minimum required by law, but is not enough time for us, working class tenants, to develop a responsible alternative to the proposed regulations. UCT's request to Andrew Nierenberg of Caltrans to extend the comment period to 120 days was ignored. After receiving a request from South Pasadena, Caltrans conceded and extended the comment period to 5:00 PM, July 31st 2014. This extends the comment period by 17 days, well below what UCT is requesting. UCT is requesting Caltrans to extend the Public Comment period for a total of 120 days. We, the tenants that are actively compiling the feedback coming in from other tenants know that 120 days is minimally needed to reach the legal standard of meaningful participation. Thus 58 more days is warranted.

2. On Rent Credits

A. Relating to the purchase price, Caltrans should credit all rent previously paid and offset that full amount-100% against the current purchase price, which should not exceed the Original Housing Purchase Price (OHPP) that Caltrans paid to initially acquire the property. The amount that is credited shall not exceed the amount of the Original Housing Purchase Price (OHPP).

3. On Tenant Real-Estate Interest Issue

A. That a reasonable amount of real estate be allowed up to 500,000 in equity. Given today's cost of living seniors particularly need a reasonable safety net that can be used in emergencies and to offset medical bills.

4. On Current Priority Rights

A. That in all cases of tenants with more than 5 years, that the priority to right of refusal go first to the current tenant. If the tenant has less than 5 years, that the previous tenant that left in Good Standing have the seniority right and be given the right of first refusal. That those tenants with less than 5 years be given an opportunity to purchase one of the tenantless surplus properties before it is offered to non-profits or auction but only after the offered to FTIGS Former Tenants in Good Standing.

B. All options to purchase should be offered at no more than Original Housing Purchase Price (OHPP) paid for by Caltrans adjusted for inflation (Rule 72) and no less than the Original Housing Purchase Price (OHPP) paid for by Caltrans.

5. On 30 year Covenants

A. No to all covenants. Rationale: The Caltrans homes on the 710 Corridor have been under Caltrans control for almost 50 years. During that time, Caltrans has **not** maintained most of these houses and because of that neglect most have serious damage and are in a deteriorated condition. Under these conditions even without additional restrictions it is going to be difficult to obtain financing for the purchase of these houses. Many of the tenants on the Corridor have been in their homes many years and are near retirement. These restrictions cause undue burden. The covenants will make it even more difficult to obtain a loan and that will further frustrate the intent of the Roberti Law.

6. On The Right of Family Co-signers

A. Extended family members, regardless of income, not currently residing in the home can purchase the home for their family member who is residing in the home on their behalf.

7. On Conditional Offer Prior to Sale

A. Cross apply 3A. Remove because it unfairly discriminates against seniors who may have purchased retirement properties, those who have inherited property no matter how small the property interest, those who had property interests and have lost them, and other special circumstances. For example, those who have property that is upside down.

B. Caltrans needs to provide tenants with documents that fully detail and explain the 2014 LA County Median Income stipulations. Can it be prorated to reflect the COLA that will show up in next year's charts?

(1) What is an income-qualified buyer? See CCR Title 25, section 6910

(2) Fair Market Value – What goes into this? How is Fair Market Calculated? What properties are compared to calculate the Fair Market Value? Clarify?

(3) Define reasonable price? Why will Fair Market Value be used for single-family buyers, but "REASONABLE PRICE" for public private entities?

8. On Multiple Dwelling Cooperative Possibilities

A. That tenants in Multiple Family Dwelling have the ability to bid on any available unit in a Multiple Family Dwelling.

B. That the housing authority or a public housing entity of each city make themselves available to facilitate the establishment of a cooperative for the purchase of MDC.

C. If Multiple Family Dwelling Cooperatives do not materialize, then those tenants currently residing in Multiple Family Dwellings would then have the option of purchasing any unoccupied surplus Caltrans home for sale.

9. On Former Tenant in Good Standing Tenant Category

A. That immediately there be a registry set up for all those former tenants in good standing (FTGS) that are aware of the Carol Liu Law and that should have a shot at their previous house or to surplus houses that are not currently occupied. "Tenants in Good Standing" is a term and a population that is a legal stakeholder and as such have the right to know and participate in every stage of the sales process.

B. Any persons evicted or who have moved from their properties for any reason related to the increase in rent or property sales within a time span of the last 5 years will have the option to purchase where they previously resided in or any of the other vacant properties that will be for sale at the purchase prices originally paid for by Caltrans to acquire said property.

C. Some tenants have been moved from their state owned homes for reasons of Department need. These former tenants in good standing (FTGS) should be the beneficiaries of the law if they elect to participate.

A review of the tenant/landlord law in California seems to suggest that these conditions should be used to determine a "former Tenant in good standing":

That the former tenant's house was delivered back in condition acceptable to the state and all past due rent, charges, costs and expenses related to the occupancy were settled. The legislation speaks of affected persons and the preservation of the fabric of the community, FTGS should have demonstrable ties to the community: schools, churches, and community affairs. FTGS should have consideration for those on fixed income and income consistent with the intent of the Roberti Bill. Interest in other real property should be consistent with 3. A, as previously mentioned, There should be intent to reside in the home as a primary residence. If homes of last residency of FTGS are not available to them, FTGS should have preference to purchase long vacant homes with no claimants.

10. On Current Tenants NOT in Good Standing Tenant Category

Caltrans is carrying out a forensics audit on all tenants. It is completely unprofessional and unjust because In many cases the information found is being used not in good faith to unfairly categorize current tenants as not in good standing,

effectively eliminating them from the sale process. We completely disagree with the way that Caltrans is labeling tenants as "not in good standing." For example there are cases in which tenants fell behind on rent due to mitigating circumstances such as loss of employment, illness, and death. There are also cases in which tenants were short on the rent due to rent changes, confusion or human error, in some cases short by less than 10 cents. Also cases in which the tenants were instructed by Caltrans agents to deduct rent for immediate repairs that Caltrans was unable to pay for due bureaucratic inefficiencies. In all cases these tenants must to be reinstated as "Tenants in Good Standing" effectively immediately. In addition any accounting errors discovered after one year should be absolved and absorbed by Caltrans due to their accounting inefficiencies.

11. On those over the 150% Median Income

A. That tenants falling into the "Over the 150% Median Income" category in the Prospective Buyer in Priority Order list be moved from Number 5 to Number 4 and Number 4 becoming Number 5 on the list. These tenants should have an opportunity to purchase a home outright from Caltrans and not have to deal with any designated public or private affordable housing organizations. These tenants should be offered to buy at the same costs indicated above. Cross apply 4.B. [All options to purchase should be offered at no more than Original Housing Purchase Price (OHPP) paid for by Caltrans adjusted for inflation (Rule 72) and no less than the Original Housing Purchase Price (OHPP) paid for by Caltrans.]

B. If necessary, Caltrans should enact emergency regulations if this is what's needed to accomplish this adjustment.

12. Property Management

A. The body proposes that Caltrans designate a public housing agency to administer the Rehabilitation Fund created by SB416. Caltrans is not equipped to do this and the audit demonstrated it is unable to adequately monitor funds for this purpose. There are too many delays and overlapping oversight and quality suffers when handled by Caltrans.

13. Relocation Assistance

A. Tenants who need to vacate due to sale of the property ought to receive a 120 day notice to vacate and not be required to pay for rent while they seek alternative housing in addition to receiving the maximum, or in excess of maximum limits, statutory stipends and other benefits contained in the Federal Relocation Assistance Program. They should also be relocated to available Caltrans housing available (or made available for this purpose).

B. Available Federal Relocation Assistance Program benefits ought to be provided for tenants as needed and based on eligibility.

14. **On Minimum Property Standards**

- What are Minimum Property Standards?
- What appraisal process will Caltrans use to determine the value and sale price of each home?
- Will each tenant have the option to hire his or her own independent appraiser?
- Will Caltrans accept their appraisal in determining the value of the home?
- Will past inspection reports, assessed problems, and reported unfixed problems be used in determining the value of the property?
- Will Calif. codes for habitability be utilized?
- Will closer comps from same zip code be used to determine the value of the properties? (For example, comparing homes of similar property and home square footage, with similar bedrooms and bathrooms, in similar condition in the same zip code and more specifically homes within same neighborhoods). Depreciation needs to be factored in.

15. **Housing-Related Public Entity**

We need expanded definition for Public Housing Agencies. The assumption is that PHA is individual to each city.

16. **Various Questions**

- A. Code Sections 54237 (a) & (d): What are these codes? What do they say? What do they mean?
- B. What does "each buyer's option" mean exactly?
- C. Code Sections 1475 (a): What does "upgrade" mean? What is an affected person? – We need a clear definition.
- D. Code Section 1475 (d): We need definition of majority age.
- E. Code Section 1476 (f): What is property for purpose of exchange?