



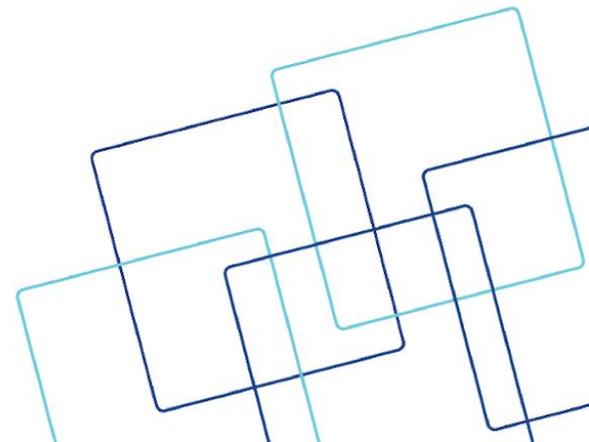
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# Workforce Housing: A Work In Progress

Presented by: Kelly M. Rem

SAN MATEO-FOSTER CITY SCHOOL DISTRICT

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# Presenter

## Kelly M. Rem

### AT LOZANO SMITH

Kelly M. Rem is the Office Managing Partner of Lozano Smith's Walnut Creek Office. Ms. Rem specializes in Facilities and Business law and Litigation for public agency clients throughout California.

Ms. Rem has extensive experience advising clients throughout the state on real property issues, ranging from school closures to asset management to the complicated process associated with sale or lease of school district real property. During her career, she has handled tens of millions of dollars' worth of real property sales, acquisitions, and leases, as well as property exchanges. She greatly enjoys helping school districts and other local agencies capitalize on their assets for the benefit of their students and the community.



### CONNECT

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# What is Educator Workforce Housing?

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Low or below market rate housing units provided for district employees



# Why Educator Workforce Housing?

Nationally, 35% of educators are “rent-burdened” (paying more than 30% of their income in rent) but problem is especially pronounced in California with rapidly rising housing costs.



# Recent Legislation





## Teacher Housing Act of 2016

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“A school district may establish and implement programs that address the housing needs of...employees who face challenges in securing affordable housing.”



(Health & Safety Code, § 53573.)

# Assembly Bill 1157

- Effective January 1, 2018, Assembly Bill (AB) 1157 exempted school districts from the requirement that they establish a 7-11 Committee to consider declaring property surplus if the district intends to use the surplus property for employee rental housing.
- The expressed legislative intent behind AB 1157 was to exempt school district property to be used for district workforce housing from the surplus property process, but the law stops short of a broad exemption beyond removing the 7-11 Committee process

# Assembly Bill (AB) 2295



Effective Jan. 1, 2024

A local agency may use any of its real property for a housing development but must satisfy statutory criteria.

## AB 2295 Criteria

- At least 10 housing units
- Recorded deed restrictions that for 55 years a majority of the units shall be affordable to lower or moderate-income households. (30% affordable housing)
- 100% of the units rented to LEA employees, local public employees, or general members of the public as a last resort.
- Property is adjacent to residential
- Located on an infill site

# AB 2295 Criteria

- Residential density shall be the greater of: Residential density allowed on the parcel by city or county, or the applicable density deemed appropriate to accommodate housing for lower income households.
- Height limit shall be the greater of the following: height limit allowed on parcel by City or County or 35 feet.
- Housing development shall satisfy other objective zoning, subdivision, and design review standards.
- Property is located within any applicable urban limit line or urban growth boundary.
- Housing development complies with all infrastructure related requirements, including impact fees.



# Options for Workforce Housing



# Build or Acquire?

## Build:

- Considerations
  - Surplus property issues
  - Land use and zoning issues
  - Delivery methods
  - Financing

## Acquire:

- Financing

# Surplus Property

If the District uses its own property for workforce housing, portions of the Education Code containing surplus property requirements may apply.

# Process

- California Education Code requires specific procedures in relation to selling or leasing surplus school district property. (See generally Ed. Code, §§ 17387-91, 17455, et seq.)
- School district workforce housing projects are generally exempt from the 7-11 Committee requirement. (Ed. Code, §17391(b).)
- Surplus Land Act requires additional procedures, but school districts are typically exempt. (See generally Surplus Land Act (SLA), Gov. Code, §§ 54220-54234)

# Board Declaration

- Board may declare the property as “surplus land.”
- Board may also find that the property constitutes “exempt surplus land” within the meaning of the Government Code.
- Can be used to trigger offers to other public agencies for negotiated sale.

# Naylor Act Notices



Offers must be made to certain public agencies for property previously used for playground, playing field, or for outdoor recreational purposes

- Used for 8 prior years
- No other publicly owned land in the vicinity to meet these needs
- Price is limited

## Lease w/ No Option to Purchase

No additional notices required beyond Naylor Act.

- But leases over 15 years may be subject to SLA noticing requirements if not exempted

Sales or leases with an option to purchase require additional noticing.

# Resolution of Intention to Sell or Lease

Board must adopt prior to sale or lease

2/3 vote requirement

Does not commit District to sell or lease



# Bidding/Waiver

- Sale or lease to highest bidder in open session, with oral bids allowed
- Most school districts seek and obtain State Board of Education waiver
  - Allows for an RFP process
  - Sale/lease does not have to go to the high bidder
  - No oral bids
  - Permits school district to choose a partner



# Land Use & Zoning Issues

- Applicability of local zoning and building codes could limit development of the housing project and require local city approval.
  - The District may not be able to exempt itself from local zoning ordinances, as workforce housing likely constitutes a “nonclassroom facility.”
  - Coordination is likely needed with city and/or county authorities.
  - This can lead to pressure to include other public employees as tenants (e.g., fire and police)
- AB 2295 Criteria – property must satisfy other objective zoning, subdivision, and design review standards.
- Community support

# Construction Issues



- Public Works Project –  
Prevailing Wages and  
Labor Code
- DSA Oversight?

# Purchase Considerations - Financing

- The viability of using local bond funds for workforce housing is unclear.
- Certificates of Participation (COPs) —require the District to put up property as collateral.
- Public-Private Partnerships
- The sale of surplus property may also be a workable source of funding.

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Option to sell or leverage  
Knolls Property  
for workforce housing?

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# Workforce Housing Delivery Methods

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## Lease to a Private Partner

Subject to the surplus property process

Award the lease to the highest responsible bidder or seek a state waiver

Private partner develops the housing

# Lease to Nonprofit Public Benefit Corporation

Ed. Code, §§ 17418, et seq.

- Corporation constructs the project for use by the District
- Lease awarded to low bidder
- District approves members and/or directors of corporation
- Corporation's earnings benefit the District
- Max lease term of 99 years
- No express limit on project revenue use

# Joint Occupancy

Ed. Code, §§ 17515, et seq.

- School district leases real property to a private entity or local governmental agency
- Lease agreement requires private entity to construct a building for the joint use of both parties
- Exempt from surplus property requirements

# Public-Private Partnership (“P3”)

Gov. Code, §§ 5956, et seq.

- Allows for solicitation of proposals from private entities for design and construction of a revenue-generating project
- Site leased to private entity for up to 35 years
- Private entity to construct
- During lease term, private entity collects revenue generated by project
- Reverts to District when lease expires
- Private entity selected via competitive negotiation process
- Excess revenues go to an “appropriate government account”

# Additional Options

District handles  
independently, or

Partner with another public  
agency?

# Questions





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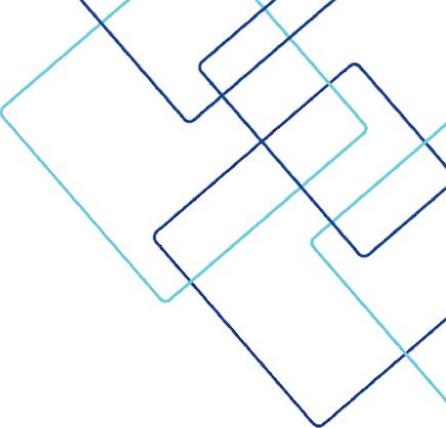
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