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GOVERNMENT CODE - GOV

TITLE 6. DISTRICTS [58000 - 62464] (Title 6 added by Stats. 1951, Ch. 331.)

DIVISION 4. Community Revitalization and Investment Authorities [62000 - 62208] (Division 4 added by Stats. 2015, Ch. 319, Sec. 2.)

PART 3. Property Acquisition [62200 - 62208] (Part 3 added by Stats. 2015, Ch. 319, Sec. 2.)

62200. "Real property" means any of the following:

- (a) Land, including land under water and waterfront property.
- (b) Buildings, structures, fixtures, and improvements on the land.
- (c) Any property appurtenant to or used in connection with the land.
- (d) Every estate, interest, privilege, easement, franchise, and right in land, including rights-of-way, terms for years, and liens, charges, or encumbrances by way of judgment, mortgage, or otherwise and the indebtedness secured by those liens.

(Added by Stats. 2015, Ch. 319, Sec. 2. (AB 2) Effective January 1, 2016.)

62201. Within the plan area or for purposes of revitalization an authority may:

- (a) Purchase, lease, obtain option upon, acquire by gift, grant, bequest, devise, or otherwise, any real or personal property, any interest in property, and any improvements on it, including repurchase of developed property previously owned by the authority. An authority shall obtain an appraisal from a qualified independent appraiser to determine the fair market value of property before the authority acquires or purchases real property.
- (b) Accept, at the request of the legislative body of the community, a conveyance of real property (located either within or outside the plan area) owned by a public entity and declared surplus by the public entity, or owned by a private entity. The authority may dispose of that property to private persons or to public or private entities, by sale or long-term lease for development. All or any part of the funds derived from the sale or lease of that property may, at the discretion of the legislative body of the community, be paid to the community, or to the public entity from which any of that property was acquired.
- (c) Sell, lease, grant, or donate real property owned or acquired by the authority in a plan area to a housing authority or to any public agency for public housing projects.
- (d) Offer for resale property acquired by an authority for rehabilitation and resale within one year after completion of rehabilitation. Properties held by the authority in excess of a one-year period shall be listed in the authority's annual report with information conveying the reasons that property remains unsold and indicating plans for its disposition.
- (e) Acquire real property by eminent domain, provided that authority is exercised within 12 years from the adoption of the plan.

(1) Every plan adopted by an authority which contemplates property owner participation in the revitalization of the plan area shall contain alternative provisions for revitalization of the property if the owners fail to participate in the revitalization as agreed. Prior to the adoption of a plan, each property owner whose property would be subject to acquisition by purchase or condemnation under the plan shall be sent a statement in nontechnical language and in a clear and coherent manner using words with common and everyday meaning to that effect attached to the notice of the hearing as required by subdivision (b) of Section 62004. Alternatively, a list or map of all properties which would be subject to acquisition by purchase or condemnation under the plan may be mailed to affected property owners with the notices of hearing pursuant to Section 62004.

(2) Without the consent of an owner, an authority shall not acquire any real property on which an existing building is to be continued on its present site and in its present form and use unless that building requires structural alteration, improvement, modernization, or rehabilitation, or the site or lot on which the building is situated requires modification in size, shape, or use, or it is necessary to impose upon that property any of the standards, restrictions, and controls of the plan and the owner fails or refuses to agree to participate in the plan.

(3) Property already devoted to a public use may be acquired by the agency through eminent domain, but property of a public body shall not be acquired without its consent.

(4) An authority shall not acquire from any of its members or officers any property or interest in property except through eminent domain proceedings.

(Added by Stats. 2015, Ch. 319, Sec. 2. (AB 2) Effective January 1, 2016.)

62202. An authority shall not provide any form of direct assistance to:

(a) An automobile dealership that will be or is on a parcel of land which has not previously been developed for urban use.

(b) A development that will be or is on a parcel of land of five acres or more which has not previously been developed for urban use and that will, when developed, generate sales or use tax pursuant to Part 1.5 (commencing with Section 7200) of Division 2 of the Revenue and Taxation Code, unless the principal permitted use of the development is office, hotel, manufacturing, or industrial. For the purposes of this subdivision, a parcel shall include land on an adjacent or nearby parcel on which a use exists that is necessary for the legal development of the parcel.

(c) A development or business, either directly or indirectly, for the acquisition, construction, improvement, rehabilitation, or replacement of property that is or would be used for gambling or gaming of any kind whatsoever, including, but not limited to, casinos, gaming clubs, bingo operations, or any facility wherein banked or percentage games, any form of gambling device, or lotteries, other than the California State Lottery, are or will be played.

(d) The prohibition in subdivision (c) is not intended to prohibit an authority from acquiring property on or in which an existing gambling enterprise is located, for the purpose of selling or leasing the property for uses other than gambling, provided that the agency acquires the property for fair market value.

(e) This section shall not be construed to apply to an authority's assistance in the construction of public improvements that serve all or a portion of a project area and that are not required to be constructed as a condition of approval of a development described in subdivision (a), (b), or (c), or to prohibit assistance in the construction of public improvements that are being constructed for a development that is not described in subdivision (a), (b), or (c).

(Added by Stats. 2015, Ch. 319, Sec. 2. (AB 2) Effective January 1, 2016.)

62203. (a) Any covenants, conditions, or restrictions existing on any real property within a plan area prior to the time the authority acquires title to that property, which covenants, conditions, or restrictions restrict or purport to restrict the use of, or building upon, that real property, shall be void and unenforceable as to the authority and any other subsequent owners, tenants, lessees, easement holders, mortgagees, trustees, beneficiaries under a deed of trust, or any other persons or entities acquiring an interest in that real property from that time as title to the real property is acquired by an authority whether acquisition is by gift, purchase, eminent domain, or otherwise.

(b) Thirty days prior to the acquisition of real property other than by eminent domain, the authority shall provide notice of that acquisition and the provisions of this section to holders of interests which would be made void and unenforceable pursuant to this section, as follows:

(1) The authority shall publish notice once in a newspaper of general circulation in the community in which the agency is functioning.

(2) The authority shall mail notice to holders of those interests if those holders appear of record 60 days prior to the date of acquisition.

The authority may accept any release by written instrument from the holder of any interest or may commence action to acquire that interest after the date of acquisition of the real property.

(c) This section shall not apply to covenants, conditions, or restrictions imposed by an authority pursuant to a plan. This section also shall not apply to covenants, conditions, or restrictions where an authority in writing expressly acquires or holds property subject to those covenants, conditions, or restrictions.

This section shall not limit or preclude any rights of reversion of owners, assignees, or beneficiaries of those covenants, conditions, or restrictions limiting the use of land in gifts of land to cities, counties, or other governmental entities. This section shall not limit or preclude the rights of owners or assignees of any land benefited by any covenants, conditions, or restrictions to recover damages against the agency if under law that owner or assignee has any right to damages. No right to damages shall exist against any purchaser from the authority or his or her successors or assignees, or any other persons or entities.

(Added by Stats. 2015, Ch. 319, Sec. 2. (AB 2) Effective January 1, 2016.)

62204. (a) If an authority has adopted a plan but has not commenced an eminent domain proceeding to acquire any particular parcel of property subject to eminent domain thereunder within three years after the date of adoption of the plan, the owner or owners of the entire fee at any time thereafter may offer in writing to sell the property to the authority for its fair market value. If the authority does not, within 18 months from the date of receipt of the original offer, acquire or institute eminent domain proceedings to acquire the property, the property owner or owners may file an action against the authority in inverse condemnation to recover damages from the authority for any interference with the possession and use of the real property resulting from the plan, provided that this section shall not be construed as establishing or creating a presumption to any right to damages or relief solely by reason of the failure of the authority to acquire the property within the time set forth in this section.

(b) No claim need be presented against an authority under Part 3 (commencing with Section 900) of Division 3.6 of Title 1 as a prerequisite to commencement or maintenance of an action under subdivision (a), but any action shall be commenced within one year and six months after the expiration of the 18 months period.

(c) An authority may commence an eminent domain proceeding or designate the property to be exempt from eminent domain under the plan at any time before the property owner commences an action under this section. If the authority commences an eminent domain proceeding or designates the property to be exempt from acquisition by eminent domain before the property owner commences an action under this section, the property owner may not thereafter bring an action under this section.

(d) After a property owner has commenced an action under this section, the authority may declare the property to be exempt from acquisition by eminent domain and abandon the taking of the property only under the same circumstances and subject to the same conditions and consequences as abandonment of an eminent domain proceeding.

(e) Commencement of an action under this section does not affect any authority an authority may have to commence an eminent domain proceeding, take possession of the property pursuant to Article 3 (commencing with Section 1255.410) of Chapter 6 of Title 7 of the Code of Civil Procedure, or abandon the eminent domain proceeding.

(f) In lieu of bringing an action under subdivision (a) or if the limitations period provided in subdivision (b) has run, the property owner may obtain a writ of mandate to compel the authority, within that time as the court deems appropriate, to declare the property acquisition exempt or to commence an eminent domain proceeding to acquire the property.

(g) A declaration that the property is exempt from acquisition by eminent domain shall be by resolution and shall be recordable. It shall exempt the property from eminent domain under the plan, and the authority shall have no power of eminent domain as to the property.

(Added by Stats. 2015, Ch. 319, Sec. 2. (AB 2) Effective January 1, 2016.)

62205. Section 1245.260 of the Code of Civil Procedure shall not apply to any resolution or ordinance adopting, approving, or amending the amendment of plan. Section 1245.260 of the Code of Civil Procedure shall apply to a resolution adopted by an authority pursuant to Section 1245.220 of the Code of Civil Procedure with respect to a particular parcel or parcels of real property.

(Added by Stats. 2015, Ch. 319, Sec. 2. (AB 2) Effective January 1, 2016.)

62206. (a) The authority shall obligate lessees and purchasers of real property acquired in revitalization projects undertaken or assisted by the authority and owners of property improved as a part of a revitalization project to refrain from restricting the rental, sale, or lease of the property on any basis listed in subdivision (a) or (d) of Section 12955, as those basis are defined in Sections 12926, 12926.1, subdivision (m) and paragraph (1) of subdivision (p) of Section 12955, and Section 12955.2. All deeds, leases, or contracts for the sale, lease, sublease, or other transfer of any land in a revitalization project shall contain or be subject to the nondiscrimination or nonsegregation clauses hereafter prescribed.

(b) Notwithstanding subdivision (a), with respect to familial status, subdivision (a) shall not be construed to apply to housing for older persons, as defined in Section 12955.9. With respect to familial status, nothing in subdivision (a) shall be construed to affect Sections 51.2, 51.3, 51.4, 51.10, 51.11, and 799.5 of the Civil Code, relating to housing for senior citizens. Subdivision (d) of Section 51, Section 4760, and Section 6714 of the Civil Code, and subdivisions (n), (o), and (p) of Section 12955 shall apply to subdivision (a).

(Added by Stats. 2015, Ch. 319, Sec. 2. (AB 2) Effective January 1, 2016.)

62207. Express provisions shall be included in all deeds, leases, and contracts that the authority proposes to enter into with respect to the sale, lease, sublease, transfer, use, occupancy, tenure, or enjoyment of any land in a revitalization project in substantially the following form:

(a) (1) In deeds the following language shall appear:

“The grantee herein covenants by and for himself or herself, his or her heirs, executors, administrators, and assigns, and all persons claiming under or through them, that there shall be no discrimination against or segregation of, any person or group of persons on account of any basis listed in subdivision (a) or (d) of Section 12955 of the Government Code, as those basis are defined in Sections

12926, 12926.1 of, subdivision (m) and paragraph (1) of subdivision (p) of Section 12955 of, and Section 12955.2 of, the Government Code, in the sale, lease, sublease, transfer, use, occupancy, tenure, or enjoyment of the premises herein conveyed, nor shall the grantee or any person claiming under or through him or her, establish or permit any practice or practices of discrimination or segregation with reference to the selection, location, number, use, or occupancy of tenants, lessees, subtenants, sublessees, or vendees in the premises herein conveyed. The foregoing covenants shall run with the land."

(2) Notwithstanding paragraph (1), with respect to familial status, paragraph (1) shall not be construed to apply to housing for older persons, as defined in Section 12955.9. With respect to familial status, nothing in paragraph (1) shall be construed to affect Sections 51.2, 51.3, 51.4, 51.10, 51.11, and 799.5 of the Civil Code, relating to housing for senior citizens. Subdivision (d) of Section 51 of, and Sections 4760 and 6714 of, the Civil Code, and subdivisions (n), (o), and (p) of Section 12955 shall apply to paragraph (1).

(b) (1) In leases the following language shall appear:

"The lessee herein covenants by and for himself or herself, his or her heirs, executors, administrators, and assigns, and all persons claiming under or through him or her, and this lease is made and accepted upon and subject to the following conditions:

That there shall be no discrimination against or segregation of any person or group of persons, on account of any basis listed in subdivision (a) or (d) of Section 12955 of the Government Code, as those basis are defined in Sections 12926, 12926.1 of, subdivision (m) and paragraph (1) of subdivision (p) of Section 12955 of, and Section 12955.2 of, the Government Code, in the leasing, subleasing, transferring, use, occupancy, tenure, or enjoyment of the premises herein leased nor shall the lessee himself or herself, or any person claiming under or through him or her, establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use, or occupancy, of tenants, lessees, sublessees, subtenants, or vendees in the premises herein leased."

(2) Notwithstanding paragraph (1), with respect to familial status, paragraph (1) shall not be construed to apply to housing for older persons, as defined in Section 12955.9. With respect to familial status, nothing in paragraph (1) shall be construed to affect Sections 51.2, 51.3, 51.4, 51.10, 51.11, and 799.5 of the Civil Code, relating to housing for senior citizens. Subdivision (d) of Section 51 of, and Sections 4760 and 6714 of, the Civil Code, and subdivisions (n), (o), and (p) of Section 12955 shall apply to paragraph (1).

(c) In contracts entered into by the agency relating to the sale, transfer, or leasing of land or any interest therein acquired by the agency within any survey area or redevelopment project the foregoing provisions in substantially the forms set forth shall be included and the contracts shall further provide that the foregoing provisions shall be binding upon and shall obligate the contracting party or parties and any subcontracting party or parties, or other transferees under the instrument.

(Added by Stats. 2015, Ch. 319, Sec. 2. (AB 2) Effective January 1, 2016.)

62208. (a) The authority shall retain controls and establish restrictions or covenants running with land sold or leased for private use for those periods of time and under those conditions as are provided in the plan. The establishment of those controls is a public purpose under this division.

(b) An authority shall obligate lessees or purchasers of property acquired in a revitalization project to:

(1) Use the property for the purpose designated in the revitalization plans.

(2) Begin the revitalization of the project area within a period of time which the authority fixes as reasonable.

(3) Comply with the covenants, conditions, or restrictions that the authority deems necessary to prevent speculation or excess profit-taking in undeveloped land, including right of reverter to the agency. Covenants, conditions, and restrictions imposed by an authority may provide for the reasonable protection of lenders.

(4) Comply with other conditions which the authority deems necessary to carry out the purposes of this part.

(Added by Stats. 2015, Ch. 319, Sec. 2. (AB 2) Effective January 1, 2016.)