

SANTA MONICA MOUNTAINS CONSERVANCY

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Agenda Item 13
SMMC
10/27/14

February 25, 2014

Mr. David L. Roberts
Department of General Services
Real Estate Services Division
Room 701, City Hall South
111 East First Street
Los Angeles, CA 90012

**Public Resources Code Section 332007(b) - Right of First Refusal
APN 5565-026-900**

Dear Mr. Roberts:

The Santa Monica Mountains Conservancy (“Conservancy”) is in receipt of your February 12, 2014 letter to Deputy Director of Natural Resources and Planning Paul Edelman regarding the proposed sale of APN 5565-026-900 (“Property”) as surplus property.

This letter shall serve as formal notice of the Conservancy’s intent to exercise its right of first refusal to purchase the Property from the City of Los Angeles (“City”) pursuant to the provisions of California Public Resources Code section 33207(b).

In your February 12th letter, you assert that due to the size of the Property, it is “exempt surplus land” pursuant to Government Code section 54221(e) and, therefore, not subject to the notice procedures described in section 54222. Assuming, solely for the purposes of this letter, that your analysis is accurate, the Property’s status as “exempt surplus property” does not obviate the City’s requirement to comply with the separate and distinct legal right of the Conservancy under Public Resources Code Section 33207(b).

Mr. David L. Roberts
February 25, 2014
Page 2

Section 33207(b) reads, in relevant part:

The conservancy shall have the first right of refusal on any property within the [Santa Monica Mountains Conservancy Zone] presently owned by a public agency and scheduled for disposal as excess lands, except where such lands are designated for acquisition as a park or recreation area by a federal, state, or local agency. The conservancy shall have the right to acquire such lands at the disposing agency's purchase price plus any administrative and management costs incurred by the disposing agency.

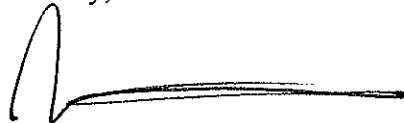
In light of this statute, it is irrelevant whether or not the Property is exempt from the offer and notice provisions of Government Code section 54222. Within the context of Public Resources Code 33207(b), the threshold questions are: a) is the property located in the Santa Monica Mountains Conservancy Zone ("Zone")?; b) is the Property owned by a public agency?; and c) is the property excess land that has been scheduled for disposal?

The answer to all three questions is "yes." The Property is clearly located in the Zone, as described in Public Resources Code section 33105. The Property is owned by the City of Los Angeles, a public agency. Finally, by the City's own admission, the property is excess surplus property. The Conservancy's right under this statute is not conditioned on another agency's compliance with Government Code section 54222 and is not affected by surplus property's designation as "exempt." Unless the Property qualifies for an exemption under section 33207(b) of which the Conservancy is unaware, the Conservancy unambiguously holds a right of first refusal for the sale of the Property.

Having hereby exercised its rights under Section 33207(b), the proposed sale may not move forward without the Conservancy's consent.

Please contact me at your earliest convenience regarding this matter. You can reach me at 323-221-9944, ext. 101.

Sincerely,



JEFFREY K. MALONEY
Chief Staff Counsel