

**DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT
DIVISION OF HOUSING POLICY DEVELOPMENT**

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September 22, 2025

Scott Ochoa, City Manager
City of Ontario
303 E. B Street
Ontario, CA 91764

SENT VIA EMAIL TO: sochoa@ontarioca.gov

Dear Scott Ochoa:

**RE: City of Ontario's Surplus Land Disposition of a 2.368-Acre Portion of APN
0218-111-12-0000 – Follow-Up Notice of Violation**

The California Department of Housing and Community Development (HCD) has reviewed the City of Ontario's (City) August 7, 2025, response to the Notice of Violation (NOV) sent by HCD on June 18, 2025. The NOV found the City in violation of the Surplus Land Act (SLA) for disposing of a 2.368-acre portion of the property located at the southeast corner of East Riverside Drive and Ontario Avenue in the City of Ontario, with Assessor's Parcel Number (APN) 0218-111-12-0000 (Property).

While HCD acknowledges the City's timely response and willingness to pay the requisite SLA penalties to support affordable housing, HCD would like to remind the City of its statutory obligations to properly resolve the violations, as discussed in this letter.

Determination of Statutory Penalty

According to Government Code section 54230.5, subdivision (a)(2), and the SLA Guidelines, Section 501(b)(1)(B)(i),¹ "disposition value" means:

*"In the case of a sale, the greater of the final sale price of the land or the fair market value of the surplus land **at the time of sale**, as determined by an independent appraisal of the surplus land sold in violation of this article. Appraised value should be determined by an independent, third-party appraisal prepared by a Member Appraisal Institute qualified appraiser and charged to the local agency **no less than 60 days after receipt of a Notice of Violation.**" (Emphasis added.)*

¹ Updated Surplus Land Act Guidelines available at <https://www.hcd.ca.gov/sites/default/files/docs/planning-and-community/final-updated-surplus-land-act-guidelines-2024.pdf>.

HCD has reviewed the City's independent appraisal report prepared by Thompson & Thompson Real Estate Valuation and Consulting, Inc. (Report) on December 12, 2024. The Report notes the effective date of the appraisal or date of value as May 8, 2024 – several months prior to the City's authorization of the Disposition and Development Agreement on February 18, 2025, and close of escrow on April 4, 2025. The Report also analyzes the Property in conjunction with two adjacent parcels (portions of APNs 0218-111-49 and 0218-111-50), resulting in a total appraised value of \$3,659,000 for six acres of City-owned lands. Therefore, an updated independent appraisal is needed to validate the fair market value of the 2.368-acre Property only at the time of sale.

Once an updated appraisal is received, the 30 percent penalty will then be calculated by the greater value of either the final sale price (i.e., \$1,444,593.50) or the fair market value of the Property. The City must then provide a copy of the updated appraisal report to HCD.

Local Housing Trust Fund and Statutory Penalty Funding Source

The City also claims to have transferred the penalty amount of \$433,378.05 on August 7, 2025, from the City's General Fund to the newly established Local Housing Trust Fund (LHTF). However, the City's Resolution No. 2025-131 (Resolution), adopted on August 5, 2025, does not make any reference to this transfer. Instead, Section 4 of the Resolution states that the LHTF shall be funded by "Fund 4030 the Affordable Housing In-Lieu Fund" [sic] and "any other legally available funding source."

Given the City's clear understanding that SLA penalties cannot be paid out of funds already dedicated to affordable housing,² it is thus important that the City provide further documentation detailing the penalty transfer and its funding source for HCD's review. The documentation must also confirm how the City will commit and expend the penalty amount in accordance with the SLA, which requires expenditure within five years of deposit for the "sole purpose of financing newly constructed affordable housing units to extremely low, very low, or low-income households."³ Otherwise, the penalty amount will revert to the state and be deposited in the Building Homes and Jobs Trust Fund or the Housing Rehabilitation Loan Fund, subject to appropriation by the Legislature.⁴ Please note that the final penalty amount is pending verification by an updated appraisal report.

HCD also understands that the City is in the process of developing its LHTF Program Guidelines and requests a copy to ensure compliance with all applicable requirements, including HCD's LHTF Final 2020 Guidelines.⁵

² Gov. Code, § 54230.5, subd. (a)(3).

³ *Ibid.*

⁴ Gov. Code, § 54230.5, subd. (a)(4).

⁵ Local Housing Trust Fund Program Final 2020 Guidelines available at <https://www.hcd.ca.gov/grants-funding/active-funding/lhtf/docs/2020-Final-Guidelines.pdf>.

Open Public Hearing to Review the NOV

Pursuant to the SLA Guidelines, Section 502(c)(1), when HCD issues an NOV finding that the local agency's process for disposing of surplus land is not compliant with the SLA, the local agency must then hold an open, public meeting to review the NOV. The public hearing requirements are outlined in Section 500(e)(2)(A), as follows:

"If a local agency receives a Notice of Violation, the local agency must hold an open public meeting to review the Notice of Violation. In addition to all legally required public meeting noticing requirements, the local agency must also post the public notice to the agency's website (if applicable), post the notice in a conspicuous public place in the local agency's office, and send the public notice to HCD via the Surplus Land Act Portal no later than the time of posting required by the Brown Act (commencing with Government Code section 54950). A local agency is not required to disclose information conducted during closed sessions at this meeting."

HCD has reviewed the City Council meeting materials regarding creation of the LHTF on August 5, 2025,⁶ and found no mention of the NOV and penalty payment. While HCD understands that the Property's sale and disposition has been completed, the City has a duty to inform the public and governing body of the NOV and the City's proposed response. Therefore, the City must provide HCD a copy of the public notice and public meeting materials regarding the NOV, as required by the SLA Guidelines.

Additional Dispositions Under Review

HCD has also become aware of past dispositions that were completed by the City since April 2022 that appear to be subject to the SLA; however, HCD has no records of reviewing documentation pursuant to Section 400 of the SLA Guidelines nor issuing a findings letter to the City prior to the NOV. The dispositions in question include, but are not limited to, the 100 North Block of North Euclid Avenue, Downtown Euclid Avenue Mixed-Use Development, D Street and Laurel Avenue Development, 4000 East Ontario Center Parkway, and more. HCD has enclosed a table of the properties in question and requests further information on how the City complied with the SLA.

Pursuant to the Public Records Act (PRA),⁷ HCD requests records related to these dispositions. Pursuant to Government Code section 7922.535, subdivision (a), the City must respond to this request within ten (10) days.

Conclusion and Next Steps

In summary, HCD appreciates the City's initial efforts and desire to address the violations expeditiously. HCD hopes that this letter is helpful in clarifying the statutory

⁶ City of Ontario, City Council and Housing Authority - Special Meeting, Agenda Item No. 6 available at https://ontarioca.granicus.com/AgendaViewer.php?view_id=1&clip_id=440.

⁷ Gov. Code, §§ 7920.000-7930.215
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requirements to resolve the SLA violations. The City has 60 days from receipt of this letter, or November 21, 2025, to complete the actions requested above.⁸ Prior to that, HCD requests a written response from the City within two weeks, by October 6, 2025, confirming that the City plans to implement the following actions:

1. Prepare an updated Property appraisal report (SLA Guidelines, Section 501(b)(1)(B)(i)),
2. Provide documentation on the Local Housing Trust Fund and penalty transfer (SLA Guidelines, Section 501(b)(2)),
3. Hold an open public hearing to review the NOV (SLA Guidelines, Section 500(e)(2)(A)), and
4. Provide information on additional dispositions that were not previously reported to HCD (SLA Guidelines, Section 400) and respond to the PRA request within 10 days.

Finally, HCD must correct the City's assertion that the Economic Opportunity Statute serves as a lawful, independent and non-exclusive means or alternative to dispose of City-owned property. If the City continues to utilize the Economic Opportunity Statute and/or other statutes in lieu of the SLA to dispose of additional surplus land or exempt surplus land, then such actions will constitute subsequent violations of the SLA and the City will be assessed a penalty equal to 50 percent of the applicable disposition values.⁹ HCD may also pursue additional remedies authorized under Government Code sections 65585 and 65585.1.

If the City or its representatives have any questions or need additional technical assistance regarding the SLA, please contact Linda Ly, Senior Housing Policy Specialist, at Linda.Ly@hcd.ca.gov.

Sincerely,



David Zisser
Assistant Deputy Director
Local Government Relations and Accountability

Enclosure

cc: Jennifer McLain Hiramoto, Executive Director, Economic Development Agency
Rudy Zeledon, Executive Director, Community Development Agency
Ruben Duran, City Attorney, Best Best & Krieger LLP
Jordan Sisson, Representative of UNITE HERE Local 11

⁸ Gov. Code, § 54230.5, subd. (a)(1).

⁹ *Ibid.*

Public Meeting Date	Agenda Materials (link)	Description from Agenda Report	Property Location
4/15/2025	See Item 24	" Transfer of real property at 100 Block North Euclid Avenue (APN's 1048-553-01,1048-553-05 Through 1048-553-15) from the Ontario Housing Authority to the City of Ontario " "Adopt a Resolution declaring certain Ontario Housing Authority-owned real property at 100 Block of North Euclid Avenue [...] to be exempt surplus land ;" "Given that the Property will no longer be developed into affordable housing and is currently owned by the Authority, it is recommended that the City of Ontario (the "City") acquire the Property from the Authority with the intent of repaying the Authority for the purchase price of the property when it was acquired. Under Health and Safety Code Section 34312.3(b), the Authority is permitted to sell the Property provided that the sale proceeds are allocated toward affordable housing in the future."	100 Block of North Euclid Avenue APNs: 1048-553-01; 1048-553-05 through 1048-55315
10/1/2024	See Item 14	A QUITCLAIM DEED AND A RESOLUTION APPROVING A SUBDIVISION IMPROVEMENT AGREEMENT, IMPROVEMENT SECURITY, AND FINAL PARCEL MAP NO. 20465, LOCATED AT THE SOUTHWEST CORNER OF ONTARIO RANCH ROAD AND HAMNER AVENUE" "Authorize the City Manager, or his designee, to execute a Quitclaim Deed to The Ranch at Model Colony, LLC, for fee title ownership transfer of a portion of Ontario Ranch Road "	Southwest corner of Ontario Ranch Road and Hamner Avenue, in the Rich Haven Specific Plan
7/16/2024	See Item 31	"A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, APPROVING A DISPOSITION AND DEVELOPMENT AGREEMENT BETWEEN THE CITY OF ONTARIO AND HDC CONSTRUCTION INC. FOR THE DISPOSITION AND DEVELOPMENT OF CERTAIN REAL PROPERTY LOCATED AT 207 EUCLID AVENUE (APN 1048-565-09) AND MAKING CERTAIN FINDINGS IN CONNECTION THEREWITH." "The City and Developer have negotiated a Disposition and Development Agreement ("DDA") that provides for the conveyance of the Property to the Developer. In exchange, the Developer will deliver a 3,400 square foot restaurant on the ground floor, with an additional 3,400 square foot basement for ancillary restaurant use and private dining, as well as a 3,780 square foot second floor lounge and rooftop patio. The Developer will be required to preserve and retain the historic context of the building and obtain a Certificate of Appropriateness from the Planning Department for the proposed use."	207 Euclid Avenue APN: 1048-565-09
5/21/2024	See Item 7	"A QUITCLAIM DEED WITH LENNAR HOMES OF CALIFORNIA, LLC FOR LOT A AND LOT C OF FINAL PARCEL MAP NO. 19787" "That the City Council authorize the City Manager or his designee to execute a Quitclaim Deed to Lennar Homes of California, LLC, for fee title ownership transfer of Lot A and Lot C of Parcel Map 19787. "	Archibald Avenue and Ontario Ranch Road
12/19/2023	See Item 7	"A QUITCLAIM DEED AND A RESOLUTION APPROVING AN IMPROVEMENT AGREEMENT, IMPROVEMENT SECURITY AND FINAL PARCEL MAP NO. 20505" "Authorize the City Manager or his designee to execute a Quitclaim Deed to Ontario Extended Stay, LLC, for fee title ownership for a portion of East G Street "	Portion of G Street at Corona Ave.
9/5/2023	See Item 7	"A RESOLUTION DETERMINING THE CITY-OWNED PROPERTY AT 517/521/525 NORTH VIRGINIA AVENUE AS EXEMPT SURPLUS LAND, TRANSFER PROPERTY TO ONTARIO HOUSING AUTHORITY AND APPROVE AFFORDABLE HOUSING RESTRICTIONS " "Adopt the Resolution declaring certain City-owned real property at 517, 521, and 525 North Virginia Avenue (APN: 1048-412-13) to be exempt surplus land;" "Authorize the transfer of the property to the Ontario Housing Authority to create affordable housing;"	517, 521, 525 North Virginia Ave APN: 1048-412-13
9/5/2023	See Item 16	"Adopt the attached Resolution approving the Disposition and Development Agreement (Agreement) between the Ontario Housing Authority and HDC Construction, Inc. (Developer) (on file with the Records Management Department)" "The Developer will purchase the property from the Ontario Housing Authority (OHA) for fair market appraised value of \$357,000." "The OHA currently owns the site. The development will result in the construction of three single-family homes[...]"	1325-1329 South Euclid Avenue APNs: 1049-531-01 AND 1049-531-02
8/15/2023	See Item 10	"QUIT CLAIM DEED WITH PROLOGIS, L.P. AND A RESOLUTION APPROVING AN IMPROVEMENT AGREEMENT, IMPROVEMENT SECURITY AND FINAL PARCEL MAP NO. 20537" "A. Authorize the City Manager or his designee to execute a Quit Claim Deed to Prologis, L.P., for fee title ownership of East Borba Street"	East Borba Street
5/21/2023	See Item 6	"Real property exchange between the City of Ontario and the Diocese of San Bernardino Education and Welfare Corporation" "Declaring certain City-owned real property to be exempt surplus land" "Approving a real property exchange agreement with the Diocese of San Bernardino Education and Welfare Corporation"	206 West D Street and 221 West E Street APNs: 1048-353-13 and 1048-353-14

12/6/2022	See Item 18	"Adopt a Resolution approving the Disposition and Development Agreement between the City of Ontario and Euclid Investment Group, LLC., with respect to approximately 1.19 acres of land [...] in accordance with Government Code Section 37350 et. seq. " "The Developer will purchase 1.19 acres of real property for \$1,088,564 which represents fair market value." "The Development will result in the construction of approximately 73 market rate rental housing units. "	Downtown Euclid Avenue Mixed-Use Development at East D Street/Lemon Ave, Plum Ave. APNs: 1048-556-01 through -05; 1048-556-14
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Public Meeting Date	Agenda Materials (link)	Description from Agenda Report	Property Location
9/6/2022	See Item 10	"Second Amendment to the Disposition and Development Agreement between the Ontario Housing Authority and Ontario Emporia II Housing Partners, L.P., and Second Amendment to the Grant Agreement between the City of Ontario and the Housing Authority, in an amended amount not to exceed \$11,500,000."	Emporia Place Phase 2
8/16/2022	See Item 6	"A Resolution approving a Disposition and Development Agreement between the City of Ontario and D Street Townhome Apartments, LLC, a California Limited Liability Corporation in accordance with Government Code Section 37350 et. seq. " "The Developer will purchase approximately 0.74 acres of real property for \$675,000 which will be deposited into a City Fund." "The Development will result in the construction of 26 three-story townhomes [...]"	D Street and Laurel Avenue development at 120 West D Street and 420 North Laurel Avenue APNs 1048-354-12 and 1048-354-13
8/2/2022	See Item 3	"Ordinances approving a Development Agreements (File No.'s PDA22-003-A, B, C, and D) between the City of Ontario and OTC Lot Owner, LLC, to establish the terms and conditions associated with a Development Plan (File No. PDEV22-014)" "[...] to construct up to 694 residential units and 71,500 square feet of commercial/office/retail uses on 10.49 acres of land [...]" "On July 19, 2022 , the City Council introduced and waived further reading of Ordinances approving the Development Agreement." (See 7/19/2022 meeting, Agenda Item 25) References to Government Code Section 65865.52	4000 East Ontario Center Parkway and the southeast and southwest corners of Via Piemonte and Via Villagio, within the Mixed-Use land use district (Subareas 8, 11, 16, and 17) of the Piemonte Overlay of the Ontario Center Specific Plan APNs: 0210-205-01, 0210-204-38 and 0210-204-39
7/19/2022	See Item 20	"Adopt a Resolution approving four separate Ground Leases (each a "Ground Lease" and collectively, the "Ground Leases") between the City of Ontario and OTC Lot A Owner, LLC, the City of Ontario and OTC Lot B Owner, LLC, the City of Ontario and OTC Lot C Owner, LLC, and the City of Ontario and OTC Lot D Owner, LLC (each a "Tenant") for City-owned property [...]"	4000 East Ontario Center Parkway and the southeast and southwest corners of Via Piemonte and Via Villagio APNs: 0210-205-01, 0210-204-38, and 0210-204-39
7/5/2022	See Item 15	"A Resolution approving a Disposition and Development Agreement between the City of Ontario and Ontario Place D Block, LLC. in accordance with Government Code Section 37350 et. seq. " "The Developer will purchase 2.13 acres of real property for \$2,200,000 which will be deposited to a City Fund." "The Development will result in the construction of approximately 109 market rate rental housing units. "	Downtown Euclid Avenue Mixed-Use Development 404, 416 AND 414 North Euclid Avenue and 401 AND 418 North Lemon Avenue (APNS: PORTION OF 1048-363-02, 1048-363-03, 1048-363-04, AND 1048-363-05)
5/17/2022	See Item 6	"A Resolution approving a Purchase and Sale Agreement between the Successor Agency to the Ontario Redevelopment Agency and HDC Construction, Inc. in accordance with Government Code Section 37350 et. seq. " "The City will convey approximately 4,350 square feet of real property located at 213 North Fern Avenue for a purchase price of \$100,000 , all of which will be disbursed to the local taxing entities within the former Center City Redevelopment Project Area."	213 North Fern Avenue APN: 1048-572-06
4/19/2022	See Item 13	" Real property exchange between the City of Ontario and the University of La Verne " " Declaring certain City-owned real property to be exempt surplus land " " Approving a real property exchange agreement with the University of La Verne "	Fire Station 1 (APN 1048-545-16); Founders Garden (APNs: 0210-205-03, 0210-211-23); Emporia Block (APNs: 1049-056-05, 1049-056-06, 1049-056-01, 1049-056-02, 104905603 and 1049-056-04)

NOTE:

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