



Checks and Balances

Taking extra measures can uncover unethical practices

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In the world of infrastructure real estate, maintaining a system of checks and balances can mean the difference between a successful project and a failed one. Just take a look at Interstate 105—the Century Freeway. In 1970, Caltrans selected a preferred alignment and began acquiring property and displacing occupants for the freeway project. Despite receiving continued opposition from property owners, they believed that they resolved most of the disputes with the local public entities involved. Caltrans was well under way to acquire all of the right of way it needed for the project when, in 1972, a group of property owners in the project's path filed a federal lawsuit seeking to stop the freeway project.

Although Caltrans had already purchased many residential properties, they could not demolish or remove the improvements during the pending lawsuit. Instead, the building improvements were to remain vacant and Caltrans was required to maintain the unoccupied improvements until the lawsuit was resolved. In 1979, the court approved of a Consent Decree that reduced the

planned freeway corridor's footprint (which created excess land parcels from those parcels that were previously acquired) and included directives to mitigate the project impacts, such as the construction of 4,200 residential units to replenish lost housing stock caused by the project. This proposed construction was to be implemented by the Century Freeway Replenishment Housing Program, a collaboration between Caltrans and the Century Freeway Housing Program (CFHP).

Working Toward a Common Goal

CFHP and Caltrans each agreed to perform specific tasks to accomplish the Consent Decree directives. For instance, CFHP implemented an Affordable Housing Sales Program where sales of new residential housing were based on the affordability of applicants with priority given to displacees from the freeway project. They also identified new construction opportunities on vacant land or existing houses that could be relocated and rehabilitated

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on Caltrans excess land. CFHP required contractors’ compliance with affirmative action mandates and established construction job apprenticeships for local residents and disadvantaged persons. Additionally, CFHP assisted individuals with property sales transactions and with obtaining loan financing.

Caltrans was assigned to review the purchase and sales agreements as well as the escrow packages for compliance with the Consent Decree directives. This included verifying project funding availability, providing funds for escrow costs and reviewing the accuracy of affordability-based calculations. Caltrans also agreed to provide property management services for monitoring 700 existing units that were designated to either be sold or relocated and rehabilitated under the Century Freeway Replenishment Housing Program.

Delays in Escrow Closing

The Affordable Housing Sales Program successfully paired potential buyers, mostly affordability-based candidates, with excess land properties within the program. Several hundred escrows were opened by CFHP, and the escrow company began processing the transactions. Caltrans reviewed the escrow packages and purchase sales agreements, and promptly returned them to CFHP for final processing and escrow closings. But inexplicable delays began occurring in the escrow process. Various excuses were offered by CFHP to explain the delays: misplaced paperwork, incomplete rehabilitation of buildings, loan

approval delays from missing documentation, appraisal delays, incomplete construction or rehabilitation at the properties. As a result, out of several hundred open escrows, only a handful managed to close each month. Despite these escrow delays, Caltrans continued to provide property management and maintenance services for the unsold properties.

Unexpected Discovery

While conducting a routine monthly inspection of properties within Caltrans excess land inventory, the right of way agent noted that an “unoccupied” house in the excess land inventory was not boarded-up and instead appeared to be occupied. The agent also noted that someone from inside the residence retrieved delivered mail. The agent went up to the residence and learned that the occupants claimed to be Caltrans “tenants,” and they had been paying rent for several years. The occupants produced receipts showing they had in fact paid their rent in cash. Caltrans had neither record of this property being rented nor any rents being collected. There was a logical—but unfortunately not legal—explanation.

This property was one of the affordable units in the process of being sold, so Caltrans listed this property in their inventory as a vacant unit not to be rented pending the sale. It turns out that the person who was collecting the rent was also involved in processing escrows in the Affordable Housing Sales Program, including the

escrow for this property. It became obvious why the escrow company was being given every reason to not close this transaction. Someone who didn’t own the property was collecting rent. The Caltrans property management department found several more properties in active escrows that were being rented out by this same individual to unwitting tenants. After a complete investigation, two individuals were deemed responsible and both immediately opted to resign. The matter was then turned over to the District Attorney’s office for criminal investigation.

The system of checks and balances exists not to limit entities, but to ensure success by holding everyone accountable. It is thanks to this system that Caltrans was able to continue forward with the freeway project despite this setback. Caltrans finally celebrated the opening of Interstate 105 in 1993. 🎉



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