

Congress of the United States
House of Representatives
Washington, DC 20515-0520

March 22, 2022

The Honorable Shalanda Young
Director
Office of Management and Budget
725 17th Street NW
Washington, DC 20503

Dear Director Young:

I write to follow up on my January 11, 2022 request that the Office of Management and Budget (OMB) remove from public auction the property located at 1352 Lighthouse Avenue in the City of Pacific Grove. I am concerned that sale is occurring without sufficient community stakeholder outreach and that potential bidders have not been properly notified of the zoning requirements of the California Coastal Commission's (CCC) approved Local Coastal Plan (LCP), which could significantly reduce the building's value. Due to these factors, I further request that OMB instead consider a conveyance of the property to a recipient with community support that can meet the requirements required by the CCC and the LCP. This is a time sensitive matter, as the auction is set to close April 6, 2022.

Lack of Stakeholder Engagement

Since my previous correspondence, I have requested, but not received, additional information about initial outreach done by the Public Building Reform Board (PBRB) to ensure the community was properly consulted before recommendation of public sale for this property under the Federal Assets Sale Transfer Act (FASTA). There is no record of PBRB reaching out to my office, to the City of Pacific Grove, or any community stakeholders before recommending to OMB that the building be sold as a High Value Asset (HVA). Following the OMB approval, the General Services Administration (GSA) conducted limited outreach to the community, which did not include my office, and limited discussions with the City to zoning confirmations.

OMB has previously removed a property from auction due to lack of stakeholder engagement. On April 8, 2021, you informed the PBRB that you were withdrawing OMB's previous approval of the sale of the Federal Archives and Records Center in Seattle, Washington, due to insufficient tribal consultation.¹ You also recently rejected FASTA Round 1 asset list for lack of stakeholder engagement, even though what was provided by the PBRB for Round 1 far exceeds consultation in the HVA round.² Due to clearly insufficient community consultation I ask you to withdraw OMB's approval in this case.

¹ <https://storage.courtlistener.com/recap/gov.uscourts.wawd.294253/gov.uscourts.wawd.294253.52.1.pdf>

² https://www.pbrb.gov/files/2022/02/OMB_letter012522.pdf

Narrow Zoning Restrictions Insufficiently Disclosed

In addition to the lack of outreach, GSA has also failed to clearly highlight the zoning requirements for this building, especially as required by the LCP. These restrictions are clearly outlined in a November 30, 2020 letter to GSA from the CCC providing conditioned concurrence with the GSA's negative determination made pursuant to 15 CFR Section 930.35 of the National Oceanic and Atmospheric Administration (NOAA) implementing regulations.³

As I raised in my previous correspondence, the GSA fails to affirmatively disclose bidders that the LCP limits the site to "coastal-dependent marine research and educational activities, aquaculture, and coastal-dependent recreation and public recreational access that is compatible with maintenance of coastal-dependent scientific and educational uses." Instead, GSA suggests that bidders seek this information out on their own, even though CCC strongly urged transparency.

In addition, the HVA designation by the PBRB assumed a future rezoning that is not supported by the LCP. Proper due diligence would have discovered this limitation.

No Documentation Supporting HVA Designation

Finally, it is not clear that PBRB did sufficient due diligence in determining that this property is truly an HVA and has since revealed in its own reporting that the property does not meet current HVA criteria.⁴ The entire public documentation justifying this sale consists of five pages within PBRB's HVA Report of Findings and Recommendations.⁵ This includes a cover page, a page of maps, and other charts and illustrations, without additional supporting documentation.

The report also states that "the value of transactions developed by this system was based on a wide range of data sources made available to the PBRB from GSA, other Federal Government landholding agencies, and the private sector." It says, "specific value documentation such as appraisals, unsolicited offers, or Broker Opinions of Value provide more thorough assessments of a property's worth" and that "PBRB made a concerted effort to address data gaps in the FRPP by utilizing research and opinions of subject matter experts (e.g., commercial real estate firms)."⁶

I have previously requested such reports from both PBRB and OMB, but have only received a single, four-page report prepared by commercial real estate investment firm CBRE, which provided only surface-level information about the property and its value.⁷ It is difficult to believe that OMB approved this sale without supplemental reports or information.

³ California Coastal Commission, Letter to General Services Administration regarding Conveyance of Federal Property in Pacific Grove, Monterey County, November 30, 2020. (enclosed)

⁴ https://www.pbrb.gov/files/2021/12/PUBLIC-VERSION-PBRB-First-Round-Recommendations-to-OMB-12_27_2021-1-1.pdf, Page 104.

⁵ <https://www.pbrb.gov/pbrb/files/2021/01/20191227-High-Value-Assets-Report-as-Required-by-FASTA.pdf>, Pages A13-A-17.

⁶ <https://www.pbrb.gov/pbrb/files/2021/01/20191227-High-Value-Assets-Report-as-Required-by-FASTA.pdf>, Pages 9, 11.

⁷ CBRE Broker Opinion of Value, 1352 Lighthouse Ave, Pacific Grove, CA 93950, September 24, 2018. (enclosed)

OMB and GSA should Consider a Direct Conveyance to the Community

Instead of selling the project to the highest bidder, who may not be able to meet the standards of zoning requirements, and may very well be unaware of them, OMB should consider conveying the property to an organization that can meet the narrow reuse requirements. I ask OMB to encourage GSA to use its authority under 14(d) of FASTA, which provides the Administrator broad authority in the case of “otherwise required legal priority given to, or requirement to enter into a transaction.” In this case, “legal priority” would be the CCC’s conditioned concurrence, as noted above, with the significant and limited reuse restrictions as found in the LCP. If it is determined that 14(d) is not the most appropriate mechanism, then I ask that you consider working with the community to transfer the property under a public benefit conveyance.

As I stated in my previous correspondence, a nonprofit organization or consortium of marine education organizations dedicated to upholding Local Coastal Program objectives will better meet the community interests and the needs of our region. GSA has already received a formal request for conveyance from a local government agency that is dedicated to working with such an organization, and the City Council of Pacific Grove has passed a resolution supporting a conveyance to that partnership.⁸ This follows a resolution requesting a public benefit conveyance process to protect the NOAA-owned land and building passed by the City in 2012.⁹

Once again, I appreciate your prompt attention to this matter, as the auction is scheduled to close April 6, 2022. It is not too late to rectify these errors and find a solution that both preserves the legitimacy of the FASTA process and makes the best public use of this property.

Sincerely,



Jimmy Panetta
Member of Congress

Enclosures

cc: The Honorable Robin Carnahan, Administrator, General Services Administration
John Ainsworth, Executive Director, California Coastal Commission
City Council, City of Pacific Grove

⁸ https://files.cityofpacificgrove.org/Document_Center/Resolutions%20&%20Ordinances/Resolutions/2022/22-010%20NOAA%20Conveyance%20Collab%20Reso.pdf.

⁹ City of Pacific Grove, Resolution No. 12-025, Resolution of the City Council of the City of Pacific Grove Requesting the Federal Government Assist the City in Acquiring the NOAA Lands and Building Through the Public Benefit Conveyance Process, April 4, 2012. (enclosed)