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State:	N/A
Jurisdiction Type:	Municipal
Municipality:	District of Columbia
Year (adopted, written, etc.):	2022
Community Type- applicable to:	Urban; Suburban
Title:	District Opportunity to Purchase Act
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Abstract

Washington D.C District Opportunity to Purchase Act (DOPA) maintains the affordable status of existing housing and increases the number of affordable housing in the District. DOPA requires rental property owners to provide the District of Columbia with the opportunity to purchase housing accommodations consisting of five or more rental units if 25 percent or more of those rental units are “affordable”. The District’s right to purchase is subordinate to a tenant’s right to purchase under the Tenant Opportunity to Purchase Act (TOPA).

Resource

The District Opportunity to Purchase Act (DOPA) promotes affordable rental housing by maintaining the affordable status of existing affordable rental units as well as increasing the total number of affordable rental units within the District.

To this end, DOPA requires rental property owners to provide the District of Columbia with the opportunity to purchase housing accommodations consisting of five or more rental units, as long as 25 percent or more of those rental units are deemed as “affordable.”

In the statute, the District’s right to purchase is subordinate to a tenant’s right to purchase under the Tenant Opportunity to Purchase Act (TOPA).

A November 2016 report by the [Housing Preservation Strike Force](#) listed the implementation of DOPA regulations as one of six strategies the District should use to preserve affordable housing stock. The report noted that issuing the rules will allow the District to take greater advantage of the DOPA statute through the assignment of ownership to pre-qualified developers on an expedited basis. Final regulations were published in the November 16, *D.C. Register*.

More about DOPA

According to the statute, DOPA can be used to:

- **Preserve affordable housing:** At least 25 percent of the units must remain affordable below 50 percent of the area’s median family income (MFI); but higher numbers of affordable units—and units affordable at higher and lower incomes—are encouraged.

- **Address at-risk properties:** The Mayor can purchase at risk or problem affordable housing properties that an owner *is offering* for sale to other potential buyers but only after the tenants have been unable or have chosen not to exercise their Tenant Opportunity to Purchase Act (TOPA) rights within the prescribed timelines.

DHCD [issued proposed rules](#) on December 22, 2017 that addressed two of the most important aspects of implementing the statute:

- **Coordination of the DOPA and TOPA timelines:** Clarifying that the DOPA and TOPA processes can run concurrently but the Mayor cannot exercise DOPA rights until tenants are unable or choose not to exercise their TOPA rights.
- **District management of properties it purchases:** Clarifying that, as allowed under the statute, the District will assign its purchase rights to a private developer.

In response to numerous comments, DHCD [issued a second set of proposed rules](#) with technical and substantive changes to include:

- **Clarifying the types of information the Mayor may request from an owner,** to include all liens, mortgages, deeds of trust, pending legal proceedings,
- **Providing more specifics about on the criteria for developer assignees** and for financing purposes, allow the assignee to seek written permission to further assign the purchase right to another entity it controls.
- **Clarifying how rent and income are determined and the income levels used for eligibility purposes,** to include exceptions to accommodate properties receiving Section 8, low income housing tax credit (LIHTC) and similar subsidies.
- **More explicitly define maximum rent,** and set a new definition of utilities.
- **Note that in the case of vacant units and unit turnover,** residents' access to rental units the District purchases would: (1) occur at the property level; and (2) be done based on the funding requirements used to purchase the property and the covenant that the Mayor places on the property.

The final regulations made further technical changes:

- **Clarifying the Affordable Rental Unit definition** to incorporate units receiving Section 8 or any comparable local or federal rental assistance program.
- **Revising the definition of Monthly Rent** to ensure projects with a significant number of Section 8 units are not exempt from DOPA's definition of Affordable Rental Unit.
- **Updating the definition of Allowable Annual Increase** to include those under Section 8 or similar subsidies.

Pre-Qualified Developers

The final rules provide that the Mayor may assign the District's purchase right to a developer. DHCD is issuing a Request for Qualifications (RFQ) to identify a pool of pre-qualified developers.

As DHCD announces DOPA purchase opportunities, developers who meet the District's criteria will be invited to respond to those requests. The developers will have to comply with DOPA's requirements by maintaining, and increasing the number of, affordable units in the property.

DHCD will be holding an informational meeting on the final rules on November 28, and a pre-bid meeting for developers on December 10. Details about the meetings can be found on dhcd.dc.gov/events.