

**Summary of District Opportunity to Purchase Act (DOPA)
D.C. Department of Housing & Community Development
DOPA Working Group**

**Presented to the
District of Columbia Housing Preservation Strike Force**

Friday, November 13, 2015

DOPA Summary

The District's Opportunity to Purchase Amendment Act of 2008 (DOPA) (D.C. Law 17-386, effective Dec. 24, 2008 codified at § 42-3404.31 et seq.) became effective on December 24, 2008. An underlying purpose of the legislation furthers a stated legislative objective of the Rental Housing Conversion and Sale Act of 1980 (the sale provisions codified at § 42-3404.01 et seq. known as the Tenant Opportunity to Purchase Act of 1980 or TOPA) (D.C. Official Code 2001 ed., as amended, § 42-3401.01 et seq.), which aims to "preserve rental housing which can be afforded by lower income tenants in the District." TOPA § 42-3401.01(2).

DOPA empowers the Mayor with the right to purchase housing accommodations¹ consisting of 5 or more rental units and which 25% of the rental units are deemed as "affordable units."² The District's right to purchase is subordinate to the tenant right to purchase. DOPA requires that the rental units be maintained as affordable units, and that the Mayor undertake affirmative measures to increase the number of affordable units in the housing accommodation.

The Mayor may assign her opportunity to purchase provided that the DOPA assignee has a "demonstrated" capacity to own and manage the housing accommodation, and agrees to abide by DOPA's affordability requirements set out in DOPA § 42-3404.33.

DOPA Timeframes

¹ A "Housing Accommodation" or "accommodation" is defined by § 42-3401.03(11) of TOPA "as a structure in the District of Columbia containing 1 or more rental units and the appurtenant land. The term does not include a hotel, motel, or other structure used primarily for transient occupancy and in which at least 60 percent of the rooms devoted to living quarters for tenants or guests are used for transient occupancy if the owner or other person or entity entitled to receive rents is subject to the sales tax imposed by § 47-2001(n)(1)(C) and the occupant of the rental unit has been in occupancy for less than 15 days.

² An "Affordable Unit" is defined as "a rental unit in a housing accommodation for which the existing monthly rent, including utilities, paid by the tenant is equal to or less than 30% of the monthly income of a household with an income of 50% of the area median income, as set forth in the periodic calculation provided by the United States Department of Housing and Urban Development, adjusted for the household size."

The timeframes for DOPA (and TOPA) are illustrated in Exhibit 1. The D.C. Department of Housing and Community Development (DHCD), Rental Conversion & Sale Division (CASD) receives TOPA offer of sale notices and DOPA offer of sale notices (DOPA notice).³

Offer Period: The owner must provide a written DOPA notice to the Mayor in the form of a letter, and attach a copy of a current tenant-rent roll, and a copy of the TOPA notice served on tenants. To exercise the right to purchase, the Mayor must provide the owner with a written statement within 30 days of receiving the DOPA notice.

Negotiation Period: The Mayor has 150 days from the date of the owner's receipt of the Mayor's written response to negotiate a sale contract. The Mayor's negotiation period may be extended under certain circumstances: (1) by 15 days if the tenants express an interest in purchasing the accommodation by forming and registering a tenant organization; (2) if the owner grants an extension of time to tenants, then Mayor automatically receives the same extension; or (3) if the owner delays in providing financial and operational information,⁴ then the Mayor's negotiation period is extended one day for every day of delay by the owner.

Settlement Period: Once the owner and the Mayor ratify a sale contract, the Mayor has 60 days to consummate settlement.

DOPA Affordability

The DHCD DOPA Fact Sheet⁵ discussed affordability under DOPA, attached as Exhibit 2. If the Mayor exercises the right to purchase then the Mayor (or Mayor's assignee) must maintain affordable rents. § 42-3404.33(b)(1).

Tenants must receive written notice of the method of calculating household income and rent, and the Rent Administrator shall consider tenant petitions challenging rent or household income

³ The owner serves the District by letter to the attention of the DHCD CASD administrator. The DOPA notice must include:

- the asking price and material terms of sale;
- a statement whether there is a ratified third party contract and that a copy shall be provided to the District within 7-days of the District's request;
- a list of vacant units, tenant roll, and rent roll;
- a list of affordable units and current rent charged for each unit; and
- a statement that within 7-days upon receiving a request, the housing provider will provide a copy of accommodation floor plans (if available), utility consumption rates, capital expenditures, and rent rolls for the preceding two years to the District.

⁴ E.g., a copy of accommodation floor plans, utility consumption rates, capital expenditures, and rent rolls for the preceding two years.

⁵ The DOPA fact sheet gives guidance for determining whether units are affordable and therefore subject to DOPA, and outlines the DOPA process (available at <http://dhcd.dc.gov/publication/2013-district-opportunity-purchase-act-dopa>).

calculations. § 42-3404.33(b)(4). Rent increases are limited to no more than 10% per year. The Mayor may impose income restrictions (however, existing tenants are “grandfathered”).

Any unit that is already an affordable unit, at the time the Mayor exercises DOPA rights must remain an affordable unit, and any vacant units must be filled and maintained as affordable units, divided among households with differing affordability levels. See§ 42-3404.33(c). Further, the Mayor (or Mayor’s assignee) must develop an affordability plan to determine whether the number of affordable units may be increased. See§ 42-3404.33(d).

Draft Regulations Issuance

DHCD is working internally on draft regulations and plans to complete and publish regulations by February 2016.

Proposed DOPA Criteria

The DOPA Working Group researched multiple jurisdictions for affordable housing legislation, regulation, and criteria. After extensive analysis, examination and debate we agreed upon the factors listed below called a Ten Point Criteria as those likely to assist with the successful selection of properties for purchase and the exercise of DOPA rights. We propose that for any single building being considered for a DOPA purchase, that the building satisfy at least three of the criteria. When considering multiple buildings contemporaneously, buildings will be listed in order of priority based upon the total number of criteria satisfied. The higher the number of criteria satisfied the higher of a priority the given building is designated. The highest priority designation any given building can obtain is ten based upon satisfying all 10 selection criteria. Because priorities naturally shift over time, the criteria themselves are not weighted or listed in order of priority.

Ten Point Selection Criteria for Prioritizing Selection of Building(s) for DOPA Purchase:

1. High Municipal Debt impacting the Average Cost per Unit
2. Geographic Priority
Is Building in a “Mayor’s Target Area” or” Municipal Priority Area”
Is Building in an area that would benefit from residential or income diversity?
3. Neglected Building Maintenance / Excessive Code Violations
[consult with Strike Force to recommend a number or rate of housing code violations]
4. High Vacancy Rates
Vacancy rates of 15% or greater of available units
These buildings may help reduce homelessness in the District
5. Expiring Housing Assistance Program (“HAP”) Contract
[consult with Strike Force to recommend an expiration timeframe; the HAP contract is within _____ months of expiration]
6. Expiring Low Income Housing Tax Credits (“LIHTC”)

[consult with Strike Force to recommend a timeframe for LIHTC covenant expiration; the LIHTC covenant expires within _____ months]

7. Expiring Ground Lease
Ground lease within 20 years of lease expiration date
8. Smaller Buildings
Five to twenty unit buildings
Purchase price of \$2 million or less
9. Non-Compliance with Regulatory Requirements
Violations of HOME, LIHTC, or other programs/covenants requirements
10. Senior Citizen/Disabled Tenants in Building
25% or more of tenants are senior citizens or disabled as of the date of the offer of sale

Proposed DOPA Qualified Developer Criteria & Factors (“QDC”)

The DOPA working group researched, analyzed, and created the following proposed criteria and factors to facilitate the selection of a qualified developer assignee when the Mayor assigns her DOPA rights. The QDC sets minimum criteria and factors to be considered in establishing developer/respondent eligibility and selection as the Mayor’s DOPA assignee in response to a request for qualifications or request for proposals.

Proposed QDC:

1. Compliance with laws/regulations (Good Standing, Clean Hands, Green Building, CBE, etc.);
2. Qualifications and capacity of the proposed personnel and contractors to carry out the proposed program;
3. Number of rental units successfully developed in the past five (5) years, and number of for-sale units successfully developed and sold in the past five (5) years;
4. Financial capacity of respondent to carry out the proposed scope of work (NYC);
5. Proposed approach to executing program goals/DOPA affordability requirements;
6. Developer’s marketing program;
7. Developer’s proposed plan for acquisition of property;
8. Asset management experience (NYC);
9. Ownership experience (NYC);
10. Demonstrated commitment to affordable housing.

DOPA Notices received by DHCD for Past 3 Fiscal Years

DOPA Notices filed by Fiscal Year and Ward

Ward	# DOPA Notices Received			
	FY 2013	FY 2014	FY 2015	FY 2015
1	5	11	3	1
2	2	3	1	
3	3	3	1	
4	14	13	9	
5	4	7	2	1
6	5	2	1	
7	4	2	9	
8	4	6	7	1
Total	41	47	33	

FY	Property Address	Filing Date	Ward
FY 2013 (41)			
2013	3145 Mount Pleasant Street NW	3/7/2013	1
2013	1514 Newton Street NW	6/21/2013	1
2013	2434 16th Street NW	7/12/2013	1
2013	1881 3rd Street NW	7/12/2013	1
2013	1454 Irving Street NW	9/13/2013	1
2013	1706 T Street NW	3/14/2013	2
2013	1728 Swann Street NW	5/17/2013	2
2013	3737 Legation Street NW	1/9/2013	3
2013	4000-4013 47th Street NW	1/28/2013	3
2013	2900 Connecticut Avenue NW	8/1/2013	3
2013	614 Longfellow Street NW	12/21/2012	4
2013	7036 Eastern Avenue NW	3/8/2013	4
2013	716 Madison Street NW	8/16/2013	4
2013	720 Madison Street NW	8/16/2013	4
2013	737 Longfellow Street NW	8/16/2013	4
2013	806 Longfellow Street NW	8/16/2013	4
2013	810 Longfellow Street NW	8/16/2013	4
2013	806 Longfellow Street NW	9/17/2013	4
2013	737 Longfellow Street NW	9/17/2013	4
2013	810 Longfellow Street NW	9/17/2013	4
2013	723 Jefferson Street NW	9/17/2013	4
2013	720 Madison Street NW	9/17/2013	4

2013	716 Madison Street NW	9/17/2013	4
2013	5700-5756 2nd Street NE	1/23/2013	4
2013	82 Webster Street NE	12/11/2012	5
2013	74 Webster Street NE	9/13/2013	5
2013	74 Webster Street NE	9/13/2013	5
2013	1516-1520 Holbrook Street NE	12/16/2013	5
2013	315 18th Place NE	5/7/2013	6
2013	443 New York Avenue NW	6/28/2013	6
2013	1600-1606 Independence Avenue SE & 128 16th Street SE	7/23/2013	6
2013	1000 & 1100 6th Street SW	8/30/2013	6
2013	315 18th Place NE	9/17/2013	6
2013	1-13 Bass Circle SE, 4600-4606 & 608-4614 Benning Rd SE; 4505-4511 B Street SE and 4611 Bass Pl SE	11/19/2012	7
2013	3970 Pennsylvania Avenue SE	2/15/2013	7
2013	5055 Meade Street & 1150 51st Street NE	6/28/2013	7
2013	4806 Alabama Avenue SE	8/21/2013	7
2013	1218-1222 U Street SE	11/13/2012	8
2013	4660 Martin Luther King Jr Avenue SW	1/31/2013	8
2013	2020-2022 Naylor Road SE	4/24/2013	8
2013	2633, 2635, 2637, 2639, 2641, 2643, & 2645 Naylor Road SE	8/22/2013	8

FY 2014 (47)

2014	1921 Kalorama Road NW	11/19/2013	1
2014	2327-2331 15th Street NW	12/2/2013	1
2014	3115 Mount Pleasant Street NW	12/13/2013	1
2014	1620 Fuller Street NW	1/13/2014	1
2014	3410 17th Street NW	1/17/2014	1
2014	1829 California Street NW	2/25/2014	1
2014	3410 17th Street NW	3/10/2014	1
2014	1823 Kalorama Road NW	4/21/2014	1
2014	1829 Kalorama Road NW	4/21/2014	1
2014	525 Park Road NW	4/25/2014	1
2014	3101 Sherman Avenue NW	8/15/2014	1
2014	2144 California Street NW	2/21/2014	2
2014	1305 Q Street NW	4/21/2014	2
2014	1616 16th Street NW	4/23/2014	2
2014	3945 Connecticut Avenue NW	1/13/2014	3
2014	2911 Newark Street NW	2/10/2014	3
2014	4564 MacArthur Boulevard NW	3/18/2014	3

2014	806 Longfellow Street NW	10/1/2013	4
2014	810 Longfellow Street NW	10/1/2013	4
2014	737 Longfellow Street NW	10/1/2013	4
2014	723 Jefferson Street NW	10/1/2013	4
2014	720 Madison Street NW	10/1/2013	4
2014	1224 Missouri Avenue NW	4/2/2014	4
2014	5208 3rd Street NW	4/11/2014	4
2014	505 Jefferson Street NW	5/7/2014	4
2014	5400, 5404 & 5408 5th Street NW	5/7/2014	4
2014	850 Quincy Street NW	6/20/2014	4
2014	1433-1435 Spring Road NW	7/2/2014	4
2014	1371 Peabody Street NW	8/8/2014	4
2014	1444 Rock Creek Ford Road NW	8/22/2014	4
2014	2900 Newton Street NE	11/13/2013	5
2014	230 Rhode Island Avenue NE	1/13/2014	5
2014	2100 Channing Street NE	3/7/2014	5
2014	1825 Kendall Street NE	5/9/2014	5
2014	1375 Childress Street NE	5/13/2014	5
2014	207 Florida Avenue NW	9/25/2014	5
2014	342 8th Street NE	2/10/2014	6
2014	401 K Street NW	6/10/2014	6
2014	2925-2929 Pennsylvania Avenue SE	12/2/2013	7
2014	3500-3510 Minnesota Avenue SE	4/24/2014	7
2014	1840 Minnesota Avenue SE	11/19/2013	8
2014	4327 7th Street SE (4201-4237, 4252, 4386, 4243 & 4373 7th Street SE)	12/13/2013	8
2014	129 Yuma Street SE	3/14/2014	8
2014	4020 6th Street SE	4/3/2014	8
2014	2400, 2402, 2404, 2410 & 2412 Hartford Street SE	5/9/2014	8
2014	5400-5404 8th Street NE	5/7/2014	5
2014	2400-2412 Pomeroy Road SE & 2907 Stanton Road SE	1/28/2014	8
FY 2015 (33)			
2015	2651 16th Street NW	3/11/2015	1
2015	3115 Mount Pleasant Street NW	9/4/2015	1
2015	2900 Adams Mill Road NW	9/23/2015	1
2015	750 3rd Street NW	9/4/2015	2
2015	4849 Connecticut Avenue NW	7/22/2015	3
2015	6323 Luzon Avenue NW	10/27/2014	4
2015	909 Longfellow Street NW	12/18/2014	4
2015	812 Jefferson Street NW	12/23/2014	4

2015	4526 13th Street NW	2/6/2015	4
2015	1311 Madison Street NW	5/8/2015	4
2015	7436 Georgia Avenue NW	7/8/2015	4
2015	49, 51 & 53 Missouri Avenue NW	7/29/2015	4
2015	614 Longfellow Street NW	9/3/2015	4
2015	7440 Georgia Avenue NW	9/28/2015	4
2015	1149 Owen Place NE	12/31/2014	5
2015	151 Q Street NE	4/15/2015	5
2015	76 M Street NW	4/15/2015	6
2015	1215-1225 49th Street NE	11/25/2014	7
2015	5110 A Street SE	2/6/2015	7
2015	3463 Minnesota Avenue SE	6/2/2015	7
2015	306-336 37th Street SE	6/23/2015	7
2015	1633 28th Street SE	7/31/2015	7
2015	908-922 Eastern Avenue NE	8/20/2015	7
2015	3500 & 3504 Ely Place SE (1635 V St, 1655, 1659, 1737 & 1739 W St, 223, 300, 304 Anacostia Rd, 224 36th St, 301, 305 37th St, 3415 & 3425 Croffut Pl, 450 51st St, and 5115 Drake Pl SE)	8/19/2015	7
2015	4212 East Capitol Street SE	8/21/2015	7
2015	2300, 2302, 2304, 2306, 2308 Hartford Street SE and 2850, 2852 23rd Place SE	2/25/2015	8
2015	2800-2808 Jasper Road SE	3/10/2015	8
2015	2300-2308 Hartford Street SE & 2850-2852 23rd Place SE	4/30/2015	8
2015	4023 3rd Street SE	5/5/2015	8
2015	2412 Ainger Place SE	6/5/2015	8
2015	1840 Minnesota Avenue SE	7/14/2015	8
2015	4009-4011 3rd Street SE & 4202-4228 4th Street SE	7/17/2015	8
2015	317-319 Anacostia Road SE & 3501-3513 Minnesota Avenue SE	11/15/2015	7
FY 2016 (3)			
2016	2518 & 2524 17th Street NW	10/9/2015	1
2016	2900 Newton Street NE	10/9/2015	5
2016	800 Southern Avenue SE	10/13/2015	8

DOPA & TOPA Timeframes

TOPA:

30 days or
45 days



Offer Period

TOPA Officer of Sale issued by owner

Tenant Organization registers with owner and CASD

120 days



Negotiation Period

Ratify a Contract

120 days



Settlement Period

Finance & Close

TOTAL:
270 or 285
day s

DOPA:

30 days



Offer Period

150 days



Negotiation Period*

60 days



Settlement

Period

TOTAL:
225 days +
15 days

* If the tenants register a tenant organization and accept the owner's TOPA offer of sale, then the Mayor receives and additional 15 days to negotiate.

DISTRICT OPPORTUNITY TO PURCHASE ACT

(D.C. Official Code 2001 ed., as amended, §§ 42-3404.31–37)

The District’s Opportunity to Purchase (DOPA) program 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 (5) or more rental units, provided that twenty-five percent (25%) or more of the rental units are “Affordable Units”. DOPA offers of sale should be submitted concurrently with, but are subordinate to, a tenant’s right to purchase under Tenant Opportunity to Purchase (TOPA) law.

Frequently Asked Questions:

How do you determine an “Affordable Unit”?

An “Affordable Unit” is defined as means a rental unit in a housing accommodation for which the current monthly rent, including tenant-paid utilities, is not greater than 30% of the monthly income of a household at 50% of the area median income (AMI). AMI is the median income of the D.C. metropolitan statistical area, defined annually by the U.S. Department of Housing and Urban Development, adjusted for the household size. Utilities include all tenant-paid utilities, such as heat, air conditioning, cooking, electricity or hot water.

The purpose of the chart below is to assist in the “Affordable Unit” determination. If the property owner does not know the amount of the tenant paid utilities, the chart below can be used to estimate tenant paid utilities. The estimated utilities provided below are updated periodically by the District of Columbia Housing Authority.

“Affordable Unit” Table for 2015				
Number of Bedrooms	Occupancy Pricing Standard	Estimated Utility Allowance	Monthly Rent	Maximum Housing Cost
Studio	1	\$148	\$808	\$956
1	2	\$233	\$859	\$1,092
2	3	\$300	\$929	\$1,229
3	5	\$376	\$1,126	\$1,502

Example 1: Unit #101 is a one (1) bedroom unit and the household pays \$1,000 in monthly rent, which includes all utilities. This unit is an “Affordable Unit” because the total housing cost is below \$1,092.

Example 2: Unit #102 is a two (2) bedroom unit and the household pays \$1,150 in monthly rent. Monthly rent does not include utilities and the owner of the property does not know the monthly tenant-paid utility cost. This unit is not an “Affordable Unit” because the monthly housing cost is more than \$1,229 (\$1,150 + \$300 = \$1,450).



What should the DOPA Offer of Sale include?

The DOPA Offer of Sale must include:

- The asking price and material terms of sale;
- A statement as to whether a third party sale contract exists for the housing accommodation and that a copy of any third party sale contract shall be provided to the District within 7 days after receiving a request;
- A list of tenant names and their corresponding unit numbers, along with the current rent charged for each rental unit as of the DOPA Offer of Sale issuance date;
- A list of vacant rental units, their unit numbers and the current rent charged for each rental unit as of the DOPA Offer of Sale issuance date;
- A list of Affordable Units, their unit numbers as of the DOPA Offer of Sale issuance date and the owner's calculations for determining the Affordable Units;
- A statement that the owner of the property will provide, within 7 days after receiving a request, the following information: monthly operating expenses, utility consumption rates, capital expenditures for the previous 2 years, and a building floor plan.

How much time does the District have to decide to purchase the housing accommodation?

If the Mayor is interested in acquiring the housing accommodation, the Mayor shall:

1. Provide a written statement of interest to the owner and tenants **within 30 days** of receiving the District's offer of sale;
2. Have **not less than 150 days** from the date of the owner's receipt of the Mayor's written statement of interest to negotiate a contract for sale;
3. Have **15 additional days for a total of 165 days** to negotiate a contract of sale if a tenant organization is formed and delivers an application for registration to the Mayor;
4. Receive the **same extension of time as any tenant**. The owner should provide written notification to the Mayor of any extensions of time provided to the tenant;
5. Extend the negotiation period **one day for every day of delay** in providing information by the owner; and
6. Have **up to 60 days** after the date of execution of a contract of sale to complete settlement.

Where should the DOPA Offer of Sale be sent?

The Honorable Muriel Bowser
Government of the District of Columbia
c/o Department of Housing and Community Development
Rental Conversion and Sale Division
1800 Martin Luther King, Jr. Avenue, S.E.
Washington, D.C. 20020

As of 04/07/15

