



**GOVERNMENT OF THE DISTRICT OF COLUMBIA**  
**DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT**  
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## **DISTRICT OPPORTUNITY TO PURCHASE ACT (D.C. OFFICIAL CODE 2001 ED., AS AMENDED, §§42-3404.31-37)**

### **FREQUENTLY ASKED QUESTIONS**

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 the rental units are “affordable.” DOPA offers of sale should be submitted concurrently with, but are subordinate to, a tenant’s right to purchase under the Tenant Opportunity to Purchase Act (TOPA).

#### **How Do You Determine an “Affordable Unit”?**

An “Affordable Unit” is defined as a rental unit in a housing accommodation for which the current monthly rent, including tenant-paid utilities, is not greater than 30 percent of the monthly income of a household at 50 percent 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 (HUD) adjusted for the household size. The 2018 AMI is \$117,200 for a family of four. Utilities include all tenant-paid utilities, such as heat, air conditioning, cooking, electricity, or hot water.

If the property owner does not know the amount of the tenant-paid utilities, the chart below can be used to estimate them. The estimates below are updated periodically by the District of Columbia Housing Authority.

<b>“Affordable Unit” Table (for 2018)</b>				
<b>Number of Bedrooms</b>	<b>Occupancy Pricing Standard</b>	<b>Estimated Utility Allowance</b>	<b>Monthly Rent</b>	<b>Maximum Housing Cost</b>
Studio	1	\$160	\$830	\$90
1	1.5	\$241	\$829	\$1,070
2	3	\$322	\$958	\$1,280
3	4.5	\$404	\$1,086	\$1,490

Example 1: Unit #101 is a one bedroom unit and the household pays \$900 in monthly rent, which includes all utilities. This unit is an “Affordable Unit” because the total housing cost is below \$1,070.

Example 2: Unit #102 is a two bedroom unit and the household pays \$1,150 in monthly rent. Monthly rent does not include utilities and the property owner does not know the monthly tenant-paid utility cost. This unit is not an “Affordable Unit” because the monthly housing cost is more than \$1,280 (\$1,150+ \$322 = \$1,472).

### **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 on whether a third party sale contract exists for the housing accommodation and that a copy of such a contract shall be provided to the District within seven 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; and
- a statement that within seven days after receiving a request, the property owner will provide the following information: (1) monthly operating expenses; (2) utility consumption rates; (3) capital expenditures for the previous two years; and (4) 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 that the owner's receives 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 time extensions 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 execution date of a sale contract to complete settlement.

### **Where Should the DOPA Offer of Sale Be Sent?**

The Honorable Muriel Bowser  
Government of the District of Columbia  
Department of Housing and Community Development Rental Conversion and Sale Division  
1800 Martin Luther King Jr. Avenue SE  
Washington, DC 20020

## When Were DOPA Regulations Released?

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.

On November 16, 2018, final regulations were issued that 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.