District Opportunity to Purchase Act (DOPA)
Pre-Bid DOPA Meeting for Potential Developer-Assignees
December 10th, 2018
Agenda

• Welcome
• Director’s Remarks
• Overview of DOPA
  – Regulations
  – Request for Qualifications
  – Request for Proposals
  – Assignment of Rights
  – Compliance
• Questions and Answers

Members of the Ben E Cooperative Association recently thanked DHCD for its help in preserving their housing using TOPA.
Background on DOPA

• The District Opportunity to Purchase Act (DOPA) was enacted in 2008.
• Regulations were never issued to allow the law to take full effect.
• In November 2016, the DC Housing Preservation Strike Force listed the implementation of DOPA regulations as one of six strategies the District should use to preserve its affordable housing stock.
• Mayor Bowser directed DHCD to develop the regulations, which are the result of a thorough rulemaking process that began in December 2017.
• The final rules were published in the *DC Register* on November 16, 2018 and went into effect the same day.
Drafting Process for DOPA Regulations

- Established the coordination of the DOPA and TOPA timelines.
- Explained the District Management of properties it purchases.

Proposed Rules issued on December 22, 2017

- Clarified the types of information the Mayor may request from an owner.
- Provided more specifics on the criteria for developer assignees.
- Clarified how rent and income are determined and the income levels used for eligibility purposes.
- More explicitly defined maximum rent.

Second Set of Proposed Rules June 15, 2018

- Clarified the affordable rental unit definition.
- Revised the definition of monthly rent.
- Updated the definition of allowable annual increase.

Final Regulations November 16, 2018
Goal of the DOPA Program

DOPA promotes affordable rental housing by maintaining existing affordable rental units as well as increasing the total number of affordable rental units within the District.

Properties are considered eligible for DOPA when:

- A property of five or more rental units is offered for sale; and
- 25 percent or more of the rental units are “affordable” at 50% of Median Family Income (MFI).

DOPA allows the Mayor the opportunity to purchase or assign the right to purchase the property IF the tenants do not exercise their TOPA rights.
TOPA & DOPA Timelines
(Intended to Run Concurrently)

TOPA NOTICE

Offer Period (30-45 days)

Negotiation Period (Up to 120 days)

Settlement Period (120 days)

DOPA NOTICE

Offer Period (30 days)

Negotiation Period (Up to 45 days)

Settlement Period (60 days)

*The Negotiation Period for DOPA does not occur if TOPA is executed in the Negotiation Period.
The Mayor may either purchase a property or assign the District’s right to purchase to a developer that meets criteria set by DHCD.

DHCD released an Request for Qualifications (RFQ) to create a list of Pre-Qualified Developers on Nov. 16, 2018.

Once properties are selected, a separate Request for Proposals (RFP) will be released to the Pre-Qualified Developers.

Developers will be assigned rights to properties based on their ability to acquire the property and their commitment to preserve affordable housing.
RFQ Submission

- Cover Letter
- Narrative Proposal
- Certifications
- Applicant Qualifications Forms
- Applicant Financial Statements
- Additional Information
Selection of Pre-Qualified Developers to Preserve Affordability

Developers will be selected based on their demonstrated capacity and expertise in acquiring, renovating, maintaining and owning affordable multi-family rental housing, which may be evidenced by:

- List of prior affordable and market-rate housing;
- Qualifications and capacity of proposed personnel and contractors;
- List of lenders and equity sources used in prior projects;
- Description of affordability covenants applicable to prior projects;
- An affirmative statement that developer has never been in financial default;
- Description of developer's typical marketing and property management plan; and
- Registration and license to do business in the District of Columbia.

This information can be found in the RFQ released on November 16, 2018 on the DHCD website.
RFQ Submission

Request for Qualifications to Pre-Qualified Potential Assignees under DOPA

On November 16, rules will be published in the D.C. Register implementing the District Opportunity to Purchase Act (DOPA), which requires rental property owners to provide the District with the opportunity to purchase housing accommodations consisting of five or more rental units, as long as at least 25 percent are deemed affordable. 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 for the possible assignment of DOPA rights. See the RFQ below for application details and deadlines.

Please upload response documents for the RFQ here. Please name files as follows: “DOPA RFQ [Applicant Name] – [File Type] – [Date]”.

Submit File(s) to DOPA RFQ Submissions

Drag and drop a file to upload or browse

Uploading a file here will not add it to your Box account

The content of this upload widget is not managed by Box. By uploading you are consenting to giving this content to the widget manager.
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DOPA Assignment of Rights in 7 Steps

1. DOPA Notification Form Received
2. Property Eligibility Determined
3. Statement of Interest Sent
4. RFP Sent to Pre-Qualified Developers
5. Wait for Tenants to Decide on their TOPA rights
6. Property Awarded through Assignment of Rights and Affordability Covenant
7. Compliance and Follow Up

Tivoli Gardens, a TOPA project in Ward 5, is an example of the type of project that also can benefit from DOPA.
DOPA Notification Form is expected from property owners selling a building with 5+ rental units.

Property owners must certify on the DOPA Notification Form if they qualify or not for DOPA.

Additional documentation may be requested to determine the Mayor’s interest in the property.
General Criteria for the Selection of Properties for Preservation of Affordable Rental Units*

- Affordable housing covenants that will expire within the next five years;
- Location in neighborhoods with above average rents;
- Smaller buildings with 5-20 units being sold under $2 million;
- Presence of elderly and/or tenants with disabilities;
- Significant number of family-sized units and amenities;
- High vacancy rates;
- Significant code violations;
- High municipal debt;
- Received a notice of default or is in significant risk of foreclosure; and
- Historical or culturally significant properties in the District of Columbia.

*Published on November 16, 2018 in the DC Register.
DHCD will send a statement of interest to property owners and a copy to tenants within 30 days of receiving a DOPA notification.

Additional information may be requested at this time to conduct or finalize due diligence on the property.
Pre-qualified developers will have to demonstrate the ability to acquire the building by submitting the following documentation:

- Affordability Plan, Development Budget & Operating Proforma
- Letters of Interest from Financial Institutions
- Narrative Responses

Step 4. RFP Sent to Pre-Qualified Developers
An affordability plan for the building will be submitted for each property utilizing Form D-202.
Affordability Plan: Monthly Rent Allocations

The Monthly Rent charged to an Existing Household shall not exceed the lesser of:

• The Existing Household’s current Monthly Rent; or
• 30% of the Existing Household’s monthly income.

In the case that the following information cannot be obtained:

• **Current income**: the tenant will pay their current monthly rent; or
• **Monthly rent**: the tenant will pay based on the affordability plan.

*In each case, the Monthly Rent shall be subject to Allowable Annual Increases.*
Affordability Plan: Unit Turnover

Income restrictions may be imposed upon the Rent Restricted Units pursuant to the affordability plan and the covenants recorded on the property.

If the Monthly Rent was equal to or less than 60% or 30% of MFI, then they shall remain at those levels upon turnover.

Vacant units shall be filled and maintained as close as practicable to the following distribution at the time of initial income certification:

- 1/3 shall be occupied by households at 30% MFI Level;
- 1/3 shall be occupied by households at 60% MFI Level; and
- 1/3 shall be occupied by households at 80% MFI Level.
RFP Narrative Questions

- Changes to information previously submitted in RFQ;
- Proposed approach to implementing DOPA’s goals;
- Approach to remedying any issues present at the property;
- Plans for the housing accommodation, including any building construction or modification;
- Any specific populations intended to be served; and
- Development timeline.
Step 4. RFP Sent to Pre-Qualified Developers

<table>
<thead>
<tr>
<th>THRESHOLD ELIGIBILITY REQUIREMENTS: Financial Criteria</th>
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<tbody>
<tr>
<td>1</td>
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<td>2</td>
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<td>3</td>
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<table>
<thead>
<tr>
<th>SCORING CRITERIA</th>
<th>Maximum Points</th>
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<tbody>
<tr>
<td>1</td>
<td>Affordability Plan</td>
</tr>
<tr>
<td>2</td>
<td>Form D-202 - Application</td>
</tr>
<tr>
<td>3</td>
<td>Firm Financing Commitments</td>
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<tr>
<td>4</td>
<td>Overall Financial and Economic Feasibility</td>
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<tr>
<td>5</td>
<td>Green Building Requirements</td>
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<tr>
<td>6</td>
<td>CBE Requirements</td>
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</tbody>
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Scoring Total | **50**
## Step 5. Wait on Tenants to Decide on Their TOPA Rights

<table>
<thead>
<tr>
<th>Days</th>
<th>DOPA Selection of Developers</th>
</tr>
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<tbody>
<tr>
<td>30-35</td>
<td>RFP will be sent to pre-qualified developers</td>
</tr>
<tr>
<td>40-75</td>
<td>Proposals submitted</td>
</tr>
<tr>
<td>75-95</td>
<td>Applications reviewed</td>
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<tr>
<td>95-120</td>
<td>Wait for TOPA to run its course (may move faster if tenants have not organized and/or choose to not assign their rights)</td>
</tr>
<tr>
<td>120</td>
<td>Award the project to selected developer through assignment of DOPA rights</td>
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<tr>
<td>121-165</td>
<td>Negotiation</td>
</tr>
<tr>
<td>165-225</td>
<td>Settlement</td>
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Step 6. Property Awarded through Assignment of Rights and Affordability Covenant

- District will assign its right to purchase.

- Affordability of rents is maintained as long as the property remains a housing accommodation.

Tenants at 5741 Colorado Ave. NW in Ward 4 used TOPA and had a ribbon cutting with government and nonprofit reps at rehabbed building. Similar ceremonies for DOPA projects are in the future.
Affordability Plan

Developers shall file a combined property report and affordability plan for the Housing Accommodation with the Agency within 120 days after settlement and annually by December 31 of each year. The combined property report and affordability plan shall include, but not be limited to, the following:

- The number of units, number of bedrooms, and square footage
- The names of each Household member
- The Monthly Rent
- The income and MFI Level of each Household
Property Management Plan

- Proof of rental registration, a certificate of occupancy, and a basic business license;
- Proof of insurance;
- A description of any income restrictions to be imposed on new tenants;
- The proposed methodology to increase the number of Rent Restricted Units;
- A list of vacant Rental Units;
- A calculation of the percent of income each Household occupying a Rental Unit in the Housing Accommodation spends on Monthly Rent; and
- A notation indicating which Rental Units qualified as Affordable Rental Units under the Act.
Common Questions

Connection Between DOPA & TOPA

• How will DHCD know what happens with TOPA?
• Do tenants get to select or review to whom DHCD will assign its DOPA rights?
• How will DHCD ensure that DOPA does not become an incentive for tenants who do not want to decide on their TOPA rights?
Pre-Qualified Developers

- Can developers work with TOPA and DOPA?
- How often will interested developers be added to the “Pre-Qualified Developer” list?
- What do they need to do to recertify?
- If the applicant has not developed and/or owned a minimum of three properties within the District, does that disqualify the applicant from becoming a pre-qualified DOPA developer?
Common Questions

FINANCING FOR DOPA PROJECTS

• Does the District benefit monetarily from DOPA?
• Is the District posting security deposits?
• Are there below-market financing incentives available for developers to use with DOPA?
• Will developers receive bonus points in the DHCD’s Housing Production Trust Fund Consolidated Request for Proposals (RFP) for participating in DOPA?
Resources

Roots to Roofs DC
http://www.rootstoroofsdc.com/

RFQ link
https://dhcd.dc.gov/page/request-qualifications-pre-qualified-potential-assignees-under-dopa

DOPA Notification Form
https://dhcd.dc.gov/page/dopa-notification-form-housing-accommodations-five-5-or-more-rental-units

Brooklyn Place Apartments in Ward 5 is a TOPA project, and another example of projects that could fall under DOPA.
QUESTIONS?

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