

### District Opportunity to Purchase Act (DOPA) Pre-Bid DOPA Meeting for Potential Developer-Assignees

December 10<sup>th</sup>, 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.



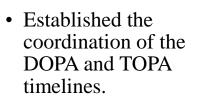


- The District Opportunity to Purchase Act (DOPA) was enacted in 2008.
- Regulations were never issued to allow the law to take full effect.
- In November 2016, the DC Housing Preservation Strike Force listed the implementation of DOPA regulations as one of six strategies the District should use to preserve 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**





• Explained the District Management of properties it purchases.

> Proposed Rules issued on December 22, 2017

Second Set of Proposed Rules June 15, 2018

- 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.

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

Final Regulations November 16, 2018





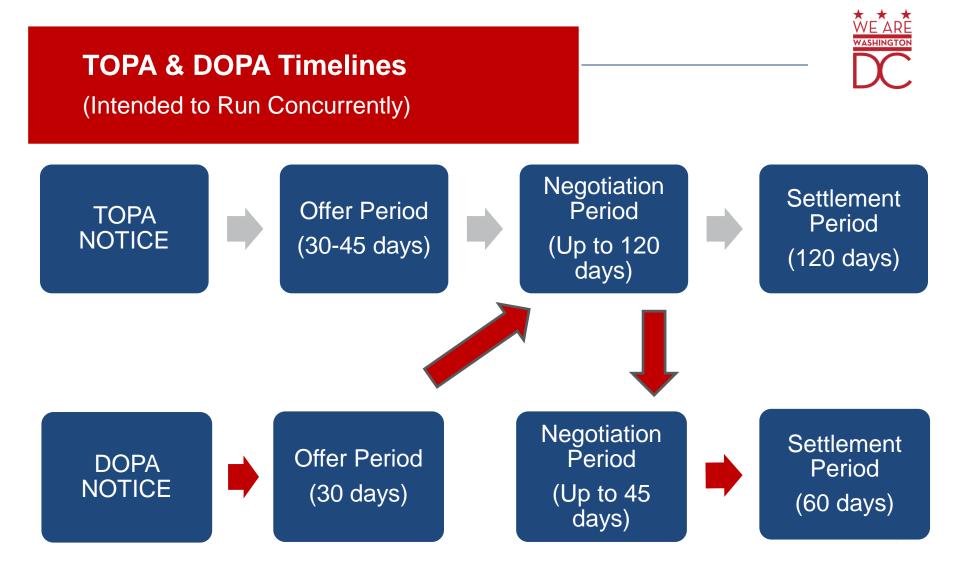
DOPA promotes affordable rental housing by **maintaining** existing affordable rental units as well as **increasing** the total number of affordable rental units within the District.

### **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.







\*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



8



### 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.

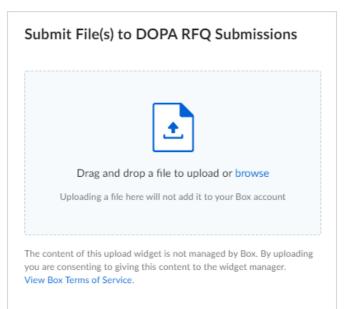


### **RFQ Submission**

### 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]".



box



### **DOPA Assignment of Rights in 7 Steps**





Tivoli Gardens, a TOPA project in Ward 5, is an example of the type of project that also can benefit from DOPA.

6. Property Awarded through Assignment of Rights and Affordability Covenant

7. Compliance and Follow Up



### **Step 1. DOPA Notification Form Received**



#### **DOPA Notification Form**



GOVERNMENT OF THE DISTRICT OF COLUMBIA DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT 1800 Martin Luther King Jr. Avenue SE Washington, DC 202.442.7200 | dhcd.dc.gov

DISTRICT OF COLUMBIA OPPORTUNITY TO PURCHASE ACT (DOPA) NOTIFICATION FORM TO THE MAYOR OF THE DISTRICT OF COLUMBIA FOR HOUSING ACCOMMODATIONS WITH FIVE (5) OR MORE RENTAL UNITS

Date \_\_\_\_

The Honorable Mayor 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 SE Washington, D.C. 20020

Dear Mayor:

\_ , in Square \_\_\_\_\_, Lot \_\_\_\_\_ in Ward\_

#### 1. OFFER OF SALE

The owner understands that as the Mayor of the District of Columbia, you shall be given an opportunity to purchase this Housing Accommodation in accordance with DOPA. DOPA provides that you have the same opportunity to purchase the Housing Accommodation as the opportunity to purchase that is provided to a tenant under Title IV of the Rental Housing Conversion and Sale Act of 1980, as amended ("TOPA") (D.C. Law 3-86, effective Sept. 10, 1980, D.C. Official Code § 42-3404.01 et seq. (2001)). Your right to purchase, however, is subordinate to the right of a tenant organization to purchase.

The owner has attached a copy of the TOPA Offer of Sale ("Offer of Sale"), which is incorporated herein by reference, and the owner represents and warrants that the Offer of Sale was sent to the tenants and the District as required by TOPA.  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												
unice												
RESIDENT												
Unit Description Current		ent	Proposed									
Bedrooms	Baths	Income	Rent	Income Limit	Rent	Number of		Tenant Paid	Rent	Income per	Nonthly	Annual
		Leve/				Units	(Net leasable SF)	Utilities*	Subsidy	Unit	Income	Income
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Effective Gross Income/Units (Total Annual Income - Va MEDIAN FAMILY INCOME OF UNITS			,	<ul> <li>TENANT PAID UTILITIES (check all utilities to be paid by tenants)</li> </ul>			is)					
	Ω	iment	Frop	osed							_	
Max MFI	I of Unit	% of Units	# of Units	% of Units		Air Conditi	oning (describ	e)				
30%							Household Electric (describe)					
60%						Hot Water	Hot Water (describe)					
80%						Heat (desc	Heat (describe)					
Flease fill in the box below:				Cooking (describe)								
Total Gross Square Feet					Other (describe)							





### **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.





THRESHOLD ELIGIBILITY REQUIREMENTS: Financial Criteria			
1	Affordability Plan, Development Budget and Operating Proforma		
2	Financing Letters		
3	Narrative		

SCORING CRITERI	Maximum Points	
1	Affordability Plan	20
2	Form D-202 - Application	10
3	Firm Financing Commitments	5
4	Overall Financial and Economic Feasibility	5
5	Green Building Requirements	5
6	CBE Requirements	5
Scoring Total		50





Days	DOPA Selection of Developers			
30-35	RFP will be sent to pre-qualified developers			
40-75	Proposals submitted			
75-95	Applications reviewed			
95-120	Wait for TOPA to run its course (may move faster if tenants have not organized and/or choose to not assign their rights)			
120	Award the project to selected developer through assignment of DOPA rights			
121-165	Negotiation			
165-225	Settlement			



## 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?



### **Common Questions**

#### **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?



#### 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/reques t-qualifications-pre-qualifiedpotential-assignees-under-dopa

### **DOPA Notification Form**

https://dhcd.dc.gov/page/dopanotification-form-housingaccommodations-five-5-ormore-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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