

Let's Talk DOPA: The Rules Are Now Final, So What's Next?

*Workshop on the District Opportunity to
Purchase Act (DOPA) Regulations*

November 28, 2018

Agenda

- Welcome and Introductions
- Facebook Live Begins
- Remarks by Polly Donaldson, DHCD Director
- Overview of DOPA
- Facebook Live Ends
- Questions and Answers



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

Focus on Preservation of Affordable Housing



In 2015, Mayor Muriel Bowser created a Housing Preservation Strike Force. The resulting report named six recommendations:

1. Establish a Preservation Unit.
2. Create a Public-Private Preservation Fund.
3. Create a Small Properties Preservation and Affordability Program.
4. Implement the District Opportunity to Purchase Act (DOPA).
5. Advance preservation under the Tenant Opportunity to Purchase Act (TOPA).
6. Allow low income senior renters to age in place. (Single Family Residential Rehabilitation (SFRRP)).

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.

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.

The Monthly Rent charged to an Existing Household shall be no more than:

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

When the following information cannot be obtained:

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

In each case, the Monthly Rent shall be subject to Allowable Annual Increases.

What Is TOPA?

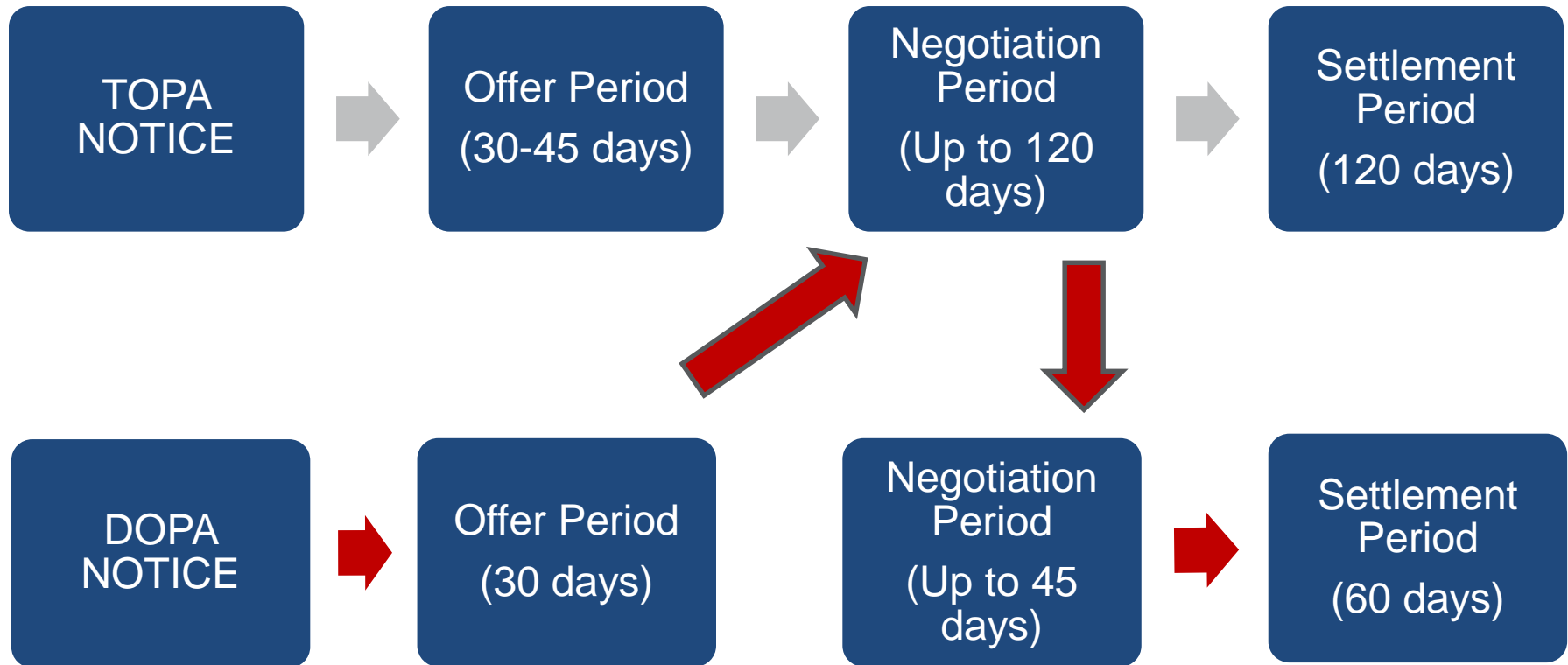
- **The Tenant Opportunity to Purchase Act (TOPA)** states that tenants in buildings with two or more units must be offered the first opportunity to purchase the building when it is offered for sale.
- **Coordination of TOPA and DOPA timelines:**
 - The Mayor does not have to wait for the TOPA process to end before starting the DOPA process.
 - The owner informs both the Mayor and the tenants of the decision to sell at the same time, and the two timelines run simultaneously.
- **The tenants have 120 days to decide to pursue their rights.** If they opt out of pursuing their rights, then DOPA can be exercised.



The tenants of the 22 Atlantic Street SE Association, seated, are among many who preserved their affordable housing through TOPA.

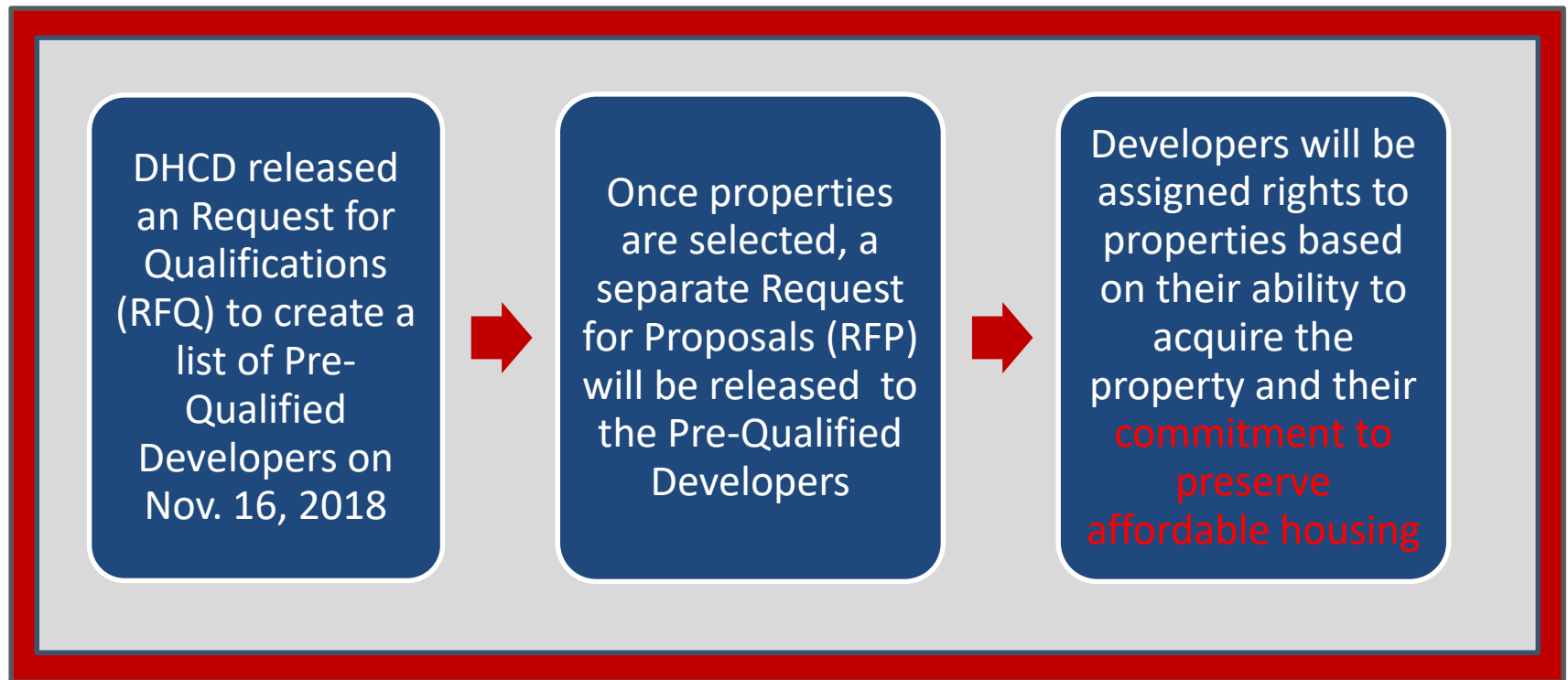
TOPA & DOPA Timelines

(Intended to Run Concurrently)



*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.



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.

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.

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:

This DOPA Addendum to TOPA Offer of Sale form is issued in accordance with the District of Columbia Opportunity to Purchase Act of 2008 ("DOPA") (D.C. Law 17-286, effective Jan. 30, 2009, D.C. Official Code § 42-3404.31 et seq. (2001)) and related regulations ("Addendum") and advises you of the owner's offer to sell the Housing Accommodation located at _____, 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.

Step 2. Property Eligibility Determined

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*.

Step 3. Statement of Interest Sent

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.

Step 4. RFP Sent to Pre-Qualified Developers

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 5. Wait on Tenants to Decide on Their TOPA Rights

| 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 out (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

Step 7. Compliance

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.

Resources

Roots to Roofs DC

<http://www.rootstorooofsdcc.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.

Pre-Bid DOPA Meeting for Potential Developer-Assignees

Location: 1800 Martin Luther King Jr. Avenue SE
Washington, DC 20020

Building: DHCD's Housing Resource Center

Room: First Floor Conference Room

RSVP: <https://dhcd.dc.gov/event/pre-bid-dopa-meeting-potential-developer-assignees>

QUESTIONS?

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