



2014 SEP 17 PM 2:59

OFFICE OF THE
SECRETARY

VINCENT C. GRAY

MAYOR

SEP 17 2014

The Honorable Phil Mendelson
Chairman
Council of the District of Columbia
1350 Pennsylvania Avenue, N.W.
Suite 504
Washington, D.C. 20004

Dear Chairman Mendelson:

Enclosed for consideration and enactment by the Council of the District of Columbia is the "Tenant Opportunity to Purchase Bona Fide Offer Clarification Amendment Act of 2014".


The purpose of the Bill is to clarify the meaning of a "bona fide offer" under the Tenant Opportunity to Purchase Act of 1980 ("TOPA"), ensuring that an offer of sale issued to tenants without a third party contract represents rational, fair, and objectively-based asking price and terms. As amended, TOPA will require that before an owner of a housing accommodation may sell the accommodation, or issue a notice of intent to recover possession, or a notice to vacate for the purposes of demolition, or a notice of discontinuance of housing use or housing use pursuant to Section 8 of the Housing Act of 1937 (42 U.S.C. § 1437f), the owner must give the tenants the opportunity to purchase at a price and with terms that are considered a bona fide offer of sale. The clarification intends that the meaning of a "bona fide offer" includes a sale price offer equal to or lesser than the appraised value or fair market value of the housing accommodation.

Ultimately, a bona fide offer must be fair and submitted in good faith. To prevent owners from speculatively inflating asking prices in anticipation of a future market value that is disproportionate to the current market value and to prevent the permanent loss of affordable housing units, as well as protecting tenants, it is imperative that TOPA be amended to incorporate the changes in this Bill. Further, these changes are required in order to protect the affordable housing stock and prevent the displacement of long-time District residents.

I urge the Council to take prompt and favorable action on this important legislation.

Sincerely,


Vincent C. Gray


Councilmember Phil Mendelson
at the Request of the Mayor

A BILL

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

To amend, the Tenant Opportunity to Purchase Act of 1980 to clarify the meaning of a bona fide offer for the tenant opportunity to purchase in the case of the sale of a housing accommodation for the purposes of demolition, a notice of discontinuance of housing use, or a notice of discontinuance of housing use pursuant to section 8.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the “Tenant Opportunity to Purchase Bona Fide Offer Clarification Amendment Act of 2014”.

Sec. 2. Section 402(a) of the Rental Housing Conversion and Sale Act of 1980, effective September 10, 1980 (D.C. Law 3-86; D.C. Official Code § 42-3404.02(a)), is amended as follows:

(a) Designate the existing text as paragraph (a) (1).

(b) Replace the existing text as to read as follows:

“(a) (1) Before an owner of a housing accommodation may sell the accommodation, issue a notice of intent to recover possession, or a notice to vacate for purposes of demolition, or issue a notice of discontinuance of housing use, or issue a notice of discontinuance of housing use pursuant to section 8 of the Housing Act of 1937 (42 U.S.C. § 1437f), the owner shall give the tenant an opportunity to purchase the accommodation at a price and terms which represent a bona fide offer of sale.

1 (c) Add a new paragraph (2) to read as follows:

2 “(2)(A) For the purposes of subsection (1), the term “bona fide offer” means a sale price
3 offer equal to or lesser than the appraised value, or fair market value, or third party contracts for
4 a housing accommodation, and any other appurtenant improvements plus the amount of liens
5 existing before the sale or transfer; provided, that the liens shall be satisfied by the seller in the
6 sale or transfer transaction.

7 (i) The appraisal or fair market value must be based on an objective valuation,
8 such as an independent appraisal not more than 6 months older than the
9 offer of sale notice.

10 (ii) For offers of sale issued for purposes to recover possession, demolition,
11 discontinuance of housing use, and for expiration of section 8 of the
12 Housing Act of 1937 (42 U.S.C. § 1437f), if 180 days for single-family
13 accommodations, 240 days for accommodations with 2 through 4 units, or
14 360 days for accommodations with 5 or more units lapse from the date of
15 issuance of the offer of sale and the owner has not recovered possession,
16 demolished, discontinued housing use, or the section 8 contract has
17 expired, then the owner shall be required to comply anew with the terms of
18 this subchapter.

19 (B) If the seller and the purchaser agree that the purchaser shall assume the liens,
20 if any, a bona fide offer of sale shall mean a sale price of the appraised value or fair market value
21 less the amount of any lien assumed by the purchaser.”.

22
23 Sec. 3. Fiscal impact statement.

1 The Council adopts the fiscal impact statement of the Chief Financial Officer as the fiscal
2 impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act,
3 approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

4 Sec. 4. Effective date.

5 This act shall take effect following approval by the Mayor (or in the event of veto by the
6 Mayor, action by the Council to override the veto), a 30-day period of Congressional review as
7 provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December
8 24, 1973 (87 Stat.813; D.C. Official Code § 1- 206.02(c)(1)), and publication in the District of
9 Columbia Register.

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
OFFICE OF THE ATTORNEY GENERAL**

Legal Counsel Division



MEMORANDUM



**TO: John-Paul Hayworth
Manager of Federal Affairs
Executive Office of the Mayor**

**FROM: Janet M. Robins *JMR*
Deputy Attorney General
Legal Counsel Division**

DATE: September 15, 2014

**SUBJECT: Legal Sufficiency Review of Draft Bill, the "Tenant Opportunity to
Purchase Bona Fide Offer Clarification Amendment Act of 2014"
(AE-14-579)**

This responds to your request that this Office review the above-referenced draft bill (bill) for legal sufficiency.

The bill would amend section 402(a) of the Rental Housing Conversion and Sale Act of 1980, effective September 10, 1980, D.C. Law 3-86, D.C. Official Code § 42-3404.02(a) (2012 Repl. and 2014 Supp.), to clarify the meaning of the term "bona fide offer" regarding a tenant's opportunity to purchase a housing accommodation. I have indicated needed revisions on the attached mark-up of the bill. When revised, the bill will be legally sufficient.

I have attached a certificate of legal sufficiency for your use. Please be reminded that you must secure a fiscal impact statement from the Office of the Chief Financial Officer at least before the Council takes final action on the bill.

Should you have questions regarding this memorandum, please contact either Pollie H. Goff, Senior Assistant Attorney General, Legal Counsel Division, at 724-5558, or me at 724-5524.

JMR/phg

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
OFFICE OF THE ATTORNEY GENERAL**

Legal Counsel Division



MEMORANDUM

**TO: Lolita S. Alston
Director
Office of Legislative Support**

**FROM: Janet M. Robins
Deputy Attorney General
Legal Counsel Division**

DATE: September 15, 2014

**SUBJECT: Certification of Legal Sufficiency of Bill, the "Tenant Opportunity to
Purchase Bona Fide Offer Clarification Amendment Act of 2014"
(AE-14-579)**

This is to Certify that this Office has reviewed the above-referenced legislation and has found it to be legally sufficient. If you have any questions regarding this certification, please do not hesitate to contact me at 624-5524.

Janet M. Robins