

**Start Here**



**Landlord Makes Offer of Sale**

Before selling the rental accommodation, the Landlord must provide the Tenant with an Offer of Sale, regardless of whether a Third Party contract is already in place. For an Offer with a Third Party contract, the Landlord must provide the Tenants with a copy of the contract within **7 days** of Tenants' request.

**Tenants May Request Information**

Upon receiving an Offer of Sale, the Tenants may request certain information, which the Landlord must provide within **7 days** of the request, including:

- Building floor plan
- Itemized list of operating expenses, utility consumption rates, and capital expenditures for the previous 2 years.
- Most recent rent roll, list of Tenants, and list of vacant apartments.

**Tenants Submit Statement of Interest**

To collectively exercise the right of purchase, the Tenants must deliver a written Statement of Interest to both the Landlord and the Mayor (at DHCD's Rental Conversion and Sale Division). The statement must be sent by certified mail, or delivered in person, **within 15 days** of receipt of offer of sale by the Tenant or the Mayor, whichever is later. If the Tenants collectively fail to do so, an individual Tenant has an **additional 7 days** to exercise the right of purchase through a written Statement of Interest on his or her own behalf.

**Tenants Negotiate with Landlord\***

The law allows a minimum **90 day** negotiation period after the current Landlord receives the Tenants' Statement of Interest.

- The **90 days** can be extended one day for each day the Landlord fails to deliver information required by TOPA.
- The **90 days** can also be **extended by 15 days** if the Landlord enters into a contract with a Third Party before or during the negotiation period. This is called a right of first refusal period.
- An individual Tenant may extend the negotiation period 30 days upon failure of the collective Tenants to reach an agreement.

**Tenants & Landlord Reach Settlement**

Tenant will have not less than **90 days** from the date of contracting to secure financing and financial assistance. If the lending institution states in writing that a decision regarding financing will be made within **120 days** after contracting, the Landlord is required to grant that extension.

**Start-Over Period**

If the Landlord has not entered into a sales contract within **240 days** of the Offer of Sale, the TOPA process must start over with a new Offer of Sale.

## \*Tenant Negotiation with Landlord

The Landlord and the Tenants must negotiate in good faith. While the statute does not define good faith, it does give **examples of bad faith:**

- Landlord's failure to offer the Tenants a price or term at least as favorable as that offered to a Third Party, within the negotiation period, without a reasonable justification for so doing;
- Landlord's failure to contract with Tenants with terms which substantially conform with the price and terms of a Third Party contract without a reasonable justification for so doing; or
- Intentional failure of the Tenants or the Landlord to comply with the TOPA statute.

### Right of First Refusal:

Tenants have the right to match the material terms of any contract for sale between the Landlord and a Third Party. The law gives the Tenants **15 days** to match the contract. If the Landlord gives the Tenants the contract during or before the negotiation period discussed above, **15 days** are added to the end of the negotiation period.

- The Landlord may not require the Tenants to prove financial ability to purchase as a condition to entering into a contract, and the Landlord may not require the Tenants to pay the purchase price in installments unless the Landlord provides financing on terms reasonably acceptable to the Tenants.
- The Landlord, however, may require the Tenants to pay a deposit of up to 5% of the contract sales price in order to make a contract. The deposit is refundable in the event of a good faith failure of the Tenants to perform under the contract.
- Instead of purchasing the building outright, **Tenants can assign or sell their rights to other groups.** Using this right, Tenants can use their rights to negotiate better building conditions, limit rent increases or for other benefits.

### Statement of Interest Due Date

Documents should be delivered no later than the **15th day** after the later of when (a) DHCD received the offer of sale or (b) the Tenants received the offer of sale.

### Individual Tenant Right to Purchase

If the Tenants acting together do not submit a written Statement of Interest in the **15 day period**, then an individual Tenant has **22 days** from receipt of the offer of sale or receipt of the offer of sale by the Rental Conversion and Sale Division, whichever date is later, (i.e. **7 days after the 15-day period** for the group of Tenants has expired) to provide a statement of interest to both the Landlord and the Rental Conversion and Sale Division.

On or before the **22nd day**, the individual Tenant must provide his written statement to both the Landlord and the Rental Conversion and Sale Division either by sending the statement by certified mail or by hand delivery. This means that the Tenant must hand deliver the acceptance letter by the **22nd day** or mail the acceptance letter by certified mail no later than the **22nd day**.