



Start-Over Period

If the Landlord has not entered into a sales contract within **360 days** of the Offer of Sale, the TOPA process must start over with a new Offer of Sale.

Tenant Organization & Landlord Reach Settlement

Typically the Tenant Organization will have **120 days** after the date of contracting to secure financing and financial assistance. There are also extension provisions to this rule, particularly if a lending institution estimates in writing that a decision with respect to financing or financial assistance will be made within **240 days** after the date of contracting, the Landlord shall afford an extension of time consistent with that written estimate.

Tenant Organization Negotiates with Landlord*

The law allows a minimum **120 day** negotiation period after the current Landlord receives the Tenant's Statement of Interest.

- The **120 days** can be extended one day for each day the Landlord fails to deliver information required by TOPA.
- The **120 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.

Tenant Organization Submits Statement of Interest

If a Tenant Organization does not already exist, the newly created Tenant Organization must deliver a Statement of Interest and Application for Registration within **45 days** of receipt of the Offer of Sale by the Tenants or the Mayor, whichever date is later. If an incorporated Tenant Organization already exists, the existing Tenant Organization must deliver the same documents within **30 days** of receipt of the Offer of Sale by the Tenants or the Mayor, whichever date is later.

The Tenant Organization must send by certified mail or deliver in person a Statement of Interest and Application for Registration to both the Landlord and the Mayor (at DHCD's Rental Conversion and Sale Division).

Landlord Makes Offer of Sale

Before selling the rental accommodation, the Landlord must provide the Tenants 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.

Tenant 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.

Tenant Organization Required for Tenant Purchase

Only an incorporated Tenant Organization may exercise the right to purchase an accommodation with 5 or more units. Thus, **Tenants must form and incorporate a Tenant Organization** if such an organization does not already exist.

*Tenant Organization Negotiates with Landlord

The Landlord and the Tenant Organization 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 Tenant Organization 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 Tenant Organization 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 a Tenant Organization or a Landlord to comply with the TOPA statute.

Right of First Refusal:

Tenant Organization has 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 Tenant 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 Tenant Organization to prove financial ability to purchase as a condition to entering into a contract, and the Landlord may not require the Tenant Organization to pay the purchase price in installments unless the Landlord provides financing on terms reasonably acceptable to the Tenant.
- The Landlord, however, may require the Tenant Organization 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 Tenant to perform under the contract.
- Instead of purchasing the building outright, **a Tenant Organization can assign or sell its rights to other groups.** Using this right, a Tenant Organization can use his/her rights to negotiate better building conditions, limit rent increases or for other benefits.

If A Tenant Organization Already Exists

Statement of Interest Due Date

The Statement of Interest should be delivered no later than **30 days** after the later of when (a) DHCD received the offer of sale or (b) the Tenants received the offer of sale.

Once registered, the Tenant Organization will be the sole representative of the Tenants and the offer of sale is an offer to the Tenant Organization.

A Tenant Organization Registration Application includes:

- Names and contact information for Tenant Organization officers and the Tenant Organization's attorney (if any);
 - Copies of the certificate of incorporation, the articles of incorporation and bylaws; and
 - Documentation that the Tenant Organization represents at least a majority of the occupied units at the time of registration.
 - Note: When determining if the Tenant Organization represents a majority, Tenants who have worked for the Landlord in the last **120 days** or have lived in the housing accommodation less than **90 days** are not counted toward the majority. Such individuals can, however, join the Tenant Organization.
- Remember that the Tenant Organization should also include a letter indicating interest in purchasing the housing accommodation.