Opportunity to Purchase Policy Options for the City of Minneapolis

Presented By:
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Coalition for Nonprofit Housing and Economic Development

Gretchen Nicholls
LISC Twin Cities
OVERVIEW OF OTP PROJECT AND PROCESS

Objectives:
1. Conduct research on national examples of Opportunity to Purchase policies.
2. Engage stakeholders to share input on policy options and potential impacts.
3. Provide an assessment of Opportunity to Purchase policy options to the City Council for consideration.

City Staff Work Group
- CPED
- Regulatory Services
- City Attorney’s Office
- Mayor’s Office
- City Council staff

Stakeholder Interviews
- 47 interviews conducted
- Tenant advocates, housing industry, and affordable housing preservation partners

National Examples: OTP Policies
- Washington DC
- San Francisco
- Berkeley
- Others

Policy Option Focus Groups
- 14 virtual sessions
- Over 100 participants
- Renters, multifamily property owners, realtors, developers, housing intermediaries, legal, finance, tenant advocates, and regional and state government

Inventory of rental properties
- Property Sales Summary Data
- Number of 1031 exchange transactions
- Multifamily market trends update

Local Housing Market
- Staff and authors preview
- Committee presentation

Mpls OTP Policy Options
- Staff and authors preview
- Committee presentation
LOCAL HOUSING MARKET RENTAL PROPERTY INVENTORY

Overall Rental Property Data

- 13022, 57%
- 7354, 32%
- 1638, 7%
- 521, 3%
- 272, 1%

Source: Minneapolis Rental License data, 3/27/20
# Minneapolis Housing Market

## Apartment Sales Summary

(Property built before 2010)

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</thead>
<tbody>
<tr>
<td>2-4 Units</td>
<td>1,256</td>
<td>944</td>
<td>645</td>
<td>851</td>
<td>902</td>
<td>594</td>
<td>560</td>
<td>602</td>
<td>596</td>
<td>571</td>
<td>678</td>
<td>684</td>
<td>710</td>
<td>706</td>
<td>774</td>
<td>8</td>
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<tr>
<td>5-20 Units</td>
<td>88</td>
<td>69</td>
<td>50</td>
<td>43</td>
<td>29</td>
<td>28</td>
<td>28</td>
<td>41</td>
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<td>37</td>
<td>39</td>
<td>36</td>
<td>13</td>
<td>37</td>
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<tr>
<td>21-49 Units</td>
<td>40</td>
<td>16</td>
<td>13</td>
<td>15</td>
<td>5</td>
<td>3</td>
<td>4</td>
<td>11</td>
<td>6</td>
<td>16</td>
<td>8</td>
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<td>14</td>
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<td>9</td>
<td>5</td>
<td>11</td>
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<tr>
<td>50+ Units</td>
<td>6</td>
<td>7</td>
<td>2</td>
<td>9</td>
<td>1</td>
<td>4</td>
<td>7</td>
<td>4</td>
<td>5</td>
<td>7</td>
<td>10</td>
<td>3</td>
<td>8</td>
<td>4</td>
<td>6</td>
<td>6</td>
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<tr>
<td>Total Sales</td>
<td>1,390</td>
<td>1,036</td>
<td>710</td>
<td>918</td>
<td>937</td>
<td>629</td>
<td>599</td>
<td>658</td>
<td>643</td>
<td>622</td>
<td>733</td>
<td>725</td>
<td>769</td>
<td>763</td>
<td>825</td>
<td>32</td>
<td>733</td>
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</table>

Source: eCRV Apartment Sales Data, 2005 - 2019

# Properties 5 units or more: 54
MINNEAPOLIS HOUSING MARKET TRENDS

• The majority of investors purchasing properties in the multifamily sector have been national, with local and foreign investors selling more of their assets in Minneapolis than purchasing new ones.

• A tight vacancy rate, strong demand, and solid rent growth in the Minneapolis market have captured the attention of investors, both local and out-of-state.

• Sales volume will likely decline significantly in the near term as lenders and investors deal with a lack of liquidity in the market as underwriters and capital sources sort out the new normal in risk assessment and valuation.

Source: CBRE Multifamily Market Report, June 2020

Source: Minneapolis MN Multi-Family Housing Market, CBRE, Sam Newberg, June 24, 2020
## MULTIFAMILY FINANCING SOURCES

<table>
<thead>
<tr>
<th>Phase</th>
<th>City Sources</th>
<th>State/Federal Sources</th>
<th>Nonprofit/CDFI Sources</th>
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<tbody>
<tr>
<td>Predevelopment Funding</td>
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<td>LISC Feasibility and Recoverable grants</td>
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<td></td>
<td></td>
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<td></td>
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<td>GMHF loans &amp; equity</td>
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<tr>
<td>Acquisition Financing</td>
<td>NOAH Preservation Fund</td>
<td>GMHF NOAH Impact Fund</td>
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<td>Minneapolis Small/Medium Multifamily Fund (SMMF)</td>
<td>LISC loans &amp; equity</td>
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<td></td>
<td>Minneapolis Home Financing</td>
<td>Land Bank Twin Cities</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Housing Revenue Bonds and Tax Exempt Mortgage Notes</td>
<td>GMHF loans &amp; equity</td>
<td></td>
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<td></td>
<td></td>
<td>Shared Capital Cooperative</td>
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<tr>
<td>Construction/Rehab Loan</td>
<td>Minneapolis allocation - LIHTC</td>
<td>Federal LIHTC (9% and 4%)</td>
<td>LISC loans &amp; equity</td>
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<tr>
<td></td>
<td>Minneapolis Middle Rental Pilot</td>
<td>MN Housing Deferred Loans (HOME, NHTF, LMIR, FFCC, PARIF)</td>
<td>GMHF loans &amp; equity</td>
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<tr>
<td></td>
<td>Minneapolis Homes Financing</td>
<td>MN Housing Infrastructure Bonds</td>
<td>Land Bank Twin Cities</td>
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<tr>
<td></td>
<td></td>
<td>MN Housing programs to prevent/end homelessness</td>
<td>Shared Capital Cooperative</td>
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<tr>
<td>Permanent Financing</td>
<td>Minneapolis Affordable Housing Trust Fund (AHTF)</td>
<td>Federal LIHTC (9% and 4%)</td>
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<tr>
<td></td>
<td>NOAH Preservation Fund</td>
<td>MN Housing Deferred Loans (HOME, NHTF, LMIR, FFCC, PARIF)</td>
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<td>Minneapolis allocation - LIHTC</td>
<td>MN Housing programs to prevent/end homelessness</td>
<td></td>
</tr>
</tbody>
</table>
BUILDING A TECHNICAL ASSISTANCE ECOSYSTEM

Essential Services

Education and Communication
- Neighborhood organizations
- Cultural community organizations
- Minneapolis Area Realtors Association
- MN Multifamily Housing Association
- MN Housing Partnership

Tenant Organizing
- Inquilinxos Unidxs Por Justicia
- Homeline
- Jewish Community Action
- Northcountry Cooperative Foundation
- Hope Community

Legal Advice
- Housing Justice Center
- Mid MN Legal Aid
- HOME Line
- Real estate lawyers

Enhanced Services

Homeownership Training
- Habitat for Humanity
- African Development Center
- Build Wealth
- PRG
- Project for Pride in Living (PPL)
- NeighborWorks Home Partners
- City of Lakes Community Land Trust

Interim Hold (Qualified Organizations)
- Land Bank Twin Cities
- Hope Communities
- Urban Homeworks
- PPL
- Others
<table>
<thead>
<tr>
<th>Stakeholder Category</th>
<th>Key Feedback Points</th>
</tr>
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</table>
| Housing Industry Partners                  | • Flexibility will be key to enable various pathways, cascading assignment of rights will increase NOAH options  
• Build on and reinforce existing policies (Advance Notice, 4d, and other anti-displacement measures)                                                                                             |
| Affordable Housing Preservation Partners    | • Success will rely on access to technical assistance and financing at-the-ready.  
• Qualified Organizations as interim position, time to build out ownership structures (condos, limited equity co-ops)                                                                                     |
| Tenant Advocates and Organizers            | • Tenant rights at the core, address imbalance of power in current system  
• Qualified Organization selection and criteria should be informed by tenants and tenant advocates                                                                                                             |
| Minneapolis Renters                        | • Focus on anti-displacement above all else, include additional tenant protections if possible  
• Access to multilingual information (education) and resources are critical to support renters                                                                                                                     |
| Building Minneapolis Together              | • Owning and operating rental housing is a business – opposition to additional regulation and restrictions over the management of those businesses  
• Preservation of existing housing stock is most important, and cost efficient – create more ways to reinvest                                                                                   |
| MN Multifamily Housing Association         | • OTP policy would undermine owner’s motivation to make improvements and upgrades to property (value-add)  
• Increases transactional costs for both time and money (e.g. additional legal costs incurred)                                                                                                        |
| Minneapolis Area Realtors Association      | • Opposed to Right of First Refusal – unfair advantage in market. Transition into ownership takes training/time.  
• Encourages more pathways for ownership (e.g. limited equity cooperatives)                                                                                                                                   |
| Equity in Place                            | • To advance racial equity, market disruptions are considered positive (benefit renters and people of color)  
• Include all housing types to accommodate the full range of household size                                                                                                                                       |
<table>
<thead>
<tr>
<th>Jurisdiction</th>
<th>Policy Name</th>
<th>Year Enacted</th>
<th>Policy Objective</th>
<th>Housing Type</th>
<th>Type of Right</th>
<th>Right to Exercise</th>
<th>Affordability Restrictions</th>
<th>Assign Rights</th>
<th>Local Funding Sources Requiring Affordability Covenants</th>
</tr>
</thead>
</table>
| Washington, DC       | Tenant Opportunity to Purchase Act (TOPA)               | 1980         | Tenant rights                                 | 1, 2-4, and 5+ units                | Right to Purchase and Right of First Refusal | Tenants            | No                          | Yes           | • Housing Production Trust Fund  
|                      |                                                         |              |                                               |                                     |                                      |                    |                             |               | • Affordable Housing Preservation Fund  
|                      |                                                         |              |                                               |                                     |                                      |                    |                             |               | • First Right Purchase Program  
|                      |                                                         |              |                                               |                                     |                                      |                    |                             |               | • Local Rent Supplement Program,                                                              |
| Montgomery County, MD| Right of First Refusal                                   | 1981         | Preservation of affordable housing            | 4+ units                            | Right of First Refusal               | Tenants and Housing Opportunities Commission | Yes             |                             |               | • Housing Initiative Fund  
| New Hampshire         | Manufactured home park right to purchase                | 1987         | Tenant rights                                 | Manufactured home parks             | Right of First Refusal               | Tenants            | No                          | No            | • New Hampshire Community Loan Fund  
|                      |                                                         |              |                                               |                                     |                                      |                    |                             |               | • NH Housing Finance Agency facilitated purchase of individual mortgages by Fannie Mae |
| Minnesota             | Manufactured home park right to purchase                | 1991         | Tenant rights                                 | Manufactured home parks             | Right of First Refusal               | Tenants            | No                          | No            |                                                                                                                      |
| Washington, DC       | District Opportunity to Purchase Act (DOPA)             | 2008; regulations issued 2018 | Preservation of affordable housing | 5+ units                            | Right to Purchase subordinate to TOPA | Qualified Developer | Yes                         | No            | • Housing Production Trust Fund  
|                      |                                                         |              |                                               |                                     |                                      |                    |                             |               | • Affordable Housing Preservation Fund  
|                      |                                                         |              |                                               |                                     |                                      |                    |                             |               | • First Right Purchase Program  
|                      |                                                         |              |                                               |                                     |                                      |                    |                             |               | • Local Rent Supplement Program,                                                              |
| Chicago, IL           | Single-Room Occupancy Preservation Ordinance             | 2014         | Preservation of affordable housing            | SROs                                | Right of First Offer                 | Registered Developer | Yes                         | No            | • SRO Improvement and Stabilization Program  
|                      |                                                         |              |                                               |                                     |                                      |                    |                             |               | • Low Income Housing Trust Fund  
| San Francisco, CA     | Community Opportunity to Purchase Act (COPA)            | 2019         | Preservation of affordable housing            | 3+ units                            | Right of First Offer and Right of First Refusal | Qualified Nonprofit Developer | Yes                         | No            | • San Francisco Housing Accelerator Fund  
|                      |                                                         |              |                                               |                                     |                                      |                    |                             |               | • Small Sites Program  
|                      |                                                         |              |                                               |                                     |                                      |                    |                             |               | • Preservation and Seismic Safety Program (permanent financing)  
| Berkeley, CA          | Tenant Opportunity to Purchase Act (TOPA)               | Current legislation | Tenant rights and preservation of affordable housing | 1, 2, and 3+ units                | Right of First Offer and Right of First Refusal | Tenants and Qualified Organization | Yes                         | Yes, to a Qualified Organization | |

**OPPORTUNITY TO PURCHASE POLICIES IN OTHER JURISDICTIONS**
DEFINING THE TERMS

**Why?** What is the city trying to solve?
- Create tenant ownership opportunities
- Prevent involuntary displacement
- Preserve housing stability

**Who?** Who is assigned the right to purchase/offer (Tenants, Qualified Organizations)

**What?** Housing types to be included (or excluded/exemptions). Informs capacity needed for city administration of the policy.

**How?** Policy elements include:
- Timeline for transaction process
- Resource allocations for technical assistance and financing gaps (identify TA providers and financing options currently available)
- Systems and staffing supports, including access for notification, communication and education, tracking, and enforcement
## COMPARISON OF MINNEAPOLIS OPPORTUNITY TO PURCHASE OPTIONS

<table>
<thead>
<tr>
<th>Policy Objective</th>
<th>Housing Type</th>
<th>Type of Right</th>
<th>Right to Exercise</th>
<th>Affordability Restrictions</th>
<th>Assign Rights</th>
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<tbody>
<tr>
<td><strong>Option 1</strong></td>
<td>Tenants’ rights and anti-displacement</td>
<td>1, 2-4, 5-20, 21-49, and 50+ units</td>
<td>Right of First Offer and Right of First Refusal</td>
<td>Tenants</td>
<td>No</td>
</tr>
<tr>
<td><strong>Option 2</strong></td>
<td>Tenants’ rights, anti-displacement, tenant protections, and rent stabilization</td>
<td>1, 2-4, 5-20, 21-49, and 50+ units</td>
<td>Right of First Offer and Right of First Refusal</td>
<td>Tenants and/or Qualified Organization</td>
<td>Yes, rent stabilization</td>
</tr>
<tr>
<td><strong>Option 3</strong></td>
<td>Anti-displacement, tenant protections, and affordability restrictions</td>
<td>1, 2-4, 5-20, 21-49, and 50+ units</td>
<td>Right of First Offer and Right of First Refusal</td>
<td>Qualified Organization</td>
<td>Yes, 4d program</td>
</tr>
</tbody>
</table>
Option 1 focuses on tenants’ rights and preventing displacement of tenants and existing tenant communities.

• Only a Tenant or Tenant Organization may exercise rights.
• Provides the residents of a property with the greatest discretion in choosing development options and the future of their community.
• Does not require the preservation of or increase in affordability in the property.
• Allows tenants to assign their rights to a third party of their choice.
• City funding for the provision of technical assistance to Tenant Organizations by community-based nonprofits is highly recommended to increase successful exercise of the opportunity to purchase.
OPTION 2: TENANTS’ RIGHTS, ANTI-DISPLACEMENT, TENANT PROTECTIONS, AND RENT STABILIZATION

Option 2 balances the interests of the residents of a property in deciding the future of their community with the policy priorities of increased tenant protections and rent stabilization.

- A Tenant, Tenant Organization, or Qualified Organization.
- Tenants may exercise their rights and assign them.
  - The Tenant in a single-unit Rental Housing Accommodation may assign their rights to a person or entity.
  - A Tenant Organization may assign its rights in a 2-4 unit Rental Housing Accommodation to a person or entity.
  - A Tenant Organization in a 5+ unit Rental Housing Accommodation may assign its rights to a Qualified Organization.
- Any person or entity that purchases a property using the opportunity to purchase policy and continues its use as a rental housing accommodation would be required by the City to abide by just cause eviction, source of income discrimination protections, and rent stabilization restrictions.
- City funding for the provision of technical assistance to Tenant Organizations by community-based nonprofits is highly recommended to increase successful exercise of the opportunity to purchase.
OPTION 2 PROCESS
(FOR 50+ UNIT PROPERTIES)

Owner notifies Tenants, Qualified Organization (QO), and City of intent to sell (Right of First Offer)

- Tenants form a Tenant Organization (TO) and submit statement of interest to Owner and City w/in 45 days
- TO assigns rights to QO
- TO makes offer w/in 120 days (negotiation period)
  - Owner accepts offer
  - TO secures financing w/in 120 days + 40 w/ lender letter
    - Close deal w/ 15 days
  - Owner rejects offer, enters into 3rd party contract, and offers Right of First Refusal
    - TO matches offer w/in 45 days
      - Close deal w/ 15 days
    - TO does not match offer
      - Owner secures financing w/in 120 days + 40 w/ lender letter
        - Close deal w/ 15 days

- Tenants do not submit statement of interest w/in 45 days
  - QO(s) submit statement(s) of interest w/in 45 + 5 days
    - Owner accepts offer
    - Owner sells to 3rd party
  - No QO submits a statement of interest w/in 45 + 5 days
    - QO(s) makes offer w/in 120 days
      - Owner accepts offer
      - Owner sells to 3rd party
    - QO secures financing w/in 120 days + 40 w/ lender letter
      - Close deal w/ 15 days
      - QO matches offer w/in 45 days
        - Owner accepts offer
        - Owner sells to 3rd party
      - QO does not match offer
        - Owner accepts offer
        - Owner sells to 3rd party
    - QO secures financing w/in 120 days + 40 w/ lender letter
      - Close deal w/ 15 days
OPTION 3: ANTI-DISPLACEMENT, TENANT PROTECTIONS, AND RENT STABILIZATION

Option 3 focuses on preventing displacement of tenants and existing tenant communities and preserving or increasing affordability.

• Only Qualified Organizations that have met certain criteria for owning and managing affordable Rental Housing Accommodations set by the City may exercise rights.

• By limiting exercise of the opportunity to purchase to Qualified Organizations, Option 3 minimizes the time needed to evaluate a property, submit an offer, respond to an offer, secure financing, and close a deal.

• Any entity that purchases a property using the opportunity to purchase policy would be required by the City to abide by just cause eviction and source of income discrimination protections and to enroll the Rental Housing Accommodation in the City of Minneapolis 4d Affordable Housing Incentive Program.
OPTION 3 PROCESS
(FOR 50+ UNIT PROPERTIES)

Owner Notifies Qualified Organization (QO) and City of intent to sell (Right of First Offer)

- QO(s) submit statement of interest to Owner and City w/in 20 days
  - QO(s) make offer w/in 90 days
    - Owner accepts offer
      - QO secures financing w/in 120 days + 40 w/ lender letter
        - Close deal w/ 15 days
    - Owner rejects offer, enters into 3rd party contract, and offers Right of First Refusal
      - QO matches offer w/in 45 days
        - Owner accepts offer
          - QO secures financing w/in 120 days + 40 w/ lender letter
            - Close deal w/ 15 days
      - No QO matches offer w/in 45 days
        - Owner sells to 3rd party

- No QO submits statement of interest w/in 20 days
  - Owner sells to 3rd party
**TIMELINES FOR MINNEAPOLIS OPPORTUNITY TO PURCHASE OPTIONS**

<table>
<thead>
<tr>
<th>Housing Type</th>
<th>Type of Right</th>
<th>Right to Exercise</th>
<th>Registration of Interest</th>
<th>Due Diligence Materials</th>
<th>Negotiation Period (days)</th>
<th>Accept Offer of First Refusal</th>
<th>Secure Financing</th>
<th>Close</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Option 1</strong></td>
<td>50+ units</td>
<td>Right of First Offer</td>
<td>Tenant Organization</td>
<td>45</td>
<td>Owner must provide in response to Statement of Interest</td>
<td>120 (90*)</td>
<td>120 + 40 w/ lender letter</td>
<td>15+</td>
</tr>
<tr>
<td></td>
<td>Right of First Refusal</td>
<td>-</td>
<td>45</td>
<td>-</td>
<td>120</td>
<td>45</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>21-49 units</td>
<td>Right of First Offer</td>
<td>Tenant Organization</td>
<td>30</td>
<td>Owner must provide in response to Statement of Interest</td>
<td>90 (60*)</td>
<td>90 + 40 w/ lender letter</td>
<td>15+</td>
</tr>
<tr>
<td></td>
<td>Right of First Refusal</td>
<td>-</td>
<td>30</td>
<td>-</td>
<td>90</td>
<td>30</td>
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<tr>
<td></td>
<td>5-20 units</td>
<td>Right of First Offer</td>
<td>Tenant Organization</td>
<td>30</td>
<td>Owner must provide in response to Statement of Interest</td>
<td>60 (30*)</td>
<td>60 + 30 w/ lender letter</td>
<td>15+</td>
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<tr>
<td></td>
<td>Right of First Refusal</td>
<td>-</td>
<td>30</td>
<td>-</td>
<td>60</td>
<td>30</td>
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<td></td>
<td>2-4 units</td>
<td>Right of First Offer</td>
<td>Tenant Organization</td>
<td>20</td>
<td>Owner must provide in response to Statement of Interest</td>
<td>60 (20*)</td>
<td>60 + 30 w/ lender letter</td>
<td>15+</td>
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<tr>
<td></td>
<td>Right of First Refusal</td>
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<td>-</td>
<td>60</td>
<td>20</td>
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<tr>
<td></td>
<td>1 unit</td>
<td>Right of First Offer</td>
<td>Tenant Organization</td>
<td>20</td>
<td>Owner must provide in response to Statement of Interest</td>
<td>30 (15*)</td>
<td>30 + 15 w/ lender letter</td>
<td>15+</td>
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<tr>
<td></td>
<td>Right of First Refusal</td>
<td>-</td>
<td>20</td>
<td>-</td>
<td>30</td>
<td>20</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Option 2</strong></td>
<td>50+ units</td>
<td>Right of First Offer</td>
<td>Tenant Organization and/or Qualified Organization</td>
<td>45 (+5 for QOs)</td>
<td>Owner must provide in response to Statement of Interest</td>
<td>120 (90*)</td>
<td>120 + 40 w/ lender letter</td>
<td>15+</td>
</tr>
<tr>
<td></td>
<td>Right of First Refusal</td>
<td>-</td>
<td>45 (+5 for QOs)</td>
<td>-</td>
<td>120</td>
<td>45</td>
<td></td>
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<tr>
<td></td>
<td>21-49 units</td>
<td>Right of First Offer</td>
<td>Tenant Organization and/or Qualified Organization</td>
<td>30 (+5 for QOs)</td>
<td>Owner must provide in response to Statement of Interest</td>
<td>90 (60*)</td>
<td>90 + 40 w/ lender letter</td>
<td>15+</td>
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<tr>
<td></td>
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<td></td>
<td></td>
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<tr>
<td></td>
<td>5-20 units</td>
<td>Right of First Offer</td>
<td>Tenant Organization and/or Qualified Organization</td>
<td>30 (+5 for QOs)</td>
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<td>-</td>
<td>60</td>
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* Timeline for a Qualified Organization that is not working with a Tenant Organization.
### COMPARISON OF COSTAR DATA ON PROPERTY DAYS ON MARKET 2018-2020 VS. MINNEAPOLIS OTP OPTIONS MAXIMUM TIMELINES

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* Costar data for October 2018 to October 2020. Total property sales: 50+ unit properties = 13; 21-49 unit properties = 11; 5-20 unit properties = 30.
Notice of Transfer: An Owner claiming any of the exemptions below must provide to the Tenants and to the City a Notice of Transfer of an interest in a Rental Housing Accommodation or of any ownership interest in a corporation, partnership, limited liability company, association, trust, or other entity that owns a Rental Housing Accommodation.

Exemptions based on type of property
- A single-family home owned by a real person as their sole residential rental property.
- A single-family home that an owner occupies as their principal residence, including a single-family home with an accessory dwelling unit or other secondary dwelling unit, where an owner occupies either the single-family home or the secondary unit as their principal residence.
- Properties owned by cooperative corporations, if the property is owned, occupied, and controlled by a majority of residents.
- Properties that do not include one or more tenants, such as those owned by and operated as a hospital, convent, monastery, extended care facility, convalescent home, or dormitories owned by educational institutions, or properties properly licensed as a hotel or motel.

Exemptions based on type of transfer
- Family/estate/trust transfers
- Corporate transfer
  - Any transfer of a property directly caused by a change in the form of the entity owning the property, provided that the transfer is without consideration.
  - Any transfer from one co-tenant to another co-tenant by operation of law.
  - Any transfer of a minority title interest.
  - Certain types of transfers of interest in a property participating in the federal Low Income Housing Tax Credits (LIHTC) program.
- Court/government transfers
  - A transfer pursuant to court order or court-approved settlement (bankruptcy, foreclosure, tax sale, etc.)
  - A transfer by eminent domain or under threat of eminent domain
ADMINISTRATION AND ENFORCEMENT

Option 1, 2, and 3 administrative and enforcement tasks for the Opportunity to Purchase program. The City should strive to:

- provide information and answer inquiries about the process;
- receive Offer of Sale notices from owners;
- receive Statements of Interest from Tenants, Tenant Organizations, or Qualified Organizations;
- publish notices of Offers of Sale and Statements of Interest on website on at least a weekly basis;
- receive opportunity-to-purchase-related complaints;
- adjudicate opportunity-to-purchase-related complaints;
- issue cease and desist orders for violations;
- issue, upon request, letters to title companies stating whether it has received any complaints with respect to the Owner’s compliance;
- receive signed declarations from Owners affirming that the sale of a Rental Housing Accommodation complied with the requirements of the Right of First Offer and Right of First Refusal in order to assist with evaluation and tracking of the program.

Options 2 would require additional administrative and enforcement tasks to manage the Qualified Organization selection process and provide guidance on tenant protection and rent stabilization requirements. The City should strive to:

- receive Qualified Organization applications and evaluate them based on criteria established by the City;
- publish notice of Qualified Organization applications and receive and evaluate public comments;
- maintain current list of Qualified Organizations and their contact information for use by Tenants, Tenant Organizations, and Owners; and
- receive annual reports on rent increases and surcharges from properties participating in the rent stabilization program.

Options 3 would require additional administrative and enforcement tasks to manage the Qualified Organization selection process, provide guidance on tenant protection, and additional 4d program staffing. The City should strive to:

- receive Qualified Organization applications and evaluate them based on criteria established by the City;
- publish notice of Qualified Organization applications and receive and evaluate public comments;
- maintain current list of Qualified Organizations and their contact information for use by Tenants, Tenant Organizations, and Owners.
STAFFING REQUIREMENTS

Options 1, 2, 3: Equivalent of 4 FTEs during initial 18-24 months: 6-12 months startup and 12 months for troubleshooting and process adjustments.

- **Manager** for all processes related to the Right of First Offer and Right of First Refusal and point person for providing information and answering inquiries about these rights;
- **Attorneys** to assist in evaluating and adjudicating complaints and issuing cease and desist orders; and
- **Administrative staff** to receive and process notices and complaints, compliance reports, and declarations, as well as to publish notices of Offers of Sale and Statements of Interest on a City website.

Option 2: Equivalent of 2 additional FTEs to manage with the Qualified Organization certification process and the rent stabilization program.

Option 3: Equivalent of 2 additional FTEs to manage with the Qualified Organization certification process and additional enrolments in the City of Minneapolis 4d Affordable Housing Incentive Program.

The City should re-evaluate staffing needs after program stabilization.

City staff team is conducting staffing analysis based on known procedures and capabilities and consultant report.
TECHNICAL ASSISTANCE

• Housing developers receive technical assistance from their employees and external technical services providers to help them to successfully navigate the complex process of purchasing of properties.

• The process of educating tenants on their rights and responsibilities under an opportunity to purchase program, forming and managing a Tenant Organization, hiring a lawyer, choosing a development option, soliciting and negotiating with potential development partners or consultants is complicated and time consuming.

• Washington, DC has funded local, community-based nonprofits to provide technical assistance to tenants going through the TOPA process since 2006. DC currently funds the equivalent of 8 FTEs at these organizations. Berkeley’s opportunity to purchase program recommends funding 6 FTEs at such organizations for this purpose. Berkeley’s program would require tenants to work with a technical assistance provider. DC does not have such a requirement.

• The City should consider the provision of technical assistance by local, community-based nonprofits as important to the success of Options 1 and 2. Given the size of the City and the number of multifamily rental properties that are offered for sale each year, it should consider funding up to 8 FTEs to provide technical assistance. If the City funds this level of technical assistance or greater, then it could consider adopting a requirement for tenants to receive assistance from a City-funded technical services provider as a condition for exercising opportunity to purchase rights.

• Based on experiences of DC’s technical services providers, the City should fund no fewer than 3 FTEs at any provider to foster the retention of organizational experience and memory, ensure continuity of service to tenants if an employee becomes ill or leaves the provider, and allow for the training of new staff as turnover occurs.
POLICY DECISIONS

• Determine which policy path (Option 1, 2, or 3)
• Assignability of rights (if yes, limited to Qualified Organization?)
• Unit size (applicable to Single Family, 2-4 units, 5+ units?)
• Age of properties (applicable to all properties or only those over a certain age?)
• Require Tenant Organizations in Options 1 and/or 2 to work with City-approved technical assistance providers to exercise their rights? If so, in what size properties?
• Rent stabilization or income and rent restrictions in Options 2 and 3?
• Criteria to become a Qualified Organization in Options 2 and 3
• Exemptions for types of properties and transfers in Options 1, 2, and 3
THANK YOU

Scott Bruton, PhD
Coalition for Nonprofit Housing and Economic Development

Gretchen Nicholls
LISC Twin Cities