

2402 OPPORTUNITY TO PURCHASE AND OFFER OF SALE

2402.1 Before an Owner may sell a Housing Accommodation consisting of five (5) or more Rental Units, the Owner shall provide the Mayor an opportunity to purchase the Housing Accommodation.

2402.2 If the Housing Accommodation consisting of five (5) or more Rental Units does not consist of at least twenty-five percent (25%) Affordable Rental Units, the Owner shall provide a written certification that the Housing Accommodation is not subject to Title IV-A of the Act:

- (a) In a form approved by the Mayor;
- (b) Submitted to the Mayor; and
- (c) Submitted contemporaneously with the filing of any Offer of Sale under Title IV of the Act.

2402.3 If the Housing Accommodation qualifies under Subsection 2401.2, the Offer of Sale by the Owner to the Mayor shall contain:

- (a) The asking price and material terms of sale;
- (b) A statement as to whether a third party sale contract exists for the sale of the Housing Accommodation;
- (c) A statement that the Owner shall provide to the Mayor the following information regarding the Housing Accommodation within seven (7) days after receiving a request for any of the following, if applicable:
 - (1) A copy of any third party sale contract for the Housing Accommodation;
 - (2) A list of tenant names with corresponding Rental Unit numbers the current Monthly Rent, and any monthly subsidy received for each Rental Unit as of the Offer of Sale issuance date;
 - (3) A list of vacant Rental Units and corresponding Rental Unit numbers the latest Monthly Rent, and any monthly subsidy received, in accordance with Chapter 35 of the Rental Housing Act, for each Rental Unit as of the Offer of Sale issuance date;
 - (4) A list of Affordable Rental Units and corresponding Affordable Rental Unit numbers as of the Offer of Sale issuance

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date and the Owner's calculations for determining the Affordable Rental Units Monthly Rent;

- (5) A floor plan, if available;
- (6) An itemized list of monthly operating expenses for each of the two (2) preceding calendar years;
- (7) Utility consumption rates for each of the two (2) preceding calendar years;
- (8) Capital expenditures for each of the two (2) preceding calendar years;
- (9) A disclosure of all liens, mortgages, deeds of trust, pending legal proceedings, including but not limited to tenant petitions, or any other matter affecting the title of the Housing Accommodation; and
- (10) A disclosure of all warranties and assignable service contracts.

2402.4 In the absence of a third party sale contract, a *bona fide* offer is one in which the Mayor is offered the Housing Accommodation at an asking price and terms at least as favorable as and substantially conforming to the Offer of Sale made to the tenants under Title IV of the Act. An asking price shall be less than or equal to a price and other material terms comparable to that at which a willing seller and a willing buyer would sell and purchase the Housing Accommodation, or at the request of the District, the appraised value as determined by Section 402 of the Act (D.C. Official Code § 42-3404.02).

2402.5 In the case of the existence of a third party sale contract, a *bona fide* offer is one in which the Mayor is offered the Housing Accommodation at an asking price and material terms at least as favorable as and substantially conforming to the third party sale contract.

2402.6 The Owner shall notify the Mayor in writing within five (5) days if any of the following events occur:

- (a) A fully executed sale contract between the Owner and the Tenant Organization is assigned, rescinded, terminated, or otherwise voided;
- (b) A ratified third party sale contract between the Owner and a third party expires or is assigned, cancelled, rescinded, terminated, or otherwise voided;

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- (c) Expiration of the one hundred twenty (120) day contract negotiation period between the Owner and the Tenant Organization, as provided by Section 411 of the Act (D.C. Official Code § 42-3404.11); and if applicable, expiration of the fifteen (15) day right of first refusal period, as provided in Section 408 of the Act (D.C. Official Code § 42-3404.08), if no contract is signed with a Tenant Organization;
- (d) The Tenant Organization declines or fails to exercise its right to purchase the Housing Accommodation;
- (e) The Owner contracts with a Tenant Organization or a third party after an Offer of Sale has been provided to the Mayor, provided that the Owner shall provide a copy of the sale contract to the Mayor with the notification;
- (f) The third party sale contract is assigned, amended, or otherwise modified, provided that the Owner shall provide the Mayor with a copy of the assigned, amended, or modified third party contract with the notification;
- (g) The Tenant Organization or its assignee performs under the ratified sale contract between the Owner and the Tenant Organization or its assignee;
- (h) A third party performs under the ratified third party sale contract between the Owner and the third party; or
- (i) The Tenant Organization or its assignee fails to close or otherwise materially defaults under the ratified sale contract between the Owner and Tenant Organization or its assignee.

2402.7 Any response from the Mayor to an Offer of Sale under Title IV-A of the Act shall be in writing.

2402.8 The Mayor's rights under Title IV-A of the Act shall be subordinate to the Tenant Organization's or its assignee's exercise of tenant rights under Title IV of the Act.

2402.9 If the Owner has not sold or contracted to sell the Housing Accommodation within three hundred sixty (360) days from the date of the Tenants' receipt of an Offer of Sale or the Mayor's receipt of the Offer of Sale, whichever date is later, and if the Owner still desires to sell the Housing Accommodation at that time, the Owner shall comply anew with the requirements of Title IV and Title IV-A of the Act.

SOURCE: Final Rulemaking published at 65 DCR 12627 (November 16, 2018).