

City of Philadelphia



(Bill No. 221017)

AN ORDINANCE

Amending Chapter 7-200 of The Philadelphia Code, entitled “Preservation of Affordable Housing,” to modify certain requirements that must be met before a change in ownership, other disposition, or other change in property interest occurs with respect to certain affordable housing properties in Philadelphia, and making technical changes, all under certain terms and conditions.

THE COUNCIL OF THE CITY OF PHILADELPHIA HEREBY ORDAINS:

SECTION 1. Chapter 7-200 of The Philadelphia Code is hereby amended to read as follows:

CHAPTER 7-200. PRESERVATION OF AFFORDABLE HOUSING

§ 7-201. Purpose.

The purpose of this Chapter 7-200 is to preserve and retain as a long-term resource, privately-owned, *state-assisted and* federally-assisted affordable rental housing for low- and moderate-income households.

§ 7-202. Definitions.

In this Chapter 7-200, the following definitions apply:

(1) **Affordable Housing Property.** Any building or substantially-related buildings under common ownership containing 4 or more dwelling units leased or intended to be leased to households for occupancy as their primary residences, *excluding any building that qualifies as an exempt building, that is bound by a restrictive covenant or regulatory agreement under City, state or federal law commemorating housing affordability requirements on site, including but not limited to:* [where one or more of the following conditions apply:]

(a) Tenants receive a federal housing subsidy pursuant to 42 U.S.C. § 1437f that is not a tenant-based subsidy;

(b) A loan financing the property is insured or assisted under § 221(d)(3), § 202, or § 236(a) or (b) of the National Housing Act, 12 U.S.C. § 1701q, § 1715l(d)(3), [or § 1715z-1,] or § 515 of the Housing Act of 1949, 42 U.S.C. § 1485; 42 U.S.C. §§ 5301 et seq.; or 42 U.S.C. §§ 12722 et seq; [or]

(c) The property is subject to a Low-Income Housing Tax Credit *indenture or other* use agreement pursuant to 26 U.S.C. § [42.] 42; *or*

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(d) *The property is bound by a restrictive covenant or regulatory agreement with the Pennsylvania Housing Finance Agency, City of Philadelphia, or Philadelphia Redevelopment Authority commemorating housing affordability requirements on site.*

* * *

(5) *Eligible Party. [An entity] Any City or Commonwealth agency, non-profit developer, for profit developer, tenant, or tenant organization that [has met qualifications established by the Department or its designee. Such qualifications may include, but shall not be limited to,] is able to demonstrate a commitment to affordable housing preservation to the owner at the time of submission of a purchase offer through documentation of one or more of the following: the ability to finance the purchase, improvements and long-term maintenance of the [property without reliance on City-administered funds,] property, consent to long-term affordability of the property upon purchase, affordable housing development and management expertise, general commitment to preservation of affordable housing, community support, and knowledge of the development process.*

(5.1) *Exempt Building. Any building to which one or more of the following conditions apply:*

(a) *The building is financed pursuant to loans insured or assisted under 12 U.S.C. §1715z-1, also known as Section 236 of the National Housing Act.*

(b) *The building is insured or assisted under 12 U.S.C. § 1715l(d)(3) and either:*

(.1) bears interest at a rate determined under the proviso of 12 U.S.C. §1715l(d)(5), also known as Section 221(d)(3) “Below Market Interest Rate” mortgage insurance program; or

(.2) is housing where tenants receive a federal housing subsidy pursuant to 42 U.S.C. § 1437f that is not a tenant-based subsidy, where such housing is financed by a loan or mortgage insured under 12 U.S.C. § 1715l(d)(3) that receives loan management assistance under 42 U.S.C. § 1437f due to a conversion from section 1701s of Title 12 of the United States Code).

(c) *The building is financed by a loan or mortgage that is held by the Secretary of the Department of Housing and Urban Development and was formerly insured under a program described in either (1) or (2) above.*

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(d) *The building is otherwise insured, assisted, or financed in a manner that precludes local regulation related to changes in its federal affordability.*

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(7) **Matched Agreement of Sale.** An agreement of sale between an owner and [an eligible party] *an eligible party* made to substantially match the terms of an offer from an entity other than an eligible party.

* * *

(10) **Protected Action.** An action taken by an owner that *removes the owner's legal commitment to provide affordable housing and* includes one or more of the following:

(a) The prepayment in full before the maturity date of mortgage financing, if the prepayment would have the effect of removing the affordability restrictions applicable to the Affordable Housing Property, and the financing is:

* * *

[(.2) Insured under § 221(d)(3) of the National Housing Act, 12 U.S.C. § 1715l(d)(3), and bears interest at a rate determined under § 221(d)(5) of the National Housing Act;]

[(.3)] (.2) Insured or assisted under § 202 or § 236(a) or (b) of the National Housing Act, 12 U.S.C. § [1701q or 12 U.S.C. § 1715z-1(a) or (b);] *1701q, also known as Section 202 Housing for the Elderly;*

[(.4)] (.3) Insured or assisted under § 515 of the Housing Act of 1949, 42 U.S.C. § 1485; or

[(.5)] (.4) Held by the United States Department of Housing and Urban Development and either currently or formerly insured or assisted, as an affordable housing property.

* * *

(11) **Tenant.** *Any individual lawfully residing at an affordable housing property at any point between the date an owner is obligated to send a notice of intent pursuant to this Chapter 7-200 and the date such owner takes one or more protected actions, whether or not such residence is continuous.*

(12) **Tenant Organization.** *Two or more tenants from separate households.*

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§ 7-203. Notice Requirements.

(1) Owners of affordable housing properties shall provide to each of the following at least 12-months' written notice of their intent to take a protected action to:

- (a) The Director of Planning and Development; [and]
- (b) The City Councilmember for the Council district in which the affordable housing property is [located.] *located*;
- (c) *The Executive Director of the Philadelphia Housing Authority;*
- (d) *All Registered Community Organizations as defined in subsection 14-303(11A) whose registered area of concern contains any portion of the properties included in the notice;*
- (e) *The Executive Director of Community Legal Services and the Executive Director of Regional Housing Legal Services, or in the event of either agency's dissolution, an organization providing comparable legal services with respect to housing as is designated by the City; and*

(f) *All tenants of the affordable housing property.*

(2) This notice shall include:

- (a) The address of the affordable housing property;
- (b) The name, address, and phone number of the owner;
- (c) The name, address, phone number, and email address of the owner's designated contact person; [and]
- (d) A description of the protected action to be taken and its intended [date.] *date; and*
- (e) *The current address, email address, and phone number for Community Legal Services and Regional Housing Legal Services, or such other organization providing comparable legal services with respect to housing as is designated by the City.*

(3) The notice shall be in writing and mailed by *electronic mail; and* certified mail, return receipt requested.

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(5) Owners of affordable housing properties shall provide to each of the parties named in subsection 7-203(1) at least 130 days' written notice of their intent to sell, convey, or otherwise transfer an affordable housing property, except if

(a) The owner of the affordable housing property has already provided, within the previous 12 months, a notice of intent to take a protected action for that property; [or]

(b) *The owner has already complied with the requirements of Section 7-204 ("Right of First Refusal"); or*

[(b)] (c) The recipient of the property sale, conveyance, or transfer records a Long Term Affordability Indenture.

* * *

§ 7-204. Right of First Refusal

(1) *Notwithstanding anything to the contrary in this Chapter 7-200, an owner may not enter into a binding agreement of sale for an affordable housing property until the requirements of this Section 7-204 have been met.*

(2) *During the 45-day period following provision of notice as set forth in Section 7-203(1), the owner may not accept, consider, or solicit a purchase offer from anyone except an Eligible Party.*

(3) *If at any time after the 45-day period provided in subsection 2 an owner of an affordable housing property receives a bona fide offer that the owner intends to accept from an entity other than an eligible party, the owner shall provide notice as set forth in Section 7-203 and include with such notice all material terms of any such offer.*

(4) *Within sixty (60) days of the mailing date of a notice of a bona fide offer pursuant to subsection (2), any eligible party, may submit a matched agreement of sale to the owner.*

(5) *The owner shall accept any matched agreement of sale that is alike in all material respects to the bona fide offer received, provided that a matched agreement of sale submitted by a tenant or tenant organization shall receive priority over any nongovernmental eligible party.*

(6) *Within thirty (60) days of the mailing date, whether electronic or by hard copy, of a matched agreement of sale to the owner, the owner shall accept such matched agreement of*

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sale or enter into good-faith negotiations with the person who submitted the matched agreement of sale.

(7) If, after ninety (90) days from the mailing date, whether electronic or by hard copy, of the matched agreement of sale the parties have negotiated in good faith but no eligible party, tenant, or tenant organization has submitted a matched agreement of sale that is alike in all material respects to a bona fide offer that the owner intends to accept, the owner shall have no further obligations under this Section 7-204.

[§ 7-204.] § 7-205. Penalties.

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CERTIFICATION: This is a true and correct copy of the original Bill, Passed by the City Council on May 4, 2023. The Bill was Signed by the Mayor on May 24, 2023.



Michael A. Decker
Chief Clerk of the City Council