

Opportunity to Purchase (OTP) or Tenant Opportunity to Purchase Act (TOPA)

Minneapolis Area REALTORS® Position

What is OTP? Opportunity to Purchase (also called Tenant Opportunity to Purchase Act or TOPA) requires housing providers to give notice of intention to sell to tenants, and allow a specified amount of time for tenants to express interest, make an offer, and secure funding, before the housing provider can close on a sale.

The Minneapolis City Council received three policy option recommendations from a third-party consultant group that are under consideration: 'Opportunity to Purchase Policy Options'.

REALTORS® Position

REALTORS® favor the creation of homeownership opportunities and support a wide variety of housing options. However, OTP has several drawbacks, unintended consequences, and substantially alters private property rights and property ownership. We believe there are more effective ways to create a more balanced and equitable marketplace.

Tenants already have the right to put in an offer on any property. A notice of sale requirement that's already in place gives tenants the opportunity to purchase without hindering the property owner's ability to sell.

REALTORS® Concerns

Restricts supply of affordable rental housing by disincentivizing owners from offering rental properties.

Added regulation will keep investors from Minneapolis, further exacerbating the city's housing crunch and eventually depleting the supply of affordable housing altogether.

Delays seller market times from currently 31 days to up 285 days. Offer period (30-45 days), negotiation period (up to 120 days) and a settlement period (120 days).

Interferes with free transfer of property. The ability of an owner to buy, sell or rent property, without unreasonable government restriction, is fundamental to private property rights.

Assignability/Saleability of the tenant's rights has proven highly susceptible to exploitation.

Multi-Family Issues

- In multi-family properties, a tenant majority vote is required to create a management entity (e.g. LLC), condos or co-ops, and are complicated legal ventures. Properties must be managed for long term maintenance and repairs, including potential per unit cost increases.
- Extended timelines interfere with generally accepted commercial property practices and transfer types (i.e. 1031 Exchanges, portfolio sales, probate, etc.).

Unnecessary for Single Family Homes

- Current home sale process is easily facilitated and is the most effective means for tenant or non-tenant purchase.
- Tenants in single family homes are protected by state law, the current lease period must be honored, if sold.
- Tenants are already generally notified early in the sales process, prior to marketing a single-family home. This affords them the option to submit an offer to purchase, often on a pre-market basis.
- No financial advantage exists when comparing OTP and the current home sales process. Both require the purchaser to be credit qualified when submitting an offer.