

**COUNCIL OF THE DISTRICT OF COLUMBIA**  
**COMMITTEE ON HOUSING AND NEIGHBORHOOD REVITALIZATION**  
1350 PENNSYLVANIA AVENUE, N.W., WASHINGTON, D.C. 20004

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**TO:** Chairman Phil Mendelson  
**FROM:** Councilmember Anita Bonds   
**RE:** Request to Place Emergency Measures on the Agenda of the July 28, 2020 Additional Legislative Meeting  
**DATE:** July 23, 2020

I am requesting that the following emergency measures be agendized for the July 28, 2020, Additional Legislative Meeting, should one be scheduled:

- Low Income Housing Tax Credit TOPA Exemption for Transfers of Interest Emergency Declaration Resolution of 2020
- Low Income Housing Tax Credit TOPA Exemption for Transfers of Interest Emergency Amendment Act of 2020
- Low Income Housing Tax Credit TOPA Exemption for Transfers of Interest Temporary Amendment Act of 2020

There exists a need to approve this emergency legislation to amend the Tenant Opportunity to Purchase Act of 1980 to clarify that under certain limited circumstances, low-income housing tax credit (LIHTC) redevelopment projects do not fall under the requirements of TOPA.

LIHTC provides equity financing that subsidizes the acquisition, construction, and rehabilitation of affordable rental housing for low- and moderate-income tenants. Since the mid-1990s, the LIHTC program has supported the construction or rehabilitation of over 2 million affordable housing units nationally.

In the District, the LIHTC life-cycle has become complicated by TOPA, which requires an owner of a rental housing accommodation to give tenants an “opportunity to purchase”. Currently, District law is unclear whether TOPA offers are required during a LIHTC renewal or similar recapitalization, as unlike in standard TOPA sales, the accommodation remains under the control of the same entity and only new non-management investors leave or enter. Further, without greater clarity on this issue, title insurance companies often balk at providing title insurance, precluding projects from being able to close.

Thus, after 15 years when a housing provider renews LIHTC tax credits or recapitalizes in order to continue to maintain the building as affordable housing, federal law requires that a new tax entity must be created, which may potentially trigger TOPA. It is at this point the continued affordability of a building is threatened if market rate investors outbid affordable housing developers, cease the affordability of the project, and entice tenants to leave with lucrative cash buyouts, and then proceed to convert the building into luxury apartments.

Finally in example, the continued financial and physical viability of an active LIHTC affordable housing project in Ward 6 in Southwest DC is currently jeopardized unless remedial legislation clarifying the law is passed without delay. With the passage of this emergency legislation, TOPA clarity will be provided to affordable housing developers and investors alike, and the obstacles for title insurance companies to issue title insurance will be removed. This will then make funds available for needed reinvestment and upgrades at this Southwest DC affordable housing accommodation.

Copies of the measures are attached. Please contact Barry Weise, Legislative Director, at [bweise@dccouncil.us](mailto:bweise@dccouncil.us) or (202) 724-8171 if you have any questions.

Thank you for your consideration of this request.

cc: Members, Council of the District of Columbia  
Office of the Secretary  
Office of the General Counsel  
Office of the Budget Director