

D.C. DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT  
HOUSING REGULATION ADMINISTRATION  
RENTAL CONVERSION AND SALE DIVISION

MAY 21, 2013

OVERVIEW OF CONVERSION PROCEDURES UNDER  
THE RENTAL HOUSING CONVERSION AND SALE ACT OF 1980, AS AMENDED

1. **DHCD Housing Regulation Administration – Contact Information**

D.C. Department of Housing and Community Development  
Housing Regulation Administration  
1800 Martin Luther King, Jr. Avenue, S.E.  
Washington, D.C. 20020  
(202) 422-7200 (main) | (202) 442-9505 (HRA) | [www.dhcd.dc.gov](http://www.dhcd.dc.gov)

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Other Contact Information:

Dep't of Consumer & Regulatory Affairs  
1100 4th Street, S.W.  
Washington, D.C. 20024  
(202) 442-4400

Office of Tax and Revenue  
1101 4th Street, S.W., Suite W270  
Washington, D.C. 20024  
(202) 727-4829

–zoning, business registration, building permits, building codes, Office of the Surveyor

–unit taxation and assessment lot numbers

Dep't of Housing & Community Development  
1800 Martin Luther King, Jr. Ave., S.E.  
Washington, D.C. 20020  
(202) 442-7200

Recorder of Deeds  
1101 4th Street, S.W., 5th Floor  
Washington, D.C. 20024  
(202) 727-5324

–low income housing tax credits, tenant purchases, nonprofit organization grants, business development, inclusionary zoning and affordable dwelling units

–unit deeds, condominium declaration and bylaws, lower income ownership abatements, recordation and transfer taxes

**2. Housing Regulation Administration (HRA) Functions**

- HRA regulates residential rental housing (called **housing accommodations**).
- HRA is comprised of the:
  - Rental Conversion and Sale Division (CASD)
  - Rental Accommodations Division (RAD)
  - Housing Resource Center (HRC)
  - Housing Provider Ombudsman (HPO)
  - Rental Housing Commission (RHC)
- The Housing Resource Center is a one-stop office where housing providers, tenants, realtors, developers, owners, and other stakeholders can obtain information on DHCD programs and other agency programs, and access housing accommodation regulations, procedures, and requirements.
- One critical resource available to landlords who want to advertise available housing and tenants looking for housing: [www.dchousingsearch.org](http://www.dchousingsearch.org)
- Outreach—HRA conducts monthly classes on TOPA, conversions, notices to vacate, rental registration process, and other areas regarding rental housing regulation; contact Pamela Hillsman Johnson to be added to our listserv.
- Housing Regulation Administration (HRA) functions:
  - Rental Conversion and Sale Division (CASD)** regulates the sale of housing accommodations and conversion of housing accommodation use to condominium or cooperative ownership, and the registration of residential condominiums.

- Rental Accommodations Division** (RAD) oversees rent control, housing accommodation registration, and housing provider compliance with the Rental Housing Act of 1985, as amended.
- Housing Resource Administrator** (HRC) administers DHCD’s affordable dwelling units (ADUs) and inclusionary zoning (IZ) programs and oversees the Housing Resource Center.

**3. CASD–Regulatory Authority**

Rental Housing Conversion and Sale Act of 1980 (Conversion Act) (D.C. Law 3-86, enacted June 27, 1980, codified at D.C. Official Code 2001 ed., as amended, §§ 42-3401.01 et. seq.); see also Conversion and Sale of Rental Housing, title 14, chapter 4700, *District of Columbia Municipal Regulations* (DCMR) (2004 ed., as amended).

Condominium Act of 1976 Act (Condominium Act) (D.C. Law 1-89, effective March 29, 1977, codified at D.C. Official Code 2001 ed., as amended, §§ 42-1901.01 et. seq.)

- The TOPA and condominium statutes and regulations are available online:

Popular Searches > DC Regulations and Register > scroll down to DC Code in left margin > scroll down to Division II. Property > Title 42. Real Property > Subtitle VII. Rental Housing > Chapter 19. Condominiums or Chapter 34. Rental Housing Conversion and Sale > Subchapter IV. Opportunity to Purchase

Popular Searches > DC Regulations and Register > by Chapter Number > enter 14-47

- Conversion Act subchapters are divided into five subsections:
  - a. Conversion Procedures (conversion of use of rental housing and other property into condominium or cooperative ownership);
  - b. Relocation Assistance;
  - c. Tenant Opportunity to Purchase Act (TOPA)–Sale or Transfer of Title or Ownership of Housing Accommodations;
  - d. the D.C. Opportunity to Purchase Act (DOPA); and
  - e. Implementation and Enforcement.

4. **Conversion of Property Use, Generally.** Before an owner may convert the use of property to condominium or cooperative ownership, he must apply to CASD for approval. Property is classified as either a housing accommodation (vacant or tenant-occupied) or not-a-housing accommodation (e.g., owner-occupied, commercial). Only an owner may convert the use of tenant-occupied rental housing. A contract purchaser may speak with tenants about the possibility of conversion, but is prohibited from converting use unless he owns the building.


Scope of Discussion	
<u>Will Cover</u>	<u>Will NOT Cover</u>
–conversion of use of existing structures to condo or coop –conversion of use of different property types	–Project planning and financing –Zoning and permitting requirements –Office of Planning (OP) requirements –Office of Tax & Revenue requirements

<ul style="list-style-type: none"> <li>-tenant relocation payments</li> <li>-120 day notices of intent to convert</li> </ul>	<ul style="list-style-type: none"> <li>-Office of the Surveyor requirements</li> <li>-Recorder of Deeds requirements</li> <li>-Licensing and certificates of occupancy</li> </ul>
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*Note:* Other agencies (e.g., OP, DCRA, OTR) may have their own regulations and requirements for converting property to condominium or cooperative use.

- Conversion of use of existing structures to condominium or cooperative ownership must be certified compliant with the Conversion Act by CASD. To convert, an owner must file a conversion application with CASD and pay an application fee or certification fee.
- If CASD approves the conversion application, the owner is issued a certificate of eligibility to convert. Certificates of eligibility to convert are nontransferable and nonassignable.
- Tenant election and vacancy exemption certificates of eligibility to convert (described below) expire 180 days after issuance. Prior to the expiration of the 180 day period, the owner must complete the cooperative conversion process or condominium registration process. If conversion is not completed before 180 days elapses, then the conversion certificate will expire and the owner must reapply for conversion.
- Unless expressly exempted by CASD, converted units from former housing accommodations incur **conversion fee** liability due and payable on each unit at the sale to a third party purchaser.
  - The conversion fee rate is 5% of the declared unit sale price and is due and payable at the time of settlement. The settlement agent must collect and remit the conversion fees to CASD no later than 30 business days after closing along with a copy of the executed recordation tax and transfer tax return.

**5. Conversion Procedures.** Before an owner may convert use, he must apply for a conversion certificate. The current property use dictates the type of conversion procedure and whether conversion fee liability attaches.

 *Tip:* Purchasers of vacant properties or distressed properties should investigate to determine the prior use of the property and whether the property was tenant-occupied, and inquire (and obtain documentation) as to when and the circumstances under which tenants vacated.

**Threshold inquiries:**

- Is there an existing structure to be converted to condominium or cooperative ownership?
- What is the structure's present use and the most recent use of the structure? Who has knowledge? What supporting documentation?
- Were there tenants? When did they vacate? Did they vacate voluntarily? Who has knowledge? What supporting documentation?

CASD investigates applications, and may request application corrections, supplementation, or supporting documentation. CASD conducts physical inspections, reviews housing code violation records, licensing and occupancy records, zoning records, permitting records, business entity filings, voter registration records, rental registration records, taxation records and ownership records—any information pertaining to current and prior uses.

Examples of documentation (not limited to): affidavits from realtors, former owners, neighbors, tenants, utility bills reflecting usage or consumption, photographs, certificates of occupancy, settlement or vacancy agreements, or court dockets, orders or writs.

CASD reports vacancy exemption application addresses to DCRA's Office of Vacant Properties to ensure compliance with vacant property registration requirements.

The conversion process begins with an application (according to property type) and the payment of a certification fee (for tenant-occupied property) or an application fee for conversions to limited equity share cooperative<sup>1</sup> or conversions of non-rental housing or vacant rental housing.

6. **Conversion of Use of a Tenant-Occupied Housing Accommodation.** Conversion of tenant-occupied rental housing is by tenant election. Tenants vote whether to authorize the owner to convert the property use from rental housing to condominium or cooperative ownership or reject the owner's plans to convert use.

*Owner's Request and Application for a Tenant Election.* The owner sends each tenant a letter requesting a tenant election. Contemporaneously, the owner must apply to CASD for a tenant election certification and remit certification fees. Certification fees are \$100 per occupied rental unit or \$800 whichever is greater. There is no election application form (at present). The owner may write a letter and include the information as set out in § 14-4701.5 of the *D.C. Municipal Regulations* including a notarized statement as to the truthfulness of the information provided.

- An election request must be sent to tenants by first class mail and also conspicuously posted in the housing accommodation common areas.
- The owner must provide a Spanish translation for Spanish-speaking households.

*Scheduling an Election.* Tenants must form a tenant organization (see TOPA § 42-3401.03(18)), schedule an election date with CASD within 30 days of receipt of the owner's request, and conduct the election within 60 days of receipt of the owner's request.

*Note:* If a tenant organization does not schedule a tenant election with CASD on or before the 30th day from receiving the owner's request for an election, for the next 15 days, an individual tenant or the owner may request that CASD conduct the election.

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<sup>1</sup> A limited equity share cooperative limits the appreciate of cooperative share value to a maximum of the annual rate of inflation for low income and moderate income persons as defined by the U.S. Department of Housing and Urban Development for the Washington Standard Metropolitan Statistical Area.

Election Notice. At least 15 days prior to the election date, the tenant organization must send each household an election notice by first class mail and by conspicuously posting the notice in the accommodation common areas. The tenant organization should also provide election materials.

Qualifying Tenants to Vote. Election materials are usually distributed by the tenant organization. CASD will provide the election forms. The forms are:

- a. a voter qualification form;
- b. a physician's disability certification form;
- c. a protected tenant status waiver; and
- d. a ballot.

Tenants must submit voter qualification forms to CASD 7 business days prior to the tenant election (CASD accepts filings after that date if practicable). CASD reviews the voter qualification forms and: (i) determines which tenants are eligible to vote in the tenant election; (ii) determines which tenants are protected tenants (i.e., low income elderly or low income disabled); and (iii) prepares a qualified voter list.

Eligible Tenant-Voters. Tenants must be "heads of household," residing in the rental unit as their principal place of residence, are D.C. domiciled, and contribute more than one-half of the operating costs of the rental unit (if no one tenant contributes one-half the operating costs, then tenants will decide who will be the head of household for tenant election purposes).

Ineligible Tenant-Voters. Tenants who resided in the housing accommodation less than the preceding 90 days or worked for the owner in the preceding 120 days, and protected tenants (described below) are not qualified to vote in a tenant election.

Protected Tenants. Tenants who are low income elderly or low income disabled may not vote unless they submit a written statement waiving their right as protected tenants. "Low income" is defined in TOPA § 42-3402.08(a)(1). "Disabled" is defined as having a disability as defined by the federal Americans with Disabilities Act, 42 U.S.C. §12102(2)(A). "Elderly" is defined as 62 years or older on the date of the tenant election.

Protected tenants are **tenants for life** and may neither be given a notice to vacate or evicted *without cause* ("cause" is defined as not abiding by the lease agreement, committing illegal acts in the unit or on the premises, etc.).

CASD will certify protected tenants either before or after an election.

Conducting an Election. Elections are usually conducted by absentee ballot at CASD's office. Ballots must be provided in sealed envelopes with the tenant's legible signature across the sealed flap. On the appointed date and time, CASD staff unseal and count ballots. Any party may be present for the tally. Fifty-one percent or more of the eligible voters representing a majority of the occupied rental units must vote in favor of conversion, otherwise, the owner is prohibited from requesting another election for a year.

Conversion Certification. There are two types of certifications for tenant-occupied rental housing:

Tenant Election Certification. Within 3 business days after a tenant election, CASD will issue a tenant election certification after the tenant election. Tenant election certifications expire 180 days after issuance.

Conversion In Lieu of Election. If the tenants fail to schedule and conduct an election (or the owner or any individual tenant have not requested that CASD conduct an election), then the owner may request a conversion in lieu of election certification by submitting a written request to CASD. Conversion in lieu of election certifications expire 180 days after issuance.

Post-Election. An owner has 180 days from the issuance of the conversion certificate to apply and register a condominium and thereafter issue a 120 day notice of intent to convert. For cooperatives, the owner has 180 days in which to complete the cooperative conversion process and issue a 120 day notice of intent to convert. A 5% conversion fee is due and payable at the time each unit is conveyed to a unit purchaser and must be remitted to CASD within 30 business days of settlement with a copy of the executed recordation tax and transfer tax return.

7. **Conversion of Use of a Vacant Housing Accommodation.**

To convert a vacant housing accommodation, an owner must complete a vacancy exemption application with a \$100 application fee. The application must be filled out in its entirety and provide a copy of the owner's vesting deed, the current certificate of occupancy, and copies of all building permits.

*Note:* If approved, conversions of vacant housing accommodations are exempt from conversion procedures and requirements **except** conversion fee liability.

Among other information, the owner must indicate the timeframe in which the property was used as rental housing, provide tenant names and contact information, describe how and when the tenants vacated and whether all tenants vacated voluntarily. The owner must also certify that he did not: (i) issue a notice to vacate for the discontinuance of housing use; (ii) issue a notice to vacate for personal use and occupancy; and (iii) purchase the property from an owner-seller who issued a notice to vacate. The applicant should also provide documentation to support his statements.

*Note:* If there is evidence that any tenant did not vacate voluntarily, the Conversion Act *requires* that CASD reject the owner's application.

CASD will review the application, physically inspect the premises to verify its vacant condition, and research public records to ascertain the property's use. The applicant may be required to correct or supplement the application.

Conversion Certification. If approved, CASD issues a vacancy exemption conversion certification, exempting the property from conversion procedures and requirement **except** for conversion fees. A 5% conversion fee is due and payable at the time each unit is conveyed to a unit purchaser and must be remitted to CASD within 30 business days of settlement with a copy of the executed recordation tax and transfer tax return. Vacancy exemption certificates expire 180 days from issuance.

Small Building Conversion Fee Exemption. Vacant housing accommodations consisting of 10 units or fewer which were registered with DCRA's Office of Vacant Property one year in advance of the owner's conversion application are exempt from conversion fees.

**8. Conversion of Use of a Not-a-Housing Accommodation.**

To convert a non-rental housing (called “not-a-housing accommodation”), an owner must complete a not-a-housing accommodation exemption application with a \$100 application fee. The application must be filled out in its entirety and provide a copy of the owner’s vesting deed, the current certificate of occupancy, and copies of all building permits.

The owner must describe the property’s most recent use, use timeframes, information source(s).

CASD will review the application, may physically inspect the premises, and research public records to ascertain the property’s use(s). The applicant may be required to correct or supplement the application.

If approved, CASD issues a not-a-housing accommodation exemption conversion certification, exempting the property from conversion procedures and requirements including an exemption from conversion fee liability.

**9. Conversion of Use to Limited Equity Share Nonprofit Cooperative.**

An owner intending to convert use of a property to a nonprofit cooperative for low and moderate income persons must apply for exemption from conversion procedures. There is no application form (at present), however the owner must provide information as required in § 14-4704 of the *D.C. Municipal Regulations*. Section 42-3402.02(b) of the Conversion Act limits the appreciation of cooperative share value to a maximum of the annual rate of inflation.

CASD will review the application and supporting documentation, and research public records. The applicant may be required to correct or supplement the application.

Conversion Certification. If approved, CASD issues a limited equity share nonprofit cooperative exemption certification exempting the property from conversion procedures and requirements including an exemption from conversion fee liability. If the property is not converted as represented by the owner, the owner must immediately notify CASD and comply with Conversion Act requirements.

**10. Conversion Fees.**

Converted rental housing is subject to a 5% conversion fee based on the declared sale price of each converted condominium or cooperative unit sold. Conversion fees are due and payable at the time of closing, to be collected by the settlement agent and remitted to CASD within 30 business days of closing, with a copy of the executed recordation tax and transfer tax return.

Certain building types or units or shares are exempt from conversion fee liability:

- a. a condominium unit or a cooperative share sold to a low income purchaser (note: low income is defined in the Conversion Act);
- b. a condominium unit or cooperative share sold to a former tenant who resided in the accommodation at least one year prior to the owner’s conversion application and is a District domiciliary, and used the unit as his principal place of residence;
- c. a condominium unit or cooperative share sold to a low income elderly or low income disabled purchaser;



- d. a condominium unit or cooperative share from a building which consists of 10 units or fewer and was registered with DCRA's Vacant Property Office at least one year prior to the owner's conversion application;
- e. a limited equity share cooperative; or
- f. a condominium unit or cooperative share sold from a property approved as not-a-housing accommodation.

## 11. **Final Conversion Steps**

*For Condominiums.* For condominium ownership conversions, the owner must:

- a. apply for condominium registration with CASD; and
- b. no earlier than 10 days after CASD issues a registration order registering the condominium, the owner must notify tenants of the conversion in a 120 day notice of intent to convert by hand delivery or certified mail.

A 120 day notice of intent to convert gives tenants the first 60 days after issuance the right to purchase their units on terms and conditions at least as favorable as those to be offered to the general public. If the tenant does not act, then any subtenant has the following 60 days to decide whether to purchase the unit. A notice of intent to convert may also include a 90 day notice to vacate.

*Note:* if you intend to issue a 90 day notice to vacate, you must contact the Rental Accommodations Division on 202-442-9505 or the housing provider ombudsman on 202-442-7214 for compliance instructions and requirements.

*Note:* Protected tenants may not be issued a notice to vacate.

*For Cooperatives.* For cooperative ownership conversions, the owner must:

- a. complete the cooperative formation process (e.g., registering the corporation with DCRA, issuing subscription agreements, occupancy agreements, cooperative shares, etc.); and
- b. issue a 120 day notice of intent to convert by first class mail and posted conspicuously in housing accommodation common areas.

A 120 day notice of intent to convert gives tenants the first 60 days after issuance the right to purchase their units on terms and conditions at least as favorable as those to be offered to the general public. If the tenant does not act, then any subtenant has the following 60 days to decide whether to purchase the unit. A notice of intent to convert may also include a 90 day notice to vacate.

*Note:* if you intend to issue a 90 day notice to vacate, you must contact the Rental Accommodations Division on 202-442-9505 or the housing provider ombudsman on 202-442-7214 for compliance instructions and requirements.

*Note:* Protected tenants may not be issued a notice to vacate.

## 11. **Tenant Relocation Payments, Housing Assistance Payments & Property Tax Abatement**

*Tenant Relocation Payment.* Owners of tenant-occupied converted housing accommodations must pay tenant relocation if tenants choose not purchase units. An owner pays no less than \$125 and no greater than \$1,000 to the tenant. An owner is only required to provide a relocation payment if the tenant furnishes a relocation expense receipt or written estimate from a moving company or other relocation service

provider. The owner must pay by check or cash to the tenant or the tenant's designated agent.

The tenant who bears the cost of relocation is entitled to the payment. If there is more than one tenant, the owner shall pay the tenants proportionately.

An owner is not required to pay a relocation payment to a tenant against whom the owner obtained a judgment for possession of the unit.

A tenant has the right to sue to collect the relocation payment and is entitled to costs and reasonable attorney fees for bringing the action.

*Housing Assistance Payments.* Low income tenants displaced by a conversion who relocate to rental units in the District and apply for assistance may be eligible to receive housing assistance payments from DHCD up to 3 years. Tenants must apply annually for the housing assistance payments and must provide proof of residency, tenancy in a new unit, and proof of income. The Housing Assistance Payment information and application should be included with the 120 day notice of intent to convert.

*Property Tax Abatement.* Subject to CASD approval, owners may receive a property tax abatement for converted units rented to low income purchasers. Owners must apply annually for the benefit and must provide proof of tenancy and proof of the tenant's income, age or disability.