

# Tenant Opportunity to Purchase Act

*Establish the first right of refusal for tenants when their home or building is being sold*



*Berkeley Mayor Jesse Arreguin introduced the Tenant Opportunity to Purchase Act in 2020.  
(Photo courtesy of ebclc.org)*

## **The Impact**

A Tenant Opportunity to Purchase Act (TOPA) empowers tenants to purchase their home. TOPA creates opportunities for homeownership, preserves the affordability of housing and prevents displacement of low-income households. It promotes racial and economic equity.

## **Description**

TOPA gives tenants the right of first offer and the first right of refusal when the rental property they live in is being sold, so they have the opportunity to organize a tenant association or remain renters at an affordable rate and assign their rights to a nonprofit developer. The act provides a timeline for tenants and requires landlords to give advance notice that the property will be sold, thus allowing tenants time to form an association, secure funding and make an offer to the seller.

Cities must dedicate adequate financial support and technical assistance to TOPA to assure its success. Funding from cities can be used for tenant outreach and education, enforcement, legal counsel and acquisition assistance. In Washington, D.C., the TOPA program funds city staff and community organizations that assist tenants in navigating their TOPA rights and help finance acquisitions with a process similar to financing affordable housing developments. The D.C. Tenant Purchase Assistance program also offers low-interest loans to tenants looking to purchase.

## Where It's Been Implemented

Washington, D.C., has the oldest and most comprehensive Tenant Opportunity to Purchase Act, enacted in 1980. The East Bay Community Law Center (EBCLC) drafted a model TOPA for San Francisco Bay Area cities adapted from the Washington, D.C. act, and it began the process of working with organizations in Berkeley and Oakland as early as 2015. On March 5, 2020, a policy was introduced in a meeting of Berkeley's Policy Committee on Land Use, Housing and Economic Development. During 2020-21, the Berkeley TOPA community working group revised the policy in response to feedback and did extensive outreach and education. In July 2023, an updated version of the bill was sent to the city attorney, to be reviewed and then discussed by the city council.

San Francisco has a similar policy called the Community Opportunity to Purchase Act (COPA), which applies to residential buildings with more than three units and land that could fit more than three units. Unlike TOPA, COPA gives the right of first offer and right of first refusal to qualified nonprofit developers, with mandates to preserve affordability. The COPA program works in conjunction with San Francisco's Small Sites program, which gives loans to nonprofits for affordable housing development.

## Key Drivers

In San Mateo County in 2023, the area median annual household income (AMI) for a family of four was \$174,000. For a family of four to be in the extremely low-income bracket (0 to 30% of AMI), the household had to make less than \$59,000. With such a high median income, market-rate housing is unattainable and housing for those with low, very low and extremely low incomes is extremely limited.

The Tenant Opportunity to Purchase Act empowers tenants to own their homes, even in a multifamily development. It is an especially attractive option because it provides stability and long-term affordability, so tenants do not risk being priced out of the area and forced to relocate.

Stability in housing is essential not only for shelter, but also for family health. An annual cost-of-living study by United Way released in July 2021 found that more than 600,000 Bay Area residents, or about 1 in 4, couldn't afford cost-of-living necessities such as housing, food, medical care and child care. Across California, the study's findings were even more dire, with about one-third of the 3.5 million families statewide unable to make ends meet and 97% of those households considered "working poor" — that is, employed but not making enough.

## Key Factors for Success

A main goal of TOPA is to preserve affordability of units, so there may be resale limits and/or rent restrictions for existing tenants. Some TOPA policies only apply to subsidized properties, and some apply to both subsidized and unsubsidized, and the eligibility of tenants varies by individual policy as well, so cities will have to decide what works best for them. In D.C., the policy applies to both subsidized and unsubsidized buildings, but only applies to some single-family homes.

The three crucial components to a Tenant Opportunity to Purchase Act are the bill itself, which establishes the rights of first offer and refusal for tenants; assisting with funding for tenants; and outreach and education. TOPA is flexible for cities' needs in that the latter two components can be provided by nonprofits and private interests, although a city investment in these components helps to make the act robust and successful.

## Key Obstacles

Opposition to TOPA is likely from the real estate industry, which doesn't want policies that interfere with the status quo of the market. Another issue is the extended timeline required to go through the TOPA process, which some think places too much of a burden on owners.

Finding funds for programs that assist tenants is critical, and in both D.C. and San Francisco there has been a strong response from nonprofits willing to help with technical assistance.

### References and Resources

- Danilo Pelletiere, Senior Policy Advisor, D.C. Department of Housing and Community development, danilo.pelletiere@dc.gov, 202-579-8367
- Berkeley's TOPA movement, yes2topa@gmail.com
- [PolicyLink.org. Map of ongoing and successful TOPA movements](#)
- [San Francisco COPA Rules](#)
- [San Francisco COPA Ordinance](#)
- [D.C. TOPA Process Chart](#)
- [D.C. 1980 TOPA](#)

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