

# Work Session

<b>Agenda Item #</b>	4
<b>Meeting Date</b>	February 25, 2013
<b>Prepared By</b>	Sara Anne Daines HCD Director
<b>Approved By</b>	Suzanne R. Ludlow Acting City Manager

<b>Discussion Item</b>	Discussion of Proposed Revisions to Takoma Park Code, Chapter 6.24 Commission on Landlord-Tenant Affairs and Chapter 6.32 Tenant Opportunity to Purchase
<b>Background</b>	<p>The is the third in a series of work session discussions scheduled to facilitate the updating of the Takoma Park Code, Title 6 Housing.</p> <p>The following revisions to Chapter 6.24 Commission on Landlord-Tenant Affairs and Chapter 6.32 Tenant Opportunity to Purchase have been developed, as noted in past discussions, in consultation with the members of the Commission on Landlord and Tenant Affairs (COLTA) and the City Attorney's Office. The revisions are generally minor in nature with the exception of proposed changes to Chapter 6.32 Tenant Opportunity to Purchase which extends the right to purchase a rental facilities with seven or more rental units to the City</p> <p><b>Chapter 6.24 Commission on Landlord and Tenant Affairs:</b></p> <p>The proposed revisions, noted in the accompanying draft, include the following:</p> <ol style="list-style-type: none"> <li>1. Authorizes the Department to decide whether to dismiss a complaint following its investigation of the complaint and allows the complainant to file an appeal of the dismissal with COLTA. This amendment eliminates a step in the process that has proven to be a mere formality—previously the Department made a recommendation to COLTA to dismiss a complaint, which COLTA would accept at its next business meeting. (Page 4 – Section 6.24.070(B))</li> <li>2. Clarification that a case can be heard by two commissioners with the consent of the parties present at a hearing. (Page 5 - Section 6.24.080(B))</li> <li>3. Clarification that subpoena requests must state the reason for the subpoena and that the Commission retains discretion as to whether to issue subpoenas. (Page 6 - Section 6.24.080.D)</li> <li>4. Automatic dismissal of a case when the complainant failures to appear at a scheduled hearing. (Page 6 - Section 6.24.080(E))</li> </ol>

<p><b>Background</b> continued</p>	<ol style="list-style-type: none"> <li>5. Elimination of punitive damages for unlawful entry and refusal of entry and gives victim right to terminate lease and recover actual damages resulting from violation. (Page 9 – Section 6.24.090(B)(3))</li> <li>6. Elimination of the requirement of full Commission consideration if a panel member dissents. (Page 10 - Section 6.24.110)</li> </ol> <p><b>Chapter 6.32 Tenant Opportunity to Purchase</b></p> <p>Current Policy: To provide home ownership opportunities to City residents and promote the conversion of rental facilities to owner-occupied housing.</p> <p>Proposed Revision: The City’s Tenant Opportunity to Purchase law currently gives existing tenants and registered tenant associations an opportunity to purchase their rental facility when the landlord decides to sell. The County Code extends the right to purchase to the County’s Department of Housing and Community Affairs. Staff is proposing that the right of first refusal to purchase rental facilities with two or more rental units be extended to the City. This right, as proposed, would be exercised by the City following a determination that the existing tenants / tenant association did not wish to purchase the rental facility, and with Council authorization.</p> <p>Policy Question: Does the Council wish to extend the right of first refusal for rental facilities with two or more rental units to the City?</p> <p>Assistant City Attorney Ken Sigman and Housing Manager Linda Walker will provide further detail on the proposed revisions and respond to any questions or concerns raised during the work session.</p>
<p><b>Policy</b></p>	<p>It is necessary and appropriate that the City define minimum respective rights and duties of landlords and tenants and provide mechanisms for the resolution of disputes between landlords and tenants.</p>
<p><b>Fiscal Impact</b></p>	<p>NA</p>
<p><b>Attachments</b></p>	<ul style="list-style-type: none"> <li>• Chapter 6.24 Commission on Landlord-Tenant Affairs (DRAFT 02/25/2013)</li> <li>• Chapter 6.32 Tenant Opportunity to Purchase (DRAFT 02/25/2013)</li> </ul>
<p><b>Recommendation</b></p>	<p>Provide comment on proposed revisions</p>

<b>Special Consideration</b>	<p>The schedule for further discussion of Takoma Park Code, Chapter 6 Housing has been revised as follows.</p> <p><u>Monday, March 4 (tentative)</u></p> <ul style="list-style-type: none"> <li>• Chapter 6.20 Rent Stabilization</li> <li>• Chapter 6.36 Unsafe Buildings—Public Nuisance Abatement</li> </ul> <p><u>Monday, March 18 (tentative)</u></p> <ul style="list-style-type: none"> <li>• Chapter 6.40 Violations and Enforcement</li> <li>• Chapter 6.04 General Provisions and Definitions</li> </ul> <p><u>Monday, April 1 (tentative)</u></p> <ul style="list-style-type: none"> <li>• Follow-up Discussion of Proposed Revisions</li> </ul> <p><u>Monday, April 8 (tentative)</u></p> <ul style="list-style-type: none"> <li>• Follow-up Discussion of Proposed Revisions</li> </ul> <p><u>Monday, April 22 (tentative)</u></p> <ul style="list-style-type: none"> <li>• First Reading of Ordinance Amending Takoma Park Code, Chapter 6 Housing</li> </ul> <p><u>Monday, April 29 (tentative)</u></p> <ul style="list-style-type: none"> <li>• Second Reading of Ordinance Amending Takoma Park Code, Chapter 6 Housing</li> </ul>
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**Chapter 6.32**  
**TENANT OPPORTUNITY TO PURCHASE**

**Chapter 6.32 - TENANT OPPORTUNITY TO PURCHASE\***

**Sections:**

~~6.32.010—Legislative findings.~~

~~6.32.020—Applicability.~~

~~6.32.030—Tenant opportunity to purchase.~~

~~6.32.040—Offer of sale.~~

~~6.32.050—Contract negotiation.~~

~~6.32.060—Earnest money deposits.~~

~~6.32.070—Exercise or assignment of rights.~~

~~6.32.080—Waiver of rights.~~

~~6.32.090—Single family rental facilities.~~

~~6.32.100—Rental facilities with 2 through 6 rental units.~~

~~6.32.110—Rental facilities with 7 or more rental units.~~

~~6.32.120—Computation of time.~~

~~6.32.130—Obligations upon foreclosure.~~

~~6.32.140—Enforcement of tenant opportunity to purchase rights.~~

~~6.32.150—Statutory construction.~~

[6.32.010 - Legislative findings.](#)  
[6.32.020 - Applicability.](#)  
[6.32.030 - Tenant opportunity to purchase.](#)  
[6.32.040 - Offer of sale.](#)  
[6.32.050 - Contract negotiation.](#)  
[6.32.060 - Earnest money deposits.](#)  
[6.32.070 - Exercise or assignment of rights.](#)  
[6.32.080 - Waiver of rights.](#)  
[6.32.090 - Single-family rental facilities.](#)  
[6.32.100 - Rental facilities with 2 through 6 rental units.](#)  
[6.32.110 - Rental facilities with 7 or more rental units.](#)  
[6.32.120 - Computation of time.](#)  
[6.32.130 - Obligations upon foreclosure.](#)  
[6.32.140 - Enforcement of tenant opportunity to purchase rights.](#)  
[6.32.150 - Statutory construction.](#)

**[6.32.010 - Legislative findings.](#)**

The Council of the City finds that, in the interests of providing home ownership opportunities to City residents and to promote the conversion of rental facilities to owner-occupied housing, including condominiums and housing cooperatives, it is necessary and appropriate to require that the owners of rental facilities in the City offer the tenants ~~and~~ tenant association of associations, and the ~~rental facility~~ City an opportunity to purchase the rental facility before the rental facility may be sold to a third-party purchaser. ~~(Ord. 2003-7 § 1 (part), 2003: prior code § 6-800)~~

**[6.32.020](#) ~~6.32.020~~ - Applicability.**

**A.**

All sales of rental facilities in the City are covered by this chapter except that this chapter does not apply to a sale:

1.  
To a family member;
2. ~~Made under~~  
Limited by the terms of a bona fide mortgage or deed of trust;
3.  
To a mortgagee in lieu of foreclosure;
- 4.

- Under a court order;
- 5. From one co-tenant to another by operation of law;
- 6. Under a will, living trust, or intestate distribution;
- 7. To the State or a local government;
- 8. Of a minority title interest; or
- 9. Of an accessory apartment.

**B.**

This law is in addition to and is not intended to abrogate any other right of first refusal to buy rental housing provided by Montgomery County or other applicable law, except to the extent that those provisions conflict with the provisions of this law. If the provisions of this chapter conflict with another provision of applicable law, the provisions of this chapter control. (~~Ord. 2003-7 § 1 (part), 2003: prior code § 6-801~~)

**6.32.0306.32.030 - Tenant opportunity to purchase.**

**A.**

Before an owner may settle on the sale of a rental facility, the owner shall give all tenants an opportunity to purchase the rental facility at a price and ~~on~~under terms which constitute an offer of sale in accordance with the requirements of Section 6.32.040 and shall comply with the time periods set forth in Sections 6.32.090, 6.32.100 and 6.32.110 herein, as applicable.

**B.**

All contracts with third parties shall be subject to the rights of the tenant(s) ~~or~~, a tenant association or the City to purchase the rental facility under this chapter. The time periods for negotiation of a contract of sale and for settlement under this chapter are minimum periods. The owner may give the tenant(s) ~~or~~, the tenant association or the City a reasonable extension of time to purchase the rental facility, without liability under a third-party contract. Third-party purchasers are presumed to act with full knowledge of tenant rights under this chapter. (~~Ord. 2003-7 § 1 (part), 2003: prior code § 6-802~~) and the requirements in Chapter 6.28 , Sale of Rental Facilities-Notice, Disclosure and Inspection Requirements, of the Takoma Park Code.

**6.32.0406.32.040 - Offer of sale.**

**A.**

The owner shall provide a written offer of sale to the following persons before going to settlement on the sale of the rental facility to another party:

1.

To each tenant in the rental facility; ~~and~~

2. ~~To the City Manager with a complete copy of To any third-party contract to purchase~~registered tenant association within the rental facility ~~and a list identifying each tenant and the tenant's address; and~~

3.

To the City of Takoma Park.

B.

An offer of sale must:

1.

State the asking price and material terms of the sale. If a third-party contract for the sale of the rental facility exists at the time the offer of sale is made, then such offer shall state that the tenant ~~has(s),~~ registered tenant association and, for rental facilities with two or more rental units, the City of Takoma Park, have the right to purchase the rental facility under this chapter at the same price and on substantially the same terms and conditions as the third-party contract of sale for the rental facility;

2.

State that the owner shall make available to the tenant ~~or(s), registered~~ tenant association and the City, within ~~7~~seven calendar days of receiving a written request for the information; ~~;~~

a. For multi-family rental facilities: A complete copy of any third-party contract to purchase the rental facility, a floor plan or other architectural and engineering plans ~~and/or~~ specifications of the rental facility, all documents required under Chapter 6.28, Sale of Rental Facilities-Notice, Disclosure and Inspection Requirements, of the Takoma Park Code, and an itemized ~~list~~listing of monthly operating expenses and capital expenditures for each of the ~~2~~two preceding years. The owner shall, at the same time, provide the tenant or tenant association with the most recent annual rent stabilization report filed with the City, a rent roll, a list of tenants, and a list of vacant apartments.

b. For single-family rental facilities, ~~the owner only has to provide the tenant with;~~ a complete copy of any third-party contract to purchase the ~~single family~~ rental facility ~~and all documents required under Chapter~~

6.28, Sale of Rental Facilities-Notice, Disclosure and Inspection Requirements, of the Takoma Park Code.

3. For every day of delay by the owner in providing ~~this~~the information requested under subsection 2 beyond seven days after the request, the time period for the tenant or tenant association or the City to express interest in purchasing the rental facility or to negotiate a contract with the owner for purchase of the rental facility, as applicable, shall ~~be~~be extended by one day.

C.

An offer of sale shall be sent by first-class mail or personally delivered to each tenant ~~in, registered tenant association and the rental facility.~~Takoma Park City Manager. The offer of sale shall also be posted in a conspicuous place in the common area or on the entry doors of ~~the rental facility except for single~~multi-family rental facilities.

D.

An offer of sale must allow the tenant ~~or(s),~~ registered tenant association or, for rental facilities with two or more rental units, the City of Takoma Park, to purchase only the rental facility ~~in which the tenant resides~~ even if the third-party contract to purchase the rental facility includes other real or personal property.

E. Change in the Sales Price or Contract Entered into after Offering.

1. If there is a subsequent third-party contract after the initial offer of sale that results in a material change, or if the terms of a third -party contract to purchase the rental facility materially change between the time an offer of sale is made ~~to and the tenant or tenant association and settlement on the sale of the rental facility,~~ then the owner shall give each tenant ~~or(s), tenant association, and the City~~ a new offer of sale.

2. The tenant(s), registered tenant association and the City ~~Manager a new offer of sale. In that event, the tenant or tenant association~~ shall have all rights provided under this chapter except that the period to express an interest in purchasing the rental facility on the revised terms of sale shall not exceed 7 days from the date of receipt of the new offer of sale and, for rental facilities with 9 or more rental units, a tenant association's prior registration shall continue in effect. A material change shall include, but is not limited to, a reduction in the sales price of the rental facility of 10% or more. An owner shall not be required to give a new offer of sale if the only material change is an increase in the sales price of the rental facility. (Ord. 2003 7 § 1 (part), 2003: prior code § 6-803)seven calendar days from the date of receipt of the new



offer of sale provided that the initial time period to express interest has expired.

~~6.32.050~~3. For rental facilities with seven or more rental units, a tenant association's prior registration shall continue in effect.

4. A material change shall include, but is not limited to, a change in the purchaser or a reduction in the sales price of 10% or more.

5. An owner shall not be required to give a new offer of sale if there is an increase in the sales price.

**6.32.050 - Contract negotiation.**

**A.**

The tenant-or(s), tenant association and owner or the City shall bargain in good faith for the sale of the rental facility.

**B.**

The owner may not require the tenant-or(s), tenant association or the City to prove financial ability to perform, as a prerequisite to entering into a contract. (Ord. 2003-7 § 1 (part), 2003: prior code § 6-804)

**~~6.32.060~~6.32.060 - Earnest money deposits.**

In order to makeTo execute a contract, the owner may require the tenant(s) or, tenant association or the City to pay an earnest money deposit of up to 1% of the contract sales price for a single-family rental facility and for rental facilities with 2 through 8 two to six rental units. For rental facilities with 9seven or more rental units, an owner may require an earnest money deposit of up to 1/2%1/2% of the contract sales price. The earnest-money deposit shall be refundable within 30 calendar days in the event of failure of the tenant(s)-or, tenant association or the City to perform under the contract despite good-faith efforts. (Ord. 2003-7 § 1 (part), 2003: prior code § 6-805)

**~~6.32.070~~6.32.070 - Exercise or assignment of rights.**

The tenant-or(s), tenant association or the City may exercise rights under this chapter in conjunction with a third party or by assigning or selling those rights to any party, whether private or governmental. The exercise, assignment or sale of tenant rights may of purchase may occur at any time in the process and may be for any

consideration ~~which that~~ the tenant, tenant, ~~in the tenant's sole discretion, association or City~~ finds acceptable. ~~Such an exercise, assignment or sale may occur at any time in the process provided in this chapter and may be structured in any way the tenant, in the tenant's sole discretion, finds acceptable. (Ord. 2003-7 § 1 (part), 2003: prior code § 6-806)~~

~~6.32.080~~6.32.080 - Waiver of rights.

An owner shall not request, and a tenant ~~or(s)~~, tenant association or the City may not grant, a waiver of the right to receive an offer of sale or any other right under this chapter. ~~An owner shall not ask for a waiver of any other right under this chapter except in exchange for consideration which that the tenant, tenant association or City, in the tenant's their sole discretion, finds acceptable. (Ord. 2003-7 § 1 (part), 2003: prior code § 6-807)~~

~~6.32.090~~6.32.090 - Single-family rental facilities.

The following provisions apply to single-family rental facilities:

A.

Upon receipt of a written offer of sale from the owner, the tenant shall have 7seven calendar days to deliver a written statement of interest to the owner and to the City Manager. The written statement of interest shall be personally delivered or sent by first-class mail. The statement of interest must be a clear expression of interest on the part of the tenant to exercise the right to purchase the rental facility as specified in this chapter.

B.

The tenant may accept the offer of sale by submitting a written contract within 14 calendar days after the date the tenant delivered the written statement of interest. The ~~tenant's~~tenant's contract must include substantially the same terms and conditions contained in the ~~owner's~~owner's third-party contract of sale, if any, including any contract term that provides for a reasonable real estate commission.

C.

Any contract of sale shall provide a reasonable period between the execution of the contract of sale and settlement for the tenant to secure financing. This period shall not be ~~at least~~less than 30 calendar days. If the tenant is obtaining financing through a government or other loan program for low or moderate income persons or for first-time homebuyers and the government agency or lender estimates in

writing that a decision with respect to financing will be made within 60 calendar days after the date of the contract, then the owner shall afford an extension of time consistent with that written estimate.

D.

If 6 months elapse from the date an owner has given notice of an offer of sale to a tenant under this chapter and the owner has not gone to settlement on the sale of the rental facility, the owner shall comply anew with the provisions of this chapter before selling the property.

~~(Ord. 2003-7 § 1 (part), 2003: prior code § 6-808)~~

~~6.32.1006.32.100~~ **6.32.100 - Rental facilities with 2 ~~through~~to 6 rental units.**

The following provisions apply to rental facilities with 2 ~~through~~to 6 rental units:

A.

The tenants may respond to an ~~owner's~~owner's offer of sale first jointly, then individually. Upon receipt of a written offer of sale from the owner, a group of tenants acting jointly shall have 14 days to provide the owner and the City Manager with a written statement of interest. The written statement of interest shall be personally delivered or sent by first class mail. Following that time period, if the tenants acting jointly have failed to submit a written statement of interest, then any individual tenant of the rental facility shall have ~~7~~seven additional calendar days to personally deliver or to send by first class mail a written statement of interest to the owner and the City Manager. Following that time period, if no individual tenant has submitted a statement of interest, the City shall have seven additional calendar days to personally deliver or to send by first class mail a written statement of interest to the owner. Each statement of interest must be a clear expression of interest on the part of the ~~tenant group or the tenant~~submitter to exercise the right to purchase the rental facility as specified in this chapter.

B.

Contract Negotiation Period.

1.

A tenant group ~~or,~~ tenant, or the City may accept the offer of sale by submitting a contract within 30 calendar days after the date the ~~tenant group or tenant delivered the~~ written statement of interest: is delivered. The ~~tenant group or tenant's~~ contract must include substantially the same terms and conditions contained in the ~~owner's~~owner's third party contract of sale, if any, including any contract term that provides for a reasonable real estate commission. If more than one individual tenant

submits a written statement of interest, the owner shall negotiate with each tenant separately, or jointly if the tenants agree to negotiate jointly.

2.

If, at the end of the 30 calendar day contract negotiation period and any extensions thereof, the tenant group has not jointly contracted with the owner for purchase of the rental facility, the owner shall provide an additional 30 calendar day period, during which any one of the individual tenants of the rental facility may contract with the owner for the purchase of the rental facility.

If, at the end of the additional 30 calendar day contract negotiation period and any extensions thereof, no individual tenant has contracted for the purchase of the rental facility, the owner shall provide an additional 30 calendar day period, during which the City may contract with the owner for the purchase of the rental facility.

3.

If the owner is required to negotiate with more than one tenant group or tenant pursuant to this section, the owner may decide which contract to accept without liability to ~~the~~any other tenant group or tenant.

C.

Any contract of sale shall provide a reasonable period between the execution of the contract of sale and settlement for the ~~tenant group or tenant~~buyer to secure financing or financial assistance. This time period shall be at least 90 calendar days.

D.

If 8 months elapse from the date an owner has given notice of an offer of sale to tenants under this section and the owner has not gone to settlement on the sale of the rental facility, the owner shall comply anew with the provisions of this chapter before selling the property.

~~(Ord. 2003-7 § 1 (part), 2003: prior code § 6-809)~~

#### ~~6.32.110~~6.32.110 - Rental facilities with 7 or more rental units.

The following provisions apply to rental facilities with 7 or more rental units.

A.

The tenants may respond to an ~~owner's~~owner's offer of sale only through a registered tenant association ~~which~~that represents at least 1/3 of the occupied rental units ~~of~~in the rental facility.

B.

Upon receipt of an ~~owner's~~sowner's offer of sale, the tenant association and the City shall have 45 calendar days to:

1.

Mail or personally deliver to the owner and the City Manager a written statement of interest. The statement of interest must be ~~a clear an~~ expression of interest on the part of the tenant association or the City to exercise the right to purchase the rental facility as specified in this chapter.

2.—Mail

The tenant association shall mail or personally deliver to the owner and to the City Manager a registration statement listing the names, addresses and telephone numbers of all member tenants, officers, legal counsel and ~~or other representatives of the tenant association, documentation confirmation~~ that the tenant association represents at least 1/3 of the occupied rental units ~~as of at~~ the time of registration ~~and such other information as the City Manager shall require.~~

~~C.—The City shall issue a registration certificate within 10 days after receipt of a completed registration statement unless the owner or the City raises credible objections to information in the tenant association's registration statement. If credible objections are raised, the tenant association may respond to the objections and re-submit the registration statement, but such resubmission shall not extend the time period for the tenant association to deliver a written statement of interest. If more than one tenant association files a registration statement, then the first tenant association to register becomes the sole representative of the tenants of the rental facility.~~

~~D.—~~C.

A registered tenant association or the City may accept the offer of sale by submitting a contract within 120 calendar days after the date the tenant association or the City delivered the written statement of interest to the owner. The ~~tenant association's~~ contract must include substantially the same terms and conditions contained in the ~~owner's~~sowner's third party contract of sale, if any, including any contract term that provides for a reasonable real estate commission.

~~E.—~~D.

Any contract of sale shall provide a reasonable period, considering current market conditions, between the execution of the contract of sale and settlement for the tenant association or the City to secure financing. This time period shall be at least 120 calendar days, ~~except as provided in subsection (F) of this section.~~ If a lending institution or

agency estimates in writing that a decision with respect to financing will be made within 240 calendar days after the date of the contract, the owner shall afford an extension of time consistent with that written estimate.

~~F.~~ E.

Conversion to Limited Equity Housing Cooperative.

1.

If the tenant association, by its articles of incorporation, bylaws or resolution adopted by the Board of Directors, or by ~~its articles of limited partnership or by its limited partnership or partnership agreement or its operating agreement,~~ other agreement that provides that the purpose of the tenant association is to convert the rental facility to a limited equity housing cooperative, then the owner shall afford the tenant association not less than 180 calendar days after the date of the contract in order to secure financing for the purchase of the rental facility.

2.

If the purpose of the tenant association is to convert the rental facility to a limited equity housing cooperative pursuant to subsection (F)(1) above, the owner shall assist the tenant association in converting the rental facility to a limited equity housing cooperative ~~by executing a contract of sale with the~~ tenant association. Toward this end, at any time after execution of a contract of sale and at the written request of the tenant association, the owner shall execute and deliver any and all notices required under the Maryland Cooperative Housing Corporation Act, under Chapter 11C, Cooperative Housing, of the Montgomery County Code and under any other applicable or successor provisions of State and County law to all tenants at the rental facility and to all applicable government agencies. Such notices and any related documentation or offers of sale shall be prepared solely by the tenant association, and all reasonable costs associated with the publication and distribution of such notices shall be the sole responsibility of the tenant association. The tenant association shall indemnify and hold harmless the owner from the liability for any loss or damage suffered as a direct result of the giving of such notices.

~~G.~~ F.

If one year elapses from the date an owner has given notice of an offer of sale ~~to the tenants~~ under this chapter and the owner has not gone to

settlement on the sale of the rental facility, the owner shall comply anew with the provisions of this chapter before selling the property. (~~Ord. 2003-7 § 1 (part), 2003: prior code § 6-810~~)

#### **6.32.120 Computation of time.**

~~A.—If a time period under this chapter ends on a Saturday, Sunday or legal holiday, for the State of Maryland, the time period is extended until the next day which is not a Saturday, Sunday or legal holiday.~~

~~B.—Whenever a person has the right or is required to do some act within a prescribed time period after delivery or service of a notice or other paper and service or delivery of the notice or other paper is made by mail, 3 days shall be added to the prescribed period. (Ord. 2003-7 § 1 (part), 2003: prior code § 6-811)~~

#### **6.32.1306.32.120 - Obligations upon foreclosure.**

A ~~lender's~~slender's trustees or the ~~lender's~~slender's attorney who are foreclosing on a rental facility shall give notice of the time, place, and terms of sale to the tenants in the rental facility by mailing such notice to the tenants by first-class mail or by posting the notice in a prominent place in the common area or on the entry doors of the rental facility. Notice also shall be provided to the City Manager and to any registered tenant association by mailing or personally delivering the notice to the president of such tenant association and to the City Manager. This notice shall be given within the time frame currently applicable under State law or court rules for giving notice of the time, place, and terms of sale to the record owner of the property. (~~Ord. 2003-7 § 1 (part), 2003: prior code § 6-812~~)

#### **6.32.1406.32.140 - Enforcement of tenant opportunity to purchase rights.**

**A.**

An owner, tenant or tenant association may seek enforcement of any right or provision under this chapter through a civil action filed with a court of competent jurisdiction and, upon prevailing, shall be entitled to an award of reasonable ~~attorney's~~attorney's fees and costs.

**B.**

In addition to the above, the City may take all appropriate action, including but not limited to the actions specified in Subsections (A) and (C) of this section, to enforce the provisions of this chapter.

**C.**

In addition to any other remedy or enforcement measure, a tenant, tenant association, or third party or public agency working with the tenant or tenant association may seek and any court of competent jurisdiction may: (1) issue restraining orders and/or temporary or permanent injunctions if the plaintiff is found likely to succeed on the merits of a complaint against an owner for violation of the provisions of this chapter; and/or (2) declare any transfer in which an owner has not complied with all requirements of this chapter void and the transfer documents set aside. ~~(Ord. 2003-7 § 1 (part), 2003: prior code § 6-813)~~

**6.32.1506.32.150 - Statutory construction.**

The purpose of this chapter is to provide an opportunity for tenants to become owners of the rental facility in which the tenants reside or to allow tenants to exercise or assign their rights for their benefit, as provided in this chapter. If a Court finds ambiguity and there is any reasonable interpretation of this chapter that favors the rights of the tenant or tenant organization, then the court should resolve such ambiguity toward the end of strengthening the legal rights of the tenant or tenant organization to the maximum extent permissible under law. ~~(Ord. 2003-7 § 1 (part), 2003: prior code § 6-814)~~



~~Chapter 6.24~~  
~~COMMISSION ON LANDLORD-TENANT AFFAIRS~~

Chapter 6.24 - COMMISSION ON LANDLORD-TENANT AFFAIRS

**Sections:**

6.24.010 - Establishment.

~~—Establishment.~~

6.24.020 - Jurisdiction.

~~—Jurisdiction.~~

6.24.030 - Membership.

~~—Membership.~~

6.24.040 - Administration.

~~—Administration.~~

6.24.050 - Commission rules of procedure.~~—Commission rules of procedure.~~

~~6.24.060 - Filing of commission complaints—~~

6.24.060 - Time limits for filing and standing to file Commission complaints.

6.24.070 - Investigation and conciliation of Commission complaints.

~~—Investigation and conciliation of Commission complaints.~~

6.24.080 - Hearings on complaints and objections to preliminary administrative decisions.

~~—Hearings on complaints and objections to preliminary administrative decisions.~~

6.24.090 - Remedies.

~~—Remedies.~~

6.24.100 - Interim orders.

~~—Interim orders.~~

6.24.110 - Final opinions and orders.

~~—Full Commission consideration.~~

6.24.120 - Full Commission consideration.

~~—Final opinions and orders.~~

6.24.130 - Reconsideration and appeals.~~—Reconsideration and appeals.~~

**6.24.010**

**6.24.010 - Establishment.**

The City of Takoma Park Commission on Landlord-Tenant Affairs is established. The Commission shall consist of at least 7seven, but no more than 12~~active~~ members appointed by

the Council. The Council shall make every effort to ensure that the Commission has representation from landlords, tenants and homeowners.

#### **6.24.0206.24.020 - Jurisdiction.**

The Commission is empowered to adjudicate ~~and mediate~~ complaints for violations of Chapter ~~6.16, 6.16,~~ Landlord-Tenant Relations, to rule on petitions for rent increases above the rent stabilization allowance in accordance with Chapter 6.20, Rent Stabilization, and to decide appeals from the City ~~Manager's~~ Manager's decision to deny, suspend or revoke a license under ~~Chapter 6.08, City Code Chapter 6.08,~~ Rental Housing Licenses ~~and Commercial Occupancy Licenses~~, of the Takoma Park Code.

#### **6.24.0306.24.030 - Membership.**

##### **A.**

Qualifications. All Commission members shall be residents of the City except that there may be a maximum of ~~4~~four members who are not residents of the City if such members own or manage rental housing in the City.

##### **B.**

Appointments and Terms of Office. Each member of the Commission shall be appointed for a term of ~~3~~three years, which shall begin on July 1st.

##### **1.**

The initial term of a Commissioner who is appointed to replace a member who cannot complete his or her term shall be for the remainder of the term of the member being replaced.

##### **2.**

A Commission member who resigns, whose term expires or who ceases to reside in Takoma Park, may, at the discretion of the Commission chairperson, continue as an inactive member of the Commission to complete work on cases on which he or she participated as an active member of the Commission. This participation may include the approval and signing of Commission opinions and orders.

##### **C.**

Removal. The Council may, by resolution, remove a Commissioner before the ~~Commissioner's~~ Commissioner's term has expired, if the Council determines that the Commissioner has become incapacitated or has failed satisfactorily to ~~reasonably~~ perform his or her duties as a Commissioner, or has violated Chapter 3.04, Ethics, of the Takoma Park Code (.

#### **6.24.040D.**

Reappointment. The Council, at its discretion, may re-appoint a Commissioner prior to the expiration of the Commissioner's term. There is no limit to the number of terms that an individual may serve on the Commission.

#### **6.24.040 - Administration.**

##### **A.**

The Commission shall elect a chairperson and a vice chairperson for a one-year term or until a successor is elected.

~~B. — A Commissioner may serve a maximum of 3 consecutive terms in any one office.~~

A Commissioner may serve a maximum of three consecutive terms in any one office.

C.

At least 4/2½ of the ~~active~~ Commissioners shall constitute a quorum for the transaction of business. A majority vote of those present shall be sufficient for any official action taken by the Commission.

D.

The Commission shall meet at least once a year and as often as required to perform its duties, ~~but at least once a year.~~

E.

At the request of a majority of the ~~active~~ Commissioners or the Executive Director or his or her designee, a regular or emergency meeting of the Commission shall be convened.

F.

Written notice shall be given to all Commissioners at least 5five calendar days prior to any regular meeting, and notice of the meeting shall be published in accordance with the Maryland Open Meetings Act.

G.

Notice of an emergency meeting shall be given in writing or orally to all Commissioners at least 24 hours prior to suchan emergency meeting.

~~6.24.050~~

6.24.050 - Commission rules of procedure.

The Commission shall promulgate ~~Commission rules~~Rules of ~~procedure which~~Procedure ~~that~~ further regulate the operations of the Commission, in accordance with Chapter 2.12, Administrative Regulations, of the ~~administrative regulations provisions of this~~Takoma Park Code, ~~as amended.~~

~~6.24.060 Filing of Commission complaints—~~6.24.060 - Time limits for filing and standing to file Commission complaints.

A.

Any Commission complaint of an illegal rent or fee shall be filed within one year of the date the complainant should have known of the alleged violation.

B.

Any other Commission complaint shall be filed within one year of the date of the occurrence.

C.

The following parties shall have standing to file a Commission complaint alleging a violation of Chapter ~~6.16~~6.16, Landlord-Tenant Relations:

1.

Any affected tenant or tenants;

2.

Any affected landlord; or

3.

Any registered tenant association on behalf of those affected tenants who have authorized the tenant association to represent them.

~~B. Any Commission complaint of an illegal rent or fee shall be filed within 3 years of the date of the occurrence.~~

~~C. Any other Commission complaint shall be filed within one year of the date of the occurrence.~~

#### **6.24.070**

#### **6.24.070 - Investigation and conciliation of Commission complaints.**

A.

Department Investigation. Upon the filing of any Commission complaint, the Department shall make such investigations as it deems appropriate to determine whether ~~there are reasonable grounds to believe that the allegations can be substantiated and that~~ complainant states a claim over which the Commission has jurisdiction. The investigation may include interviews of witnesses, affected parties, review of Department records and other ~~available documents, and a housing inspection.~~

available documents, and a physical inspection of the property.

B.

Department ~~Findings and Recommendations~~ Actions on Complaints. The Department shall, upon completion of its investigation, ~~make one of the following recommendations:~~

1.

Schedule a hearing on the complaint: or

2.

Dismiss the complaint for failure to the Commission:

~~1. To close the complaint file~~ prosecute if the ~~complaining party~~ complainant has failed to respond to Department requests for information in a timely manner;

~~2. To schedule a hearing on the complaint: or~~

~~3. To dismiss~~

Dismiss the complaint if it appears that ~~there are no reasonable grounds for a Commission complaint or that the Commission does not have jurisdiction over the matter.~~ the complainant has failed to state a claim upon which relief can be granted.

#### **C. Commission Responsibilities.**

1. The ~~Commission, after review of the Department's recommendation, may on such terms as it deems appropriate:~~

a. ~~Close the complaint file;~~

b. ~~Schedule a hearing; or~~

c. ~~Dismiss the complaint.~~

2. ~~The complaining party~~complainant shall have 10 calendar days following the issuance of the Department's dismissal of a Commission decision to close or dismiss a complaint to ~~respond~~show cause in writing why the complaint ~~file should not be closed or the complaint~~ should not be dismissed.

3. ~~2.~~

Upon receipt of the ~~party's~~party's written explanation, the Commission may affirm ~~it~~the Department's original decision or may ~~reopen or~~ reinstate the complaint.

4. ~~3.~~

If the Commission affirms ~~its original decision~~the Department's dismissal, or if no written explanation is received, ~~the Commission's decision from the complainant, the dismissal of the case~~ shall be ~~the final opinion and order.~~

D.

Emergency Action. If at any time after a Commission complaint is filed, the Department believes the health, safety or welfare of a tenant is placed in immediate and present danger, the Department shall be authorized to take action to provide appropriate relief. This relief may include relocating the tenant to temporary housing when ~~an~~a pending eviction or constructive eviction has occurred or is likely to occur before the Commission can act ~~and/or notifying the~~. The Executive Director, who shall determine whether an emergency fact finding hearing by the Commission is necessary.

E.

Conciliation. The Department shall, offer to facilitate resolution of disputes between parties, either before or after a Commission complaint is filed. When appropriate, the ~~disputing~~ parties shall be referred to mediation. If the parties are unable to resolve the dispute and the ~~complaining party~~complainant wishes to proceed, the Department shall ~~refer~~schedule the complaint ~~to for a hearing or dismiss~~ the ~~Commission following its investigation~~complaint, as appropriate.

**6.24.080**

**6.24.080 - Hearings on complaints and objections to ~~preliminary administrative decisions.~~ Decisions on Fair Return Rent Increase Petitions.**

A.

Hearings on complaints and objections to ~~preliminary administrative decisions~~Decisions on Fair Return Rent Increase Petitions shall be held before a panel of ~~3~~three Commission members. One panel member shall be designated as the presiding Commissioner.

~~B. All members of the panel must~~ Hearings shall be ~~present~~open to ~~conduct the hearings, except with~~public.

**B.**

With the consent of all the parties, ~~a present at a scheduled hearing, the~~ hearing may proceed before a panel of two Commissioners.

**C.**

Notice of the hearing, including the date, time and place of the hearing shall be provided to the parties and the public in the manner prescribed by the Commission regulations.

~~D. Hearings shall be open to the public.~~ **D.**

The panel shall have the power to subpoena witnesses and to subpoena the production of relevant documents and records. Any party to the case may request the issuance of a subpoena, which shall be in on a form prescribed by the Commission regulations, must state the reasons why the party is seeking the subpoena. The Commission has discretion whether to issue a requested subpoena. If any person refuses to comply with a subpoena ~~of the Commission~~, and the Commission determines that compliance with the subpoena is necessary for a fair hearing and would not be unduly oppressive to the person subpoenaed, the City, on behalf of the Commission, may initiate a suit in equity in the Circuit Court to enforce compliance with the subpoena.

~~E. All parties must appear for the hearing. Failure to appear may result in dismissal of the case or a decision in favor of the opposing party.~~

All parties must appear for the hearing. A complainants' failure to appear shall result in dismissal of the complaint. The petitioner's failure to appear in a hearing on objections to a Decision in a Fair Return Rent Increase Petition proceeding shall result in the dismissal of the objections.

**F.**

Any party may represent himself or herself at a hearing or may be represented by an attorney or other authorized representative as provided in the Commission regulations.

**G.**

All testimony shall be given under oath or affirmation.

**H.**

Parties shall have the right to call witnesses and present testimony and evidence to substantiate any material point. Each party shall have the right to cross-examine opposing witnesses, to submit rebuttal evidence, and to present summation and argument. ~~The panel may call its own witnesses and enter its own evidence.~~

**I.**

The Commission panel may admit and consider evidence ~~which~~that would be commonly accepted by reasonable and prudent people as having a causal relationship to the matters before the Commission panel. It shall give effect to the rules of privilege recognized by law. It may exclude irrelevant and repetitious testimony and documents from evidence.

**J.**

The party filing the complaint or the petitioner in a rent increase petition case shall have the burden of proof, which shall be met by a preponderance of the evidence.

**K.**

The Commission panel may take notice of judicially cognizable facts and, in addition, may take notice of relevant general, technical or scientific facts.

~~L.—An~~

~~The Commission shall make an~~ audio recording of the hearing ~~shall be made and shall constitute the official record of the hearing.~~ The official record of the case shall include the audio recording, any documentary evidence entered in the record, any pleadings, motions, and responses filed by the parties, and any written ~~documents accepted into~~ Orders issued by the case file Commission. The official record of the case shall be open to inspection by any person. Upon request by any person, the Commission shall furnish to such person a copy of the official record of the case hearing at the cost of supplying the record.

~~6.24.090~~

#### 6.24.090 –Remedies.

The Commission shall be empowered to remedy violations of Chapter ~~6-16~~ 6.16, Landlord-Tenant Relations, including alleged defective tenancies resulting from breach of lease, by any appropriate means, including but not limited to the following general and specific remedies.

A. General Remedies. The Commission may remedy violations of the landlord-tenant law by one or more of the following:

1.

Awarding actual monetary damages;

2.

Awarding statutory monetary damages in regard to violations of the security deposit provisions of Sections 8-203 and 8-203.1 of the Real Property Article of the Annotated Code of Maryland, as amended from time to time.

3.

Requiring the performance of certain acts;

~~3.—4.~~

Requiring a party or parties to cease and desist from unlawful conduct;

~~4.—5.~~

Ordering the payment of interest upon any award of monetary damages, calculated at the judgment rate of interest, from the date payment of the award is due until payment is made in full;

~~5.—6.~~

Granting such other relief as the Commission deems necessary.

B. Specific Remedies.

1.

Defective Tenancy.

a.

Where the Commission finds that a landlord has caused a defective tenancy, the complainant tenant may be entitled to one or more of the following:

i.

An award of monetary damages to be paid as a result of the defective tenancy;

ii.—~~A~~

An order awarding a reasonable amount to be paid by the landlord for the tenant to obtain comparable temporary housing in the area;

iii.—~~Correction of the defective tenancy by the landlord;~~

Correction of the defective tenancy by the landlord;

iv.

An order permitting the tenant to correct or remedy the condition ~~which~~that constitutes the defective tenancy and ~~the abatement of all or part of the tenant's~~abating the tenant's rent in an amount equal to the reasonable cost incurred by the tenant;

v.

An order ~~to~~requiring the landlord to perform such other remedial action as the Commission deems appropriate.

b.

Where the Commission finds that a tenant has caused a defective tenancy, the Commission may award the complainant landlord ~~may be entitled to~~ one or more of the following remedies ~~as ordered by the Commission~~:

i.

An award of monetary damages to be paid as a result of the defective tenancy;

ii.—~~Correction of the defective tenancy by the~~

An order requiring the tenant to correct the defective tenancy;

iii.

Where the Commission finds that a tenant has caused a defective tenancy ~~which~~that has resulted in a substantial breach of the lease ~~by the tenant~~, the Commission may authorize the termination of the lease and authorize the complainant landlord to repossess the premises in accordance with the applicable provisions of the ~~Real Property Article~~Real Property Article of the Annotated Code of Maryland, as amended;

iv.

An order ~~to~~requiring the tenant to perform such other remedial action as the Commission deems appropriate.

2.

Illegal Rent or Fee. Where the Commission finds that the landlord has imposed or attempted to impose an illegal rent or fee, the tenant may be entitled to one or more of the following:

a.

An order authorizing the tenant to begin paying the lawful rent or fee ~~immediately~~and a rollback of the rent or fee by the landlord to the lawful amount;

b.

An order ~~to~~directing the landlord to refund excess moneys paid by the tenant for the illegal rent or fee;

c.



An order authorizing the tenant to withhold from the next ~~months'~~months' rent ~~payment~~payments, an amount equal to the illegal rent or fee imposed by the landlord;

d.

An award of damages to be paid by the landlord in the amount of the actual damage or loss sustained as a result of the imposition or attempt to impose an illegal rent or fee;

e.

An order ~~to~~requiring the landlord to perform such other remedial action as the Commission deems appropriate.

### **3. Entry Violations**

a. Improper Entry. Where the Commission finds that a landlord has improperly entered into a tenant's rental unit or failed to provide a report of entry in violation of section ~~6.16.140, Entry, it may require the landlord to pay to the tenant punitive damages of up to \$400.00 for each incident of improper entry and each incident of failure to leave the required report. In awarding punitive damages, the Commission shall consider whether the violation was intentional and the impact upon the~~ tenant.6.16.140, Entry, it may grant the tenant injunctive relief to prevent the reoccurrence of the conduct, authorize the tenant to terminate the tenancy for cause, and award the tenant actual damages.

4.—b. Unreasonable Refusal of Entry. Where the Commission finds that a tenant unreasonably has withheld their consent to entry by a landlord in violation of section ~~6.16.140,6.16.140, Entry, it may require order~~ the tenant to ~~pay to grant~~ the landlord ~~punitive damages of up to \$400.00 for each incident. In awarding punitive damages, the Commission shall consider whether the violation was intentional and the impact upon~~ access, authorize the landlord to terminate the tenancy for cause, and award the landlord actual damages.

C. Enforcement of Commission Decisions. In addition to the enforcement provisions set forth in Chapter ~~6.40,6.40,~~ any award of damages not paid when due may be enforced by the party to whom the award was granted in a court of competent jurisdiction, and the court is authorized to grant judgment for such damages plus interest from the date payment was due.

### **6.24.100 Interim orders.**

A.

In cases where the Commission finds that actual or constructive eviction would likely occur before the issuance of a final opinion and order, the Commission may issue an interim order requiring or prohibiting specific action by one or more of the parties, so as to prevent such actual or constructive eviction.

~~B.—Such interim~~

Interim order shall require the assent of a majority of the panel members assigned to hear the complaint and shall be in writing.

C.

Subsequent to the issuance of an interim order, a final opinion and order of the Commission ~~shall~~will be issued ~~in the manner and form prescribed by this chapter.~~ A final opinion and order of ~~the Commission~~ may affirm, modify or reverse the interim order.

**~~6.24.110 Full Commission consideration.~~**

~~If a member of a Commission panel dissents from the decision~~

**6.24.110 - Final opinions and orders.**

A. After the hearing on a complaint or petition for rent increase proposed by, the Commission panel shall state its findings of fact and conclusions of law in a written opinion and issue it with a written order, which shall constitute the final opinion and order of the Commission.

B. The Decision on a Fair Return Rent Increase Petition and the Commission's rulings on any objections to the Decision shall constitute the final opinion and order of the Commission.

C.

The decision of the Commission panel may be made by a majority or if a of the panel. If no two members of the panel agree on a decision, the complaint or petition shall be decided in accordance with Section 6.24.120 herein.

**6.24.120 - Full Commission consideration.**

If a Commission panel is unable to reach a decision concerning a complaint or ~~petition~~Petition as a result of no ~~two~~ panel members joining in a decision, such complaint or ~~petition~~Petition shall be referred to the full Commission. The Commission shall convene and decide the matter based upon the record ~~created~~ before the Commission panel, ~~by a preponderance of the evidence.~~ The Commission shall state its findings of fact and conclusions of law in a written opinion and issue it with a written order, which shall constitute the final opinion and order of the Commission. The full Commission decision ~~may~~shall be made by a majority vote of those present at any meeting at which there is a quorum.

**6.24.120 Final opinions and orders.**

~~After the hearing on a complaint, the Commission panel shall state its findings of fact and conclusions of law in a written opinion and issue it with a written order, which shall constitute the final opinion and order of the Commission. The administrative decision on a rent increase petition and the Commission's rulings on any objections to the preliminary administrative decision of the Commission shall constitute the final opinion and order of the Commission. The decision of the Commission panel may be made by a majority of the panel, but if a panel member dissents, the complaint or petition shall be decided in accordance with Section ~~6.24.110~~130.~~

**6.24.130 - Reconsideration and appeals.**

A.

Reconsideration.

1.

Motion to Clarify, Reconsider or Amend an Opinion and Order. On motion of any party filed within ~~40~~14 calendar days of the date of an opinion and order of the Commission, or at any time for a compelling reason at the request of a governmental agency or court of competent jurisdiction, the Commission may ~~open~~reopen the ~~opinion and order~~case to receive additional evidence, may amend its findings or its statement of reasons for the decision, may set forth additional findings or reasons, may enter new findings or new reasons, may amend the order or may enter a new order. A motion to alter or amend an opinion and order shall stay the time for filing an appeal until the Commission rules on the motion.

2.

Newly Discovered Evidence. On motion of any party filed within 30 calendar days after the date of an opinion and order of the Commission, the Commission may grant a new hearing or issue a new administrative decision on the ground of newly discovered evidence that could not have been discovered by due diligence before the hearing or administrative decision.

3.

Fraud—Mistake—Irregularity. On motion of any party filed at any time, the Commission may take any action that it could have taken under subsection (A)(1) of this section in case of fraud, mistake or irregularity.

4.

Clerical Mistakes. Clerical mistakes in the opinion and order or other parts of the record may be corrected by the Commission at any time on its own initiative or on motion of any party ~~after such notice, if any, as the Commission orders.~~ During the pendency of an appeal, such mistakes may be ~~so~~ corrected only with leave of the court.

B.

Appeals. Any person aggrieved by a final opinion and order of the Commission on a complaint or ~~the final opinion and order of the Commission on a petition (hereinafter jointly referred to as "opinion and order")~~on objections to a Decision regarding a Fair Return Rent Increase Petition may file a petition for judicial review with the Clerk of the Circuit Court of Montgomery County. The procedures for an appeal from the opinion and order of the Commission shall be governed by Title ~~7,7~~7, Chapter 200 (Judicial Review of Administrative Agency Decisions) of the Maryland Rules, as amended.

1.

Time for Filing. A petition for judicial review shall be filed within 30 calendar days from the date of the opinion and order.

2.

Service on the Commission. A copy of the petition for judicial review shall be served on the Commission.

~~3.— Decision. The Circuit Court shall affirm the opinion and order of the Commission if it finds that the factual conclusion of the Commission was based upon substantial evidence in the record.~~