D.C. POLICY CENTER
The Wilkes Initiative for Housing Policy

# TOPA's Promise and Pitfalls

## Balancing tenant rights, affordability, & housing investment in D.C.

### Summary of findings

The District's Tenant Opportunity to Purchase Act (TOPA) was enacted over 40 years ago, during a time of minimal rental housing construction and widespread condominium conversions, leaving tenants with few options. Initially, TOPA provided tenants a "right of first refusal" to collectively purchase their units and prevent displacement. Over time, TOPAs scope expanded: a 1995 amendment allowed tenants to transfer purchase rights to housing providers, a 2005 change broadened the definition of "sale" to include recapitalizations or internal ownership changes, making many transactions subject to TOPA even when there is no change in building management. And in 2018, single-family homes were exempted to streamline sales. Meanwhile, rental housing construction surged after 2007, adding 42,980 units—31of the city's total—primarily in large buildings within newly developed neighborhoods like NoMa, The Wharf, Capitol Riverfront, and Union Market.

Rental apartments and buildings in D.C., 2024

| | | Buildings | Units |
|---|---|---|---|
| Before 1978 | 5 to 49 units | 2,255 | 35,830 |
| | 50 units or more | 366 | 52,036 |
| 1978 to 2007 | 5 to 49 units | 39 | 736 |
| | 50 units or more | 46 | 6,810 |
| After 2007 | 5 to 49 units | 105 | 1,997 |
| | 50 units or more | 195 | 40,983 |
| Grand Total | Total | 3,006 | 138,392 |

**Source:** Rental housing database compiled by the D.C. Policy Center from public tax extracts, affordability data, and CoStar.
**Note:** There are 81 buildings with approximately 3,300 units for which there is no construction year data available. These have been combined with the rent-controlled stock.

### Bulk of D.C.'s rental apartments are either in smaller, older buildings subject to rent control or in newer, larger buildings built since 2007.

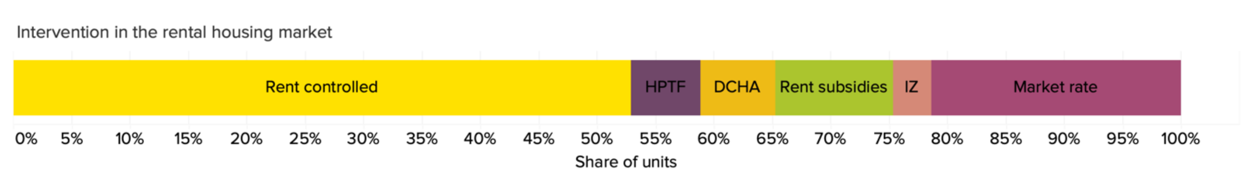
**Rent controlled stock:**

- 53% of rental units (73,136 units)
- 76% of rental buildings (2,292 buildings)
- 86% of buildings have fewer than 50 units

**Post-2007 stock:**

- 31% of rental units (42,980 units)
- 10% of rental buildings (300 buildings)
- Average building size is 150 units
- Subject to IZ requirements

### The intervention in the District's rental housing is significant.

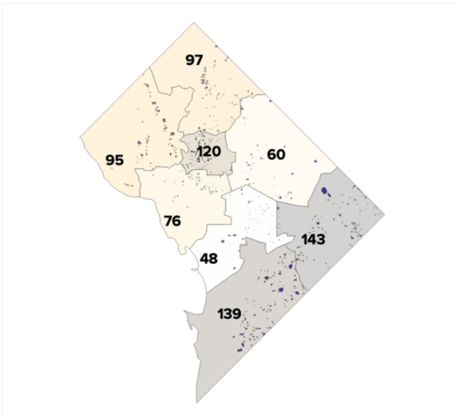



Of the 138,392 rental housing units in the District, only about 21% are truly market rate, or without any interventions. The remainder are either rent-controlled, publicly owned, have capital or rent subsidies, or are subject to inclusionary zoning requirements.

*March 6, 2025*

## There are an estimated 773 rental apartment buildings where half the units are affordable at 80% of Median Family Income.

**Buildings that potentially offer naturally occurring affordable units**




**Source:** Rental housing database compiled by the D.C. Policy Center from public tax extracts, affordability data, and CoStar.
**Note:** Includes buildings where half the units are affordable at or below 80 percent of Median Family Income.

- 738 (95%) are rent controlled buildings built before 1977.
- Only 5% of these buildings have been constructed post- 2007.
- The majority of these buildings are relatively small. In this group, 552 buildings (70%) contain fewer than 50 units.
- Only 110 buildings (14%) contain more than 100 units.
- In 82% of these buildings, affordable units are limited to studios and one-bedrooms.
- Affordable two-bedroom units are available in about half of these buildings and three-bedroom units are available in less than 12%.

## TOPA success, measured by TA formations, is most common in older, smaller buildings.

Accessing TOPA transaction data is challenging due to limited publicly available information. The District does not track comprehensive outcomes, making it difficult to assess TOPA's effectiveness. While there is no consensus on what defines success, all measures require forming a tenant association (TA). The D.C. Policy Center analyzed 419 sales (2013–2023) involving 16,962 units.

- TAs formed in 37% of transactions (158) covering 44% of units (7,409).
- Half of these occurred in Wards 7 and 8.
- 88% were in buildings with fewer than 50 units.
- 96% were in rent-controlled properties, with only five TAs forming in post-2007 buildings.

## TOPA concerns:

**TOPA can discourage investment in D.C. multifamily housing:**

- Delays, lawsuits, and market changes disrupt transactions, causing financial losses.
- TOPA's broad sale definition complicates recapitalization and deters new investors.
- Even partial ownership changes and refinancing can trigger TOPA proceedings, making D.C. less attractive to investors compared to markets with clearer capitalization and exit strategies.

**Tenant purchase has become increasingly rare:**

- TA's struggle to secure financing, particularly in larger buildings.
- Even when acquisition loans are obtained, permanent financing is increasingly difficult to access without dedicated support.

**TOPA can work against affordable housing preservation:**

- Conflict between local and federal law disrupts LITCH deals.
- Affordable housing providers cannot compete with cash payment offers.

**Added costs without added affordability:**

- TA's can use TOPA to negotiate building repairs, improvements, rent concessions, or cash settlements.
- Cash settlements are not tied to affordability or building repairs and can add significant costs to projects without contributing to affordability.

**No consensus on definition of success**:

- There is no measure to determine success of the law.
- There is no data collected on outcomes to measure success.

This is a summary of findings from a new D.C. Policy Center report titled **TOPA's Promise and Pitfalls,** which was published on March 13, 2025.