

Introduced by: Councilmember Seamens

First Reading:

February 26, 2007

Second Reading:

March 19, 2007

Effective Date:

April 9, 2007

**CITY OF TAKOMA PARK, MARYLAND**

**ORDINANCE NO. 2007-8**

**(Mandatory Notice Requirements for Contracts of Sale of a Rental Facility)**

**WHEREAS**, City law includes extensive regulation of rental housing, including provisions granting the tenants of a rental facility the first opportunity to purchase the rental facility, restricting rents, mandating that annual rent reports be filed, requiring that rental facilities be inspected and licensed, and regulating the landlord-tenant relations; and

**WHEREAS**, some purchasers of rental facilities have complained that they were not informed and were unaware of the City's rent stabilization law and other City rental housing laws and requirements at the time they purchased the rental facility; and

**WHEREAS**, in some instances, the tenants of such rental facilities have been subject to improper rent increases and fees and lease provisions that do not comply with the City's rental housing laws; and

**WHEREAS**, in order to better ensure that purchasers of rental facilities are informed of City laws relating to rental housing, including the existence of rent stabilization and the allowable rents for the rental facility, and to protect tenants, the Council desires to enact a mandatory notice requirement that sellers of rental facilities must include in the contract of sale.

**NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF TAKOMA PARK, MARYLAND**, that Title 6, Housing, Chapter 6.28, Section 6.28.010 of the *Takoma Park Code* is amended as follows:

**Chapter 6.28. Sale of Rental Facilities—Notice, Disclosure, and Inspection Requirements.**

**Section 6.28.010 Contract of sale requirements.**

A. On or before entering into a contract for the sale of a rental facility, the owner or agent of the rental facility shall provide the prospective purchaser with the following:

1. A notice of City of Takoma Park rental housing laws (“Notice”) in accordance with paragraph I of this section;
2. Copies of the annual rent reports for the rental facility for the previous 2 years (*see* Section 6.20.050) unless the rental facility is exempt from rent stabilization and a Certificate of Exemption is attached to the contract of sale in accordance with paragraph F of this section; and
3. Copies of all rental licensing inspection reports of the rental facility (“inspection reports”) for the previous 2 years.

B. At the time the Notice and documents listed in paragraph A of this section are delivered, each purchaser shall sign and date a written acknowledgment of receipt of the Notice and shall initial each inspection report and annual rent report. The Notice, shall be included in or attached to the contract of sale for the rental facility and the reports shall be attached to the contract of sale.

C. A purchaser of a rental facility has the right, upon written notice to the seller or seller’s agent:

1. To rescind the contract of sale at any time before the receipt of the Notice, rent reports, and inspection reports or within 5 days following receipt of the Notice, rent reports, and inspection reports of the rental facility; and
2. To the immediate return of any deposits made on account of the contract of

sale.

D. Unavailability of Rent or Inspection Reports; Failure to Provide Reports.

1. If the owner or agent of the rental facility has not filed all required rent reports with the City, or has filed rent reports with inaccurate or incomplete information, or a rental housing licensing inspection has not been completed, then the owner or agent of the rental facility shall promptly file or correct all required rent reports and/or provide access to the rental facility for purposes of performing a rental licensing inspection or reinspection. In such event, the owner or agent of the rental facility shall notify the purchaser of the non-availability or inaccuracy of the rent report(s) and/or rental licensing inspection reports for the rental facility and shall provide copies of such reports or corrected reports to the purchaser as soon as the reports are prepared and filed with the City.

2. In the event that settlement on the transfer of title to the rental facility has occurred, but the owner or agent of the rental facility failed to provide the purchaser with the required Notice and complete and accurate rent reports and rental licensing inspection reports for the rental facility, then, within one year of the date of the transfer of title, the purchaser may seek an order from a court of competent jurisdiction declaring any transfer in which the owner or agent has not complied with all requirements of this chapter void and the transfer documents set aside.

E. Waiver of Purchaser's Rights.

1. The rights of a purchaser under this section may not be waived in the contract of sale and any attempted waiver is void.

2. Except as stated in paragraph D.2 of this section, any rights of a purchaser to terminate the contract of sale for the rental facility are waived conclusively if not exercised before

settlement on the transfer of title to the purchaser.

F. If a rental facility is exempt from rent stabilization, then a Certification of Exemption from the City of Takoma Park shall be attached to the contract of sale. The Owner or Agent shall not be required to provide copies of the Annual Rent Reports for a rental facility that is not subject to rent stabilization and the purchaser shall not have the right to terminate the contract of sale for failure to receive copies of the Annual Rent Reports for the previous 2 years.

G. The Notice, disclosure, and inspection requirements established by this chapter do not apply to:

1. A sheriff's sale, tax sale, deed in lieu of foreclosure, or sale by foreclosure, partition, or by court-appointed trustee;
2. A transfer of the rental facility by a fiduciary in the course of the administration of a decedent's estate, guardianship, conservatorship or trust;
3. A transfer of the rental facility or any interest therein, to a spouse, former spouse, domestic partner, former domestic partner, parent, sibling, child or grandchild; or
4. A transfer of a single-family rental facility to a purchaser who stipulates in the contract of sale that the property will not be used for rental purposes. It will be the responsibility of the purchaser of the single-family rental facility to notify the City, within 15 working days after transfer of title to the property, of the discontinuance of use of the property as a rental facility.

H. 1. The real estate agent representing a seller of a rental facility as the listing broker has a duty to inform the seller of the seller's rights and obligations under this section.

2. The real estate agent representing a purchaser of a rental facility or, if the purchaser is not represented by a real estate agent, the real estate agent representing an owner of a

rental facility and dealing with the purchaser, has a duty to inform the purchaser of the purchaser's rights and obligations under this section.

3. If a real estate agent performs the duties specified in this paragraph H, then the agent has no further duties under this section to the seller or purchaser of a rental facility and is not liable to any party to the real estate transaction for a violation of this section.

I. Except as provided in paragraph G of this section, the following Notice shall be included in or attached to all contracts of sale for a rental facility:

**CITY OF TAKOMA PARK, MARYLAND**  
**NOTICE OF RENTAL HOUSING LAWS**

This Notice is attached to and made a part the Contract dated \_\_\_\_\_, between the undersigned Seller and Purchaser for the sale and purchase of residential rental property located at \_\_\_\_\_, Takoma Park, Maryland.

The City of Takoma Park strongly encourages prospective purchasers to familiarize themselves with the City laws and regulations regarding rental housing before purchasing any property that is used as residential rental housing. These laws include the following:

- 1. Tenant Opportunity to Purchase (*Takoma Park Code, Chapter 6.32*).** Before a Seller may go to settlement on the sale of a rental facility, the Seller must give the tenants an opportunity to purchase the rental facility. All contracts for the sale of the rental facility are subject to the rights of the tenant(s) or tenant association to purchase the rental facility in accordance with Chapter 6.32.
- 2. Rent Stabilization (*Takoma Park Code, Chapter 6.20*).** The rent stabilization law restricts rent increases for residential rental units. The Seller is required to provide the Purchaser with copies of the two most recent annual Rent Reports for the rental facility, which must be initialed by the Purchaser and attached to the Contract of Sale. City law does not permit a landlord to increase the rents for the rental facility above the annual rent stabilization allowance without an order from the Commission on Landlord-Tenant Affairs. Neither the price paid for the rental facility, nor the financing terms, are considered in a landlord's petition to increase the rents for the rental facility above the annual rent stabilization allowance.
- 3. Rental Housing Licenses (*Takoma Park Code, Chapter 6.08*).** All rental facilities must be inspected for compliance with the Property Maintenance Code and licensed.

The Seller is required to provide the Purchaser with copies of the two most recent Rental Housing Licensing Inspection Reports for the rental facility, which must be initialed by the Purchaser and attached to the Contract of Sale.

**4. Landlord-Tenant Relations (Takoma Park Code, Chapter 6.16).** In addition to the applicable state landlord-tenant laws, the City of Takoma Park has supplemental laws regulating the landlord-tenant relation, including minimum lease term and lease renewal requirements, restrictions on allowable pet and other fees that may be charged to a tenant, and a Commission on Landlord-Tenant Relations, which hears complaints of landlord-tenant violations and appeals from rent increase petition decisions.

Additional information is available upon request from the City of Takoma Park Department of Housing and Community Development at (301) 891-7119 or at [www.takomaparkmd.gov](http://www.takomaparkmd.gov).

A Purchaser has the unconditional right, upon written notice to the Seller or Seller's agent, to rescind the contract of sale and to the immediate return of any deposit at any time within five (5) days following receipt of this Notice and receipt of copies of the annual Rent Reports\* and Rental Housing Licensing Inspection Reports for the rental facility for the two years immediately preceding the sale. The right of a Purchaser, who has received this Notice and complete and accurate Rent Reports\* and Inspection Reports, to rescind the contract of sale terminates if not exercised before settlement on the transfer of title to the rental facility.

\* If the rental facility is exempt from rent stabilization, then a Certificate of Exemption from the City of Takoma Park must be attached to the contract of sale and copies of the annual Rent Reports do not need to be provided to the Purchaser.

This Notice is required by the City of Takoma Park to provide general information about the City's rental housing laws and requirements and is not intended to provide specific legal or investment advice.

Seller: \_\_\_\_\_ Date: \_\_\_\_\_

Print Name: \_\_\_\_\_

Seller: \_\_\_\_\_ Date: \_\_\_\_\_

Print Name: \_\_\_\_\_

Purchaser acknowledges receipt of this Notice, copies of rental housing licensing inspection reports for years \_\_\_\_\_ and \_\_\_\_\_, and copies of the annual rent reports\* for years \_\_\_\_\_ and \_\_\_\_\_ for the property located at \_\_\_\_\_ in Takoma Park, Maryland.

**ADOPTED BY THE COUNCIL OF THE CITY OF TAKOMA PARK, MARYLAND,  
THIS 19<sup>th</sup> DAY OF March, 2007, BY ROLL-CALL VOTE AS FOLLOWS:**

**Aye: Porter, Barry, Clay, Seamens, Snipper. Williams**

**Nay: None**

**Absent: Austin-Lane**

**Abstain:**

# City of Takoma Park, Maryland

## Housing & Community Development

Telephone: (301) 891-7119  
Fax: (301) 270-4568



7500 Maple Avenue  
Takoma Park, MD 20912

April 5, 2007

To Real Estate Brokers and Agents/Title Companies/Settlement Attorneys;

The City of Takoma Park Council recently enacted an Ordinance which establishes mandatory notice requirements for all real estate transactions involving the sale of any residential rental facility in Takoma Park. A copy of the Ordinance is enclosed.

Effective April 9, 2007, the seller of any rental facility located within the city of Takoma Park is required to provide any prospective purchaser with the following:

- Notice of City of Takoma Park Rental Housing Laws (copy of required notice is enclosed);
- Copies of annual rent reports for the rental facility for the previous 2 years; and
- Copies of all rental licensing inspection reports for the previous 2 years.

The Ordinance recognizes that certain rental property is exempt from the city's Rent Stabilization Law and requires that a seller provide to any prospective purchaser, in lieu of the annual rent reports referenced above, a city issued Certificate of Exemption.

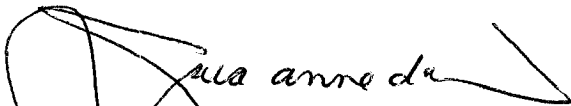
A purchaser has the right upon receiving the required information to rescind a sales contract and to receive his/her deposit back within 5 days following receipt of this information.

The ordinance also states that if the seller fails to provide the information stated above, the purchaser may have one year to seek from a court of competent jurisdiction a declaration that the transfer is void.

The overall intent of the Ordinance is to increase a prospective purchaser's awareness and understanding of local laws which govern the purchase, licensing, and operation of rental property in Takoma Park.

A forum to discuss the Ordinance and its requirements is planned, however if you or your clients have any immediate questions, you may contact city staff at 301.891.7215. Further information on the forum will be provided to you under separate cover.

Sincerely,



Sara Anne Daines  
Housing and Community Development Director

enclosures