

AN ACT AUTHORIZING THE CITY OF SOMERVILLE TO ENACT RIGHT TO PURCHASE LEGISLATION
DRAFT DECEMBER 5, 2019

PREAMBLE

The City of Somerville is herein authorized to enact a local ordinance for the purposes of preserving affordable housing, providing tenant stability, and maintaining the general welfare of Somerville residents. The ordinance will : (a) afford certain tenants and entities the right to purchase the residential property in which the tenant(s) reside(s), when that residential property is being offered for sale; and (b) set forth the manner in which that right to purchase shall be effectuated, as well as establish remedies for violations. The ordinance shall contain substantially the same language set forth in this Act, and may also contain additional language, terms and provisions consistent with effectuating the purposes of this Act.

SECTION I: DEFINITIONS

For purposes of this Act, the following words shall have the following meanings:

“Bona Fide offer” - an offer made with honest and serious intent in an arm’s length transaction for a fixed consideration.

“City” - the City of Somerville, Massachusetts.

“City Designee” - a nonprofit organization established pursuant to chapter 180 of the General Laws, a public land trust, or other entity that has been designated by the City to acquire residential properties and to maintain those properties as affordable housing pursuant to a deed restriction, with terms as prescribed by the City.

“Covered property” - residential property located in the City of Somerville that is not exempt from this Act pursuant to Section 4 of this Act.

“Owner” - a person, firm, partnership, corporation, trust, organization, limited liability company or other entity or its successors or assigns that holds title to Residential Property as defined herein.

“Purchase and Sale ” - a written agreement whereby an Owner agrees to sell property including, without limitation, a purchase and sale agreement, contract of sale, purchase option, or other similar instrument.

“Residential Property” - a building structure, or one or more units therein, designed and equipped for human habitation and located within the City of Somerville.

“Sale” - an act by which an Owner conveys, transfers or disposes of property by deed or otherwise, whether through a single transaction or a series of transactions; provided that a disposition of housing by an Owner to an affiliate of such Owner shall not constitute a sale and a transfer.

“Tenant” - a person or a household consisting of one or more persons that has entered into a written lease or rental agreement with the owner for possession of a dwelling unit, or a person or household consisting of persons that has paid rent to the owner of a lawful dwelling unit and whose rent payment has been accepted by said owner, and that is residing in said dwelling unit at the time of notification under Section 2(a) of this Act. If there is more than one tenant or tenant household included in such a lease, or separately paying rent to the owner of a dwelling unit, each such tenant or tenant household may exercise the rights granted under this Act.

“Tenant Association” - an unincorporated organization with a minimum participation of 35% of all Tenants within a building or group of buildings being sold as a single parcel. The tenants of such building or buildings shall have signified their intent to participate in the Tenant Association by signing a form provided by the City.

“Tenant Association Designee” - a nonprofit organization established pursuant to chapter 180 of the General Laws, a public land trust, or a Tenant Cooperative as defined herein which has been duly selected by the members of a Tenant Association, as defined herein, for the purpose of acquiring the residential property occupied by the tenants.

“Tenant Cooperative” - a duly formed cooperative limited equity cooperative housing corporation as defined in Section 4 of chapter 157B of the General Laws.

SECTION 2: TENANT OPPORTUNITY TO PURCHASE

(a) Notification of Tenants and the City: An owner of a covered property shall, within two (2) business days of accepting, **subject to the provisions under this Act and any Ordinance promulgated hereunder**, a bona fide offer to purchase that property ~~from a party~~, notify the municipality and each Tenant that resides in that property, in writing by hand delivery and U.S. mail, that said Owner (i) is selling the property, (ii) has received a bona fide offer for that property and (iii) is offering to sell the property to the Tenant, Tenant Association, Tenant Association Designee, the City, or City Designee for the price specified in the bona fide offer. Such notification shall include a copy of the City’s summary of this Act and any Ordinance promulgated hereunder and any associated forms. Any receipt and conditional acceptance by an owner of an offer of a reduced price of a previously received bona fide offer shall be considered a new bona fide offer and all provisions of this Act in any Ordinance promulgated hereunder shall apply to such new bona fide offer.

Nothing herein shall prohibit a Tenant, Tenant Association, the Tenant Association’s Designee, the City, or the City’s Designee from making the initial offer to purchase any property whether or not any previous offer on the property has been made. In the event that the City or the City’s Designee makes the initial offer to purchase the property, the Tenant or the Tenant Association or Tenant Association’s Designee shall have the same right to purchase provided under this Act and shall have priority for such purpose over the City or City Designee.

In the event that a unit is being converted to the condominium form of ownership such that the provisions of [Ordinance No.2019-06, the Somerville Condominium/Cooperative Conversion Ordinance](#) are triggered and provide the tenant with the right to purchase the unit they are living in, the provisions of [Ordinance No. 2019-06, the Somerville Condominium/Cooperative Conversion Ordinance](#) shall apply instead of the right to purchase provisions herein.

(b) Statement of Interest

(i) In the case of a covered property being sold as an individual condominium unit, the Tenant shall, within fifteen (15) business days of said notification, notify the Owner and the City using a Statement of Interest form approved by the City (“Statement of Interest”) as to whether or not that Tenant wishes to purchase the property at the price specified in the bona fide offer, or wishes to delegate its rights under this Ordinance to the City or City Designee.

(ii) In the case of a covered property consisting of more than one but less than seven dwelling units, a Tenant Association shall within fifteen (15) business days of said notification, notify the Owner and the City using a Statement of Interest form as to whether or not that Tenant Association wishes to purchase the property at the price specified in the bona fide offer, or wishes to delegate its rights under this Ordinance to a Tenant Association Designee.

(iii) In the case of a covered property consisting of seven (7) or more dwelling units, a Tenant Association shall within thirty (30) days of said notification, notify the Owner and the City using a Statement of Interest form as to whether or not that Tenant Association wishes to purchase the property at the price specified in the bona fide offer, or wishes to delegate its rights under this Ordinance to a Tenant Association Designee.

(iv) In regards to any covered property, the City or City Designee shall have the same amount of time as provided herein to a Tenant or Tenant Association or Tenant Association Designee to notify an owner of its interest in purchasing a covered property at the price specified in the bona fide offer, using the Statement of Interest form.

SECTION 3: PURCHASE AND CLOSING ON THE PROPERTY

(a) The Tenant or Tenant Association or Tenant Association Designee filing a Statement of Interest with respect to a covered property shall have ten (10) business days from the due date for filing its Statement of Interest to negotiate a purchase and sale agreement with that owner and to notify the City of the outcome of that negotiation. **Both the Owner and the Tenant or Tenant Association or Tenant Association Designee shall be obligated to negotiate in good faith.**

(b) The City or the City Designee shall have twenty (20) business days from the due date for filing its Statement of Interest to negotiate a purchase and sale agreement with that owner. This extended period allows the City or City Designee to negotiate a purchase and sale agreement at

the point that the Tenant, Tenant Association, or Tenant Association Designee has declined or otherwise failed to do so. **Both the Owner and the City or the City Designee shall be obligated to negotiate in good faith.**

(c) A purchase and sale agreement negotiated pursuant to subparagraph (a) or (b) shall allow for contingencies including, at a minimum, that (i) the agreement is subject to inspection of the property, and (ii) the agreement is subject to the ability of the buyer to obtain financing.

(d) A purchase and sale agreement negotiated by the owner and a Tenant, Tenant Association, or Tenant Association Designee may be assignable to the City or City Designee with the consent of that Tenant, Tenant Association, or Tenant Association Designee and the City or City Designee. Likewise, a purchase and sale agreement negotiated by the owner and the City or City Designee may be assignable to a Tenant, Tenant Association, or Tenant Association Designee with the consent of that Tenant, Tenant Association, or Tenant Association Designee and the City or City Designee.

(e) The parties to a purchase and sale agreement shall have ninety (90) days to close on the sale of the property unless such period of time is extended by mutual agreement of the parties.

(f) If the Tenant or Tenant Association has entered into a purchase and sale agreement with the Owner but is unable to close on the sale of the property, the contract may be assigned to the City or City Designee, at the option of the City or City Designee. In such case, the Owner and the City or City Designee may, by mutual agreement, extend the deadline for closing.

SECTION 4: EXEMPTIONS

For the purposes of this Act, the term “covered property” shall not apply to the following:

- (a) One, two or three unit residential properties which are owner occupied as the owner’s principle place of residence;
- (b) Any sale of property by an Owner to a spouse, sibling, parent or natural or adoptive child, or natural or adoptive grandchild;
- (c) Property that is the subject of a government taking by eminent domain or a negotiated purchase in lieu of eminent domain;
- (d) Any sale of publicly assisted housing, as defined in section 1 of chapter 40T of the General Laws;
- (e) Rental units in any hospital, skilled nursing facility or health facility;
- (f) Rental units in a non-profit facility that has the primary purpose of providing short term treatment, assistance, or therapy for alcohol, drug or other substance abuse providing that such housing is incident to the recovery program, and where the client has been informed in writing of the temporary or transitional nature of the housing;

(g) Rental units in a nonprofit facility which provides a structured living environments that has the primary purpose of helping homeless persons obtain the skills necessary for independent living in permanent housing and where occupancy is restricted to a limited and specific period of time not more than twenty-four months and where the client has been informed in writing of the temporary or transitional nature of the housing at the inception;

(h) Public housing units managed by Somerville Housing Authority;

(i) Any units which are held in trust on behalf of a disabled individual who permanently occupies the unit, or a unit that is permanent occupied by a developmentally disabled parent, sibling, child or grandparent of the owner of the unit; and

(j) Any rental unit that is owned or managed by a college or university exclusively for the express purpose of housing students.

SECTION 5: TENANT STABILITY

An owner shall not evict a tenant or tenants or otherwise terminate a tenancy without just cause if such eviction is for the purpose of avoiding application of this law. Any rights provided under this act are not waivable except as provided in this Act and any provision of any lease or other written agreement to the contrary shall be null and void.

SECTION 6: EFFECTIVE DATE

This act shall take effect upon its passage.