

Proposed Int. No. 902-A

By Council Members Nurse, Restler, Cabán, Hudson, Abreu, Avilés, Krishnan, Ossé, De La Rosa, Won, Joseph, Williams, Brewer, Sanchez, Banks, Gutiérrez, Farías, Ayala, Hanif, Bottcher, Brooks-Powers, Powers, Louis, Feliz, Stevens, Brannan, Lee, Schulman, Ung, Epstein, Marte and the Public Advocate (Mr. Williams) (by request of the Brooklyn Borough President)

A Local Law to amend the administrative code of the city of New York, in relation to giving qualified entities a first opportunity to submit a statement of interest and a first opportunity to purchase certain properties

Be it enacted by the Council as follows:

Section 1. Title 26 of the administrative code of the city of New York is amended by adding a new chapter 9-a to read as follows:

CHAPTER 9-a

COMMUNITY OPPORTUNITY TO PURCHASE

§ 26-851 Definitions. For purposes of this section, the following terms have the following meanings:

Bona fide purchaser. The term “bona fide purchaser” means a person that has tendered a bona fide offer to purchase a covered property.

Bona fide offer to purchase. The term “bona fide offer to purchase” means an offer to purchase a covered property, which offer is made in writing, in good faith, and without fraud.

Commissioner. The term “commissioner” means the commissioner of housing preservation and development or the head of a successor agency charged with the administration of this chapter.

Community land trust. The term “community land trust” means a corporation that satisfies the following criteria: (i) (a) is incorporated pursuant to article 11 of the private housing finance law and section 402 of the not-for-profit corporation law; (b) the certificate of incorporation of which specifically provides for the provision of housing for persons of low income, as such term is defined in subdivision 19 of section 2 of the private housing finance law, in the form of a

1 community land trust; (c) has submitted such disclosure statements as shall be required by the
2 department and received the approval of such department; and (d) lawfully acquired all of its real
3 property in full compliance with such corporation's certificate of incorporation and any
4 agreements with a governmental entity with respect to such property or such corporation; and (ii)
5 provides in its bylaws that it will (a) acquire parcels of land, primarily for conveyance under long-
6 term ground leases; (b) transfer ownership of any structural improvements located on such leased
7 parcels to the lessees; (c) retain a preemptive option to purchase any such structural improvement
8 at a price determined by formula that is designed to ensure that the improvement remains
9 affordable to low-income households; and (d) have a board of directors composed of lessees of
10 housing associated with the entity, an adult resident of a particular geographic area specified in the
11 bylaws of the organization, and any other category of persons described in the bylaws of the
12 organization.

13 Covered property. The term "covered property" means a property that meets the criteria
14 set forth in section 26-853.

15 Department. The term "department" means the department of housing preservation and
16 development or a successor agency charged with the administration of this chapter.

17 Extremely low-income. The term "extremely low-income" means the income of a
18 household that is no more than 30 percent of the area median income, adjusted according to the
19 size of the household.

20 Low-income. The term "low-income" means the income of a household that is more than
21 50 percent of the area median income but no more than 80 percent of the area median income,
22 adjusted according to the size of the household.

1 Opportunity to submit an offer to purchase. The term “opportunity to submit an offer to
2 purchase” means the right of a qualified entity to submit to the owner of a covered property, in
3 writing, in good faith, and without fraud, a bona fide offer to purchase such property at the higher
4 of either the list price or the identical price, terms, and conditions offered by another person that
5 has submitted a bona fide offer to purchase.

6 Owner. The term “owner” means any person or entity, or combination of such persons or
7 entities, or any agent of such persons or entities, that has a controlling interest in a covered property
8 that is offered for or subject to sale.

9 Qualified entity. The term “qualified entity” means any entity identified by the department
10 pursuant to subdivision a of section 26-852; any not-for-profit entity on the department’s qualified
11 preservation buyers list or similar department list; any organization that has received funding to
12 operate or implement a community land trust program; or any joint venture between an entity
13 identified by the department pursuant to subdivision a of section 26-852 and an entity identified
14 by the department pursuant to subdivision b of section 26-852.

15 Right of first offer to purchase. The term “right of first offer to purchase” means the right
16 of a qualified entity to submit to the owner of a covered property a bona fide offer to purchase
17 such property before the property becomes available for sale in the public market.

18 Right of first refusal. The term “right of first refusal” means the right of a qualified entity
19 to purchase a covered property at the identical price, terms, and conditions offered by a person
20 who is not a qualified entity that has submitted a bona fide offer to purchase.

21 Sale. The term “sale” means the transfer, in exchange for money or any other thing of
22 economic value, of a present interest in a covered property, including beneficial use, where the
23 value of the present interest is the fee interest in the covered property, or substantially equal to the

1 value of that fee interest. For purposes of this definition, a transfer may be completed in 1
2 transaction or a series of transactions over time. The term “sale” includes short-sales.

3 Short-sale. The term “short-sale” means a sale approved by a mortgagee to a bona fide
4 purchaser at a price that is less than the owner’s existing debt on the covered property.

5 Very low-income. The term “very low-income” means the income of a household that is
6 more than 30 percent of the area median income but no more than 50 percent of the area median
7 income, adjusted according to the size of the household.

8 § 26-852 Qualified entity. a. The commissioner shall promulgate rules establishing a
9 process for certifying, on an annual basis, not-for-profit entities that meet the following criteria:

10 1. The entity is exempt from federal income tax under paragraph (3) of subsection (c) of
11 section 501 of title 26 of the United States code;

12 2. The entity has demonstrated a commitment to the provision of permanently affordable
13 housing for extremely low-, very low-, and low-income city residents, and to preventing the
14 displacement of such residents;

15 3. The entity has demonstrated a commitment to community representation, engagement,
16 and accountability, as evidenced by relationships with local residents, neighborhood-based
17 organizations, or tenant counseling organizations; and

18 4. The entity has demonstrated the capacity, including but not limited to the legal and
19 financial capacity, to effectively acquire and manage residential real property in the city, or the
20 entity partners with a housing development organization that has demonstrated such legal and
21 financial capacity to effectively acquire and manage residential real property in the city.

22 b. The commissioner shall promulgate rules establishing a process for certifying, on an
23 annual basis, for-profit entities that meet the following criteria:

1 1. The entity has demonstrated the capacity, including but not limited to the legal and
2 financial capacity, to effectively acquire, rehabilitate, and manage residential real property at
3 multiple locations in the city; and

4 2. The entity has a demonstrated record of managing residential real property with dwelling
5 units that are subject to affordability restrictions, and maintaining the affordability of such units.

6 c. The commissioner shall review new applications for certifying entities pursuant to
7 subdivisions a and b of this section at least 3 times each calendar year. A qualified entity that has
8 been certified under subdivision a or b of this section shall remain qualified for 2 years, so long as
9 such entity continues to meet the eligibility criteria set forth in subdivision a or subdivision b of
10 this section, as applicable. Any such qualified entity may apply for renewed certification when the
11 commissioner accepts new applications for qualified entity status.

12 d. The commissioner shall post on the department's website, and provide in hard copy on
13 request, a list of qualified entities and their contact information, including but not limited to a
14 mailing address, electronic mail address, and a telephone number.

15 e. The commissioner shall investigate any complaint alleging that a qualified entity has not
16 complied with this chapter. If after providing the qualified entity with notice and opportunity to be
17 heard, the department determines that a qualified entity failed to comply with this chapter, the
18 department may suspend or revoke such entity's certification as a qualified entity.

19 § 26-853 Covered property. a. A covered property subject to the provisions of this chapter
20 is a class A multiple dwelling, as such term is defined in section 27-2004, that has 4 or more
21 dwelling units, or a vacant lot that can accommodate a multiple dwelling with 4 or more dwelling
22 units and is located in an area zoned to permit residential use, and:

1 1. Within the first year after the effective date of the local law that added this section, at
2 the time such covered property becomes subject to the requirements of subdivision a of section
3 26-854:

4 (a) Is a participant in the alternative enforcement program set forth in section 27-2153;

5 (b) Is subject to an in rem foreclosure action pursuant to chapter 4 of title 11;

6 (c) Is subject to an order to correct any underlying condition pursuant to subdivision c of
7 section 27-2091;

8 (d) Is subject to the department's emergency repair program;

9 (e) Is on the list compiled and published by the department pursuant to subdivision b of
10 section 27-2093.1;

11 (f) Is on the list compiled and published by the department pursuant to subparagraph (ii) of
12 paragraph (3) of subdivision (f) of section 27-2115;

13 (g) Was subject to an affordability restriction that expired within the immediately
14 preceding 2 years;

15 (h) Is subject to an affordability restriction that is set to expire within 2 years; or

16 (i) Any other criteria as established by department rule; or

17 2. Beginning 1 year after the effective date of the local law that added this section, at the
18 time such covered property becomes subject to the requirements of subdivision a of section 26-
19 854:

20 (a) Has at least 1 open hazardous or immediately hazardous violation of the housing
21 maintenance code per dwelling unit;

1 **(b) Has unpaid charges amounting to \$1500 per dwelling unit resulting from unpaid**
2 **charges owed to the department of finance, department of environmental protection, or the**
3 **department, provided that unpaid charges owed to the department must be subject to a lien;**

4 **(c) Was subject to an affordability restriction that expired within the immediately preceding**
5 **2 years; or**

6 **(d) Is subject to an affordability restriction that is set to expire within 2 years.**

7 **b. A covered property does not include a multiple dwelling with 5 or fewer units in which**
8 **the owner of such multiple dwelling occupies a dwelling unit for permanent residence purposes.**

9 **c. Each year, the department shall provide written notice to owners of all properties that**
10 **may become covered properties subject to the requirements of this chapter, and shall publish on**
11 **its website a guide describing the criteria set forth in subdivision a of this section.**

12 **§ 26-854 Notice of intent to sell. a. An owner of a covered property shall provide notice to**
13 **the department of such owner's action that will result in the sale of such covered property to a**
14 **person or entity other than a qualified entity no less than 5 days before taking such action. An**
15 **action that will result in the sale of a covered property to a person or entity other than a qualified**
16 **entity includes, but is not limited to, offering such covered property for sale, soliciting any offer**
17 **to purchase such covered property, accepting any unsolicited offer to purchase such covered**
18 **property, or allowing the in-person viewing or physical inspection of such covered property. The**
19 **notice may be provided fewer than 5 days before the owner takes such action where the owner**
20 **shows good cause for delay, including but not limited to the owner's death or financial hardship,**
21 **provided that the owner is not a corporation, or a limited liability company whose membership**
22 **includes a corporation.**

23 **b. A notice of intent to sell shall include the following information:**

- 1 1. The name and address of each owner of the covered property;
- 2 2. All addresses and names of the covered property;
- 3 3. A description of the action that will result in a sale;
- 4 4. The date on which such action is anticipated to take place;
- 5 5. The provision of law, rule, or regulation pursuant to which such action is authorized, if
6 any;
- 7 6. The total number and type of dwelling units subject to a sale;
- 8 7. The rent collected for each dwelling unit as of the date of such notice;
- 9 8. The income and expense report for the 12-month period prior to the notice of intent to
10 sell, including capital improvements, real property taxes, and other municipal charges;
- 11 9. The amount of the outstanding mortgage as of the date of such notice;
- 12 10. The 2 most recent inspection reports of comprehensive building-wide inspections
13 conducted by the department or the department of buildings, if any; and
- 14 11. Such other information as the department may require.
- 15 c. An owner may withdraw a notice of intent to sell, subject to the terms of any accepted
16 offer to purchase or executed purchase and sale agreement, and to applicable statutory and
17 common law remedies. In such event, the owner shall give notice of withdrawal to the department
18 and to any qualified entity that submitted a statement of interest to purchase such covered property
19 pursuant to section 26-855. However, if the owner decides at any time to offer such covered
20 property for sale, such owner shall comply with subdivisions a, b, and c of this section and with
21 all other applicable requirements of this chapter.
- 22 d. Notwithstanding any provision of this section to the contrary:

1 1. A person shall be deemed to have complied with the requirement to provide notice of
2 intent to sell or notice of withdrawal of intent to sell under this section if such person has complied
3 with a substantially similar notice requirement imposed pursuant to a superseding city, state or
4 federal statute or program; and

5 2. If the notice of intent to sell or notice of withdrawal of intent to sell is required by this
6 section to include more information than is required by any applicable superseding city, state, or
7 federal statute or program, the additional information required by this section shall be provided
8 within the time period established by the superseding statute or program.

9 § 26-855 Statement of interest. a. Upon receipt of a notice of an owner's intent to sell a
10 covered property pursuant to section 26-854, a qualified entity shall have 45 days from the date of
11 such notice to submit a statement of interest in exercising a right of first offer to purchase such
12 covered property to the department and the owner. During such 45-day period, the owner of a
13 covered property may not take any action that will result in the sale of such covered property to a
14 person other than a qualified entity, except as permitted pursuant to subdivision c of this section.

15 b. The commissioner may extend the time limit set forth in subdivision a of this section
16 upon application and for good cause shown, provided that the party applying for the extension was
17 not at fault in causing the need for the extension.

18 c. If a qualified entity does not submit a statement of interest in exercising a right of first
19 offer to purchase a covered property within the time set forth in subdivision a and, if applicable,
20 subdivision b of this section, the opportunity to submit an offer to purchase such covered property
21 pursuant to section 26-855 shall be deemed waived by such qualified entity. If no qualified entity
22 submits a statement of interest in exercising a right of first offer to purchase a covered property
23 pursuant to subdivision a of this section within the time set forth in subdivision a and, if applicable,

1 subdivision b of this section, the owner of such covered property shall have no further obligations
2 under this section, and may proceed to take action that will result in the sale of such covered
3 property to prospective purchasers other than qualified entities.

4 d. A qualified entity that has submitted a statement of interest in exercising a right of first
5 offer to purchase under subdivision a of this section may withdraw such notice by submitting a
6 written notice of waiver of the right to submit an offer to purchase under section 26-855 to the
7 owner and to the department.

8 § 26-856 Right of first offer. a. Each qualified entity that submitted a statement of interest
9 pursuant to subdivision a of section 26-855 shall have 90 days from the end of the time period set
10 forth in subdivision a and, if applicable, subdivision b of section 26-855 to submit a bona fide offer
11 to purchase such covered property to the owner of such property. During such 90-day period, the
12 owner of a covered property may not take any action that will result in the sale of such covered
13 property to a person other than a qualified entity, except as permitted pursuant to subdivision d of
14 this section.

15 b. The commissioner may extend the time limit set forth in subdivision a of this section
16 upon application and for good cause shown, provided that the party applying for the extension was
17 not at fault in causing the need for the extension.

18 c. A bona fide offer to purchase submitted pursuant to subdivision a of this section shall
19 include the following information:

20 1. The name and address of the qualified entity who made the offer; and

21 2. The price and terms and conditions of the offer.

22 d. If a qualified entity does not exercise a right of first offer to purchase a covered property
23 within the time set forth in subdivision a and, if applicable, subdivision b of this section, then the

1 opportunity to exercise a right of first offer to purchase such covered property pursuant to this
2 section shall be deemed waived by such qualified entity. If no qualified entity exercises a right of
3 first offer to purchase a covered property pursuant to subdivision a of this section within the time
4 set forth in subdivision a and, if applicable, subdivision b of this section, the owner of such covered
5 property shall have no further obligations under this section, and may proceed to take action that
6 will result in the sale of such covered property to prospective purchasers other than qualified
7 entities.

8 § 26-857 Owner response to right of first offer to purchase. a. If the owner of a covered
9 property receives a bona fide offer to purchase such covered property from a qualified entity during
10 the time period specified in subdivision a of section 26-855, the owner shall have 10 days from the
11 date such qualified entity submitted the bona fide offer to purchase to notify the qualified entity as
12 to whether the owner will accept or reject such bona fide offer to purchase.

13 b. The owner shall submit in writing a notice to the department and to each qualified entity
14 that submitted a statement of interest in exercising a right of first offer to purchase such covered
15 property indicating whether such owner accepted or rejected a bona fide offer to purchase received
16 pursuant to section 26-856.

17 c. If the owner of a covered property accepts a qualified entity's bona fide offer to purchase
18 such covered property, the qualified entity shall have 30 days to execute a contract of sale.

19 d. If the owner of a covered property rejects a qualified entity's bona fide offer to purchase
20 such covered property, the owner may proceed to take action that will result in the sale of such
21 covered property to prospective purchasers other than qualified entities.

22 § 26-858 Notice of bona fide offer to purchase from a person other than a qualified entity.

23 a. If the owner of a covered property receives a bona fide offer to purchase such covered property

1 from a bona fide purchaser other than a qualified entity within 1 year of the date on which such
2 owner rejected the offer of a qualified entity, and the owner intends to consider or respond to such
3 offer, the owner shall provide a notice of the bona fide offer to purchase to the department and to
4 the qualified entity that submitted the first bona fide offer to purchase such property pursuant to
5 subdivision a of section 26-856. The owner shall provide such notice no more than 15 days from
6 the date such bona fide offer to purchase is delivered to the owner.

7 b. Such notice of bona fide offer to purchase shall be made available in English and Spanish
8 and shall include, at a minimum, the following information:

- 9 1. The name and address of the bona fide purchaser who made the offer;
10 2. The price and terms and conditions of the offer; and
11 3. A statement as to whether a purchase contract with a bona fide purchaser exists for the
12 sale of the covered property, and if so, a copy of such purchase contract.

13 § 26-859 Right of first refusal. a. EThe qualified entity that submitted the first bona fide
14 offer to purchase a covered property during the time period set forth in subdivision a of section
15 26-856 shall have 15 days to exercise a right of first refusal over such covered property pursuant
16 to notificatino of a bona fide offer to purchase provided pursuant to subdivision a of section 26-
17 858.

18 b. If the first qualified entity that submitted a bona fide offer to purchase such covered
19 property pursuant to subdivision a of section 26-856 does not exercise a right of first refusal over
20 such property within the time period set forth in subdivision a of this section, then such right of
21 first refusal shall be deemed waived and the owner shall have no further obligations under this
22 section.

1 § 26-860 Notice requirements, generally. a. Wherever this chapter requires provision of
2 notice, such notice shall be in writing and shall be provided to each recipient as required by this
3 chapter through posting on a website designated by the commissioner and via e-mail.

4 b. The commissioner promulgate rules to establish an online system through which a
5 person may provide notice to another person or entity under this chapter.

6 § 26-861 Penalty. An owner of a covered property who is found to have violated any
7 provision of this chapter that results in the sale of such covered property to a person other than a
8 qualified entity shall be liable for a civil penalty amounting to, at a minimum, 3 percent of the
9 price at which such owner sold such covered property to such person. Nothing in this section
10 prohibits a qualified entity from seeking injunctive relief against a noncompliant owner in a court
11 of competent jurisdiction.

12 § 26-862 Transaction fees. When an owner sells a covered property to a qualified entity,
13 the department, in conjunction with the department of finance, shall waive any municipal charges,
14 taxes, and fees associated with such transaction, as applicable.

15 § 26-863 Exclusions; construction. a. The provisions of this chapter do not apply:

16 1. To any existing agreement regarding the transfer of a covered property to a qualified
17 entity in effect on the effective date of this chapter, except that any renewal, modification or
18 amendment of such agreement occurring on or after the effective date of the local law that added
19 this section is subject to the provisions of this chapter;

20 2. To an owner or purchaser who refinances a covered property in order to maintain
21 ownership of such property;

1 3. To any transfer of property effected by (i) a government entity implementing its powers
2 of eminent domain, (ii) a judicial proceeding, including a judicially supervised sale, (iii) a
3 bankruptcy proceeding, or (iv) other operation of law; or

4 4. Where a listing as described in section 26-860 was properly posted in accordance with
5 any other applicable provision of law and 45 or fewer days remain before the expiration of such
6 applicable notice of sale period.

7 § 26-864 Reports. a. At least once a year, each qualified entity shall submit information
8 detailing such qualified entity's participation in the provisions of this chapter, including but not
9 limited to:

10 1. Statistics on the covered properties for which the qualified entity submitted a statement
11 of interest pursuant to section 26-855 or an offer pursuant to section 26-856; and

12 2. Any information relating to the financing of purchases or prospective purchases under
13 this chapter.

14 b. No later than January 31, 2028, and every other January 31 thereafter, the department
15 shall publish on its website and submit to the mayor and the speaker of the council a report
16 summarizing details of the program outlined in this chapter. Such reports shall include but not be
17 limited to the following information for the 2 immediately preceding calendar years:

18 1. The number of covered properties subject to the requirements of this chapter,
19 disaggregated by property type, number of dwelling units, and community district;

20 2. Information collected pursuant to subdivision a of this section;

21 3. Any other statistical information available to the department regarding participation in
22 the requirements of this chapter;

1 4. Any costs to the city for the administration of the provisions of this chapter, including
2 costs to finance the rehabilitation of properties purchased by qualified entities, any operating costs
3 for the department, and costs incurred as a result of the waivers in section 26-862;

4 5. The total number of violations issued pursuant to this chapter and the total amount of
5 penalties collected pursuant to section 26-861; and

6 6. Any recommendations for the improvement of the administration and enforcement of
7 the provisions of this chapter.

8 § 2. This local law takes effect 1 year after it becomes law, except that the commissioner
9 of housing preservation and development shall take such measures as are necessary for the
10 implementation of this local law, including the promulgation of rules, before such date.

Session 13
LS #2475
12/1/2025 11:30 a.m.

Session 12
JEF
LS #2475
4/6/22 10:07 a.m.