



DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

Marc Elrich
County Executive

Scott Bruton
Director

MEMORANDUM

February 1, 2025

TO: Marc Elrich, County Executive
Kate Stewart, Council President

FROM: Scott Bruton, Director *SB*
Department of Housing and Community Affairs

SUBJECT: 2024 Annual Report on the Montgomery County Right of First Refusal Program

The Department of Housing and Community Affairs (DHCA) administers Montgomery County's Right of First Refusal (ROFR) Program. In effect for more than forty years, Section 53A of the Montgomery County Code established that the owner of any rental housing property with four or more units must give the County, the Housing Opportunities Commission (HOC), and any certified tenant organization at the property a right of first refusal to purchase. The ROFR provides the County, the HOC, or a certified tenant organization with the right to match a contract in all executed significant terms.

When DHCA receives a ROFR notice, its Multifamily Housing Division uses five guiding principles to analyze the property:

- **Purpose:** Is there a public purpose associated with purchasing the property that cannot be met otherwise?
- **Preservation:** Are units at risk of exiting the County's affordable housing stock, and what tools can be used to preserve affordability, including the capacity to execute the purchase?
- **Property:** Does the property have redeeming or important facets to warrant a ROFR purchase, such as whether it is in a high-cost market area, near a metro or other resources, or a rare vacant property that can meet a public purpose?
- **Price:** Is the price manageable for the County, given that the County must have cash available in the Housing Initiative Fund (HIF) for the full sales price or Qualified Entities approved and available to assign the County's right to? The County also needs funding capacity in either a HIF or Nonprofit Preservation Fund (NPF) loan to support long-term affordability and assist other projects in the current pipeline.
- **Partner:** As the County does not retain ownership in multifamily rental properties, does DHCA have a capable partner to whom it can transfer ownership who can finance the property with minimal assistance, is fiscally capable, and has experience

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managing/owning multifamily properties? Are the partner's goals compatible with those of DHCA?

DHCA received 32 ROFR notices for 31 rental properties representing 8,211 units in 2024. Since one building, Flats 8300, submitted two ROFRs, the actual number of units involved in transactions was 7,852. The properties represented \$2,339,220,761 in total transactions and an average of \$284,889 per unit.

In addition to the administration of ROFR submissions, there were other ROFR milestones in 2024. On February 26, 2024, the County Executive signed Expedited Bill No 38-23, allowing the County to assign its Right of First Refusal to qualified affordable housing developers. The revisions were then supplemented by Executive Regulation 16-23, which outlined the procedure for identifying and approving a Qualified Entity to whom the County may assign its ROFR rights. As of January 1, 2025, DHCA had received nine applications from affordable housing developers and property managers to become Qualified Entities.

The Regulation requires submitting and reviewing documents demonstrating the applicant's ability to operate an affordable housing development. Those submissions can be lengthy for the experienced developers the County seeks to qualify. As a result, DHCA is still reviewing a number of those applications and is working with those applicants to supplement information where needed. As of the date of this report, six entities have been designed as Qualified Entities for purposes of possible future ROFR assignments. Those entities are: Affordable Homes and Communities (AHC), True Ground (formerly known as APAH), Enterprise Community Partners, Charger Venture, Montgomery Housing Partnership, and Yoke Management Partners. DHCA will post those on the County's ROFR landing page (<https://www.montgomerycountymd.gov/dhca/rofr/>) imminently. More details on the Qualified Entity application and assignment processes will be provided in the 2025 Annual ROFR Report after the new system is applied for a year.

2024 ROFR Statistics

Total properties for which DHCA received ROFR submissions: 31 properties / 32 ROFRs / 8,211 total units. One property executed two separate contracts and submitted two ROFR packages in 2024. As a result, only 7,852 units were subject to ROFR.

Exercised the Right of Refusal: 0

Issued Certificate of Compliance: 22 Properties, 23 ROFRs / 4,624 total units (4,265 actual units since one building submitted two ROFR packets).

A Certificate of Compliance is a document issued by DHCA that is recorded in the Montgomery County Land Records, certifying that the transaction has met the requirements of Chapter 53-A, which enables the planned sale to proceed. Before issuing a Certificate of Compliance, DHCA evaluates each property with the above guiding principles and determines whether or not to act. Certificates of Compliance were recorded for all 22 properties/ 23 ROFRs for which the County did not execute its Right of First Refusal.

Though DHCA did not exercise the Right of First Refusal for any property in 2024, it maintained affordability in multiple projects using additional tools. Subsequently, covenants about the new funding for any properties receiving County financing for the acquisition were recorded.

Preserved Existing Affordable Housing through Project Acquisition or Preservation

Financing: 3 properties totaling 675 units.

Though the County did not execute its Right of First Refusal to purchase, DHCA was made aware of these projects through the ROFR process and used other tools in the toolbox to maintain affordability. DHCA assisted in the financing of the following developments:

- Country Place Apartments, Burtonsville – 312 family units - BY RIGHT PILOT; 164 units will be preserved at 60% of AMI and 8 units at 50% of AMI for 25 years
- HOC Battery Lane 2, Bethesda – 256 Units - DHCA NPF loan, 51 units will be preserved at 50% of AMI, 77 units at 60% of AMI, and an additional 64 units at 80% of AMI for 30 years
- Sligo House and Corona Apartments, Silver Spring – 107 family Units -NPF loan to close in 2025

Properties with Current MPDUs: 6 properties (7 ROFRs because one property submitted twice)

There were six buildings with ROFR submissions and properties containing Moderately Priced Dwelling Units (MPDU) covenants.

- Avention Crown- Gaithersburg – 40 0MPDUs remain in the City of Gaithersburg’s MPDU program control until 2120.
- Maizon Bethesda – Bethesda - 39 MPDUs remain in the MPDU program until 2120
- 8001 Woodmont – Bethesda - 49 MPDUs remain in the MPDU program until 2120
- Fenwick Apartments – Silver Spring – 39 MPUs remain in the MPDU program until 2113
- Central Apartments – Silver Spring – 31 MPDUs remain in the MPDU program until 2116
- Flats 8300 – Bethesda - 45 MPDUs remain in the MPDU program until 2115

One additional exempt transfer, the Elm, Bethesda, contains 57 MPDUs remaining in the MPDU program until 2119.

Certified Tenant Associations

Two resident associations were certified in 2024 as residents sought to exercise the right to purchase under Chapter 53-A. As of January 2025, the properties are still under negotiation, and the transaction has not been finalized.

- 7520 Maple Avenue, aka The Deauville (Takoma Park) – The property is currently under negotiation with the tenant association. DHCA considered exercising their ROFR on the Deauville but deferred to the tenants’ association, who exercised their Tenant

Opportunity to Purchase Act (TOPA) rights under Takoma Park law. DHCA met with the tenant's association and provided education and guidance regarding the exercise of their TOPA rights.

- Tilbury Gardens – 7806 Tilbury (Bethesda) – The property is currently under negotiation with the tenant association. DHCA met with the tenants association and provided education and guidance on their rights to purchase. The tenants association is currently receiving assistance in reviewing their options from an employee of the Purple Line Corridor Coalition (PLCC).

Issued Certificate of Exemption: 5 Properties / 5 ROFR Submissions, 945 Units

A Certificate of Exemption is a document issued by DHCA and recorded in the Montgomery County Land Records, certifying that the transaction does not meet the compliance requirements of Chapter 53-A, which enables the planned sale to proceed. The reason for exemption may be that the transfer falls under Section 53A-5(c) for Low Income Housing Tax Credit (LIHTC) transfers, where the interest in the partnership or company that owns the rental housing is transferred to provide a means to receive the tax benefits under the Federal LIHTC system. In other situations, the transfer did not meet the definition of “sale” under Section 53A-2(g), thereby not triggering the ability of the County to exercise its Right of First Refusal. Finally, a sale may be exempt for any other reasons listed in 53A-5(b), including transfers under court orders, transfers by will, or transfers in lieu of foreclosure.

1. Preserved Existing Affordable Housing Through LIHTC Transfer of General Partner and Non-Profit Partner Ownership: 4 properties with a total of 489 units

Four properties received a Certificate of Exemption as an alternative to the Right of First Refusal because the transfer was to effectuate Low Income Housing Tax Credit (LIHTC) benefits. Under the revised Chapter 53-A, properties transferring LIHTC ownership of the general partnership (LIHTC investor) to the nonprofit partner are exempt from ROFR obligations. The transfer of ownership agrees to retain the affordability requirements of the LIHTC and state or local affordability and/or extended use covenants. These properties received Certificates of Exemption to preserve the units. These properties are:

- Covenant House – an 89-unit senior property where the nonprofit partner in the property purchased the LIHTC general partner interest and has agreed to comply with the remaining Extended Use Agreement compliance period requirements.
- 814 Thayer – a 52-unit multifamily property where the current General Partner sold its interest to another affordable housing developer/owner who is agreeing to retain the affordability.
- HOC GP Partner Purchase – HOC purchased the general partnership in two properties
 - Metro Pointe – a 173-unit family property at the Wheaton Metro
 - Forest Oak – a 175-unit senior property in Gaithersburg

2. Other Exempt Transactions – Minority Interest Transfers: 2 Properties with at least 456 units.

Two properties transferred the minority interest of their ownership and are therefore exempt under Chapter 53-A.: A certificate of exemption was provided to the Elm to document compliance with ROFR submission. The Wilshire Estates did not submit their complete ROFR submission because the transfer was deemed exempt based only on the information provided on their corporate transfer. As they were exempt, they were not required to submit information regarding the property transfer.

- The Elm is a 456-unit property in Bethesda with 57 MPDUs.
- Wilshire Estates is a senior living community in Silver Spring. No details were provided on that property, as the minority interest transfer was determined before a complete ROFR submission was provided.

Transactions Did Not Close: Two properties submitted ROFRs and did not ultimately transfer ownership to the contract purchaser. Those properties were:

- The Enclave – Silver Spring – 1,119 units
- Cinnamon Run – Silver Spring – 1,392 units

Attachments

Three (3) tables are attached to this memo to provide more details.

- Table 1 contains a list of all ROFR notices received in 2024 and details the contract prices, unit counts, and outcomes of each ROFR.
- Table 2 contains comparative ROFR data for the past ten years, 2015-2024. The average cost per unit has increased 75% over that time from \$195,545 in 2015 to \$341,437 in 2024.
- Table 3 contains location breakdowns of where ROFR notices originated over the past ten years, 2015-2024, and a graph highlighting the locations where ROFR notices have originated in the past five years. While most ROFR notices received in 2024 were in Bethesda, most ROFRs for the past five years have focused on the County's Rockville and Takoma Park areas.

Table 1

2024 ROFR Submissions								
PROJECT NAME	PROJECT ADDRESS	CITY	ZIP CODE	DATE RECEIVED	CONTRACT PRICE	TOTAL NUMBER OF UNITS	AVERAGE COST PER UNIT	Outcome of ROFR
The Enclave-2024	11225 Oak Leaf Dr	Silver Spring	20910	1/12/2024	\$230,000,000.00	1,119	\$205,541	Sale not completed
7520 Maple Ave - Deauville	7520 Maple Ave - Deauville	Takoma Park	20912	1/22/2024	\$11,000,000.00	101	\$108,911	Certified Resident Association - Purchased
Oakfield Apartments 2024	2217 Georgian Way	Silver Spring	20902	1/29/2024	\$95,225,000.00	371	\$256,671	Certificate of Compliance issued
Parklane Apartments 2024	8200 Spiceberry Ln	Gaithersburg	20877	1/29/2024	\$32,100,000.00	137	\$234,307	Certificate of Compliance issued
Covenant Village Apt	18909 Waring Station Rd	Germantown	20874	2/7/2024	\$1,450,000.00	89	\$16,292	Exempt - Certificate Issued GP LIHTC transfer
Cinnamon Run at Peppertree	14120 Weeping Willow Dr	Silver Spring	20906	2/15/2024	\$255,000,000.00	1,392	\$183,190	Sale not completed
Flats 8300 - February 2024	8300 Wisconsin Ave	Bethesda	20814	2/15/2024	\$150,000,000.00	359	\$417,827	Certificate of Compliance Issued; 45 MPDUs until 2115 studio, 1, 2, and 3 BR
MetroPointe	11175 Georgia Ave	Wheaton	20902	2/29/2024	\$100.00	173	N/A	Exempt - Certificate Issued HOC LIHTC GP transfer

Table 1**2024 ROFR Submissions**

PROJECT NAME	PROJECT ADDRESS	CITY	ZIP CODE	DATE RECEIVED	CONTRACT PRICE	TOTAL NUMBER OF UNITS	AVERAGE COST PER UNIT	Outcome of ROFR
North Park- AIR Properties	4615 N Park Ave	Chevy Chase	20815	4/15/2024	\$104,919,000.00	310	\$338,448	Certificate of Compliance issued
Crescent Trail-AIR Properties	5325 Westbard Ave	Bethesda	20816	4/15/2024	\$111,895,000.00	258	\$433,702	Certificate of Compliance Issued
Willard Property -AIR Properties	4701 Willard Ave	Chevy Chase	20815	4/15/2024	\$147,459,000.00	517	\$285,221	Certificate of Compliance issued
Flats 8300- April 2024	8300 Wisconsin Ave	Bethesda	20814	4/25/2024	\$150,000,000.00	359	\$417,827	Certificate of Compliance issued; 45 MPDUs until 2115 studio, 1, 2, and 3 BR
The Elm	4710 Elm Street LLC	Bethesda	20814	5/8/2024	\$250,000,000.00	456	\$417,827	Exempt - Certificate issued; 57 MPDUs until 2119
New Takoma Homes, LLC	1007 University Blvd	Takoma Park	20903	5/21/2024	\$143,100.00	4	\$35,775	Certificate of Compliance issued
8512 Glenview	8512 Glenview Ave	Takoma Park	20912	5/29/2024	\$845,000.00	5	\$169,000	Certificate of Compliance issued

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2024 ROFR Submissions								
PROJECT NAME	PROJECT ADDRESS	CITY	ZIP CODE	DATE RECEIVED	CONTRACT PRICE	TOTAL NUMBER OF UNITS	AVERAGE COST PER UNIT	Outcome of ROFR
814 Thayer Ave	814 Thayer Ave	Silver Spring	20910	5/30/2024	\$5,267,205.76	52	\$101,292	Exempt - Certificate issued LIHTC GP transfer
Middlebrooke Apartments	5015 Battery Ln	Bethesda	20814	6/7/2024	\$10,424,855.00	92	\$113,314	Certificate of Compliance issued
8215 Schrider	8215 Schrider St	Silver Spring	20910	6/20/2024	\$732,500.00	4	\$183,125	Certificate of Compliance issued
228 Manor Circle	228 Manor Cir	Takoma Park	20912	6/27/2024	\$875,000.00	7	\$125,000	Certificate of Compliance Issued
6624 Poplar Ave	6624 Poplar Ave	Takoma Park	20912	7/1/2024	\$685,000.00	6	\$114,167	Certificate of Compliance issued
4535 Avondale	4535 Avondale St	Bethesda	20814	7/3/2024	\$3,250,000.00	4	\$812,500	Certificate of Compliance issued
The Country Place Apartments	3900/3918 Blackburn Ln	Burtonsville	20866	7/8/2024	\$63,000,000.00	312	\$201,923	Certificate of Compliance issued -PILOT provided
HOC Forest Oak Towers	101 Odenhal Ave	Gaithersburg	20877	8/13/2024	\$0.00	175	\$0	Exempt - COC Issued HOC LIHTC GP transfer

Table 1**2024 ROFR Submissions**

PROJECT NAME	PROJECT ADDRESS	CITY	ZIP CODE	DATE RECEIVED	CONTRACT PRICE	TOTAL NUMBER OF UNITS	AVERAGE COST PER UNIT	Outcome of ROFR
Aldon Battery Lane Phase II	4890 4900 4949 Battery Ln	Bethesda	20814	9/20/2024	\$55,000,000.00	256	\$214,844	Certificate of Compliance issued - HOC purchase NPF loan
Sligo House/Corona Aparments	714 & 601 Sligo Ave	Takoma Park	20912	9/20/2024	\$15,500,000.00	107	\$144,860	Certificate of Compliance issued NPF loan
Tilbury Gardens	7806 Tilbury St	Bethesda	20814	9/25/2024	\$7,700,000.00	30	\$256,667	Certified Resident Association - TBD
Aventon Crown aka Rockwell at Crown	800 Rockwell Ave	Gaithersburg	20878	10/17/2024	\$150,000,000.00	386	\$388,601	Certificate of Compliance issued; MPDUS - 40 units under Gaithersburg MDPU program
Maizon Bethesda	4900 Moorland Ln	Bethesda	20810	10/29/2024	\$115,250,000.00	229	\$503,275	Certificate of Compliance issued; MPDUs - 35 MPDUs until 2120 1 and 2 bedrooms
Woodfield RD LLC	26040-26050 Woodfield Rd	Damascus	20872	12/10/2024	\$9,400,000.00	26	\$361,538	Certificate of Compliance
8001 Woodmont	8001 Woodmont Ave	Bethesda	20814	12/19/2024	\$194,000,000.00	322	\$602,484	Certificate of Compliance

Table 1								
2024 ROFR Submissions								
PROJECT NAME	PROJECT ADDRESS	CITY	ZIP CODE	DATE RECEIVED	CONTRACT PRICE	TOTAL NUMBER OF UNITS	AVERAGE COST PER UNIT	Outcome of ROFR
								issued ; 49 MPDUs until 2120
Fenwick Apartments	86816 2nd Ave	Silver Spring	20910	12/23/2024	\$95,100,000.00	310	\$306,774	Certificate of Compliance issued; 39 MPDUs until 2113
Central Apartments	8455 Fenton Street	Silver Spring	20910	12/23/2024	\$73,000,000.00	243	\$300,412	Certificate of Compliance issued ; 31 MPDus until 2116

2024 Totals:	ROFR Submissions:	Contract Price:	Units:	Average Per Unit Cost:
	32	\$2,339,220,761	8,211	\$284,889

Table 2
Comparative ROFR Data for the Past Ten Years

Year	ROFRs Received	Total Units	Total Dollar Amount	Average Cost/Unit	Number of Properties on which ROFR was Exercised	Number of Agreements Not to Convert	Number of Rental Agreements Assumed or Created	Number of No Action Properties with MPDUs	Number of Capital Investments with Regulatory Agreement	PILOT Agreements	Transactions that did not Close
2024	32 ^a	8,211	\$1,578,803,455	\$341,437	0	0	0	4	2	1	2
2023	22	3,615	\$980,921,174	\$271,347	0	2	4	0	3	1	0
2022	46	7,025	\$2,284,606,100	\$325,211	2 ^b	0	2	4	3	1	1
2021	62	12,725	\$3,632,135,923	\$284,726	1	7	3	12	3	4	2
2020	60	6,570	\$1,706,197,500	\$259,695	1	4	5	0	0	7	0
2019	44 ^c	7,498	\$1,767,103,200	\$235,677	0	0	4	0	0	0	2
2018	37	7,490	\$1,589,908,278	\$212,271	4	0	0	1	3	0	1
2017	34 ^d	7,205	\$1,504,336,753	\$208,791	1	1	5	3	1	0	3
2016	38 ^e	7,875	\$1,942,150,996	\$246,622	2	0	4	3	1	0	2
2015	28	5,748 ^f	\$1,123,992,200 ^e	\$195,545 ^f	1	1	2	1	3	0	3

^a The County received 32 ROFRs for 31 properties. One property submitted 2 ROFRs in 2024.

^b The County exercised ROFR for Scarborough Square Townhouses and Apts. and acquired it in partnership with the City of Rockville and Rockville Housing Enterprises (RHE). The County exercised ROFR for Westchester West on February 17, 2023.

^c DHCA received 48 ROFR notices in 2019 but 4 were determined to be exempt, so their information is not included in ROFRs Received, Total Units, Total Dollar Amount, and Average Cost/Unit.

^d DHCA received 35 ROFR notices in 2017 but 1 was determined to be exempt, so its information is not included in ROFRs Received, Total Units, Total Dollar Amount, and Average Cost/Unit.

^e DHCA received 39 ROFR notices in 2016 but 1 was determined to be exempt, so its information is not included in ROFRs Received, Total Units, Total Dollar Amount, and Average Cost/Unit.

^f The HOC property RAD6 Sandy Spring Meadows (52 units) filed a ROFR notice for its RAD conversion, which did not include a purchase price. Therefore, this ROFR is not included in Total Units, Total Dollar Amount, or Average Cost/Unit.

TABLE 3

ROFR Notices Received by Location 2015-2024

	2015	2016	2017	2018	2019	2020	2021	2022	2023	2024
Adelphi	0	0	0	0	0	0	0	0	0	0
Bethesda	3	4	4	1	0	3	7	3	3	10
Burtonsville	0	0	0	0	0	0	0	0	0	1
Chevy Chase	0	0	0	0	1	0	4	3	0	2
Clarksburg	0	0	0	0	0	0	1	0	0	0
Colesville	0	0	0	0	0	0	0	0	0	0
Damascus	0	0	1	0	0	2	0	0	0	1
Derwood	0	0	0	0	0	0	1	0	0	0
Fairland	0	0	0	0	0	0	0	0	0	0
Gaithersburg	3	6	4	2	5	2	7	7	5	3
Germantown	0	2	1	7	4	0	8	1	0	1
Hillandale	0	0	0	0	0	0	0	0	0	0
Montgomery Village	0	0	2	0	0	0	0	0	0	0
North Bethesda	1	0	2	0	3	0	1	3	0	0
Olney	0	5	1	0	2	5	7	5	3	0
Rockville	15	12	13	20	12	26	6	14	6	0
Silver Spring	1	0	0	2	2	0	1	0	0	7
Takoma Park	6	9	6	5	12	21	17	10	5	6
Wheaton	0	0	0	0	3	1	2	0	0	1
White Oak	0	0	0	0	0	0	0	0	0	0
TOTAL	29	38	34	37	44	60	62	46	22	32

ROFR Notices by Location for Past 5 Years

