

May 28, 2019

MEMORANDUM

To: Members of the Housing, Health, Energy, and Workers' Rights Committee
From: Traci Ratzliff, Council Central Staff
Subject: Council Bill 119537 Modifying the City's Notice of Intent to Sell Policy

Councilmember Mosqueda is proposing legislation, Council Bill (CB) 119537, that would modify the City's existing Notice of Intent to Sell (NOIS) policy that was adopted by the Council in 2015. This memorandum: 1) provides background information about the current policy; 2) describes the proposed changes to the existing policies; and 3) highlights next steps for consideration of the proposed legislation.

Current Notice of Intent to Sell Provisions

In 2015, the City Council adopted legislation ([Ordinance 124861](#)) requiring owners of multifamily rental housing with five or more housing units that includes at least one unit that rents at a rate affordable to households at or below 80 percent of Area Median Income (AMI), to provide written notice to the City's Office of Housing (OH) and the Seattle Housing Authority (SHA) of the owner's intent to sell the property. The owner must provide written notice at least 60 days prior to listing a property with a real estate listing service or advertising in a print newspaper or on the internet. The notice must include the owner's name, phone number, and the address of the property. OH is responsible for enforcing the NOIS requirements. The Seattle Department of Construction and Inspections (SDCI) is authorized to impose a penalty of up to \$500 for any person who fails to provide the required notice.

The intent of the NOIS policy is to provide the City or SHA the opportunity to evaluate and, as appropriate, prepare and submit a purchase and sale offer that would preserve the housing as affordable. The City deliberately focused this policy on multifamily buildings with at least five units, one of which is rented to a low-income household as evidenced by the rent being charged, so that City funds can potentially be used to acquire any properties identified through this policy. In addition, because City funds available to purchase such buildings can only be used for buildings serving households with incomes at or below 80 percent of AMI, the policy focused on buildings with a larger number of units (five or more units), as those are of highest priority to preserve at the most efficient per unit cost.

Considering current legal constraints, the NOIS policy was the most viable policy option to preserve buildings affordable to low-income households that after being listed and sold, were likely to convert to higher-cost rentals.

After passage of the legislation, OH sent a letter to each owner of a multifamily housing building that is registered under the City's Rental Registration and Inspection Ordinance program, informing them of the NOIS requirements. OH worked also with the Rental Housing

Association to alert their members of the new requirements. In addition, OH notified the Housing Development Consortium, non-profit housing developers, and other interested parties, of the ability to be put on an email list that notifies them and provides a copy of any notices submitted to OH. There are currently six non-profit developers, 14 for-profit entities, and four City email addresses, receiving such notices. In addition, OH created a [website](#) with information about the NOIS policy, including how to comply, and a link to join the email list to receive information when notices are submitted to OH.

Since the adoption of this legislation, OH has received nine notices. All notices have been for buildings owned by for-profit owners. Seven of the nine properties have sold. To OH's knowledge, none of the buildings for which the notices were submitted have been sold to SHA or a non-profit housing developer.

Compliance and enforcement with the NOIS policy is, and will likely continue to be, a challenge. It is suspected, but cannot be confirmed, that the actual number of multifamily buildings subject to the NOIS policy is significantly higher than what is indicated by the number of notices OH has received to date. Meaning that most sales of multifamily buildings are not complying with the required notice to the City. Currently, OH has staff capacity to accept and share notices, consistent with the existing policy, but does not have staffing levels adequate to proactively enforce this policy. In addition, even if additional staff resources were provided, it would be challenging and time intensive to proactively research all sales occurring in the market, particularly the work it would take to understand and confirm the rent levels charged in the buildings being listed for sale, that triggers the NOIS requirements.

Proposed Modifications to the Notice of Intent to Sell Policy

The proposed legislation would make the following changes to the NOIS policy:

- Expands the notice requirement to apply to owners of multifamily rental housing with two or more housing units, with at least one of the units renting at a rate affordable to a household at or below 80 percent of AMI.
- Increases the notice period from 60 days to 90 days prior to a building being formally listed for sale.
- Requires an owner to submit a signed declaration, under penalty of perjury, affirming that the owner has complied with the required notices. This declaration would be submitted to OH at the same time the required written notice is submitted.
- Requires an owner to prominently post a notice in the building notifying tenants of the owner's intent to sell the building so that tenants are informed of this impending action. The notice must be posted no later than 90 days prior to the building being listed or advertised for sale. The notice must include information on the availability of homeownership assistance from OH for low-income tenants and the City's website for renters.

- Requires an owner, who had not actively marketed their property for sale but receives a written offer to purchase a building that the owner intends to accept, to issue the required notices within two days of receiving the offer.
- Prohibits an owner from executing a purchase and sale agreement for the building until 90 days after the required notice has been issued or posted.
- Increases the penalty from \$500 to \$2,000 for failing to comply with the notice requirements.

Next Steps

The proposed legislation will be discussed at the Housing, Health, Energy and Workers' Rights Committee on June 6.

Please let me know if you have any questions.

cc: Kirstan Arestad, Central Staff Director
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