

Publicly Supported Housing Preservation (PuSH) Regulations



OHCS Training Module PuSH Overview for Local Government OHCS Affordable Rental Housing Division

PuSH - Overview



What is “Publicly Supported Housing”?



- **Multifamily Rental Housing**
- **Minimum 5 units**
- **Federal, State, or local government assistance**
- **Contract with affordability restrictions**
- **“Participating Property”**
 - **Oregon Revised Statutes (ORS)**
456.250 through 456.265; and 456.559(1)(b)
 - **Oregon Administrative Rules (OAR)**
Chapter 813, Division 115

What is “Publicly Supported Housing”?

▪ **Federal Rental Assistance Programs**

- **Housing and Urban Development (HUD)**

- ✓ Section 8 Project-Based Rental Assistance (PBRA)

- **USDA / Rural Development (RD)**

- ✓ Rental Assistance contract and/or RD Loans with affordability restrictions

What is “Publicly Supported Housing”?

▪ Oregon Housing and Community Services

• Bond Programs

- ✓ Conduit, Risk Share, Elderly/Disabled, Local Innovation/Fast Track (LIFT)

• Tax Credit Programs

- ✓ Low-Income Housing Tax Credits (4%/9%) (LIHTC)
- ✓ Oregon Affordable Housing Tax Credits (OAHTC)

• Oregon Grant Programs

- ✓ General Housing Account Program (GHAP),
- ✓ Housing Development Grant Program (HDGP)

• HUD Programs

- ✓ Home Investment Partnerships Program (HOME)
- ✓ National Housing Trust Fund (HTF)



What is “Publicly Supported Housing”?

▪ **Local Government Subsidy**

- **Apply to OHCS**

- ✓ Included in definition of publicly supported housing
- ✓ Participating properties must meet regulation definitions
- ✓ Added to OAHI (Inventory)

- **Inter-Governmental Agreement (IGA)**

- ✓ Required to participate in PuSH

Why are the regulations important?

■ **Government Preservation of Affordability**

- Opportunity for government to preserve through new ownership
- Qualified Purchasers (OHCS/Designee and Local Government)
- Owners do not have to accept offers from Qualified Purchasers, except under the right of first refusal process (ROFR)

■ **Oregon Affordable Housing Inventory (OAHI)**

- Database developed and maintained by OHCS
- OHCS portfolio inventory, including non-participating properties
- HUD PBRA and RD properties
- Track potential participating property withdrawal timing



Who is affected by the regulations?



- **Owners of publicly supported housing**
- **Oregon Housing and Community Services (OHCS)**
- **Local Government**
- **Qualified Purchasers (OHCS/Local Government)**
- **OHCS Designee (non-profit & for-profit entities)**
- **3rd party buyers (non-preservation)**

When do PuSH regulations apply?



- **No sooner than 36 months (3 years) prior to expiration of all applicable contract(s)**
- **May continue up to 24 months (2 years) after withdrawal (ROFR process)**
- **If applicable, affordability may continue under:**
 - ✓ LIHTC “Safe Harbor” requirement
 - ✓ Housing Choice Voucher Program
 - ✓ HUD project-based vouchers administered by a housing authority
 - ✓ Other affordability restriction, such as a property tax exemption

How does the process work?



- Owner sends notices to OHCS and Local Government
- Qualified purchasers (OHCS designee/local government) accept opportunity to offer to purchase
- Qualified purchasers submit offer(s) – accepted by Owner
- New Owner affordability restriction contract

PuSH Owner Notices



- **Owner provides notices to OHCS and local government using forms and delivery instructions provided by OHCS**
- **Owner's 1st Notice**
 - ✓ Expiring Affordability Restrictions
- **Owner's 2nd Notice**
 - ✓ Withdrawing Property (Opportunity to Offer to Purchase)

PuSH Owner Notices

▪ **Expiring Affordability Restrictions (1st Notice)**

- Between 36 months (3 years) and 30 months (2-1/2 years) prior to withdrawal from publicly supported housing
- Owner's proposed intent for future affordability of participating property
- Late notice requires Owner extend affordability restrictions

PuSH Owner Notices

▪ **Opportunity to Offer to Purchase (2nd Notice)**

- Between 30 months (2-1/2 years) and 24 months (2 years) prior to withdrawal from publicly supported housing
- Starts process for Qualified Purchasers to make offer(s)

➤ **Owners with only HUD PBRA that intend to renew the contract are not required to send this notice.**

OHCS Designee Process



■ Designee Prequalified Application to OHCS

- Owners provide general information to OHCS so that they can be included within the applicable Designee list(s)
- Establish list(s) may include: geographical preference, tenant population, size and type of properties

■ Designation Agreement with OHCS

- Completes purchase due diligence at own expense
- Provides OHCS with project-specific preservation plan
- Subject to affordability restriction contract with OHCS
- Records “Notice of Right of First Refusal” executed by OHCS
- Potential opportunity to purchase as Designee for ROFR

Local Government and Preservation



▪ **Local Government Definition**

- **“Local government” means a:**
 - ✓ City, county, public corporation (housing authority) or metropolitan service district
- **Affects local government**
 - ✓ Within whose boundaries of the relevant participating property is located, in whole, or in part.
- **“Qualified Purchaser”**
 - ✓ OHCS and local government are jointly known as “Qualified Purchasers”.

Local Government and Preservation

▪ **Local Government's Role**

- **Owner Notices**

- ✓ Owner's 1st Notice (Expiring restrictions)
- ✓ Owner's 2nd Notice (Withdrawing property)

- **Opportunity of Offer to Purchase (2nd Notice)**

- ✓ OHCS Designee Contractor contact
- ✓ Accepting an opportunity to offer to purchase
- ✓ Right of First Refusal (ROFR) – matching offer

➤ **Owners do not have to accept qualified purchaser offer, unless under right of first refusal**

Local Government and Preservation

■ **Local Government Expectations**

- **Provide contact information to OHCS**

- ✓ Owner Notices
- ✓ Opportunity to Offer to Purchase

- **Pro-active preservation partner**

- ✓ Capacity to own additional properties
- ✓ Aware of withdrawing properties
- ✓ Oregon Affordable Housing Inventory (OAHI)

- **Review Owner's notice(s) as potential for future offer to purchase.**

Local Government and Preservation

- **Initiate offers to purchase**
 - ✓ Offer requirements in OARs (deposit, closing, etc.)
 - ✓ ROFR notice to owner must be included in offer/option
 - ✓ Certified/registered mail (need receipt for recorded ROFR)
- **Record “Notice of Right of First Refusal” (ROFR) 30 days after offer submitted**
 - ✓ OHCS provides a template (multiple exhibits included)
 - ✓ Local government signs and records document at own cost
- **Matching offers under right of first refusal opportunity**
 - ✓ Owner must accept first matching offer under ROFR

Qualified Purchaser Preservation

- **Right of First Refusal (2nd opportunity to preserve)**
 - Initial purchase offer not accepted
 - “Notice of Right of First Refusal” recorded with county
 - ✓ Opportunity to match subsequent 3rd party offer
 - ✓ Right extends 24 months past withdrawal date
 - Owner notifies ROFR party of intent to accept 3rd party offer (non-preservation)
 - Owner must accept first matching ROFR offer received

Qualified Purchaser Preservation

■ **Preservation Declaration**

- Affordability restriction contract (“runs with the land”)
- Term of affordability
- Match expiring restrictions or OHCS approved affordability
- Annual self-certification reporting to OHCS

➤ **Qualified Purchasers must also renew the HUD PBRA contract, if applicable.**

Publicly Supported Housing Preservation (PuSH)

■ Points to Remember

- A [process](#) for the government to potentially preserve withdrawing properties through new ownership
- [Owner notices](#) must be sent to OHCS and local government
- Late notice requires Owner [extend](#) the term of affordability
- Qualified purchaser [offers do not have to be accepted](#), unless right of first refusal matching offer

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For further information contact:

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