Working Paper

Preservation through Tenant Rights in Washington, DC

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About

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Introduction

Over the last two decades, there has been a shift in how we understand the geography of affordable housing. Previously, while housing and neighborhood conditions varied, the availability of affordable housing in cities was thought to be secure. In other words, losing affordable housing from the stock in cities was not a great concern, both because vacancy rates were high and because, increasingly, the focus was not just on affordable housing, but housing in neighborhoods of opportunity with improved access to schools, jobs and safety (Econometrica, Inc and Abt Associates 2006). However, as the demand for walkable neighborhoods accessible to amenities increased for higher-income households, affordable housing units - both subsidized and unsubsidized - were lost, and their supply shrank. Indeed, the resultant suburbanization of poverty and gentrification of central cities upset the models for understanding affordable housing supply (Kneebone and Lou 2014). As a result, states and localities are looking for new tools for production and preservation of affordable housing.

While production of new affordable housing is complex, requiring land, subsidy and financing and a development team, the preservation of existing affordable housing requires all of these things, as well as access to the market to purchase and knowledge about the conditions of the building to better assess the feasibility of the project. To provide access to a fast-paced market, many localities have begun to look at rights of first refusal as options. This may include a jurisdiction right (Montgomery County, MD, Prince George's County, MD) or a tenant right (Washington, DC, Takoma Park, MD) to have the first chance to buy a residential building going up for sale. In Washington, DC, a tenant right passed in 1980 addresses one of these gaps: market access. The Tenant Opportunity to Purchase Act (TOPA) gives tenants the right of first refusal when their building is for sale. All tenants in DC have the right to collectively buy and convert it into a cooperative or condominium, assign their rights to a developer of their choice, or do nothing and allow the sale to go through without intervention.

Howell (2021) argues that TOPA, in conjunction with a large subsidized stock of housing, a robust ecosystem of organizers, developers, funders and attorneys and a flexible local funding source can be an important suite of tools to facilitate preservation in rapidly moving markets. However, TOPA is a tenant right, rather than a housing program. This can create conflict between the goals of preservation and the goals of a tenant association (Gallaher 2016; Huron 2018). In other words, because TOPA was not built solely for the preservation of affordable housing, it may not be the best tool for the job.

While TOPA has been examined qualitatively at the building (Huron 2018), neighborhood (K. Howell 2016b) and city level (K. Howell 2021), exploring the impact of TOPA citywide quantitatively has been impossible due to the lack of citywide datasets (Gallaher 2016). However, due to a combination of new data and new attention, we use a dataset of TOPA notices from 2006 created by the Coalition, a member organization of nonprofit housing and economic development organizations, in conjunction with citywide building and tract level data to better understand if TOPA is an effective tool for affordable housing preservation in Washington, DC. We find that TOPA was highly effective at preserving affordable housing, particularly in areas where rents were rising. We find that, in areas where there was limited affordable housing due to exclusionary zoning or earlier waves of gentrification, TOPA could do little to preserve affordability because it did not exist before the transaction. Similarly, TOPA was less effective close to transit where buildings were newer and typically not affordable. These findings help to better understand on a large scale the ways that tenant rights of first refusal, and perhaps other rights can be used to provide critical access to the market to intervene and prevent the loss of affordable housing. It further highlights the need to expand current options for subsidized and unsubsidized affordable housing across the District.

The paper is structured as follows: The next section discusses the literature on displacement and affordable housing preservation, highlighting what is known TOPA's impact on each. We then describe the DC case context and discuss our data and research methodology. We present our findings, discuss their implications, and conclude the paper with a discussion of the implications of our findings for affordable housing preservation policy.

Displacement and Affordable Housing Preservation

In the late 1990s, as buildings funded through federal programs such as Section 8 or Section 202 in the 1960s to the early 1980s began to near the expiration of their subsidies, there was a growing fear that large portions of the country's deeply affordable housing stock would be lost. In 2000, the MacArthur Foundation opened its Windows of Opportunity Grant program-related investment of $187m to support research, housing preservation and data for affordable housing (H. L. Schwartz et al. 2016). This investment led to significant increases in the preservation of affordable housing, as well as early versions of the National Low Income Housing Coalition's (NLIHC) National Housing Preservation Database (NHPD). In 2005, HUD released a study documenting losses and preservation of affordable housing from 1998 to 2004. Importantly, they noted that, in neighborhoods with fair market rents far below the market rent, owners were most likely to opt out of expiring subsidies. At the same time, buildings were

failing out of the Section 8 program due to poor conditions, measured in Real Estate Assessment Center (REAC) scores (Econometrica, Inc and Abt Associates 2006). By failing the REAC inspection more than once, HUD could end the contract, removing a critical funding source and sending the building into foreclosure (H. L. Schwartz et al. 2016). By the time HUD returned to the issue a decade later, the policy of allowing buildings to fail out had shifted, but the risk to buildings in hot markets remained.

Over the last two decades the growing affordable housing crisis, urban redevelopment and financialization (Teresa 2019; Immergluck 2022; Drake-Rodriguez 2021), growth in evictions (Teresa and Howell 2021; Desmond and Gershenson 2017) and displacement of low- and moderate-income households from connected urban areas (Summers 2019; Lung-Amam 2024) has been well-documented. With the growth in both cost and scale of the need for affordable housing, federal sources and laws have been increasingly unable to address the need for both production and preservation. To combat displacement, local and state governments have looked for opportunities to preserve buildings to keep households in place, develop new funding sources and work with developers, organizers and funders. Although the focus on Section 8 housing led the way in the national conversation about affordable housing preservation, a broader look at the literature illustrates that affordable housing preservation and stabilization play a pivotal role in anti-displacement (Rumpf 2011; Schwartz et al. 2016; Chapple et al. 2023).

Although there are several federal tools used for the preservation of federal subsidies, notably, the Rental Assistance Demonstration (RAD) Program, much of the innovation in preservation, particularly with both subsidized and unsubsidized housing, has been at the state and local levels (K. L. Howell, Mueller, and Wilson 2019; H. L. Schwartz et al. 2016; Lloyd 2009; A. Schwartz 2017). In a review of preservation programs across the country, Treskon and McTarnaghan (2016) highlight five common elements of successful programs: local and state resources for affordable housing, developer capacity, collaborative relationships, policy innovation, and policy networks to share information. Similarly, looking at Washington, DC, Howell (2021) argues that effective policy for affordable housing preservation requires an existing supply of housing that is affordable, laws and policies to support preservation, flexible local funding and a robust housing governance. While ensuring the existing supply of affordable housing is maintained as a critical component of a functioning affordable housing market, preservation alone is not a sufficient approach for long term affordability. Facilitating new affordable housing construction assures a sufficient supply of affordable housing for future preservation. Laws and policies that include a tenant right of first refusal create an opening in the market that would otherwise be

missed. Finally, robust multi-sector governance was critical to making sure the policies continued to work effectively, there were enough experienced developers to work with a range of buildings, and that there was enough expertise for tenants to work through the TOPA process.

Preservation of affordable housing can be defined in many ways, including the preservation of the subsidy, the preservation of the physical building and the preservation of the community who lives in the buildings (K. Howell 2021). These may be complimentary or contradictory as buildings may be in poor condition or be financially infeasible due to their size; or the available subsidies do not match resident incomes or family sizes. Because, often, buildings that are preserved are still occupied in some way, affordable housing preservation can benefit from working with tenants to determine the future of the building. One approach to codifying this is through a right of first refusal (ROFR). Initially part of legislation in the late 1970s, ROFRs offer an opportunity to engage in the market before a building is sold. In most cases, rights are given to the jurisdictions. While ROFRs are seeing a resurgence in communities across the country, the rights are often given to the jurisdiction as an explicit preservation tool. However, in Washington, DC and Takoma Park, MD these rights are given to tenants.

TOPA has been researched at multiple scales. Huron (2018) found that limited equity cooperatives (LEC) formed through TOPA created critical opportunities for economic and housing stability, as well as cultural preservation and expression for low- and moderate-income households. Howell has examined the ways that TOPA is part of a right to the city (K. Howell 2016a) that recognizes renters as having a right to decide their futures in DC. Further, TOPA has been examined qualitatively at the neighborhood level (K. Howell 2016b) and city scale (K. Howell 2021) to understand its role in the preservation of affordable housing, finding that it is a critical way of accessing a fast-moving market and allowing tenants to have a voice in the way buildings are preserved. In 2023, the Coalition, a member organization of nonprofit housing and economic development organizations in DC produced a study funded by the DC Council to understand how TOPA has performed over the decade (The Coalition 2023). Using descriptive analysis, they found that TOPA met the goals of the legislation, including encouraging tenant organizing, preventing displacement and preserving affordable housing. However, no study has conducted a statistical and geographic analysis to understand how and under what conditions TOPA has preserved affordable housing. This study fills that gap.

Case Context

D.C.'s Tenant Opportunity to Purchase Act, adopted in response to a wave of

condominium conversions during the late 1970s, grants renters the right of first refusal to purchase rental buildings prior to going up for sale. Passed in 1980 as part of the Rental Housing Act, which included rent stabilization and other tenant protections, the law had several goals: encourage tenant organizing, prevent the displacement of seniors and people with disabilities, encourage homeownership and preserve affordable housing. Under TOPA, tenants can either assign their rights to a third party and negotiate an outcome, purchase the building themselves, or waive their right to purchase completely and vacate the building. In all cases, the new purchaser must pay the market price that is listed in the "bonafide offer of sale" provided to tenants[1]. Because TOPA applies to all multifamily buildings in DC, its impact is widespread, reaching to all parts of the city where there are multifamily buildings. In 2017, the District passed a District Opportunity to Purchase Act (DOPA), which created a backstop for affordable housing preservation. If tenants decided not to purchase, the District could assign its right to a qualified developer. Originally, all landlords, including in single-family rentals, had to provide a notice to tenants of a sale. However, in 2018, after criticisms of the delays created for single-family home owners in a deeply political process, single family homes were exempted from the TOPA process.

[1] The bonafide offer of sale can and has been challenged by tenants who argue the price in the offer of sale is not legitimate.The burden of proof for the offer of sale is on the seller. If the seller sells the building for more than 10% less than the original price, the tenants must be given the opportunity to purchase again. In 2016, tenants at the Museum Square Apartments won a challenge in court to a $250million offer of sale because the court determined the price was not based on a good faith estimate of the value.

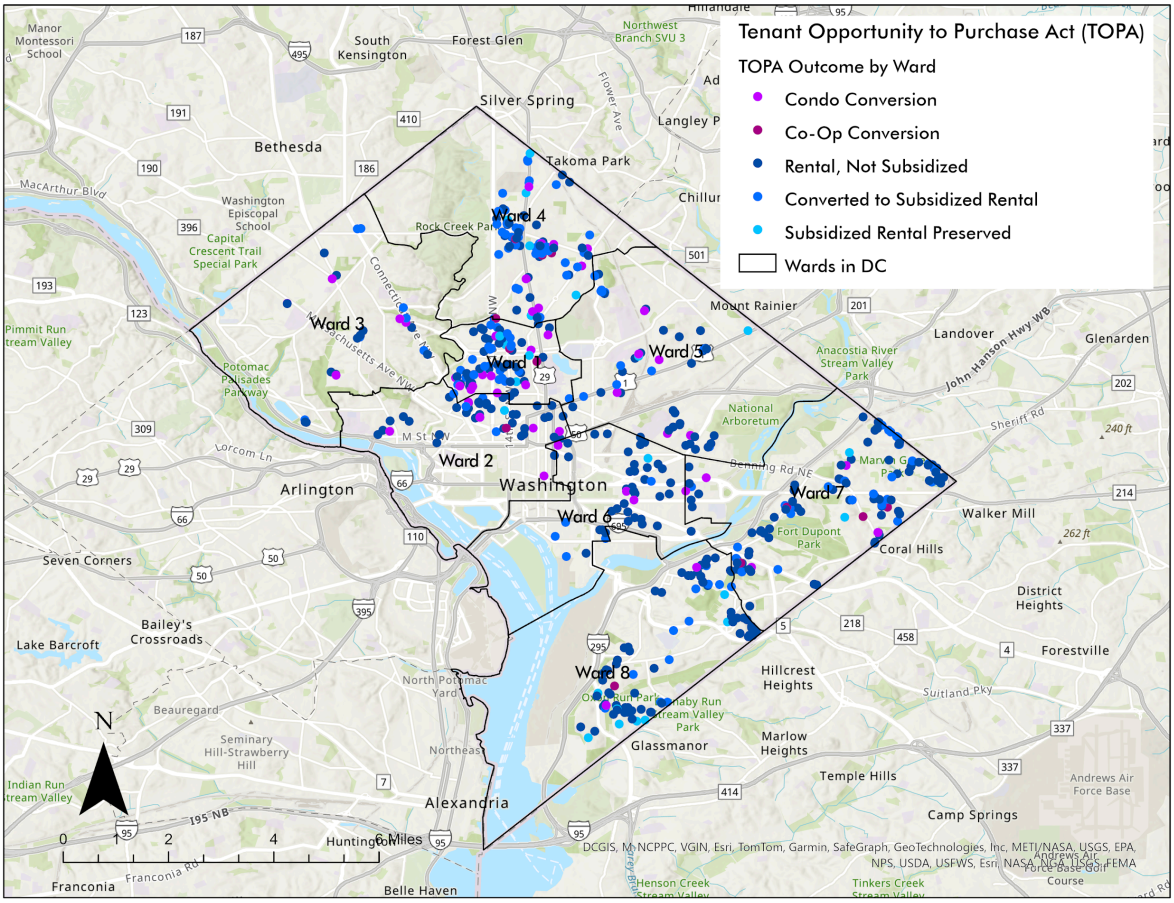

Figure 1: Map of all ROFR buildings in Washington, DC; Source: Weekly Report on Tenant Opportunity to Purchase (TOPA) Filings, The Coalition, OpenData DC

In Washington, D.C., the city has committed to providing substantial financial assistance to tenant groups for acquisition, and technical assistance for navigating transactions, which has played a pivotal role in making the TOPA policy useful and impactful. The District government established the Housing Production Trust Fund in 2002, which has been used to help pay for acquisition, rehabilitation, and legal services in both TOPA and DOPA transactions. The District has also provided CDBG grants to tenant organizations and support organizations to support tenants in learning about and exercising their rights. Prior to 2015, the Housing Production Trust Fund hit a high of $65 million in the mid-2000s, but was increased to an annual allocation of $100 million in 2015, and over the past few years, it has been greater than $300 million (Howell 2020).

The descriptive statistics for the neighborhood-level variables (Table 1) suggest that the buildings in the sample are located in census tracts that are predominantly nonwhite (75%) and high-poverty (20%) and saw reductions in each of these percentages between 2010 and 2020. In other words, the neighborhoods where the bulk

of these properties were located are in tracts that gentrified between 2010 and 2020. The median rent (in 2010 dollars) for these buildings is $1,012 and increased by approximately $420 by 2020. By comparison, the 2010 U.S. Department of Housing and Urban Development (HUD) Fair Market Rent (50% percentile) for a two-bedroom unit in 2010 was $1,494. The buildings in the sample are located in census tracts with a large concentration of rental buildings (60%) and high vacancy rates (14%, decreasing to 10% by 2020). On average, only 16 percent of the buildings are within ¼ mile of a rail transit stop.

Although TOPA has been contentious since its passage in 1980, there has been an increase in the power of critiques on the law from developers who prefer to buy and sell their buildings without negotiating with tenants. They have argued that TOPA harms preservation, stifles investment in the District and creates an undue burden of time on building owners (Howell 2021). This paper seeks to better understand the salience of these critiques through a quantitative approach. While preservation is not the only goal of TOPA (Howell 2021, CNHED 2023), it is used for that purpose. This paper asks explicitly about the impact of TOPA on the preservation of both subsidized and unsubsidized affordable housing and examines the pathways for preservation through TOPA.

Data and Analytical Approach

We draw upon information from several different sources to construct the database used in our analysis. The District of Columbia Department of Housing and Community Development (DHCD) produces a "Weekly Report on Tenant Opportunity to Purchase (TOPA) Filings" (DC Department of Housing and Community Development, n.d.). From these reports, the Coalition for Nonprofit Housing and Economic Development (CNHED) produced a file with the date and property address of each TOPA notice issuance that forms the basis for the sample of buildings used in our analysis. To this file, we append building-level information collected from DC's Computer Assisted Mass Appraisal (CAMA) and Integrated Tax System (ITS) databases, made available on the Open Data DC website (OpenData DC 2025). We append to the dataset produced by CNHED administrative data from DHCD's affordable housing inventory and the National Housing Preservation Database (NHPD 2025) as well as qualitative information from local advocacy organizations to identify which properties involved with a TOPA transaction received affordable housing subsidies and when. We also append information from the U.S. Census American Community Survey and Open Data DC that describes, respectively, each property's census tract and proximity to Washington Metropolitan Area Transit Authority (WMATA) rail transit stops. The final analytical sample includes all DC residential multifamily buildings that were renter-occupied prior to a sale and were sold following the issuance of a TOPA notice between 2010 and 2024.

Our research methodology is designed to provide an understanding of the building and neighborhood-level factors that are associated with a rental multifamily building's disposition following the issuance of a TOPA notice and sale. To analyze post-sale building outcomes, we employ a multinomial logit regression model specified as follows:

$$P(y_{it} = j) = P_{it,j} = \left(\frac{exp(X'_{it}\beta_j)}{\sum_{k=0}^{J} exp(X'_{it}\beta_k)} \right) \quad (1)$$

Where Pit,j is the probability that the ith building at time t realizes the jth outcome following a TOPA notice and sale. The possible post-sale outcomes include: (1) the building remains a rental property after the sale and receives no affordable housing subsidies (the base outcome), (2) the building received no affordable housing subsidies prior to sale but was converted to a subsidized affordable rental property following the sale, (3) the building received affordable housing subsidies prior to a sale, and the property continued to receive subsidies following a sale, (4) the building was converted to a condominium, and (5) the building was converted to a limited equity cooperative. Thus, the post-sale outcomes include a combination of outcomes related to ownership status and affordable housing subsidy receipt. We are particularly interested in determining the factors that determine whether a building remains a rental with subsidies added (outcome 2) or a rental with subsidies preserved (outcome 3) post-sale.

The vector of independent variables (Xit) includes a variety of variables measured at the level of the building and the surrounding neighborhood. The building-level characteristics include the age of the building (in years), the number of residential units in the building, dummy variables indicating the year of the TOPA notice issuance, and the number of years between the TOPA notice issuance and the sale of the building.

We account for neighborhood-level features in two ways. The first regression model includes dummy variables for each DC ward, which is an administrative unit within which members of the DC Council are elected. Since ward boundaries closely track census tract characteristics, given DC's historic East-West socioeconomic divide, we do not include ward indicators in models that also include controls for census tract characteristics to avoid multicollinearity. The second regression model includes a variety of variables that describe each building's neighborhood. We include several census tract-level variables from the American Community Survey, including the percent of the population that is non-Hispanic white, the percent of persons living below the poverty line, the median rent, the percent of residential units that are vacant, and the percent of residential units that are renter-occupied. For each of these variables, we include levels in 2010 and changes over the 2010-2020 decade. We also include an additional neighborhood variable that is not measured at the census tract: a dummy

variable indicating whether the building is located within ¼ mile of a WMATA rail transit station. Table 1 displays the source and periodicity for each of these variables.

Although this paper relies primarily on quantitative analysis for the findings, the context for understanding the quantitative data analysis uses data collected both from qualitative interviews conducted by the research team and participant observation in the political and policy process related to TOPA from 2007 to the present, parallelling the relevant period of the quantitative data. Interviews were conducted in 2023 with technical assistance providers, affordable housing developers and policy advocates. The participant observation was conducted by one research team member as a former District government staff member, researcher and advocate with member organizations and nonprofits participating in the TOPA process.

Findings

Increases to the affordable housing stock after a TOPA transaction

We begin with a discussion of the descriptive statistics for the buildings included in the sample (Table 1). The sample includes 653 buildings that sold between 2010 and 2024 and were issued TOPA notices in 2006 or later. Of these, the majority (55%) remained unsubsidized rental buildings post-sale. Of those converted to a different status, 17 percent were converted to condominiums, 2 percent were converted to limited equity cooperatives (LEC), 21 percent were converted to subsidized rental buildings, and 4 percent remained rental properties with subsidies preserved. Thus, one quarter of the sample, or 165 buildings, were preserved with subsidies through the TOPA process. In these buildings, a total of 11,290 units were income-restricted affordable housing using some form of subsidy. Given that the TOPA process provides a mechanism for revisiting, renewing, and adding subsidies through changes in ownership, this finding suggests that TOPA has facilitated the addition and preservation of a substantial number of subsidized affordable housing units to the DC housing stock during a time when rental housing prices were on the rise.

DESCRIPTIVE STATISTICS

Variable Category	Variable Description	Data Source	Mean	Std. Dev.
Dependent Variable: Building Outcome	Condo Conversion	a, b, c	0.175	0.380
	Co-Op Conversion	a, b, c	0.021	0.145
	Rental, Not Subsidized	a, b, c	0.551	0.498
	Converted to Subsidized Rental	a, b, c	0.208	0.406
	Subsidized Rental Preserved	a, b, c	0.044	0.206
Independent Variables, Year of TOPA Notice	2006	a	0.018	0.134
	2007	a	0.009	0.095
	2008	a	0.018	0.134
	2009	a	0.038	0.192
	2010	a	0.061	0.240
	2011	a	0.060	0.237
	2012	a	0.074	0.261
	2013	a	0.090	0.287
	2014	a	0.083	0.276
	2015	a	0.106	0.308
	2016	a	0.084	0.278
	2017	a	0.084	0.278
	2018	a	0.107	0.310
	2019	a	0.095	0.293
	2020	a	0.072	0.259
Independent Variables, Bldg. Characteristics	Years between TOPA notice and sale	a, c	1.628	1.585
	Building age (years)	c	79.283	28.275
	Number of units in building	c	45.617	99.475
Independent Variables, Census Tract Characteristics	% white, 2010	d	25.033	30.018
	% in poverty, 2010	d	19.951	12.284
	Median rent ($s), 2010	d	1,011.691	328.426
	% vacant, 2010	d	14.034	6.827
	% renter occupied, 2010	d	60.354	18.283
	Δ % white, 2010-2020	d, e	4.488	9.995
	Δ % in poverty, 2010-2020	d, e	-1.633	7.483
	Δ median rent ($s), 2010-2020	d, e	419.701	275.374
	Δ % vacant, 2010-2020	d, e	-3.666	6.338
	Δ % renter occupied, 2010-2020	d, e	0.493	8.707
	Within 1/4 mile of Metro station	f	0.159	0.366
DC Ward	1	f	0.144	0.351
	2	f	0.083	0.276
	3	f	0.049	0.216
	4	f	0.172	0.377
	5	f	0.104	0.306
	6	f	0.081	0.273
	7	f	0.210	0.407
	8	f	0.158	0.365

Total Sample Size: 653 (Sample restricted to sale dates >2009)
Data Sources: (a) DC Department of Housing and Community Development (DHCD) Weekly Report on Tenant Opportunity to Purchase (TOPA) Filings (https://dhcd.dc.gov/page/weekly-report-tenant-opportunity-purchase-act-topa-filings), (b) DHCD affordable housing inventory and National Preservation Database (https://preservationdatabase.org/), (c) DC Computer Assisted Mass Appraisal (CAMA) and Integrated Tax System (ITS) databases, (d) U.S. Census 2010 American Community Survey, 5-Year Data [2006-2010, Tracts & Larger Areas], (e) U.S. Census 2020 American Community Survey, 5-Year Data [2016-2020, Tracts & Larger Areas], (f) Open Data DC (https://opendata.dc.gov/)

Table 1: Descriptive Statistics of TOPA Transactions 2009-2024

Macro-level market dynamics impact TOPA notices and timelines

The almost two decades between 2006 and 2024 included significant changes in the housing market, including the top of the housing bubble and the slow down of the financial crisis and the COVID-19 pandemic. Although the financial crisis did not result in large-scale foreclosures across the District due to relatively stable values and cyclical changes during presidential administrations, the volume of sales decreased significantly.

Descriptive statistics for the year of TOPA notice issuance indicate that the frequency of TOPA notices increased steadily between 2007 and 2015, likely corresponding to the recovery of the DC housing market following the Great Recession. After a two-year decline, the number of TOPA notice issuances rose again in 2018, falling thereafter until the onset of the COVID pandemic, reflecting national trends that have seen both a growth in the number of properties being pulled off the market and an overall slowdown in commercial sales (Co-Star Group 2024). The average building in the sample is older (mean = 79 years) and moderately large (mean = 46 units).

On average, 1.6 years elapsed between the issuance of a TOPA notice and the sale of the building, and in at least one building, 5 years elapsed between the TOPA notice issuance and sale. While this finding seems to suggest that the TOPA process slows housing market transactions, even markets without TOPA experience delays, particularly multifamily and commercial markets, which tend to have fewer buyers and sellers and more complicated transactions compared to typical single family home sales. By comparison, a recent analysis by CoStar of the national commercial property market – which includes multifamily along with office, industrial, and retail properties – found that the number of days that the average commercial property remains on the market has varied between a high of 1.23 years (450 days) in July of 2010 and a low of .47 years (173 days) in July of 2024 (Co-Star Group 2024). This comparison suggests that TOPA likely increases the number of days that a multifamily rental property remains on the market, although the degree of delay is difficult to determine without additional analysis that would exclude commercial properties and include local market conditions.

Policy changes

Table 2 presents the results of the multinomial logit regression model with controls for DC wards. We display the multinomial logit regression coefficients and their significance levels along with marginal effects, which are interpreted analogously to the standard Ordinary Least Squares (OLS) regression coefficient, showing the change in the probability of each outcome associated with a one-unit change in a given independent variable, holding other variables constant. As indicated previously, the reference outcome for all regression models is “rental, not subsidized.” Thus, all coefficients and marginal effects quantify the effect of a given independent variable on the likelihood of a building outcome being realized post-sale, relative to the outcome of remaining an unsubsidized rental property.

MULTINOMIAL LOGIT REGRESSION RESULTS, CONTROLS FOR DC WARDS

Ind. Variable Category	Variable Description	Outcome: Condo Conversion		Outcome: Co-Op Conversion		Outcome: Converted to Subsidized Rental		Outcome: Subsidized Rental Preserved	
		Marginal Effect	Coefficient	Sig.	Marginal Effect	Coefficient	Sig.	Marginal Effect	Coefficient	Sig.
Year of TOPA Notice	2007	-0.006	0.220		0.112	1.099		0.127	0.963		-0.162	-41.566	***
	2008	0.069	0.213		-0.096	-17.890	***	0.112	0.424		-0.152	-17.398	***
	2009	0.119	0.348		-0.096	-17.856	***	0.026	-0.169		-0.152	-17.943	***
	2010	0.111	0.606		-0.066	-1.219		0.081	0.473		-0.138	-2.896	
	2011	-0.054	-0.682		-0.039	-0.776		0.041	0.666		-0.024	-0.462	
	2012	-0.050	-1.008		-0.069	-1.887		0.050	-0.269		-0.130	-2.939	**
	2013	0.013	-0.203		-0.071	-1.661		0.088	0.255		-0.123	-2.248	
	2014	-0.005	-0.548		-0.074	-2.018		0.015	-0.399		-0.104	-1.901	
	2015	-0.007	-0.234		-0.068	-1.465		0.067	0.264		-0.052	-0.682	
	2016	-0.186	-16.151	***	-0.061	-1.543		0.151	0.283		-0.061	-1.439	
	2017	0.020	-0.110		-0.096	-17.273	***	0.121	0.447		-0.122	-2.175	*
	2018	-0.063	-0.610		-0.096	-17.560	***	0.259	1.658		-0.126	-2.148	
	2019	-0.062	-1.014		-0.096	-17.588	***	0.082	0.618		-0.090	-1.579	
	2020	-0.045	-0.926		-0.096	-17.560	***	0.069	-0.123		-0.117	-2.328	
Bldg. Characteristics	Years between TOPA notice and sale	0.057	0.610	***	0.000	0.182		-0.010	0.595		0.000	0.148	
	Building age (years)	-0.001	-0.007		0.000	0.018		0.001	0.011	**	0.001	0.031	***
	Number of units in building	0.000	0.007	**	0.000	0.004		0.001	0.010	***	0.000	0.016	***
DC Ward	1	-0.194	-0.261		0.248	13.937	***	-0.178	0.391		0.537	15.923	***
	2	-0.268	-1.842	**	0.252	13.699	***	-0.363	-1.475	**	0.472	13.198	***
	4	-0.170	0.460		0.273	15.720	***	-0.081	1.382	**	0.566	17.248	***
	5	-0.151	-0.534		-0.044	-1.137		-0.147	0.611		0.573	16.142	***
	6	-0.197	-2.110	***	-0.069	-3.606	***	-0.387	-2.344	***	0.486	12.562	***
	7	-0.370	-2.190	***	0.267	14.327	***	-0.179	-0.865		0.625	15.117	***
	8	-0.482	-3.555	***	0.253	13.203	***	-0.248	-0.892		0.577	16.059	***
	Constant		-0.862			-17.239	***		-2.511	*		-20.113	***
	N	653											
	Pseudo R-squared	0.24											

Base outcome: Rental, Not Affordable
Models employ robust standard errors
p<.10 *
p<.05 **
p<.01 ***

Table 2: Multinomial Logit Regression Results, Controls for DC Wards

We find that the timing of post-sale building outcomes has varied over time.

Conversions to LECs were less likely for TOPA notices issued after 2016, while the preservation of subsidized rental properties was less likely for those issued before 2010. This may reflect changing priorities, funding and housing demand, as well as overall volume of affordable housing preservation. In 2002, the District created the Housing Production Trust Fund (HPTF) with a dedicated funding source from 15% of all deed and recordation taxes. As a result, the HPTF was variable based on the volume of transactions (for example, in 2010, at the height of the financial crisis fallout, the fund had $12m, while two years earlier, the fund had $65m). In 2016, after a sustained advocacy campaign, the council and mayor committed a minimum of $100m annually. This amount went as high as $450m with the use of COVID-19 recovery funds. At the same time, the DC Department of Housing and Community Development changed its policy priorities in ways that made LECs for low-income households more challenging to finance and sustain.

Before 2010, a primary pathway for coming into the financing process was through the First Right Purchase Program, which, if selected for off-cycle acquisition funding (ie, outside of the request for proposals process), put the building in the pipeline for rehabilitation funding. Working outside the annual request for proposals process (RFP) required for other non-TOPA forms of preservation enabled rapid response, but would also mean that acquisition and rehabilitation funds committed in one year would be tied up for as long as it took to purchase and renovate a building. This process shifted to making the off-cycle acquisition funding (as well as funds for emergency repairs) a stand-alone option, with rehabilitation funding coming as part of the standard RFP. In 2019 the District created a leveraged acquisition fund to support rapid and flexible acquisition of TOPA properties, with the assumption that permanent and construction financing would come from the RFP. However, technical assistance providers argue that tenant-owned cooperatives are often less competitive if they have significant deferred maintenance, are small, or have households earning less than 50% of area median income because of the increased per unit cost and loan to value ratio.

Building Size and Tenure

As shown in Table 2, several building-level characteristics are associated with particular post-sale building outcomes. For example, TOPA processes that resulted in condominium conversion tend to have a longer sale process, with an average of 2.92 years between a TOPA notice and the sale, compared to unsubsidized rentals (1.27 years). This is due to the fact that condominium transactions are more complicated and require a considerably higher degree of coordination among tenants. We find that older buildings are more likely to be preserved or converted to subsidized rental properties. Given that older buildings are more likely to command lower rents, in virtue of the building's obsolescence, and are most likely to see an increase in rents following a sale

and subsequent renovation, it makes sense that these buildings would be prioritized for affordable housing subsidies. We also find that larger buildings are more likely to be converted to condominiums, converted to subsidized rentals, or preserved as subsidized rentals.

These outcomes are most likely attributable to the difficulty, broadly, of developing small buildings. This difficulty arises in the organizing of tenants, the financing, and ongoing governance. Although large developers often point to small buildings as perceived better options for LECs and low-income housing more broadly, it is generally less feasible than a large building. This is because there are many fixed costs of time and financing that ultimately add up to a higher per unit cost. It takes the same amount of time to organize and provide technical assistance to a small building as a large one, funding mechanisms such as the Low Income Housing Tax Credit and private financing are not built for small buildings, and for those that become condos or coops, the size of the building often means that every family will be on the board within a short time.

Regarding the variability in post-sale building outcomes by DC ward, we find that buildings preserved as subsidized rental properties are more likely to be represented in all wards outside of ward 3 (the omitted ward). This is expected, as ward 3 contains the highest housing prices and smallest supply of subsidized housing in the city, making it comparatively more expensive to preserve affordable housing units in this neighborhood. Buildings are more likely to be converted to subsidized rental properties in ward 4 (and less likely in wards 2 and 6). Ward 4 contains a large supply of unsubsidized affordable housing that is subject to rental price inflation pressures. We find that condominium conversions are less likely in wards 2, 6, 7, 8. Cooperative conversions are more likely in wards 1, 2, 4, 7, and 8 and less likely in Ward 6. These results may be a function of the affordability of the buildings. The location of large rent stabilized properties, as well as large buildings more generally, connects to these findings. In other words, where buildings are large and affordable, especially in places that saw significant activity before 2016, there would be higher LEC activity. Conversely condo conversion relies on a very strong homeowner market and large buildings. While Ward 6 has much of the former, for example, it is limited in the latter.

Submarket Dynamics

While the District and nation as a whole play a role in whether and how buildings are offered for sale, specific submarkets and neighborhood-level characteristics are also necessary to understanding outcomes. Figure 1 displays the location of all buildings in the sample, colored by their post-sale outcomes. Figure 1 also displays the location of each DC ward. As shown in the figure, the most likely building outcome (rental, not subsidized) is distributed throughout the city. Buildings targeted for conversion or

preservation to subsidized rental housing, on the other hand, are concentrated along 14th Street corridor running through wards 1, 2, and 4 and in Anacostia (wards 7 and 8). This latter finding is expected, as these areas contain a large supply of naturally occurring affordable housing units that are subject to rental price inflation pressures. Condominium conversions are scattered throughout the city, while cooperative conversions are largely concentrated in wards 1 and 7. We also find that in the neighborhood with the city's most expensive housing and smallest supply of subsidized rental housing (ward 3) no properties are preserved as affordable rental housing. Most buildings in this ward remain unsubsidized rental properties post-sale.

To get a more complete picture of the influence of neighborhood-level characteristics on post-TOPA building outcomes, Table 3 presents the results of the multinomial logit regression model with controls for census tract characteristics and proximity to transit. We find that while the temporal variability in building outcomes is comparable to the previous model (Table 2), controls for census tract characteristics alter the magnitude and significance of the coefficients on age for several building outcomes. This change in results is likely due to the fact that older buildings are located in neighborhoods with similar observable housing and socioeconomic characteristics. We also find that larger buildings are more likely to be converted to condominiums, converted to subsidized rental properties, or preserved as subsidized rental properties – a finding that compares to the previous model.

MULTINOMIAL LOGIT REGRESSION RESULTS, CENSUS TRACT CONTROLS

		Outcome: Condo Conversion		*Outcome: Co-Op Conversion*		*Outcome: Converted to Subsidized Rental*		*Outcome: Subsidized Rental Preserved*	
Ind. Variable Category	**Variable Description**	**Marginal Effect**	**Coefficient Sig.**	**Marginal Effect**	**Coefficient Sig.**	**Marginal Effect**	**Coefficient Sig.**	**Marginal Effect**	**Coefficient Sig.**
Year of TOPA Notice	2007	-0.033	-0.237	0.113	0.690	0.057	0.449	-0.110	-36.655 ***
	2008	0.073	0.385	-0.172	-18.603 ***	0.161	0.719	-0.110	-17.752 ***
	2009	0.130	0.547	-0.172	-19.415 ***	0.054	0.068	-0.110	-17.675 ***
	2010	0.154	0.982	-0.134	-1.650	0.096	0.639	-0.102	-3.269
	2011	-0.034	-0.593	-0.118	-1.608	0.031	-0.099	0.002	-0.311
	2012	-0.041	-0.837	-0.144	-2.503	0.068	-0.071	-0.084	-2.410
	2013	0.061	0.281	-0.145	-2.221	0.098	0.431	-0.076	-1.696
	2014	0.024	-0.204	-0.150	-2.653	0.029	-0.218	-0.063	-1.547
	2015	0.003	-0.172	-0.145	-2.228	0.079	0.289	-0.021	-0.529
	2016	-0.171	-17.288 ***	-0.129	-1.982	0.139	0.299	-0.034	-0.946
	2017	0.018	-0.196	-0.172	-19.511 ***	0.094	0.209	-0.080	-2.081
	2018	-0.030	-0.379	-0.172	-19.327 ***	0.225	0.922	-0.086	-2.081
	2019	-0.059	-1.044	-0.172	-19.090 ***	0.068	-0.095	-0.050	-1.352
	2020	-0.025	-0.746	-0.172	-19.618 ***	0.043	-0.290	-0.075	-2.102
Bldg. Characteristics	Years between TOPA notice and sale	0.061	0.633 ***	0.001	0.174	-0.008	0.089	-0.001	0.094
	Building age (years)	-0.001	-0.008	0.000	0.027 **	0.000	0.005	0.001	0.032 ***
	Number of units in building	0.000	0.006 ***	0.000	0.003	0.001	0.008 ***	0.000	0.013 ***
Census Tract Characteristics	% white, 2010	0.002	-0.001	-0.002	-0.092 ***	-0.004	-0.032 ***	-0.002	-0.058 ***
	% in poverty, 2010	-0.005	-0.085 ***	-0.001	-0.104 **	-0.012	-0.107 ***	0.002	0.023
	Median rent ($s), 2010	0.000	-0.001	0.000	0.002	0.000	0.000	0.000	0.003 *
	% vacant, 2010	-0.003	-0.050	0.001	0.006	-0.004	-0.049	-0.006	-0.199 ***
	% renter occupied, 2010	-0.002	-0.012	0.000	0.026	0.002	0.015	0.000	0.009
	Δ % white, 2010-2020	0.003	0.021	-0.002	-0.084 **	-0.006	-0.036 **	0.002	0.039
	Δ % in poverty, 2010-2020	-0.005	-0.073 ***	-0.002	-0.123 *	-0.008	-0.079 ***	0.001	0.001
	Δ median rent ($s), 2010-2020	0.000	0.000	0.000	0.003	0.000	0.000	0.000	0.001
	Δ % vacant, 2010-2020	-0.005	-0.073 *	0.001	0.015	-0.002	-0.045	-0.006	-0.189 ***
	Δ % renter occupied, 2010-2020	-0.002	-0.031 *	0.000	-0.008	-0.002	-0.023	-0.001	-0.052 *
	Within 1/4 mile of Metro station	0.042	0.084	-0.004	-0.495	-0.085	-0.712 *	-0.059	-1.915 **
	Constant		1.519		-4.019		0.326		-5.471 **
	N	653							
	Pseudo R-squared	0.24							

Base outcome: Rental, Not Affordable

Models employ robust standard errors

p<.10 *

p<.05 **

p<.01 ***

Table 3: Multinomial Logit Regression Results, Census Tract Controls

Several census tract-level socioeconomic characteristics are associated with a variety of post-sale building outcomes. In census tracts with a larger percentage of white residents, condominium conversions, conversions to subsidized rental properties, and preservation of subsidized rental housing is less likely. We argue that these tracts already have limited affordable housing to preserve. In short, there must be affordable housing in order to keep it affordable. While there have been two potential TOPA preservation deals in Ward 3, those buildings represent two of the only market affordable buildings in the ward. In tracts with higher and increasing poverty rates, condominium conversions, cooperative conversions, and the preservation of rental housing is less likely. While these areas have significant affordable housing resources, that abundance (regardless of the condition of the housing), means that the tenants are either less likely to be displaced because market rents are low or tenants themselves do not organize because they feel they can move to a replacement. Tenants often report poor conditions and safety in these buildings. At the same time, the location or condition of the building would make financing the building challenging. In other words, total development cost - or more specifically, the per unit cost in an area without high land values - would make attracting private financing challenging. In turn, the limitations of private financing would create a larger financing gap for public sources to fill.

Various housing market conditions also influence post-sale building outcomes. In census tracts with higher median rents, buildings are more likely to be preserved as subsidized rental properties, further confirming that the city prioritizes the preservation of rental housing in areas facing rental housing price inflation pressure. In contrast to this interpretation, however, we also find that buildings are less likely to be preserved as subsidized rental properties in census tracts with high vacancy rates (in 2010 levels and in 2010-2020 changes). This latter finding possibly reflects the influence of speculative investors seeking to empty occupied properties in advance of a sale. Finally, we find that buildings are less likely to be converted to condominium status and less likely to be preserved as subsidized rental properties in census tracts that exhibit increases in rental occupancy. The former finding likely reflects the weaker market for owner-occupancy in areas with expanding rental occupancy, while the latter finding likely reflects the enhanced rental opportunities, and hence lower priorities for preservation, in neighborhoods exhibiting expansions of rental occupancy.

A final finding illustrates that the TOPA process has not been successful in creating and preserving affordable housing opportunities in areas adjacent to public transit. We find that buildings within ¼ mile of a Metro station are less likely to be converted or preserved as subsidized rental properties. This is unfortunate, given the benefits of transit for low-income households that do not own automobiles, but is somewhat expected, given the relatively higher housing and land prices in

transit-adjacent areas. It is also expected given that much of the land in the redevelopment areas near metro stations was part of either converted industrial areas, land owned by the District or the Washington Metropolitan Area Transit Authority (WMATA), or has been occupied by commercial uses. In the first two cases, the multifamily is new and largely market rate with the exception of negotiated or mandated affordable housing set-asides.

Discussion

The Tenant Opportunity to Purchase Act, passed in 1980 amid an early wave of gentrification in the District. Although some neighborhoods faced poor housing conditions, others experienced rising condominium conversions and rising demand, all of which created significant housing instability across the city. Preservation of affordable housing is one purpose of the legislation, but it was also designed to encourage tenant organizing, prevent displacement and promote homeownership. However, TOPA is a tenant right that has been used successfully for preservation of affordable housing over the last five decades. This paper examines TOPA as a tool for preservation in Washington, DC.

Following Howell (2021), we find that preservation in Washington, DC is dependent on policies, including TOPA; flexible funding; existing housing to preserve; and robust governance networks. TOPA, we find, is a critical tool to support affordable housing preservation. Yet here we expand on these broad findings to look at the mechanisms related to TOPA's specific use as a preservation tool. We find that TOPA processes resulted in the expansion of Washington, DC's subsidized affordable housing stock by creating opportunities to add long term covenants on buildings that had been previously unsubsidized. At the same time, nearly all subsidized buildings that went through a TOPA process remained subsidized after their sales.

TOPA, particularly, supported preservation in areas in gentrifying neighborhoods, as defined by the increase in income and rents. Because TOPA applies to all multi-family buildings in the city and is triggered through an offer of sale, it responds to market dynamics, particularly areas where returns on investment could be seen as advantageous. This suggests that TOPA - and, in particular, in affordable buildings and neighborhoods - may be a critical early warning system for anti-displacement efforts. In other words, gentrification is often measured through lagging indicators such as median income, education and racial composition of the neighborhood (Finio 2023; Peng, Knaap, and Finio 2023) and often retrospectively (Richardson, Mitchell, and Franco 2019). Yet being attentive to early investor behavior in affordable housing could provide a critical opportunity to engage proactively to prevent displacement through targeted tenant and landlord outreach, focused investment and tracking of building conditions and market engagement (K. Howell 2017).

In this case, TOPA also reflected historic patterns of zoning, affordable housing construction and disinvestment. Ward 1, which has gentrified rapidly over the last two decades, was also home to two corridors impacted by the uprisings following the assassination of Dr. Martin Luther King, Jr in 1968. They subsequently became Urban Renewal Areas, which drove the construction of new affordable housing and the preservation of existing unsubsidized but affordable buildings in the 1970s and early 1980s. Conversely, Ward 3, which is home to just three subsidized buildings, has been zoned for low-density from DC's earliest zoning laws (Lindholm 1935). The result is that there are few buildings to preserve, and high acquisition costs for those that exist.

TOPA's reflection of market dynamics also leads to its complicated position within the housing ecosystem. Indeed, TOPA is alternatively critiqued as excluding low income households who cannot compete (Gallaher 2016) and as a way of codifying a right to the city (Huron 2018; K. Howell 2016a). At the same time, other opponents of TOPA argue that the rights given to tenants reduce the District's investability because TOPA adds too much time to the development timeline. In other words, investors feel like it takes too long to take their money from the project. Unfortunately, while this is a frequent complaint from developers, further research would be needed to know whether the District's timeline is outsized for the regional multifamily market. However, an analysis of construction data for the region by the Urban Institute suggests that the timeline is not impacting new construction. The District drove regional production with more than a third of regional housing production. In fact, DC's housing production was higher than the region's three most populated jurisdictions combined (Palmer 2025). What is clear through our analysis is that more complex transactions, such as condominiums, do increase the timeline significantly in comparison to rental transactions, as would be expected due to the need to engage with individual owners.

The analysis suggests that, while TOPA can be an important tool to access the market and preserve affordability, it is impacted by funding and policy decisions by the District government, echoing Howell's argument that while TOPA is a necessary way of opening opportunities, it alone cannot preserve housing (K. Howell 2016a). Once the opportunity has been created, our research suggests that preservation projects will face the same challenges related to building size (Garboden and Newman 2012; Bennett 2020), developer capacity, availability and flexibility of gap financing (Treskon and McTarnaghan 2016) and deferred maintenance (Garboden and Newman 2012). Our analysis suggests that the policy priorities therefore play a critical role. In DC, the expansion of the housing trust fund, funding of technical assistance providers and shift in the entry point for projects changed, in various ways, the volume of buildings, ownership structure and affordability.

Conclusion

Although designed as a right, rather than a housing program, Washington, DC's Tenant Opportunity to Purchase Act has been a critical tool for preservation over roughly a quarter of all multifamily buildings sold over the last 20 years - the bulk of which were unsubsidized before they were sold. These buildings were preserved in areas where neighborhoods are changing rapidly, supporting anti-displacement efforts that make preserving communities possible. Our analysis suggests that, because TOPA operates universally across the multi-family market, it creates opportunities where traditional affordable housing developers and tenants may not have access due to the fast pace of real estate transactions. Specifically, because tenants have the right to decide who and how their buildings are purchased, it creates incentives to keep buildings affordable if they wish to have access to the market.

While TOPA is unique to a few jurisdictions across the country, the need for universal ways to intervene in multifamily housing is a critical lesson for preservation.We argue that TOPA is a proactive tool that provided universal access to the market, particularly in hot markets, both to tenants and, through tenants, affordable housing developers. While a tenant right often faces political headwinds, the larger principles of universal and proactive market access could also include a jurisdictional right of first refusal, proactive engagement with landlords or incentives to add affordability covenants ahead of a sale. These, paired with a tenant engagement component have the potential to ensure both affordability and just outcomes for those who call these buildings home. Future research should evaluate the differences between these approaches to better understand the opportunities for preservation.

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