

LAND DEVELOPMENT

25 Attachment 4

Township of Aberdeen

**Appendix B
(Subsection 25-6.7g3)
[Ord. No. 24-1990]**

**OPTION TO BUY OR SELL AN AFFORDABLE
HOUSING UNIT TWENTY (20) YEARS FROM THE
DATE OF ITS INITIAL PURCHASE BY A "LOW INCOME FAMILY" OR A
"MODERATE INCOME FAMILY"**

A. Township of Aberdeen Option to Purchase:

1. If the Agency, as an entity of Aberdeen Township, elects to purchase a "low" or "moderate" income unit pursuant to Subsection g,3 of this Ordinance, it may:
 - a. Sell or rent the housing unit to a "low" or "moderate" income purchaser or tenant at a price or rent not to exceed the maximum allowable restricted sales price or rental for a period of up to twenty (20) years.
 - b. Sell the Affordable Unit at fair market value subject to the deposit of the price differential in a trust account devoted solely to the creation, rehabilitation or maintenance of "low" or "moderate" income housing. Price differential is defined as the difference between the restricted sales price and fair market value as determined at the date of a proposed contract of sale after reasonable real estate broker fees have been paid.

Money in the trust account may not be expended until the Agency develops a plan for its use which is approved by the Township Council.
2. In the event the Township of Aberdeen elects to purchase a "low" or "moderate" income housing unit and sell it at fair market value, the Township shall:
 - a. Notify COAH of any proposed sale and resales price ninety (90) days before closing.
 - b. Notify COAH of the price differential.
 - c. Deposit the price differential in a trust account devoted solely to the creation, rehabilitation or maintenance of "low" and "moderate" income housing; and
 - d. Notify COAH by February 1 of each calendar year of the existing balance within the trust account.

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3. Money deposited in trust accounts may not be expended until the municipality submits and COAH approves a repayment housing plan which provides a realistic opportunity for the creation, rehabilitation or maintenance of "low" and "moderate" income housing.
4. The Township of Aberdeen shall have the right to determine that the most desirable means of promoting an adequate supply of "low" and "moderate" income housing is to prohibit the exercise of the repayment option and maintain controls on lower income housing units sold within the municipality beyond the period required by this Ordinance. Such determination shall be made by resolution of the Township Council. The resolution shall specify the time period for which the repayment option shall not be applicable. During such period, no seller in the municipality may utilize the repayment option permitted by Section D. of this Appendix.

If the Township of Aberdeen exercises the option outlined above, it shall:

- a. Provide public notice in a newspaper of general circulation; and
- b. Notify the Agency of its action. The Agency shall ensure that the deed restriction on all affected housing units reflect the extended period of controls.

B. State Option To Purchase:

When DCA or HMFA elects to purchase a "low" or "moderate" income unit pursuant to this section, it may:

1. Sell or rent the housing unit to a "low" or "moderate" income purchaser or tenant at a price or rent not to exceed the allowable restricted sales price or rental; or
2. Sell the unit at fair market value and utilize the price differential to subsidize the construction, rehabilitation or maintenance of "low" and "moderate" income housing within the appropriate housing region.

C. Non-Profit Option To Purchase:

Non-profit agencies that have been designated by COAH shall be eligible to purchase "low" or "moderate" income units pursuant to this section for the sole purpose of selling or renting the housing unit to a "low" or "moderate" income purchaser or tenant at a price or rent not to exceed the allowable restricted sales price or rental. "Low" income units shall be made available to "low" income purchasers or tenants and the housing unit shall be regulated by the restrictive covenant and lien adopted by COAH. The term of the controls on affordability shall be the same as those required by this Ordinance.

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D. Owner Option To Sell:

An eligible seller of a "low" or "moderate" income unit which has been controlled for the period established in this plan who has provided notice of an intent to sell may proceed with the sale if no other eligible entity exercises its option to purchase within ninety (90) days.

1. The seller may elect to:
 - a. Sell to a qualified "low" and "moderate" income household at the controlled unit sales price, providing the unit is regulated by the restrictive covenant and lien adopted by the Agency for a period of up to twenty (20) years; or
 - b. Exercise the repayment option and sell to any purchaser at market price, providing that ninety-five percent (95%) of the price differential is paid to the Agency, as instrument of the municipality, at closing.
2. If the sale will be to a qualified "low" and "moderate" income household, the Agency shall certify the income qualifications of the purchaser and shall ensure that the housing unit is regulated by the restrictive covenant and lien required by the Agency.
3. The Agency shall examine any contract of sale containing a repayment option to determine if the proposed sales price bears a reasonable relationship to the housing unit's fair market value. In making this determination, the Agency may rely on comparable sales data or an appraisal. The Agency shall not approve any contract of sale where there is a determination that the sales price does not bear a reasonable relationship to fair market value. The Agency shall make a determination within twenty (20) days of receipt of the contract of sale and shall calculate the repayment option payment.
4. The Agency also shall adopt an appeal procedure by which a seller may submit written documentation requesting the Agency to:
 - a. Recompute the repayment obligation if the seller believes an error has been made; or
 - b. Reconsider a determination that a sales price does not bear a reasonable relationship to fair market value.

A repayment obligation determination made as a result of an owner's appeal shall be a final administrative determination by the Agency.

5. The repayment shall occur at the date of closing and transfer of title for the first nonexempt transaction after the expiration of controls on affordability.

Repayment proceeds shall be deposited in a trust account devoted solely to the creation, rehabilitation or maintenance of "low" and "moderate" income housing.

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Money deposited in trust accounts may not be expended until the Agency develops and obtains Township Council approval of a plan for its use.

E. Continued Application of Options:

When a housing unit has been maintained as a "low" or "moderate" income unit after controls have been in effect for the required time period, the restrictive covenant governing the housing units shall allow the Township, the State, non-profit agencies and sellers of "low" and "moderate" income units to again exercise all the same options as provided in this Appendix of this chapter.