

SALE TO TENANT SCHEME POLICY

1. Introduction

The Affordable Housing Action Plan 2007 was introduced in April 2007. The Action Plan outlined several objectives and initiatives to improve access to affordable Housing in the ACT. One of the strategies contained in the plan is aimed to encourage public housing tenants to consider their home ownership options.

The Sale to Tenant Scheme has been in operation since 1991. During this time, the scheme has experienced minor administrative refinement but has fundamentally remained the same. In order to meet the Affordable Housing Action Plan objectives, a review of the Sale to Tenant Scheme has been undertaken, resulting in the development of this policy document.

2. Scheme Objectives (Purpose and Scope)

The objective of the Sale to Tenant Scheme is to:

- Provide a home ownership opportunity to public housing tenants;
- Relinquish assets to generate additional funding for the rejuvenation of the public housing stock portfolio through acquisition, construction and/or refurbishment;
- Encourage higher income earning tenants to consider home purchase as an option, thereby releasing funds to facilitate the increase in supply of appropriate housing for those tenants with a greater financial need;
- Procure appropriate replacement housing targeted at prospective tenant needs.

3. Program Targeting

The Sale to Tenant Scheme will be targeted at tenants who:

- Register an interest in home ownership;
- Pay full market rent; including those with a sustained income of over \$80,000 per annum
- Reside in areas with high stock levels;
- Reside in properties that have been identified for sale in order to meet Public Housing Management Strategies.

4. Eligibility Criteria

To meet the Sale to Tenant eligibility criteria, applicants must:

- Be a current head tenant and occupant of the dwelling that they are applying to purchase;
- Be a signatory on the tenancy agreement relating to the property in which they are applying to purchase;

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- Have been a continuous public housing tenant for at least 3 years prior to registering an interest in purchasing the property;
- Have no rental arrears or legal action pending regarding tenancy matters; and
- Agree to be registered on the Certificate of Title as owning a minimum of 50% of equity in the property (“tenants in common”).

5. Properties excluded from sale

Housing ACT reserves the right to refuse to sell a property and retains absolute discretionary power when determining if a property is available for sale or not. To determine whether a property is available for sale, and to comply with the Public Housing Asset Management Strategy, the following factors will be considered:

- The age of the property;
- The size of the property (number of bedrooms);
- The location of the property (suburb);
- The current percentage of stock (level of ownership) in the suburb;
- The demand and turnover rates for Housing in the suburb;
- The availability of replacement properties;
- The level of maintenance expenditure over the preceding 5 years.

Properties **will not** be sold if they meet the following criteria:

- They are not separately titled, for example, flats;
- The level of stock holdings in the suburb is less than 5% and a suitable replacement property is unlikely to be sourced;
- Properties that are less than 10 years old, (based on construction date, not acquisition date), unless there are particular circumstances taken into account by Housing ACT;
- Maintenance works funded by Housing ACT over the past 3 years exceeds 25% of the value of the dwelling (not including the land component).

Properties **may not** be sold if they meet the following criteria:

- Larger properties where Housing ACT cannot meet the stock replacement objectives;
- Properties with potential future redevelopment options;
- Properties with a potential for upgrading;
- Properties that are hard to replace due to current market activity;
- Properties that are situated in an RZ2 to RZ5 or similar zone that allows higher density development (sub division and separate title zone);
- Housing ACT wishes to, but prospective purchasers are unwilling to, accept the inclusion of a “buy back” clause on the contract for sale.

INFORMATION SHEET



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5.1 Right to buy back

Due to the limited properties available in the open market to replace stock, Housing ACT may reserve the right of first refusal to buy back the property if it is to be sold within a period of 5 years.

To facilitate the process, the sales contract may be altered to include a “buy back” clause and Housing ACT will be responsible financially for arranging a Caveat to be placed on the title/lease.

If the tenant chooses to sell the property within 5 years of purchase, Housing ACT will determine if they wish to re-purchase the property. If Housing ACT opts not to proceed with purchase, Housing ACT will be responsible for the cost of removing the caveat.

If Housing ACT proceeds with the purchase, the purchase price is to be arranged and assessed by an accredited valuer at the prevailing market value, at Housing ACT cost.

6. Review of Decision

Should the tenant disagree with the decision of Housing ACT not to sell the property, the tenant is entitled to a Review of Decision. The first level of review is by a senior officer in the area where the original decision was made. The Review of decision request must reach Housing ACT within 28 days from the date of the advice letter. The tenant will be advised in writing of the outcome of this review in accordance with the Review of Decision process.

7. Process

7.1 Administration of the Sale to Tenant Scheme

Housing ACT administers the Sale to Tenant Scheme including all associated promotional and policy information. A Sale to Tenant Kit is available on request to tenants interested in purchasing their ACT Government home. The Kit contains information relating to the scheme and includes a “Registration of Interest Form”, which is the first step in commencing the application to purchase a government property. On receipt of the form, Housing ACT will assess the tenant eligibility to purchase and commence the property assessment to determine if the property is available for sale.

7.2 Determining property availability

The Sale to Tenant Scheme seeks to facilitate home ownership for tenants unless the specific property is required for the overall management of the public housing stock. Housing ACT will determine if the property is available for sale using the criteria outlined in Section 5: Properties excluded from sale.

7.3 Properties not available for sale

If it is determined that the property is not available for sale, Housing ACT will notify the tenant in writing.

Decisions made by Housing ACT in relation to the sale of its assets is final, and will be based on this Sale to Tenant Policy document and the Public Housing Asset Management Strategy 2012-2017.

7.4 Properties available for sale

If it is determined that the property is approved for sale to the tenant, Housing ACT will advise the tenant in writing. The advice letter is aimed to assist the tenant to determine, prior to committing any funds, whether they can afford to proceed to the next step.

The advice letter will include up to date information regarding recent sales activity in the area and will advise the average sale price for properties in the Inner Central, Inner South, outer South, West and North, figures derived from the quarterly Real Estate Institute of Australia Market Facts report.

Included with the advice letter will be a "Proceed with Market Valuation form", which is to be completed by the tenant and returned to Housing ACT if the tenant chooses to proceed with the purchase.

Tenants are also encouraged to conduct their own investigations into the current status of the sales market, however, should they choose to formalise this course of action, it will be at their own expense and Housing ACT will be under no obligation to use a valuation provided by tenants.

A non-refundable valuation deposit of \$300.00 is required with the form. The receipt for payment must be attached to the Proceed to Valuation form and returned to Housing ACT for the sale process to progress. The payment of \$300.00 is non-refundable should the tenant withdraw from the purchase at any stage in the process. However, it will act as a partial deposit and will be credited to the purchaser at time of settlement. (See also 6.8: Assurance payments)

When completing the "Proceed with Market Valuation form", the tenant is requested to declare their list of any assessable improvements.

7.5 Tenant improvements

Tenants may apply to have the added market value of assessable improvements they have made to the property deducted from the sale price. A member of the panel of qualified valuers, engaged by Housing ACT to provide this service, will assess the value of the improvements. The assessment of improvements will be based on the value they add to the property, not the cost to the tenant.

INFORMATION SHEET



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Assessable tenant improvements

The following list explains what will be assessed as a tenant improvement:

External

Swimming Pool (In-ground)

Pergola

Decking

Shed

Carport

Garage

Internal

Ducted Air conditioning

Ducted Heating

Built in robes

Where items listed above require building approvals from relevant agencies, tenants are required to produce these at the time of the valuation inspection by the appointed valuer. If the approval is not produced, the items will not be considered by the valuer as an improvement and will not be deducted from the sale price.

Non-assessable tenant improvements

These items will not be included as tenant improvements

- Floor coverings: These are provided by Housing ACT and even if the tenant has replaced them at their own cost, there is no added value to the property.
- Painting: Provided by Housing ACT and even if the tenant has repainted at their own cost, it does not add value to the property.
- Fencing: Housing ACT provides these, and if the tenant has replaced at their own cost, there is no added value to the property.
- Dishwasher.
- All landscaping (including any paving, retaining walls, concrete and brickwork).
- All items not listed as “assessable tenant improvements”.

7.6 Property valuations

On receipt of the “Proceed with Market Valuation Form”, including the declared list of tenant improvements and the payment of the initial non-refundable \$300.00 valuation deposit, Housing ACT will instruct one of its contracted valuers to conduct the valuation.

The valuer will arrange a mutually convenient time to meet with the tenants at home, reminding them to have building approvals ready for him/her to witness while inspecting the property. Housing ACT may at any time request copies of the approvals. The valuer will compile the valuation report, taking into consideration the approvable tenant improvements and forward it to Housing ACT for evaluation and consideration of the report.

INFORMATION SHEET



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Important factors considered by the valuer when compiling the report to determine the sale price include:

- Property type i.e. dual occupancy
- Site area (size of block of land)
- Land value (excluding property value)
- Size of building
- Property value (excluding land value)
- Construction date
- Comparable sales evidence
- Level of market activity in the area
- Market value price range

Housing ACT will advise the tenant of the sale price in writing and will at this time, request a further non-refundable assurance payment of \$700.00 to cover the costs associated with obtaining the building, pest and energy reports. The payment of \$700.00 is non-refundable, should the tenant withdraw from the purchase at any stage later in the process, however this fee will act as a partial deposit and will be credited to the purchaser at time of settlement. (See also 6.8: Assurance Payments).

7.7 Contracts (Pest, Building and Energy Rating Reports)

On receipt of the final payment of \$700.00 assurance deposit, Housing ACT will arrange for a building report to be prepared. When the Building Report is received, Housing ACT will instruct one of its solicitors to prepare the Contract package including the Building Report. The solicitors will prepare contracts including all required building, pest and energy rating reports in compliance with the Civil Law (Sale of Residential Property) Act 2003.

The purchaser will be responsible at time of settlement for paying for these reports under the Civil Law (Sale of Residential Property ACT) 2003. The cost of the building, pest and energy reports will be approximately \$800 and is to be met by the purchaser at time of settlement.

7.8 Assurance Payments

The total fees payable by tenants to Housing ACT for the Sale to Tenant process is \$1000.00. This amount is non-refundable if it does not reach settlement, however at time of settlement, the \$1000.00 is treated as a deposit and will be deducted from the full purchase price.

The \$1000.00 deposit is made up of the following:

- Valuation Deposit non-refundable – \$300.00 to be paid on receipt of the advice from Housing ACT that the property has been assessed as available for sale
- Assurance Deposit non-refundable - \$700.00 to be paid on notification of the sale price

INFORMATION SHEET



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Tenants must make their own arrangements in relation to obtaining finance.

At settlement, tenants are responsible for the payment of any adjustments in rent, general rates, water and sewerage rates and the cost of the building, pest and energy rating report.

8. Ongoing Maintenance

On receipt of the assurance payment of \$700.00 and prior to Housing ACT arranging for the building inspection assessment, Housing ACT will formally advise both the tenant and the Total Facilities Manager, that all maintenance including planned maintenance to the property, other than health, safety and security issues, will cease.

9. Home Buyer Concession Scheme

With the introduction of the 2007 Affordable Housing Action Plan, the ACT Government, Department of Treasury has implemented increased homebuyer concessions from 1 July 2007. This Scheme is administered by the ACT Revenue Office and will be subject to change.

Information regarding this scheme and other associated grants aimed at assisting those interested in home purchase can be obtained from ACT Revenue Office.

Further Information

For more information, contact the Community Services Directorate on 133 427.

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