



# Real Property, Housing, Land Use Section

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## Legislative Highlights 2016-2017

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# New Zoning Laws

- Discussed at length last year
- Nice tool at <http://maps.dcoz.dca.gov>
- Direct link to Google World for aerial photos



# Vacant/Blighted Notice Changes

- Last year we reported that notices now need to be placed on the building.
- **Bill B21-527** still pending:
  - No re-inspections required after initial designation
    - Owner must apply for exemption which may prompt re-inspection
  - List of Vacant Properties at:  
<https://dcra.dc.gov/publication/blight-and-vacant-buildings-list>
- Limitations on Exemptions **L21-200** eff. 2/18/2017
  - Exemption limited to 1yr on residential w/possible 6-month extension if active construction
  - Exemption limited to 2 years on commercial, no extension

# Residential Landlord Limitations

- Landlord's reasonable access to unit curtailed to these (absent emergency), otherwise breach of tenant's right to quiet enjoyment:
  - Keep property safe from damage
  - Duty to inspect
  - Duty to make necessary or agreed repairs
  - Duty to supply necessary or agreed services or maintenance
  - Need to show to prospective purchasers, lenders, tenants, workmen
- Only between 9 a.m. – 5 p.m. (no federal holidays or Sundays)
- Tenant can go to court and may assess damages for breach of quiet enjoyment

# More Landlord Limitations

- **Some limitations on lease requirement that Tenant give more than a 30-day notice of intent to vacate after expiration of initial term.**
- **Lease may reserve L's right to consent to sublet, in abs. discretion, but written clause required.**
- **[L-21-0210](#) Eff. 2/18/2017**

# Residential Late Fees

- 5% of rent max
- Only if Lease SAYS 5% is the max
- No less than 5 days late
- No interest on late fee
- No deduction from subsequent rent pymts
- No eviction for nonpayment of late fee
- No late fee if rent subsidy is late
- [L21-172 eff. 12/8/2016](#)



# TOPA 5-units or More

- Offer of Sale in connection with demolition or discontinuance of housing use, in the absence of a 3<sup>rd</sup>-party contract; offering price to be subject to:
  - Appraisal may only be based on owner's matters-of-right (cannot take into account possible zoning changes, etc.)
  - Highest and best use may be considered
  - Owner has burden of proof to show that an offer of sale is bona fide
  - Tenant organization may contest.
    - The Mayor would select an appraiser (Landlord pays 2/3 and tenants pay 1/3)
    - Time limits and procedures set out.
- [L21-0063](#) eff. 2/26/16

# 4-Unit Rent Control Exemption

- Exemptions for:
  - for 4 or fewer units (only humans, not trusts)
  - Built after 1975 or vacant since 1985
  - Nursing homes, dorms, etc.
- New law says no exemption if the owner got the property through a TOPA-exempt transfer under 42-3404.02(c)(2)



# Not Exempt from Rent Control

- Even if owner WOULD have been exempt, he is not exempt if he derived title as follows:
  - Spouse of Decedent
  - Intervivos transfer to family
  - Pursuant to a court order
  - (Call into the Gen Counsel to confirm)
  - DC Law 21—270 eff. When budgeted)

# Short-Term (AirBNB)

- Legislation Pending
- Basic Business license plus new license
- Record retention requirements
- Establish requirements
- Condo Assn concerns
  - Declaration/Rules could change
- [Bill 22-92](#)

# Stop Work Orders

- Proposed Legislation
  - Add to Seller’s disclosure “any stop work orders issued during your ownership”?
- [B22-31](#)

# Definition expanded: DC First-Time Homebuyer

- Divorced person who did not get property incident to the divorce
- Property now includes co-ops
- Only bona fide residents of DC

# Two Tiers of Recordation Tax

- There is a recordation tax and a transfer tax
- Each was 1.45% (but 1.1% for residential properties less than \$400,000).
- Recordation Tax is reduced for First-timers
- If household income is less than \$195,480, (based on Area Median Income) recordation tax reduced to .725%.
- [L21-268](#) Eff. Anticipated in late June when Budget Support Act funding is finalized

# Lower Income Abatement Program

- The Lower Income Abatement Program (covering people with much lower income levels) continues unabated.
- 47 D.C. Code 3503(a) et seq.
- Also HPAP assistance increased from \$50K to \$80K, some deferrals until sold.

# Condo Fee Foreclosure

- Current law is that condo-fee foreclosure trumps 1<sup>st</sup> deed of trust.
- Proposed bill would establish a Condo Assn. Advisory Council of 14 members
- Special language required in notices of foreclosure (and font size)
- Notices by first class mail AND by a delivery service providing tracking information.

# Condo Fee Foreclosures

- Copy of Notice to: [L21-241](#) Eff. 4/17/17
  - Mayor
  - All junior lien holders
  - Holder of a FIRST deed of trust
- The Condominium Association Bill of Rights and Responsibilities
  - Right to attend or observe most “meetings”
  - Right to demand quorum
  - Right to an executive board - fiduciary



# Summary Foreclosures of Vacant Abandoned Property

- Proposed – If lender can show a judge that property is vacant and abandoned (and not under construction)
- Foreclosure could occur 60 days after foreclosure judgment (process server must try 2 times)
- No summary proceeding if an answer is filed or property not abandoned or vacant.
- [B22-182](#)

# THANK YOU

## Two Valuable Resources to you:

Chart of Pending/Recent Legislation

On our firm's website under Publications

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