



This Fact Sheet is intended to help property owners understand their rights and responsibilities under Affordable Housing Preservation Laws.

Introduction and Overview

When the owner of a California rental housing development that has rental restrictions – known as an Assisted Housing Development – seeks to terminate these rental restrictions (including by expiration of a deed restriction, prepayment of a mortgage, or sale of the development), the owner is generally subject to the state's Affordable Housing Preservation Laws (AHPL).

In brief, this law requires the owner to provide specified notices to the California Department of Housing and Community Development (HCD), the local government, local housing authority, and existing and prospective tenants beginning three years prior to the end of affordability. All notices must be provided on an HCD-approved form. If notices are not timely issued, the affordability restrictions must be extended until the required notice time has been met.

In addition to noticing requirements, AHPL gives, among other things, a right of first refusal to certain potential buyers that are determined to be a "Qualified Entity" (QE) by HCD and that are willing to maintain the affordability of the property.

Two important stakeholders are defined below.

Affected Public Entity (APE) vs. Qualified Entity (QE): An APE is a stakeholder who generally does not hold an interest in the property but is entitled to notice. APEs are the mayor of the city or the chair of the board of supervisors of the county, a local public housing authority, and HCD. On the other hand, a QE is a stakeholder certified by HCD as capable of operating the housing and related facilities. A QE can be a tenant association, a local non-profit or public agency, a regional/national non-profit or public agency, or a for-profit housing developer that has obtained certification from HCD.

Note: Some foreclosures that terminate affordability restrictions may still trigger AHPL requirements, including notifying HCD with a notice of default. Check with HCD if you're unsure whether AHPL applies to your situation.

Three-Year Notice

Three years prior to expiration of rental restrictions, scheduled termination of a subsidy



contract, or prepayment of a mortgage, the owner must provide a [three-year notice](#)¹ to:

- prospective tenants at the time the prospective tenant is interviewed for eligibility,
- each affected tenant household in the property via posting the notice in an accessible location on the property, and
- APEs.

Twelve-Month Notice

At least 12 months prior to expiration of rental restrictions, termination of a subsidy contract, or prepayment of a mortgage, the owner must provide a [twelve-month notice](#)² to:

- prospective tenants at the time the prospective tenant is interviewed for eligibility;
- each affected tenant household on the property, via first-class mail; and
- APEs, via email or first-class mail.

Notice of Opportunity to Submit an Offer to Purchase (NOSOP)

Prior to, or concurrent with, the 12-month notice (or any time the owner plans to sell the property during the five years prior to the end of affordability), the owner also must generally provide QEs with a [NOSOP](#).³ Even if an owner does not intend to sell the property but intends to terminate a subsidy or prepay the mortgage, the owner must issue the NOSOP. This gives affordable housing buyers the opportunity to submit an offer to purchase the development and keep it affordable during a 270-day offer period. The owner must send this notice to:

- Geographically relevant QEs, via certified mail;
- QEs that directly contact the owner, via certified mail;
- HCD, via email or first-class mail;
- Each affected tenant household on the property via posting the notice in an accessible location on the property; and
- APEs.

270-Day Offer Period Requirements

The issuance of the NOSOP initiates a 270-day offer period, exclusive to QEs. **During this 270-day period, beginning with the date included in the owner's NOSOP, the owner may only consider purchase offers received from QEs.** If the owner receives a bona fide, market value offer from a QE during this period, then the owner must notify HCD within 90 days that they have received a purchase offer. The owner has two

¹ Three-year notice: <https://www.hcd.ca.gov/sites/default/files/docs/policy-and-research/three-year-notice-template.pdf>.

² Twelve-month notice: <https://www.hcd.ca.gov/sites/default/files/docs/policy-and-research/twelve-month-notice-template.pdf>.

³ NOSOP: <https://www.hcd.ca.gov/sites/default/files/docs/policy-and-research/nosop-template.pdf>.



options:

- Either accept one of the bona fide offers from a QE and execute a purchase agreement, or
- Record a new regulatory agreement with a term of at least 30 years to maintain affordability of the assisted housing development pursuant to Government Code section 65863.13, subdivision (a).

In addition, if the owner receives any bona fide offers from a QE in these 270 days, they must take all reasonable steps to renew any expiring housing assistance contracts or extend any available subsidies or use restrictions.

No Bona Fide Offer from a Qualified Entity Within 270 Days

If an owner does not receive a bona fide offer from one or more QEs after the date included in the owner's NOSOP, or if after the 270-day offer period, all bona fide offers are withdrawn, the owner may do any of the following:

- Sell the property to any buyer. If the property is sold to a non-QE, the owner must record a compliance certification prior to the close of escrow. Contact HCD via the Affordable Housing Preservation Portal, available at [HCD's Preservation webpage](#)⁴ for a copy of the compliance certification template.
- Extend the affordability restrictions for any period of time.
- Maintain ownership of the property and allow the expiration, termination, or prepayment to occur at the end of the notice periods specified in Section 65863.10.

The [270-Day Offer Period: Owners & Buyers of Affordable Projects](#) Fact Sheet shows a flowchart for the 270-day offer period.

Six-Month Notice

At least six months prior to expiration of rental restrictions, termination of a subsidy contract, or prepayment of a mortgage, the owner must provide a [six-month notice to tenants](#)⁵ to:

- Prospective tenants at the time the prospective tenant is interviewed for eligibility,
- Each affected tenant household in the property, and
- APEs.

The owner must provide a second, separate notice only to APEs using this template: [six-month notice to APEs](#).⁶ This notice must be concurrent with the six-month notice to

⁴ HCD's Preservation Webpage: <https://www.hcd.ca.gov/policy-and-research/preserving-existing-affordable-housing>.

⁵ Six-month notice: <https://www.hcd.ca.gov/sites/default/files/docs/policy-and-research/six-month-notice-template.pdf>.

⁶ Six-month notice to Affected Public Entities:

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Government Code Sections 65863.10, 65863.11, and 65863.13

tenants and provides project-level information.

The six-month notice must also include a [Tenant Advisory and Options](#)⁷ form that provides tenants additional information regarding the notice and resources available to them.

In addition, owners must notify each affected tenant household *within seven business days* of any significant change in the information provided in the original six-month notice.

Noticing Timeline Example

Example: Noticing Timeline for Main Street Apartments

Main Street Apartments is a hypothetical Assisted Housing Development. With the upcoming affordability expiration date of December 31, 2027, the owner is obligated to provide the following notices by the listed dates. For additional support, the owner may contact HCD in advance of each deadline to request technical assistance.

Expiration of Affordability	December 31, 2027
3-Year Notice Due	December 31, 2024
12-Month Notice Due	December 31, 2026
NOSOP Due	December 31, 2026 or before
6-Month Notice Due	June 30, 2027

Annual Owner Compliance Certification

Owners of Assisted Housing Developments in which at least five percent of the units are subject to affordability restrictions or a rent or mortgage subsidy contract are required to certify to HCD annually that they are in compliance with Affordable Housing Preservation Laws. To complete the Annual Owner Certification via the Affordable Housing Preservation Portal, visit [HCD's Preservation webpage](#).⁸

<https://www.hcd.ca.gov/sites/default/files/docs/policy-and-research/six-month-notice-ape-template.pdf>.

⁷ Tenant Advisory and Options: <https://www.hcd.ca.gov/sites/default/files/docs/policy-and-research/tenant-advisorynotice.pdf>.

⁸ HCD's Preservation Webpage: <https://www.hcd.ca.gov/policy-and-research/preserving-existing-affordable-housing>



HCD may request information from counties and cities that provide financial assistance to owners of projects.

Exemptions

An owner is exempt from AHPL if they sell the property to a QE or other buyer who maintains the rental restrictions on the property and meets all other specified criteria.⁹ Certain other transfers, including eminent domain and foreclosure, are also exempt.¹⁰

Certain locally funded projects in which 30 percent or fewer of the total units are rent restricted must still issue Tenant and APE notices but are exempt from issuing a NOSOP. See Government Code sections 65863.11, subdivision (q) and 65863.10, subdivision (a)(3)(N).

Enforcement

If an owner violates AHPL, the affected tenant association or affected household, a group of affected tenants that meets the requirements of a legitimate tenant association as defined in federal regulations, or a tenant association, among others, may go to court and seek injunctive relief. The courts may deem injunctive relief to include continuation of the affordability program, repayment to tenants of any rent paid above the allowable limits, and attorney's fees and costs. These stakeholders may also notify HCD, which may refer violations of these laws to the California Office of the Attorney General.

Effect of Noncompliance on Future Funding

HCD's [Negative Points Policy](#)¹¹ ensures that limited critical funding resources are directed to sponsors that demonstrate ongoing capacity to successfully operate and manage affordable housing developments. Failure to comply with AHPL is a non-curable event which will result in the applicable sponsor(s) receiving negative points on any future applications for HCD funding.

Where Can I Find More Information?

This Fact Sheet is a broad overview intended to assist with implementation of AHPL. The content in this Fact Sheet is not legal advice and does not describe all of AHPL's requirements. Government Code sections [65863.10](#), [65863.11](#), and [65863.13](#) contain all of the requirements for compliance.

HCD has developed a webpage related to [Preserving Existing Affordable Housing](#)¹² that

⁹ Gov. Code, § 65863.13, subd. (a).

¹⁰ Gov. Code, § 65863.11, subd. (m).

¹¹ HCD's Negative Points Policy: <https://www.hcd.ca.gov/sites/default/files/docs/grants-and-funding/negative-points.pdf>.

¹² Preserving Existing Affordable Housing: <https://www.hcd.ca.gov/policy-and-research/preserving-existing-affordable-housing>.

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includes a detailed [Guide](#)¹³ on AHPL.

For additional information on requirements pertaining to AHPL, contact HCD's Housing Accountability Unit via the Affordable Housing Preservation Portal, available at [HCD's Preservation webpage](#).¹⁴

¹³ Guide to Affordable Housing Preservation Laws:
<https://www.hcd.ca.gov/sites/default/files/docs/policy-and-research/guide-to-affordable-housing-preservation-laws.pdf>.

¹⁴ Ibid.