



**DISTRICT OF COLUMBIA LAND TITLE ASSOCIATION**  
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March 2, 2005

**VIA ELECTRONIC MAIL &**  
**FIRST-CLASS MAIL**

The Honorable Jim Graham  
D.C. Council  
1350 Pennsylvania Avenue, N.W.  
Washington, DC 20004

Re: Bill No. 16-50 (Tenant Opportunity to Purchase Act); D.C. Land Title Association

Dear Chairman Graham:

On behalf of our Association, thank you again for the opportunity to appear and to testify at the hearings held on February 16, 2005 regarding the above-referenced Bill.

During the course of the hearings, both Elisabeth Zajic and I heard one of the speakers (Mr. Zachary Wolfe) suggest that the Council adopt the legislative approach that "... the new language [in the Bill] is only clarification and does not alter the properly understood effect of the law in its prior form." In apparent support of such approach, Mr. Wolfe (and others) periodically referred to an unreported decision authored by Judge Wright on the interpretation of the current TOPA statute.

First and foremost, our Association urges your Committee **not** to adopt the suggested "clarification" approach. Whether the Committee agrees or disagrees with the current interpretation and enforcement of TOPA, the undeniable fact is that hundreds - - if not thousands - - of sellers, purchasers, lenders and title insurance

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companies have reasonably relied on the existing language as part of affected real estate transactions in the District of Columbia. The "clarification" argument, if adopted in legislative form, would not "clarify" at all, but instead would inject confusion and uncertainty regarding prior and closed transactions. While having facile appeal, a thoughtful and real world analysis of the situation results in the inescapable conclusion that such an approach would do far more harm than good.

Again, whether the Committee agrees or disagrees with the interpretation and enforcement approach taken by DCRA, the administrative agency charged with responsibility of administering TOPA, the undeniable fact is that the D.C. agency provided certain written assurances to those parties that should be given full faith and credit.

With respect to the unpublished decision cited by Mr. Wolfe and others from the Twin Towers Plaza Tenants Association case, please note that there are several unpublished Superior Court decisions that accept and validate the current language of and the DCRA's current interpretation of TOPA. In addition, the cited decision was rendered moot - - at least temporarily - - when Judge Wright ultimately determined that the plaintiff lacked standing to pursue the TOPA-related claims. The plaintiff in the Twin Towers case is now the appellant, not the appellee, in an appellate matter pending before the D.C. Court of Appeals.


For all the reasons previously provided by the Association and for the reasons stated in this letter, the Association urges the Committee (and ultimately, the Council) to resist the "clarification" argument and, instead, to make it abundantly clear that any changes in the current language of TOPA adopted by this Council reflect a new and prospective approach to TOPA rights in the District of Columbia.

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Thank you for your further consideration of the Association's position on this important matter.

Sincerely yours,

DISTRICT OF COLUMBIA LAND TITLE  
ASSOCIATION

By:   
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David H. Cox  
President

cc: Board of Directors of the District  
of Columbia Land Title Association  
DCLTA TOPA Task Force Members  
Chairman Linda W. Cropp  
Councilmember Phil Mendelson  
Councilmember Sharon Ambrose  
Councilmember Kwame R. Brown  
Councilmember Adrian Fenty