

BORNSTEIN LAW

COPA Legislation 101

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- Understand San Francisco's New Multi-Family Building Legislation
- Explore the Impact of COPA Legislation
- Q&A



What is COPA

- Latest SF Ordinance - Community Opportunity to Purchase Act
 - Intended to create more affordable rental housing
 - Gives QUALIFIED Non-Profits (QNP) the right of first purchase for any multi-family building sold in San Francisco & the right to match offers
 - Applies to all buildings with 3+ residential unites and vacant land zoned for 3+ units

When does it start?

- COPA was initially slated to go into effect on June 3rd, but that was too ambitious – the Mayor’s Office of Housing and Community Development (MOHCD) was given 90 days, or until **September 3rd**, to publish a list of qualified non-profits and issue further regulations and guidance for the nascent law.

Who is affected?

- The ordinance applies to any residential building with at least three rental units or vacant lot zoned for at least three units.
- An existing conforming single-family building is **not** subject to COPA; however, if the land was vacant and the zoning was R3, COPA would apply.
- Unpermitted “in-law” units do not count as units under COPA.

What about TICs?

- Individual TIC sales do not trigger COPA compliance
- The exact quote from MOHCD was, “TIC would not be considered a building sale if the transfer of sale is not connected with the transaction or set of transactions for sale of the entire building. Our programs regs, due out September 3, will clarify this.”

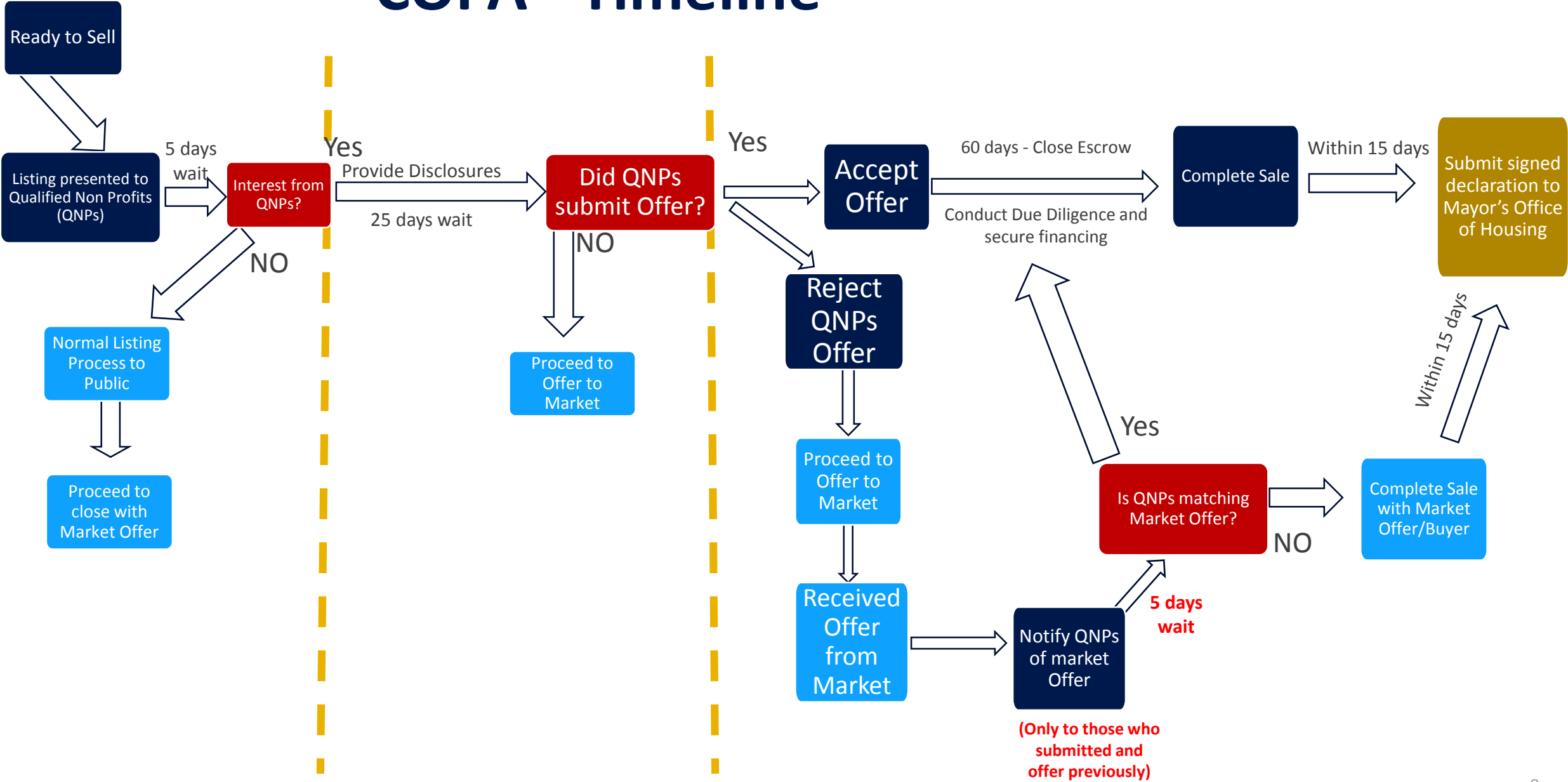
Already listed Properties?

- Advised to do nothing – assuming you have listed the property and entered into a binding contract for sale prior to September 3rd, the property is exempt from COPA requirements.

What now?

- Sellers MUST give Qualified Non-Profits the opportunity to purchase the building
- List of Qualified Non-Profit Organizations comes from SF Mayor's Office of Housing
- Purchased at Market Rate
- Grant extended timelines to close – 90 days
- If no Qualified Non-Profit Buyer , Seller may sell to general market Buyers.

COPA - Timeline



Rent Regulation

- Once sold to Qualified Non-Profits
 - Building becomes rent-restricted affordable housing in perpetuity
 - Avg Rents cannot exceed 80% of Area Median Income
 - Avg income of all tenants cannot exceed 120% Area Median Income
- Notice of Special Restrictions recorded on title

Challenges

- Slower timelines for market buyers
- 30 days – potential delay at start
- 1031 Exchange disruptions

What Next?

- Uncertainty of Ordinance may destabilize pricing in short run
- Savvy investors will be looking for deals
- Buyers will need to be aggressive in managing 1031 deadlines
- Sellers become vulnerable – need proper training and representation
- 1031 buyers need certainty
 - Demand may reduce and may look outside of SF
 - Demand for 2 unit buildings may increase

Buyers – What to do?

- Buyers who are eyeing the purchase of buildings with 3 or more units need to ensure that the seller has lived up to their obligations by interfacing with nonprofits and have made a good-faith effort to afford these organizations the opportunity to come to the through.

What happens if you violate COPA?

- Every seller of a multi-family residential building in San Francisco must, within fifteen (15) days of the close of escrow, submit to the City Agency a signed Declaration under penalty of perjury affirming that the sale substantially complied with the requirements of COPA.
- If a multi-family residential building is sold in violation of COPA, Qualified Nonprofits are permitted to bring a legal action against the seller.
- Potential remedies include **damages, attorneys' fees and, if the violation is knowing or willful, civil monetary penalties presumptively tied to the value of the property.**
- These remedies are **imposed only against the seller or a party that has willfully colluded with the seller to violate COPA.** This latter party clearly could **include brokers and others listing multi-family residential buildings for sale in San Francisco as well as purchasers.**
- Absent evidence of collusion, however, any remedy imposed under COPA will not affect any property interest of a purchaser of a multi-family residential building.

Compliant with COPA

- It is important to be tethered to an attorney and a real estate brokerage that is acquainted with the requirements because there is a disclosure aspect to this.
- Sellers will be required to sign a statement upon closing that they substantially complied with the requirements of COPA.
- **Bornstein Law will have a COPA Compliance Package**

THANK YOU!



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