

**IN THE SUPERIOR COURT OF THE DISTRICT OF COLUMBIA
CIVIL DIVISION**

DISTRICT OF COLUMBIA
a municipal corporation
441 4th Street, N.W.
Washington, D.C. 20001,

Plaintiff,

v.

EQUITY RESIDENTIAL
MANAGEMENT, L.L.C.
Two North Riverside Plaza, Suite 400
Chicago, IL 60606,

and

SMITH PROPERTIES
HOLDINGS VAN NESS, L.P.
3003 Van Ness St., N.W.
Washington, DC 20008,

Defendants.

Civil Action No. _____

COMPLAINT FOR INJUNCTIVE AND OTHER RELIEF

The District of Columbia (“District”), by the Office of the Attorney General, brings this action pursuant to D.C. Code § 28-3909 for injunctive relief, consumer restitution, costs, and civil penalties against Defendants Equity Residential Management, L.L.C. and Smith Properties Holdings Van Ness, L.P. for violations of the District’s Consumer Protection Procedures Act (“CPPA”), D.C. Code § 28-3901, *et seq.* In support of its claims, the District states as follows:

1. Defendants Equity Residential Management, L.L.C. and Smith Properties Holdings Van Ness, L.P., collectively referred to as “Defendants,” manage and lease apartments to consumers in the District of Columbia at an apartment complex located at 3003 Van Ness St., N.W., Washington, D.C. 20008 (“3003 Van Ness” or the “property”). The property is subject to

Title II of the District's Rental Housing Act of 1985, D.C. Code § 42-3501, *et seq.* (the "rent control law").

2. The rent control law was enacted to, among other things, "protect low- and moderate-income tenants from the erosion of their income from increased housing costs." D.C. Code § 42-3501.02(1). Accordingly, § 42-3502.08(h) of the D.C. Code limits the standard annual increase in the rent charged for units in rent-controlled buildings based on changes in the Consumer Price Index from the prior year. This rent control protection extends to tenants who enter into leases with landlords, as well as to those who occupy their units on a month-to-month tenancy basis.

3. Defendants advertise apartments at 3003 Van Ness by listing available apartments and their monthly rental amounts. However, Defendants calculate the advertised rental amounts, or "concession rent," after the application of a substantial monthly reduction, referred to herein as a "rent concession." Defendants' advertisements fail to disclose the application of these rent concessions to the prices stated in the advertisements.

4. When Defendants finally present consumers with a lease, Defendants' leases contain a higher rental amount that does *not* include a rent concession, referred to herein as the "true rent." Consumers who question the conflicting rental amounts are often given various explanations by Defendants, including: (1) that the advertised rent, which included application of the rent concession, is the actual rent amount consumers are required to pay; (2) that rent concessions offered to consumers are sponsored by the District of Columbia; (3) that the same or similar rent concession amount would be offered in future leases; and (4) that the property is subject to the rent control law, so that future rental amounts will be stable and predictable. Taken together, Defendants' advertisements and explanations of the conflicting rental amounts

convey to consumers the net impression that the advertised rental amount is the rental amount on which future rent increases would be based under the rent control law.

5. In fact, Defendants only report the true rent amount to the District of Columbia Department of Housing and Community Development, Housing Regulation Administration, Rental Accommodations Division, pursuant to the rent control law. Consequently, the rent concessions are temporary and, upon lease renewal, Defendants calculate the new rental amounts based on the true rent amount, not the concession rent. As a result, Defendants offer consumers renewal leases for rental amounts that are significantly higher than Defendants had led consumers to believe when they entered into the initial leases. Moreover, for consumers to obtain the best rent concessions at renewal, the amount of which is often lower than the previous year's rent concessions, Defendants require consumers to sign new one-year leases.

6. Defendants' advertising and leasing practices deprive consumers of basic rights guaranteed by District landlord-tenant law – the right to stable and predictable rent increases in both future renewal leases and month-to-month tenancies.

7. Through this case, the District seeks to stop Defendants from engaging in the unlawful trade practices set forth more fully below in connection with their offer and leasing of apartments in the District of Columbia, including their practices of: (1) failing to disclose the true rent amounts for apartments in their advertisements; (2) failing to disclose material terms to consumers during the leasing process, including that the rent concession amount will not be included when calculating future rent increases; and (3) misleading consumers about the District of Columbia government's role in Defendants' rent concession practices. The District seeks injunctive relief to prevent Defendants from engaging in these and similar unlawful trade

practices, civil penalties to deter Defendants from engaging in these and similar unlawful trade practices, costs, attorney's fees, and restitution for consumers harmed by Defendants' conduct.

JURISDICTION

8. This Court has jurisdiction over the subject matter of this case pursuant to D.C. Code § 11-921 and D.C. Code § 28-3909.

9. This Court has personal jurisdiction over the Defendants pursuant to D.C. Code § 13-423(a).

PARTIES

10. Plaintiff, the District of Columbia, a municipal corporation that is authorized to sue and be sued, is the local government for the territory constituting the seat of the government for the United States of America. The District brings this action, through its Office of Attorney General, pursuant to the CPPA, D.C. Code § 28-3909, which authorizes the Attorney General to bring court actions to enforce the District's consumer protection laws, including the CPPA.

11. Defendant Equity Residential Management, L.L.C. ("Equity"), is a Delaware Limited Liability Corporation headquartered at Two North Riverside Plaza, Suite 400, Chicago, IL 60606. Equity engages in the business of managing residential rental properties throughout the United States, including the District of Columbia.

12. Defendant Smith Property Holdings Van Ness, L.P. ("Smith"), is a Delaware limited partnership with its headquarters at Two North Riverside Plaza, Suite 400, Chicago, IL 60606, and its principal place of business in the District at 3003 Van Ness St., N.W., Washington, DC, 20008. Smith engages in the business of providing real estate services and owns various rental properties in the District of Columbia.

13. Defendants have, at all relevant times, engaged in trade or commerce in the

District of Columbia by advertising and leasing rental properties located in the District of Columbia to consumers.

DEFENDANTS' BUSINESS PRACTICES

14. Defendants own and operate rental properties throughout the United States, including in the District of Columbia. Since February 2013, Defendants have owned and offered for lease apartment units at 3003 Van Ness, which is a large residential property that is subject to the District's rent control law.

15. Defendants advertise their rental properties at 3003 Van Ness through various mediums including, but not limited to, posting available units on their own Internet website, equityapartments.com, and on third-party websites, such as Craigslist.org.

16. The Defendants' advertisements usually include information about the rental amounts of available apartments, their size, and the date each apartment is available for rent. In their advertisements, Defendants quote a monthly rental amount but do not disclose that this amount reflects the rent after the application of a temporary monthly rent concession. This concession rent is often a thousand dollars or more less than the true rent amount set forth in the leases Defendants ultimately offer to consumers.

17. Prior to March 2016, Defendants made no disclosure in their advertisements explaining that the advertised rental amounts were reduced by a temporary rent concession. Sometime in March 2016, Defendants began adding a brief statement - which appeared in small print following numerous listings of available apartments - that, "The quoted rent may include a concession." The additional statement, however, was not clear and conspicuous because it: (1) was difficult for consumers to locate as it was not adjacent to the quoted rental prices; (2) did not define what a concession was or state the amount of the concession; (3) did not identify

which of the listed rents were subject to a concession; and (4) did not state that the concession was temporary. Moreover, this statement was not included in Defendants' advertisements on Craigstlist.org.

18. When consumers contact Defendants regarding the advertised apartments and rental amounts, Defendants foster the impression that the advertised rents are the rental amounts used for rent-control purposes and that future rent increases would be calculated based on the advertised rental amount. Defendants either (1) falsely inform consumers that similar rent concessions would be offered to consumers throughout their tenancies, or (2) neglect to inform consumers that the advertised rental amounts reflect the application of a temporary rent concession. Defendants further mislead consumers by telling them the rent concessions are offered by the District of Columbia as subsidies and by emphasizing that the property is regulated by the rent control law, thereby creating the net impression that the advertised rental amounts that included the rent concessions are stable and would be subject to increases limited by District law.

19. Later, when Defendants provide consumers with leases to execute, the lease documents actually only state the true rent – *i.e.*, the rental amount without the rent concession. When questioned concerning the two disparate rent amounts reflected in the advertisements as compared to the leases, Defendants typically assure consumers that they will receive similar rent concessions in future leases.

20. Moreover, Defendants' leases make no mention of the fact that the true rent will serve as the basis for future rent increases. Defendants' leases typically consist of a two page "Residential Lease – Term Sheet" and a five page document titled "Residential Lease – Terms and Conditions," followed by approximately 30 pages of various addenda and disclosures.

While these documents include references to a “concession,” they fail to disclose that future rents will be calculated based on the true rent, instead of the concession rent. Rather, the net impression Defendants convey through their advertising and leasing practices is that any future rent increases would be calculated based on the rent amount that included the rent concession.

21. Notwithstanding Defendants’ assurances that consumers will receive similar rent concessions in future leases, the renewal leases Defendants offer their tenants at or before the expiration of their initial leases contain unexpected and significantly increased rental amounts that are calculated based on the true rent in consumers’ initial leases, without the application of a rent concession. If consumers question or object to the higher rental amounts in Defendants’ proposed renewal leases, Defendants typically offer consumers a new rent concession that is lower than the previous rent concession amount.

22. Facing significantly elevated rental amounts, consumers are forced to (1) accept the renewal leases at significantly higher monthly rent amounts; (2) move out of their apartments; (3) enter into month-to-month tenancies at significantly higher rent amounts than both their previous rent amounts and the amount stated in a renewal lease (even with a new concession); or (4) forego their rights to a month-to-month tenancy and sign new one-year leases, but with rent concessions that are often significantly less than those in their previous leases. For example, Defendants offered one tenant at 3003 Van Ness a renewal lease with a rent concession that would result in her monthly rent being \$2,160.00 if she signed a new lease. However, if she decided to go on a month-to-month tenancy, her monthly rent would be \$3,097.00 – which is almost a \$1,000.00 per month difference.

23. Defendants have made misrepresentations of material fact to consumers by (1) advertising apartments for rent with rental amounts that were not the true rents that Defendants

treated as effective for rent-control purposes, (2) representing that the rent stated in Defendants' advertisements would be stable and not likely to increase significantly because the properties are rent-controlled, and (3) representing that the rent concessions are permanent or were offered through a District-sponsored subsidy program. In fact, Defendants treat the true rent as the rent upon which future increases will be based. The rent concessions are temporary and have no connection with the District government. Therefore, Defendants' misrepresentations of material fact tend to mislead consumers.

24. Defendants have also failed to disclose material facts to consumers, including that: (1) the rental amounts stated in Defendants' advertisements are reduced by a rent concession; (2) future rent increases would not be determined based on the concession rent but instead would be based on the true rent amount; (3) consumers will most likely not be offered the same rent concession amount if they decide to renew their leases; and (4) consumers will most likely be offered a much lower rent concession amount, if any, should they decide to transition to a month-to-month tenancy instead of signing a new lease. Therefore, Defendants' failure to disclose these material facts tends to mislead consumers.

**DEFENDANTS' VIOLATIONS OF THE
CONSUMER PROTECTION PROCEDURES ACT**

25. The allegations of paragraphs 1 through 24 are re-alleged as if fully set forth herein.

26. The CPPA is a remedial statute that is to be broadly construed. It establishes an enforceable right to truthful information from merchants about consumer goods and services that are or would be purchased, leased, or received in the District of Columbia.

27. The rental units Defendants offer to lease or supply consumers are leased for personal, household, or family purposes and, therefore, are consumer goods and services.

28. Defendants, in the ordinary course of business, offer to lease or supply consumer goods and services and, therefore, are merchants.

29. The CPPA prohibits unlawful trade practices in connection with the offer, sale, and supply of consumer goods and services.

30. Defendants' misrepresentations to consumers (1) that the rental amount offered in their advertisements, which included the rent concession, would be stable and not likely to increase significantly because the properties are rent-controlled; and (2) that rent concessions are permanent or were provided to consumers by the District in order to subsidize their rent payments, are misrepresentations of material fact that have a tendency to mislead consumers and are unlawful trade practices that violate the CPPA, D.C. Code §28-3904(e).

31. Defendants' failure to disclose to consumers that (1) the advertised rent is not the true rent that will be specified in their leases, (2) their rent increases would not be determined based on the concession rent they paid during their initial lease term, and (3) consumers will most likely not be offered the same rent concession amount if they decide to enter into a new lease or transition to a month-to-month tenancy instead of signing a new lease, are misrepresentations of material fact, the omission of which have a tendency to mislead consumers and are unlawful trade practices that violate the CPPA, D.C. Code § 28-3904(f).

32. Defendants' advertising of rental amounts that include the rent concessions, without disclosing the true rents, constitutes an offer without the intent to lease apartment units as advertised, which is an unlawful trade practice that violates the CPPA, D.C. Code § 28-3904(h).

33. Defendants' falsely stated reasons for offering apartment units with rent concessions -- namely, that the District government provided consumers with rent concessions in

order to subsidize their rental payments -- when in fact the District government has no connection to the offering of rent concessions for consumers, violates the CPPA, D.C. Code § 28-3904(l).

PRAYER FOR RELIEF

WHEREFORE, the Plaintiff respectfully requests this Court enter a judgment in its favor and grant relief against Defendants, as follows:

- (a) Permanently enjoin and restrain Defendants, pursuant to D.C. Code § 28-3909(a), from engaging in conduct determined by the Court to be in violation of the CPPA;
- (b) Order the Defendants to pay restitution pursuant to D.C. Code § 28-3909(a), for amounts collected from District of Columbia consumers in violation of the CPPA;
- (c) Order the payment of statutory civil penalties in the amount of \$1,000 per violation, pursuant to D.C. Code § 28-3909(b), for each and every violation of the CPPA;
- (d) Award the District the costs of this action and reasonable attorney's fees pursuant to D.C. Code § 28-3909(b); and
- (e) Grant such further relief as the Court deems just and proper.

JURY DEMAND

The District of Columbia demands a trial by jury on all issues triable by jury by the maximum number of jurors permitted by law.


Respectfully submitted,

Dated: December 13th, 2017

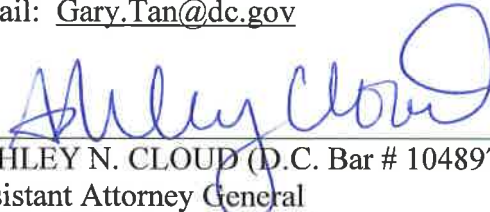
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