

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

DISTRICT OF COLUMBIA)	
)	
Petitioner/Plaintiff,)	2016 CA 007767 2
)	Judge John M. Mott
v.)	
)	Next Event: April 25, 2017 at 2:00pm
TERRACE MANOR, LLC, <i>et al.</i>)	Status Hearing
)	
Respondents/Defendants.)	
)	

DISTRICT OF COLUMBIA’S MOTION FOR CONTEMPT

The District of Columbia (“the District”), through the Office of the Attorney General, pursuant to D.C. Code § 11-944(a), respectfully requests that this Court hold Respondents Terrace Manor, LLC, Sanford Capital, LLC, and Oakmont Management Group, LLC (collectively, “Respondents”) in civil contempt. Respondents have failed to abate numerous housing code violations at Terrace Manor Apartments¹ (the “Property”) in violation of this Court’s January 3, 2017 Interim Order (“Interim Order”) and January 26, 2017 Order entering the Abatement Plan (“Abatement Plan”). Respondents’ failure to correct these long-standing violations has prolonged the Terrace Manor tenants’ exposure to substandard living conditions, including *risks to their life, health, and safety*. The District is requesting that the Court:

1. Direct Respondents to appear and show cause why they should not be held in civil contempt from violating the Interim Order and Abatement Plan;
2. Hold Respondents in civil contempt;
3. Order Respondents to pay \$2,000 per day for every day that the housing code violations referenced in the Interim Order and the Abatement Plan remain unabated; and

¹ Terrace Manor apartment complex houses 11 buildings with 12 discrete addresses: 2270 Savannah St SE, 2272 Savannah St SE, 2276 Savannah St SE, 3341 23rd St SE, 3343 23rd St SE, 3345 23rd St SE, 3347 23rd St SE, 3349 23rd St SE, 3351 23rd St SE, 3353 23rd St SE, 3371 23rd St SE, and 3373 23rd St SE.

4. Order any other relief the Court deems appropriate.²

In support of this Motion, Plaintiff relies upon the attached Memorandum of Points and Authorities.

Oral Hearing Requested

I HEREBY request an oral hearing pursuant to Super. Ct. Civ. R. 12-I(f).

Dated: March 30, 2017

Respectfully Submitted,

KARL A. RACINE
Attorney General for the District of Columbia

ROBYN BENDER
Deputy Attorney General, Public Advocacy Division

PHILIP ZIPERMAN
Director, Office of Consumer Protection

JIMMY R. ROCK
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/s/ Jane Lewis
JANE LEWIS³
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/s/ Argatonia Weatherington
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² Concurrent with this Motion, Petitioners have also filed a Motion for Appointment of Receiver based on Respondents' failure to comply with the Interim Order and Abatement Plan. Appointment of a receiver, rather than imposition of the fines, would also serve to cure the contempt. The District's position is that, between these two remedies, appointment of a receiver is more likely to result in lasting repairs to the Property than allowing Respondents to continue managing this process.

³ Practicing in the District of Columbia pursuant to Ct. App. R. 49(c)(4) and under the supervision of a member of the D.C. Bar.

RULE 12-I CERTIFICATE

On March 30, 2017, the undersigned made contact telephonically with Respondents' counsel in order to obtain Respondents' consent. Respondents' counsel stated that they do not consent to the District of Columbia's motion and requested relief.

/s/ Argatonia Weatherington
ARGATONIA WEATHERINGTON

RULE 5(e) CERTIFICATE

I HEREBY CERTIFY that a copy of the foregoing District of Columbia's Motion for Contempt was delivered to the chambers depository designated by the Clerk of the Court on March 31, 2017.

/s/ Argatonia Weatherington
ARGATONIA WEATHERINGTON

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing District of Columbia's Motion for Contempt was served upon counsel for Respondents, Stephen Hessler, via *CaseFile Express* on March 31, 2017.

/s/ Argatonia Weatherington
ARGATONIA WEATHERINGTON

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**MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF DISTRICT OF
COLUMBIA’S MOTION FOR CONTEMPT**

This is an action brought pursuant to the Tenant Receivership Act, D.C. Code §§ 42-3651.01, to.08. The purpose of this action is to “safeguard the health, safety, and security” of the tenants at Terrace Manor Apartments¹ (“the Property”) through prompt abatement of ongoing housing code violations. *In lieu* of appointing a Receiver for this purpose, the Court gave Respondents Terrace Manor, LLC, Sanford Capital, LLC, and Oakmont Management Group, LLC (collectively, “Respondents”) an opportunity to abate the violations themselves pursuant to an Interim Order entered on January 3, 2017 and a Court ordered Abatement Plan entered on January 26, 2017.

Respondents have substantially failed to comply with the terms of the Interim Order and the Abatement Plan. As of the date of this filing, Respondents still have not remediated all the housing code violations covered by the Interim Order and the Abatement Plan, many of which date back over a year to February and March of 2016, including violations that threaten the life,

¹ Terrace Manor apartment complex houses 11 buildings with 12 discrete addresses: 2270 Savannah St SE, 2272 Savannah St SE, 2276 Savannah St SE, 3341 23rd St SE, 3343 23rd St SE, 3345 23rd St SE, 3347 23rd St SE, 3349 23rd St SE, 3351 23rd St SE, 3353 23rd St SE, 3371 23rd St SE, and 3373 23rd St SE.

health, and safety of the tenants. Moreover, Respondents have continued to demonstrate a pattern of neglect and indifference, and have allowed the property to remain in a state of disrepair. Therefore, the District now requests that the Court hold Respondents in contempt for violating the Interim Order and Abatement Plan, and order appropriate relief upon a finding of contempt.

FACTUAL BACKGROUND²

The Property is a rental housing accommodation located within the District of Columbia comprised of 11 buildings with a total of 61 rental units. Respondents own, operate, manage, lease, and otherwise control Terrace Manor Apartments, which suffers from recurring and continual housing code violations. The District filed suit against the Respondents based in part on property-wide inspections conducted by the District of Columbia Department of Consumer and Regulatory Affairs (DCRA) in February and March 2016.

At the initial Show Cause hearing, Respondents asked for an opportunity to address conditions at the Property themselves under an abatement plan *in lieu* of having a receiver appointed. During that hearing, the Parties agreed that (1) the Property would undergo a series of inspections by DCRA; and (2) that Respondents would take certain abatement actions intended to ameliorate the living conditions of tenants.

DCRA Inspector Michael Lampro inspected the Property on December 6 and 7, 2016, accompanied by an Oakmont Management employee. Based on that inspection, Lampro cited the Property for **84** separate violations of the Housing Code. *See* Ex. 2, December 6 Inspection Summary. At least 30 of the 84 violations were cited during the February and March 2016 inspections. The violations that remain unabated for nine months include, but are not limited to: cracked walls and vermin infestation in the common areas and Unit #102 at 2270 Savannah

² The factual allegations alleged and submitted herein are based upon the affidavit of Inspector Michael Lampro, hereby attached as Exhibit 1.

Street SE; inadequate electricity and lack of heat at 3341 23rd Street SE Unit #101; lack of heat at 3345 23rd Street Unit #201 and missing smoke detectors and fire extinguishers in 3347 23rd Street SE and 3349 23rd Street SE.

After the December 6-7, 2016 inspection, the Parties needed additional time to craft a comprehensive abatement plan. The Parties drafted an Interim Order to provide some immediate relief for tenants at the Property while the parties negotiated a comprehensive plan. That Interim Order was entered by the Court on January 3, 2016 (“Interim Order”). The Interim Order required the Respondents to abate *all* violations cited during the December 6 and 7, 2016 inspections by January 23, 2017.

On January 26, 2017, the Court entered the Abatement Plan that was drafted by the Respondents and agreed upon by all Parties. The Abatement Plan ordered Respondents to:

- 1) Abate any violations cited during the February and March 2016 inspections within 5 days;
- 2) Abate emergency violations within 24-hours; and
- 3) Install fireproof drywall and remove all trash and debris from all vacant units in the Property.

Inspector Lampro next inspected the Property on February 17, 2017. At that time, the Inspector found that 56 of the 84 citations cited during the December 6-7, 2016 inspection remained unabated. *See* Ex. 3, February 17, 2017 Notices of Violation.

Most of the 32 violations that had been addressed were those that required minimal effort on the part of Respondents, such as providing the inspector with a copy of the most current Fire Alarm Inspection Report, and displaying the Basic Business License, Certificate of Occupancy, and the owner’s emergency contact information.

Conversely, many of the most egregious violations had not been addressed at all. Fifty of the 56 remaining violations were, at a minimum, those that the law classifies as “serious and have an immediate and substantial impact on the health, safety, or welfare,” of the tenants. 16 DCMR § 3200.1(c). These violations include, but are not limited to: failure to provide adequate electric power; failure to maintain smoke detectors and emergency lights in an operable condition; failure to maintain steps in common areas; and failure to eliminate roach and mouse infestations.

On March 16, 2017, Inspector Lampro inspected the Property again. At that inspection, the Inspector observed that the housing code violations at 2270 Savannah Street SE and 3341 23rd Street SE remained unaddressed. The Inspector also observed that two occupied units³ did not have heat, which is *an emergency violation*. The *same two units* were also cited for no heat during the *February and March 2016* inspections. When Inspector Lampro returned to the Property on March 17, 2017, the two tenants were *still without heat*, in violation of the Abatement Plan’s requirement for addressing emergency violations within 24 hours.

In addition to the outstanding housing code violations, the Respondents have failed to comply with additional terms of the Abatement Plan. Specifically, Respondents have refused to clean out and install fireproof drywall in the vacant units. To the date of this filing, Respondents have not acquired the necessary permits from DCRA to install the drywall.

ARGUMENT

Respondents should appear and show cause why they should not be held in civil contempt for failing to abate housing code violations at the Property as mandated in the Interim Order and the Abatement Plan. “One who is subject to a court order has the obligation to obey it

³ The units without heat are 3341 23rd Street Unit #101 and 3345 23rd Street Unit #201.

honestly and fairly, and to take all necessary steps to render it effective.” *D.D. v. M.T.*, 550 A.2d 37, 44 (D.C. 1988). When a party has violated an order of the Court, civil contempt is available as “a sanction to enforce compliance with an order of the court or to compensate for losses or damages sustained by reason of noncompliance.” *Bolden v. Bolden*, 376 A.2d 430, 433 (D.C. 1977) (quotation and citation omitted). A finding of civil contempt does not depend on any willfulness on the part of the contemnor. Rather, “the general rule with respect to civil contempt is that where noncompliance with a judicial order has been factually established, the burden of establishing justification for noncompliance shifts to the alleged contemnor.” *Id.*

Here, there is no credible dispute that Respondents violated the express terms of the Interim Order and the Abatement Plan through their failure to abate housing code violations at the Property. The Interim Order required Respondents to “abate all violations cited by DCRA Inspector Michael Lampro on December 6 and December 7, 2016 within 20 days of the entry of this Order.” The Abatement Plan entered on January 26, 2017 required Respondents to abate all housing code violations cited in February and March 2016 by February 1, 2017. On February 17, 2017, the DCRA inspector identified 56 unabated housing code violations. All of these unabated violations had been cited in December 2016. Many of them had been cited in the original inspections conducted in February and March of 2016, and had remained unabated for nearly a year.

Respondents have also expressly failed to comply with the Abatement Plan Order requirements to address emergency items within 24-hours of notification and to clean and install fireproof drywall in the vacant units. In the meantime, the Terrace Manor tenants are forced to live in conditions that are injurious to their health, safety, and welfare.

Furthermore, Respondents actions and inactions following the Court's orders reflect an overall lack of concern for the matter at hand. Rather than "take all necessary steps" to effectuate the Abatement Plan, *D.D. v. M.T.*, 550 A.2d at 44, Respondents made minimal effort toward compliance and failed to take even the initial steps toward compliance with the Abatement Plan, such as pulling work permits for the installation of drywall. Respondents' failure to comply with the court's orders is particularly baffling given their participation in every stage of the process. Respondents helped draft the Interim Order, which was then entered with their signed consent. Respondents also drafted, and signed their consent to, the Abatement Plan. Finally, Respondents' representatives were present at every inspection conducted pursuant to these orders.

Given Respondents failure to act in the face of tenant suffering, violation notices from the District, and even orders of this Court, a civil fine is necessary to enforce the housing code. Therefore, the District is asking that the Court order Respondents to impose a fine of \$2,000 per day for every day that housing code violations remain unabated at the Property in violation of the Abatement Plan.

CONCLUSION

For the foregoing reasons, the Court should order Respondents to show cause as to why they should not be held in contempt for failing to comply with the Interim Order and the Abatement Plan.

Dated: March 31, 2017

Respectfully Submitted,

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