

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

DISTRICT OF COLUMBIA	)	
441 4th Street, N.W.	)	
Washington, D.C. 20001	)	
	)	
Petitioner/Plaintiff,	)	Civ. No.:
	)	
v.	)	
	)	
TERRACE MANOR, LLC	)	
7272 Wisconsin Avenue	)	
Suite 325	)	
Bethesda, MD 20814,	)	
	)	
and	)	
	)	
SANFORD CAPITAL, LLC	)	
7272 Wisconsin Avenue	)	
Suite 325	)	
Bethesda, MD 20814,	)	
	)	
and	)	
	)	
OAKMONT MANAGEMENT GROUP, LLC	)	
7272 Wisconsin Avenue	)	
Suite 325	)	
Bethesda, MD 20814,	)	
	)	
Respondents/Defendants.	)	

**PETITION FOR APPOINTMENT OF RECEIVER<sup>1</sup>**

The District of Columbia (“the District” or “Petitioner”) files suit against Respondents/Defendants Terrace Manor, LLC, Sanford Capital, LLC, and Oakmont Management Group, LLC (collectively, “Respondents”). The District seeks the appointment of a

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<sup>1</sup> This Petition for a receiver also includes a Complaint for injunctive and equitable relief under the District of Columbia’s public nuisance law, 14 DCMR § 101, and the Consumer Protection Procedures Act, D.C. Code §§ 28-3901 to -3913.

receiver for Terrace Manor Apartments<sup>2</sup> in accordance with the Tenant Receivership Act, D.C. Code §§ 42-3651.01-.08; abatement of a public nuisance pursuant to 14 DCMR § 101; and restitution, civil penalties, costs, attorney’s fees, and injunctive relief pursuant to the Consumer Protection Procedures Act (“CPPA”), D.C. Code §§ 28-3901-3913. The District alleges as follows:

**Preliminary Statement**

The purpose of this action is to compel Respondents to comply with the District of Columbia housing code, and to obtain immediate injunctive and monetary relief for Respondents’ violations of the District’s public nuisance law and consumer protection laws, including the CPPA.

Terrance Manor Apartments (“the Property”) is a rental housing accommodation located within the District of Columbia that comprises 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 that pose a serious threat to the health, safety, or security of the tenants.

When Respondents offered and leased the rental accommodations to their tenants, they expressly and implicitly represented that they would maintain the Property in accordance with the District of Columbia’s laws and regulations, including the District’s housing code. Instead, Respondents have failed to maintain the Property. Each of the buildings at Terrace Manor suffers from a demonstrated history of neglect and indifference resulting from the action or inaction of

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<sup>2</sup> Terrace Manor Apartments has 11 buildings with 12 discrete addresses: 2270 Savannah Street, SE; 2272 Savannah Street, SE; 2276 Savannah Street, SE; 3341 23<sup>rd</sup> Street, SE; 3343 23<sup>rd</sup> Street, SE; 3345 23<sup>rd</sup> Street, SE; 3347 23<sup>rd</sup> Street, SE; 3349 23<sup>rd</sup> Street, SE; 3351 23<sup>rd</sup> Street, SE; 3353 23<sup>rd</sup> Street, SE; 3371 23<sup>rd</sup> Street, SE; and 3373 23<sup>rd</sup> Street, SE.

the Respondents, jointly and severally. Respondents' conduct establishes a pattern and practice that has caused Terrace Manor Apartments to deteriorate. *See* D.C. Code § 42-3651.02(b).

The totality of the conditions at Terrace Manor Apartments, including the numerous unabated violations of Chapters 1 through 16 of Title 14 of the DCMR (the "housing code"), coupled with a demonstrated pattern of neglect for at least 30 consecutive days, poses a serious threat to the health, safety, or security of the tenants in accordance with D.C. Code §§ 42-3651.02(a)-(b), and is grounds for appointment of a receiver. Additionally, the ongoing conditions at Terrace Manor Apartments constitute a public nuisance pursuant to 14 DCMR § 101. Finally, the Respondents' misrepresentations that they would make repairs to the Property and maintain it in accordance with the District's housing code constitute violations of the CPPA §§ 28-3904(a),(d),(e),(f), and (dd).

### **Jurisdiction**

1. The Court has subject matter jurisdiction pursuant to D.C. Code § 11-921 and § 28-3909.
2. The Court has personal jurisdiction pursuant to D.C. Code § 13-423.

### **Parties**

3. Petitioner/Plaintiff, the District of Columbia, is a municipal corporation created under the laws of the United States and is capable of suing and being sued pursuant to D.C. Code § 1-102.
4. Respondent/Defendant Terrace Manor, LLC is a limited liability company organized under the laws of the state of Delaware and maintains a principal place of business at 7272 Wisconsin Avenue, Suite 325, Bethesda, Maryland 20814. Terrace Manor, LLC is the

owner of the Terrace Manor Apartments. Aubrey Carter Nowell is a managing member of Terrace Manor, LLC.

5. Respondent/Defendant Sanford Capital, LLC (“Sanford Capital”) is a limited liability company organized under the laws of the state of Delaware and maintains a principal place of business at 7272 Wisconsin Avenue, Suite 325, Bethesda, Maryland 20814. Sanford Capital is a residential real estate development and investment firm that owns real property in Washington, D.C., and has an ownership interest in, and control over, Terrace Manor, LLC. Aubrey Carter Nowell is a principal, founder, and managing partner of Sanford Capital.

6. Respondent/Defendant Oakmont Management Group, LLC is a limited liability company organized under the laws of the state of Delaware and maintains a principal place of business at 7272 Wisconsin Avenue, Suite 325, Bethesda, Maryland 20814. Oakmont Management Group, LLC is responsible for the property management of the Terrace Manor Apartments and acts as the agent for Terrace Manor, LLC and Sanford Capital. Todd Fulmer is the founder and managing member of Oakmont Management Group, LLC.

### **Facts**<sup>3</sup>

#### **Respondents’ Obligation to Maintain Terrace Manor Apartments**

7. Respondent Terrace Manor, LLC acquired Terrace Manor Apartments on December 24, 2012.

8. Terrace Manor, LLC acquired the Property as a third party purchaser after the Tenants’ Opportunity to Purchase Act (“TOPA”) assignee was unable to close on the Property.

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<sup>3</sup> The factual allegations are based in large part on the affidavits of tenant Monica Jackson (*See Ex. 1*), tenant Mary Schuler (*See Ex. 2*), and tenant Doretta Toomer (*See Ex. 3*), while the remainder is based on other evidence submitted in support of this Petition.

9. As part of the purchase contract, Terrace Manor, LLC entered into a Memorandum of Understanding (“MOU”) with the Terrace Manor Tenants for Change Tenant Association Inc. (“Tenant Association”). Aubrey Carter Nowell, the managing partner of Sanford Capitol, signed the MOU. (*See* Ex. 4 Memorandum of Understanding.) The MOU states that Terrace Manor, LLC “met with the Tenant Association [and] inspected the Property,” and that “all buildings and units [would be] in compliance with the D.C. Housing Code within 6 months of closing on the Property.” (*Id.* at ¶C.)

10. Terrace Manor Apartments is subject to a Low Income Housing Tax Credit (“LIHTC”)<sup>4</sup>, which creates a covenant that the Property will be used for affordable housing until 2023. (*See* Ex. 5 LIHTC Covenant.) Respondents are required to ensure that the Property remains suitable for occupancy and free of housing code violations to be in compliance with LIHTC.

11. After acquiring the Property, Terrace Manor, LLC and Sanford Capital entered into lease agreements with tenants/consumers living at the Property. Those lease agreements contained an express provision that the Property would be maintained consistent with the District’s laws and regulations. Additionally, each lease agreement contained an implied warranty of habitability that obligated Respondents to maintain the Property in a livable condition. Respondents then collected, and continue to collect, rent from tenants/consumers without disclosing that Respondents would not maintain the Property consistent with the District’s laws and regulations—including the District’s housing code—or in a habitable condition.

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<sup>4</sup> The LIHTC was created under the Tax Reform Act of 1986 to stimulate private investments in the development of affordable housing for low-income Americans by providing tax credits for private investors. According to the “Indenture of Restrictive Covenants” entered between the Property and the District, the Terrace Manor Apartments was designated as affordable housing for 30 years.

12. When Terrace Manor, LLC purchased the Property, 52 of the 61 units were occupied. As of the filing of this case, only 14 units are occupied.

### **DCRA Inspections**

13. The District of Columbia Department of Consumer and Regulatory Affairs (“DCRA”) conducted a series of proactive inspections at the Property on February 22, 2016, February 23, 2016, and March 4, 2016. (*See Exs. 6-8.*)

14. During the inspections, DCRA cited 129 housing code violations. Of the 129 housing conditions cited by DCRA, 25 constitute a serious threat to the life, health, and safety of the residents.

15. Those violations include, but are not limited to: failure to maintain smoke detectors, fire extinguishing equipment, and emergency lights in an operable condition; failure to eliminate roach, bedbug, and mouse infestations; and failure to provide adequate hot water and heat.

### **Notice of Housing Code Violations**

16. On or about February 22, 2016, Inspector Travis Bonds served Terrace Manor, LLC, via First Class Mail, copies of Notices of Violation for 3347 23rd Street SE, 3341-3353 23rd Street SE, and 3371 23rd Street SE.

17. On or about February 22, 2016, Inspector Michael Lampor served Terrace Manor, LLC, via First Class Mail, copies of Notices of Violation for 3347 23rd Street SE and 3349 23rd Street SE.

18. On or about February 23, 2016, Inspector Michael Lampor served Terrace Manor, LLC, via First Class Mail, copies of Notices of Violation for 2270-2272 Savannah Street SE and 3349 23rd Street SE.

19. On or about February 23, 2016, Inspector Anthony Dizdar served Terrace Manor, LLC, via First Class Mail, copies of Notices of Violation for 3353 23rd Street SE.

20. On or about March 4, 2016, Inspector Travis Bonds served Terrace Manor, LLC, via First Class Mail, copies of Notices of Violation for 3347 23rd Street SE, 3341-3353 23rd Street SE, and 3371 23rd Street SE.

21. Terrace Manor, LLC, was provided 30 days to abate the 129 housing code violations. In response to the repeated complaints from tenants, Respondents told tenants/consumers that repairs had been made or would be made to abate these housing code violations, as well as others that arose after the DCRA inspections. The time for compliance passed on April 3, 2016. As of the date of this filing, however, the Respondents have failed to abate all but four of the housing code violations. Indeed, the most egregious violations remain unabated, including rodent/vermin infestation and lack of proper heat. Despite having failed to maintain the Property free from housing code violations and in a habitable condition, Respondents continue to charge and collect full rent from tenants at the Property.

#### **Statutory Basis for Appointment of Receiver**

22. In accordance with D.C. Code § 42-3651.03, the Attorney General for the District of Columbia, in the name of the District of Columbia, may petition the Court to appoint a receiver of the rents or payments for use and occupancy for a rental housing accommodation when “a rental housing accommodation has been cited by [DCRA] for a violation of chapters 1 through 16 of Title 14 of the District of Columbia Municipal Regulations. . . [and that] violation poses a serious threat to the health, safety, or security of the tenant. . . .” D.C. Code § 42-3651.02(a)(1).

23. A receiver may also be appointed if “a rental housing accommodation has been operated in a manner that demonstrates a pattern of neglect for the property for a period of 30 consecutive days and such neglect poses a serious threat to the health, safety, or security of the tenants.” D.C. Code § 42-3651.02(b).

24. The term “pattern of neglect” includes “all evidence that the owner, agent, lessor, or manager of the rental housing accommodation has maintained the premises in a serious state of disrepair, including vermin or rat infestation, filth or contamination, inadequate ventilation, illumination, sanitary, heating or life safety facilities, inoperative fire suppression or warning equipment, or any other condition that constitutes a hazard to its occupants or to the public.” D.C. Code § 42-3651.02(b).

25. Once appointed, the receiver shall, among other things: “Take charge of the operation and management of the rental housing accommodation and assume all rights to possess and use the building, fixtures, furnishings, records, and other related property and goods that the owner or property manager would have if the receiver had not been appointed . . . .” D.C. Code § 42-3651.06(a)(1).

**Count I**  
**(Petition for Appointment of a Receiver for Terrace Manor Apartments)**

26. The District incorporates by reference Paragraphs 1 through 25.

27. As described *supra*, Terrace Manor Apartments has been cited by DCRA for housing code violations that pose a serious threat to the health, safety, or security of the tenants. Although the time for compliance has long since passed, the violations remain unabated, and tenants continue to live in deplorable conditions. According to Monica Jackson, a tenant at the Property:



There are many problems with my unit. Despite many calls to Sanford [and] Todd Fulmer, as well as several landlord-tenant cases against Sanford, the majority of my concerns have not been addressed. My unit is missing heat and air conditioning, and has a terrible mouse and roach infestation. The mice are so bad that I can hear them through the walls. My unit also has broken windows, poor water pressure, and a terrible smell coming from the garbage disposal. The area under my sink is sunk in from water damage. I have purchased heaters, fans, and mousetraps at my own expense.

(*See* Ex. 1, Aff. of Monica Jackson.)

28. Not only have Respondents failed to abate the housing code violations that pose a serious threat to the health, safety, or security of the tenants, they have also operated Terrace Manor Apartments in a manner that demonstrates a pattern of neglect:

- a. On March 3, 2012, prior to purchasing the Property, Respondent Terrace Manor, LLC entered into a MOU with the Tenants' Association. Within the MOU was a list of necessary repairs that Respondent Terrace Manor, LLC agreed to make. Over four years later, many of the repairs identified within the MOU remain unaddressed and those that were addressed have since deteriorated.
- b. Respondents not only agreed to make repairs as part of the purchase contract, but Respondents attended regular on-site meetings with the Tenants' Association and the Board Members of the Tenants' Association starting in March 2013. At those meetings, Respondents and their agents were made aware of ongoing problems at the Property.
- c. In November 2014, the District Department of Housing and Community Development ("DHCD"), in accordance with the terms of the LIHTC covenant, inspected Terrace Manor Apartments and transmitted a list of housing code violations that pose a serious threat to the health, safety, or security of the tenants to Terrace Manor, LLC. (*See* Ex. 9, DCHD LIHTC Inspection Report.)
- d. In February 2016, Respondents were once again notified through the tenants' representatives that the living conditions at Terrace Manor were squalid and that one of the tenants did not have running water.
- e. Additionally, on February 22, 2016, February 23, 2016, and March 4, 2016, DCRA performed proactive inspections at the Property and issued Notices of Violation for housing code violations. (*See* Exs. 3-5, DCRA Notices of Violation for Terrace Manor Apartments.) All but four of the

aforementioned violations remain unabated, including rodent/vermin infestation and lack of proper heat.

29. The aforementioned pattern of neglect has been established well beyond the statutory period of 30 consecutive days. At a minimum, at the time the Respondents signed the MOU more than four years ago, they were aware that there were a variety of conditions requiring remediation at the Property, but they have failed to correct the majority of them. Such neglect poses a serious threat to the health, safety, or security of the tenants, as detailed *supra*.

30. The Respondents' pattern of failing to abate conditions at the Property, many of which violate the housing code and seriously threaten the health, safety and security of tenants, requires the appointment of a receiver.

**Count II**  
**(Request for Preliminary and/or Permanent Injunction of a Public Nuisance)**

31. Petitioner incorporates by reference paragraphs 1 through 30.

32. The maintenance of rental housing accommodations in violation of the provisions of Title 14 of the District of Columbia Municipal Regulations, where those violations constitute a danger to the health, welfare, or safety of the occupants, is a public nuisance. *See* 14 DCMR § 101.1.

33. Respondents have created a public nuisance by repeatedly violating Title 14 of the District of Columbia Municipal Regulations when they failed to maintain the Property, thereby creating an immediate risk of harm to the health, welfare, or safety of the their tenants.

34. The District of Columbia has standing to sue to abate a public nuisance. *See* 14 DCMR § 100.3.

35. It is the purpose of Title 14 to declare expressly a public policy in favor of speedy abatement of the public nuisances, if necessary, by preliminary and permanent injunction. *See* 14

DCMR § 101.5.

36. Respondents' ongoing and continuing failure to abate the numerous housing code violations found within the Property demonstrates that said housing code violations will remain unabated unless the court grants injunctive relief to abate the public nuisance.

**Count III**  
**(Violations of the Consumer Protection Procedures Act)**

37. Petitioner incorporates by reference paragraphs 1 through 36.

38. The District of Columbia Consumer Protection Procedures Act ("CPPA") prohibits unlawful trade practices in connection with the offer, lease and supplying of consumer goods and services. D.C. Code § 28-3901(a)(6). The CPPA defines consumer goods and services to include "real estate transactions." D.C. Code § 28-3901(a)(7).

39. Respondents, in the ordinary course of business, offer to lease or supply consumer goods and services and, therefore, are merchants under the CPPA. D.C. Code § 28-3901(a)(3).

40. The CPPA authorizes the Attorney General to file suit against any person the Attorney General has reason to believe "is using or intends to use any method, act, or practice [that is an unlawful trade practice] in violation of ... D.C. Code § 38-3904." D.C. Code § 28-3909(a).

41. Under the CPPA, it is an unlawful trade practice for any person to:

(a) represent that goods or services have a source, sponsorship, approval, certification, or connection that they do not have;

\* \* \*

(d) represent that goods or services are of particular standard, quality, grade, style, or model, if in fact they are of another;

(e) misrepresent as to a material fact which has a tendency to mislead; [or]

(f) fail to state a material fact if such failure tends to mislead [...]

D.C. Code § 28-3904.

42. Here, Respondents committed unlawful trade practices under the CPPA when they:

- a. represented to tenants/consumers, expressly and by implication, that the units Respondents offered to lease and did lease are or would be brought into compliance with the District's laws and regulations (including the District's housing code) when, in fact, the units were not habitable and were not maintained in a manner consistent with the District's laws and regulations;
- b. represented to tenants/consumers, expressly and by implication, that the Property was habitable and would be maintained in compliance the District's laws and regulations (including the District's housing code) when, in fact, the Property is not habitable and Respondents have not maintained the Property in a manner consistent with the District's laws and regulations;
- c. represented to tenants/consumers, expressly and by implication, that Respondents have abated or will abate all housing code violations and any other material defects that pose a serious threat to the health, safety, or security of the tenants/consumers when, in fact, Respondents have not done so; and
- d. collected rent from tenants/consumers while failing to inform them that Respondents would continuously and systematically fail to maintain the Property in a habitable condition.

43. Respondents' misrepresentations and material omissions of fact both had the capacity and tendency to mislead consumers.

44. Respondents' failure to abate the numerous housing code violations found within their buildings constitute violations of 16 DCMR § 3305. Such violations are also unlawful trade practices pursuant to § 28-3904(dd) of the CPPA.

45. Tenants/consumers in the District have suffered substantial injury as a result of Respondents violations of the CPPA. In particular, tenants/consumers have paid, and continue to pay, full rent to Respondents while being forced to live in apartments with substantial housing code violations. Tenants/consumers have been forced to make these rent payments despite Respondents' false representations, misrepresentations, and material omissions about those

tenants'/consumers' apartments being in full compliance with the District's laws and regulations, including the District's housing code. As such, Respondents have been unjustly enriched by their unlawful acts or practices.

46. Where the Attorney General establishes a violation of the CPPA, the Court may, among other relief, award "restitution for property lost or damages suffered," issue a temporary or permanent injunction against the use of the unlawful "method act or practice," and award "a civil penalty of not more than \$1,000 for each violation, the costs of the action, and reasonable attorney's fees." D.C. Code § 28-3909(a)-(b).

#### **Demand for Jury Trial**

Plaintiff hereby demands a trial by jury as to Respondents violations of the CPPA set forth in Count III by the maximum number of jurors permitted by law.

#### **Relief Requested**

Wherefore, Petitioner/Plaintiff, the District of Columbia, respectfully requests that the Court:

(a) Declare that Terrace Manor Apartments is being maintained in a manner that is in violation of Title 14 of the District of Columbia Municipal Regulations and constitutes a danger to the health, welfare, or safety of the occupants and that said rental housing accommodations are a public nuisance;

(b) Appoint a receiver who has demonstrated to the Court the expertise to develop and supervise a viable financial and repair plan for the satisfactory rehabilitation of the multi-unit rental housing accommodations which are the subject of this lawsuit;

(c) Order that the Respondents, jointly and severally, contribute funds in excess of the rents collected from the rental housing accommodation for the purposes of abating

housing code violations and assuring that any conditions that are a serious threat to the health, safety, or security of the occupants or public are corrected pursuant to D.C. Code § 42-3651.05(f);

(d) Issue a Preliminary and/or Permanent Injunction Order ensuring the speedy abatement of the public nuisances at issue in this Petition, including all outstanding housing code violations at the subject rental housing accommodation;

(e) Award restitution to disgorge the rent amounts that Respondents unlawfully charged tenants while the Property was uninhabitable, in violation of the District's housing code, and was deceptively offered and leased pursuant to D.C. Code § 28-3909(a);

(f) Award civil penalties in an amount up to \$1,000 per violation of the CPPA pursuant to D.C. Code § 28-3909(b);

(g) Enter injunctive relief requiring Respondents to cease and desist committing any unlawful trade practices that violate the CPPA pursuant to D.C. Code § 28-3909(a);

(h) Award all allowable costs;

(i) Award reasonable attorney's fees pursuant to D.C. Code § 28-3909(b); and

(j) Provide any other relief deemed appropriate by the Court.

Respectfully Submitted,

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