

IN THE SUPERIOR COURT OF THE DISTRICT OF COLUMBIA
Civil Division

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

Plaintiff,

v.

**INCLUSIONS AND ASSOCIATES
REAL ESTATE, LLC,**
5410 Indian Head Highway
Suite 300
Oxon Hill, MD 20735,

Serve on:

Heinrod A. David
5613 Eastwood Court
Clinton, MD 20735,

MICHAEL BRADLEY,
5708 Kenfield Lane
Upper Marlboro, MD 20772,

Defendants.

Case No.:
JURY TRIAL DEMANDED

COMPLAINT

Plaintiff the District of Columbia (the District) brings this action against brokerage Inclusions and Associates Real Estate, LLC (Inclusions); and Michael Bradley, a District-licensed real estate salesperson and agent of Inclusions. Defendants are liable for discriminatory practices that limit affordable housing and violate the District of Columbia Human Rights Act (DCHRA), D.C. Code §§ 2-1401.01, *et seq.* In support of its claims, the District states as follows.

INTRODUCTION

1. The District of Columbia faces a housing crisis. Affordable housing stock has trended downward while rents have trended upward, squeezing out low-income tenants. Housing-assistance programs that subsidize rent are a core pillar of the District's response to these pressures. By subsidizing rent, housing assistance programs help the District's lowest-income populations avoid homelessness and maintain a foothold in private housing. This assistance is critical in the District, where many tenants spend more than half of their monthly income on rent.

2. The District brings this action against a District licensed real estate brokerage and salesperson who posted four advertisements that discouraged tenants who receive housing assistance from applying to live at a rental property in the District.

3. Although housing discrimination is problematic in any form, it is even more concerning when perpetuated by the real estate profession. Real estate professionals—including brokers and salespersons—play an integral role in connecting customers to housing, including low-income tenants seeking an affordable place to live. They may dispense advice to property owners on how to market properties, and they act as gatekeepers for renters and buyers. When a real estate salesperson discriminates against potential tenants who use housing assistance programs, he not only violates his professional licensing standards but lends dangerous credibility to discriminatory practices.

4. Defendants' discriminatory online advertisements for rental housing lends professional credence to the idea that turning away tenants based on their source of income is not only acceptable but lawful. In the District, it is neither. Instead, it is a DCHRA violation that is prohibited not only as source-of-income discrimination but, because of the large number of African Americans enrolled in housing assistance programs, as racial discrimination as well.

5. Consequently, the District seeks declaratory and injunctive relief and civil penalties, costs and attorney's fees to prevent and deter defendants from engaging in discriminatory practices that mislead District residents and limit access to housing.

JURISDICTION

6. The Attorney General for the District of Columbia brings this action on behalf of the District of Columbia to uphold the public interest and enforce District law, here, the DCHRA. *See District of Columbia v. ExxonMobil Oil Corp.*, 172 A.3d 412 (D.C. 2017); D.C. Code § 1-301.81(a)(1) ("The Attorney General for the District of Columbia ... shall be responsible for upholding the public interest.").

7. This Court has subject matter jurisdiction over the claims and allegations in the Complaint. *See* D.C. Code § 11-921(a).

8. This Court has personal jurisdiction over defendants Inclusions and Bradley, a District licensed real estate salesperson, because defendants are owners within the meaning of the DCHRA, conducted transactions in real property in the District and had the actual or perceived right to rent or lease 1414 18th Place, S.E.

D.C. Code § 2-1402.23; *see* § 2-1401.02(20) (identifying “owners” to include managing agents or other persons having the right of ownership or possession of, or the right to sell, rent or lease any real property); *see also* § 2-1401.02(30) (defining a “transaction in real property” as the “advertising ... [of] any interest in real property”). This Court also has personal jurisdiction over the defendants because the defendants have caused tortious injury in the District and transact business in the District of Columbia. § 13-423.

PARTIES

9. Plaintiff District of Columbia, a municipal corporation, is the local government for the territory constituting the permanent seat of the government of the United States. The District is represented by and through its chief legal officer, the Attorney General for the District of Columbia. The Attorney General conducts the District’s legal business and is responsible for upholding the public interest. D.C. Code § 1-301.81(a)(1); *District of Columbia v. ExxonMobil Oil Corp.*, 172 A.3d 412 (D.C. 2017).

10. Defendant Inclusions is a limited liability company registered in the District of Columbia and a licensed real estate organization, License Number REO98364750. Its principal place of business is 5410 Indian Head Highway, Suite 300, Oxon Hill, Maryland.

11. Defendant Bradley is a District-licensed real estate salesperson, Salesperson License Number SP100984, who leases residential real estate in the District and surrounding areas.

FACTS

Housing Assistance and the Rental Housing Market in the District

12. The ability to access affordable housing free from discrimination is District residents' top civil rights concern. Office of the Attorney General for the District of Columbia, *Community Voices: Perspectives on Civil Rights in the District of Columbia* 4 (2019) <https://oag.dc.gov/sites/default/files/2019-11/Civil-Rights-Report.pdf>. In 2018, more than 23% of the District's tenant households spent more than half of their monthly income on rent. Tom Acitelli, *Nearly half of D.C.-area renter households 'cost-burdened,' report says*, Curbed (Oct. 15, 2019), <https://dc.curbed.com/2019/10/15/20915332/dc-renter-households-burdened>. In recent years, the District's rental housing market has become more expensive while the availability of affordable rental housing has plunged. WES RIVERS, DC FISCAL POLICY INSTITUTE, *GOING, GOING, GONE: DC'S VANISHING AFFORDABLE HOUSING* (2015), <https://www.dcfpi.org/wp-content/uploads/2015/03/Going-Going-Gone-Rent-Burden-Final-3-6-15format-v2-3-10-15.pdf>. Housing assistance programs are a core pillar of the District's response to the growing affordable-housing crisis.

13. Housing assistance programs, including subsidized rent programs, are particularly crucial in the District, where high rents consume a disproportionate share of household expenditures. D.C. Housing Authority, *Housing Choice Voucher Program*, <https://www.dchousing.org/topic.aspx?topid=2&AspxAutoDetectCookieSupport=1> (last visited June 18, 2020). These programs are therefore

increasingly important to low-income District tenants seeking to obtain affordable housing and navigate the city's high cost of living.

14. This case involves one of those housing-assistance programs: Housing Choice Vouchers. The United States Department of Housing and Urban Development administers the federally funded Housing Choice Voucher Program (HCVP). The HCVP is a successor to the Section 8 Rental Voucher Program; Housing Choice Vouchers are still commonly referred to as Section 8 vouchers.¹

15. In the District, Section 8 vouchers are locally administered by the District of Columbia Housing Authority. Section 8 vouchers are tenant-based subsidies that enable participants to rent housing on the private market at market rates. Section 8 voucher participants pay a portion of the rent based on a percentage of their household income, and DCHA pays the remainder of the rent directly to the landlord.

16. DCHA must inspect each property to be paid for with a Section 8 voucher before a voucher participant can move in. 24 C.F.R. § 982.405.

17. This inspection and approval for voucher payments takes place after the voucher participant identifies an available unit on the private market and submits a lease-up package for that unit to DCHA. D.C. Housing Authority, DCHA HCVP LEASE-UP PROCESS, http://www.dchousing.org/docs/201103151336219171_dcha_lease-up_processlh.pdf.

¹ This Complaint refers to HCVP as Section 8 for ease of reference.

18. In the District, over 90 percent of housing voucher holders are African American, although they only account for 48 percent of the total population. *See* Aastha Uprety and Kate Scott, “In the District, Source of Income Discrimination is Race Discrimination Too,” *Equal Rights Center* (Oct. 12, 2018) <https://equalrightscenter.org/source-of-income-and-race-discrimination-dc/> (last visited June 2, 2020). Given the disproportionate number of African Americans using Section 8 vouchers in the District, any discrimination based on source of income is 71 times more likely to discriminate against an African American renter rather than a white renter in the District. *Id.*

**Real Estate Professionals Face Myriad
Licensing Requirements to Protect Consumers from Discrimination**

19. Tenants use many sources to identify affordable housing in the District, including real estate agents and online housing resources. A real estate broker is a firm or person who offers properties for sale, lease or rent. Brokers have responsibility for the actions of any real estate salespersons hired to undertake these activities. *See* D.C. Code § 47-2853.161.

20. A broker that is a firm rather than a person may obtain a license as a real estate organization so long as the firm is a licensed entity in the District of Columbia, it is led by a licensed broker at all of its branches and its real estate staff hold appropriate licenses. *See* D.C. Code § 47-2853.183.

21. A real estate salesperson is someone employed by a licensed real estate broker to offer properties for sale, lease or rent. *See* D.C. Code § 47-2853.171.

22. Recognizing the critical role that real estate organizations and professionals play in the housing market, including the market for affordable housing, the District of Columbia Regulatory Affairs' Real Estate Commission requires these professionals to adhere to standards that mandate equitable treatment of housing consumers. *See, e.g.*, D.C. Code § 47-2853.02(d)(1) (requiring a license to “protect the public”); 17 DCMR 2609.1 (“A licensee shall not discriminate or assist any party in discriminating in the sale, rental, leasing, exchange, or transfer of property.”)

23. Real estate professionals are reminded of the District’s non-discrimination laws and their obligations during the fair housing training they must take every two years to maintain their licenses. *See* D.C. Code § 47-2853.13.

24. Under their licensing standards, a real estate broker or real estate salesperson who violates the DCHRA may have his real estate license revoked and face civil—or even criminal—penalties. *See* D.C. Code §§ 47-2843.01, *et seq.*

Discriminatory Online Advertising

25. Many tenants in the District—including those who receive housing assistance—rely on online housing advertisements to locate rental housing. An apartment-industry survey showed that at least 83 percent of apartment hunters used an online resource to search for housing. J Turner Research, *The Internet Adventure: The Influence of Online Ratings on a Prospect’s Decision Making 3* (2016), https://www.jturnerresearch.com/hubfs/Docs/J_Turner_Research-

The_Internet_Adventure_Nov2016.pdf. Online internet platforms act as a third-party website where housing providers can post listings at no or low cost.

26. More prospective tenants turning to online advertising has led to new opportunities for discriminatory advertising. In 2017 alone, more than 120 advertisements contained language suggesting that the housing provider discriminated based on source of income in the District. Equal Rights Center, *The Equal Rights Center Annual Report 2018* 6 (2018), <https://equalrightscenter.org/wp-content/uploads/6.20.19-annual-report-2018-final.pdf>.

27. Discriminatory postings and advertisements create permanent barriers in the rental market each day the advertisements are visible. Unlike temporary restrictions such as “no one-bedroom units available,” warnings like “no vouchers accepted” send a lasting message to voucher holders and are likely to permanently discourage them from pursuing that housing opportunity. *Cf.* Robert G. Schwemm, *Discriminatory Housing Statements and § 3604(c): A New Look at the Fair Housing Act's Most Intriguing Provision*, 29 FORDHAM URB. L.J. 187, 219 n.141 (2001) (explaining that discriminatory housing statements deter renters from searching for other housing from which they cannot be excluded).

28. Discriminatory advertisements can also take subtler forms, which, although short of an outright “no,” indicate a preference against voucher holders. *See* Aastha Uprety and Kate Scott, “Beyond ‘No Section 8 Accepted,’” *Equal Rights Center* (Dec.14, 2018) <https://equalrightscenter.org/source-of-income-voucher-denials/> (last visited June 22, 2020) (analyzing housing testing in the District and elsewhere that

showed real-estate professionals providing evasive, uncertain or irrelevant answers to questions about voucher participation, thereby deterring voucher holders from applying).

Defendants' Discriminatory Advertising

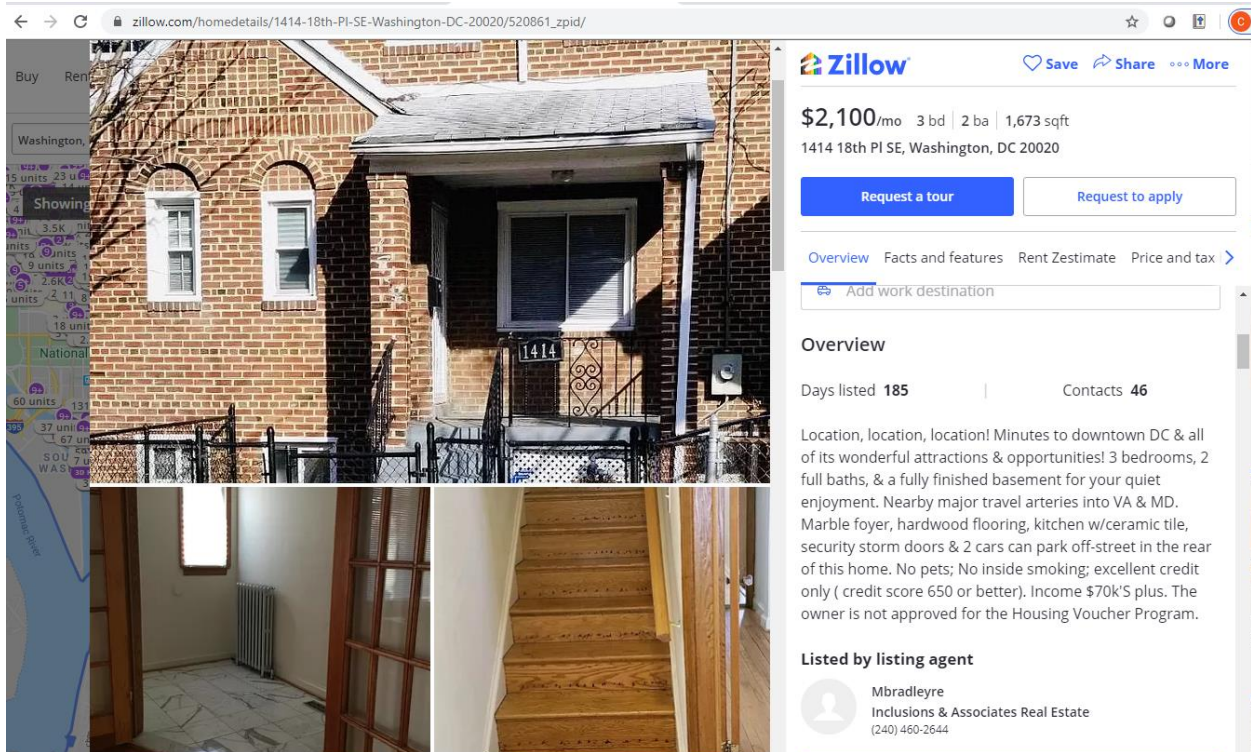
29. On or about December 16, 2019, defendant Bradley, acting under the real estate organization of defendant Inclusions, posted at least four discriminatory advertisements for 1414 18th Place, S.E., Washington, D.C. 20020 (the Property). The advertisements stated that the Property was a three-bedroom, two-bath house available to rent in the District for \$2,100.00 per month. The advertisements further stated that the owner was “not approved” for the housing voucher program, even though no owner is approved for the voucher program until *after* a tenant selects a property and submits a lease-up packet for that property to DCHA. The advertisements have remained on each website—Zillow, Hotpads, Trulia and Realtor.com—for more than six months.

30. Defendant Inclusions, through its agent defendant Bradley, acted as the point of contact and real estate organization for each discriminatory advertisement on each online platform.

31. The Zillow advertisement indicated that defendant Bradley was acting under the authority of defendant Inclusions.

32. The Zillow advertisement explicitly stated: “The owner is not approved for the Housing Voucher Program.”

33. A screenshot of the Zillow advertisement is included here:

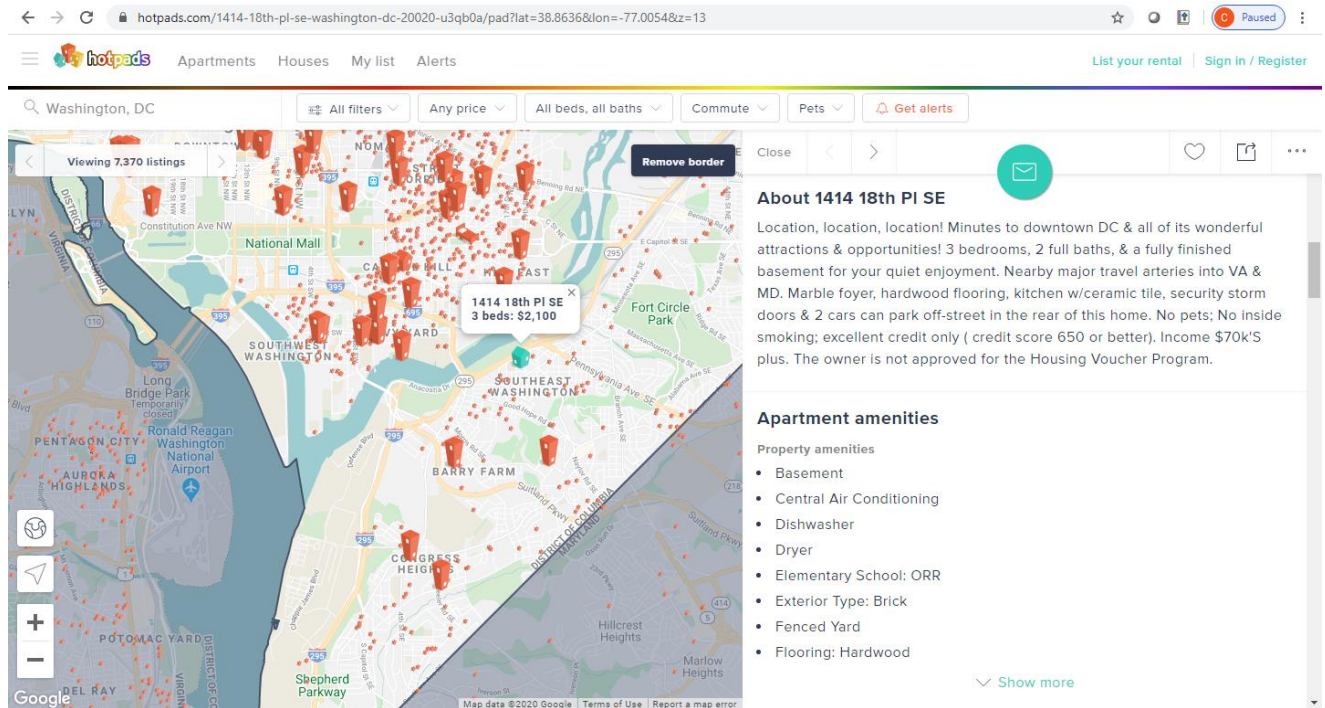


34. The Zillow advertisement was visible for at least 185 days from December 16, 2019 to present.

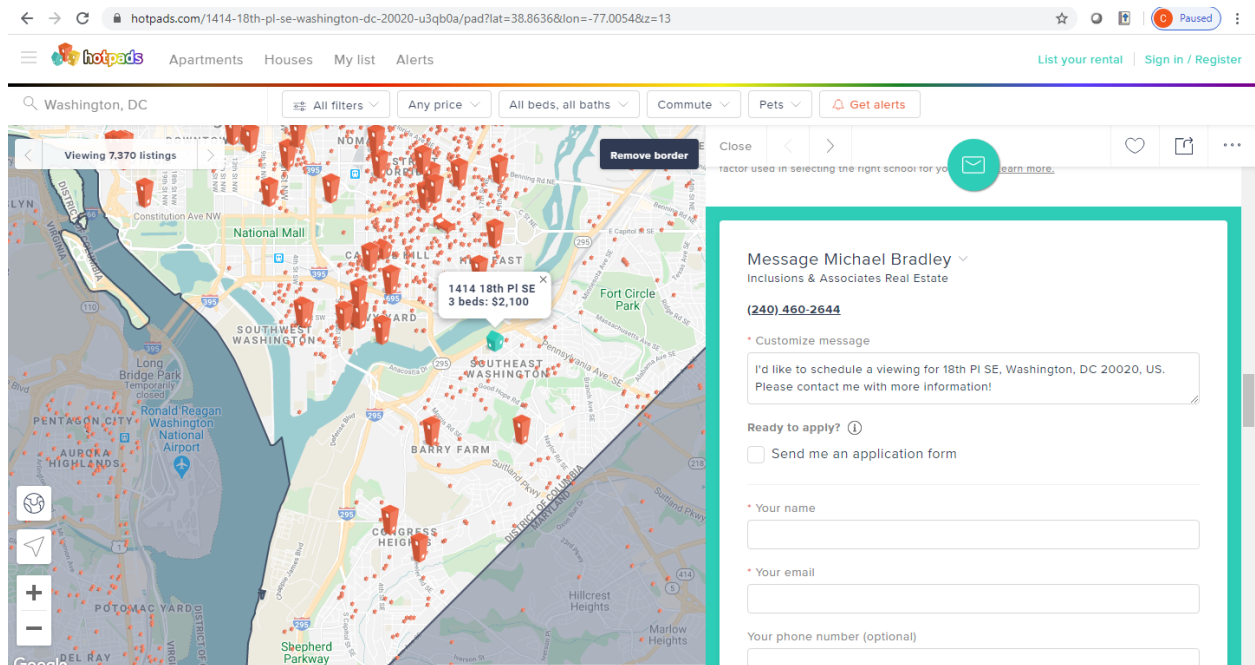
35. A second advertisement, this one on Hotpads, listed defendant Bradley, again acting under the auspices of defendant Inclusions, as the point of contact for the Property.

36. The Hotpads advertisement stated: “The owner is not approved for the Housing Voucher Program.”

37. A screenshot of the Hotpads advertisement displaying this discriminatory language is included here:



38. A screenshot of the contact information for the Hotpads advertisement is included here:

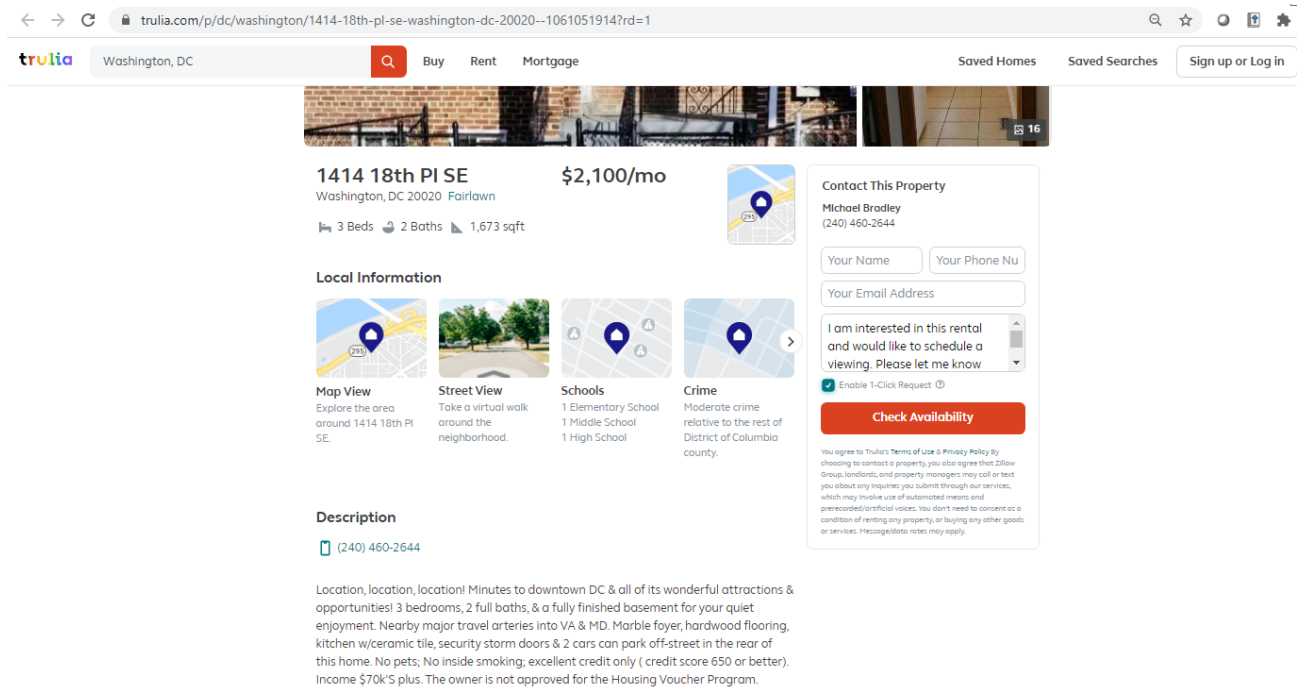


39. The Hotpads advertisement was posted on or about December 16, 2020 and is still visible online.

40. A third advertisement, this one on Trulia, listed defendant Bradley as the point of contact for the Property.

41. The Trulia advertisement stated yet again: “The owner is not approved for the Housing Voucher Program.”

42. A screenshot of the Trulia advertisement is included here:



43. The Trulia advertisement was posted on or about December 16, 2019 and is still visible online.

44. A fourth advertisement, this one on Realtor.com, listed defendant Bradley as the agent and defendant Inclusions as the broker. Like the others, the Realtor.com advertisement stated: “The owner is not approved for the Housing Voucher Program.”

45. A screenshot of the Realtor.com advertisement is included here:

realtor.com/realestateandhomes-detail/1414-18th-PI-SE_Washington_DC_20020_M57158-03710

Home For Rent

3 beds 2 baths 1,673 sq ft

Map

Commuter Time 1414 18th PI SE, Washington, DC 20020

Get a Free Moving Quote

\$2,100 /mo

Moving? See TV & Internet Offers

Save this Home

Add Note Hide

Open House

Due to COVID-19, open house information is uncertain in some areas. Please verify COVID-19 restrictions on open houses with your real estate agent, and local and state mandates.

None at this time [Request a Private Showing](#)

Property Details for 1414 18th PI SE
Buying Your First Home, Made Easier - Learn More

Type
Townhome

Location, location, location! Minutes to downtown DC & all of its wonderful attractions & opportunities! 3 bedrooms, 2 full baths, & a fully finished basement for your quiet enjoyment. Nearby major travel arteries into VA & MD. Marble foyer, hardwood flooring, kitchen w/ceramic tile, security storm doors & 2 cars can park off-street in the rear of this home. No pets; No inside smoking; excellent credit only (credit score 650 or better). Income \$70k's plus. The owner is not approved for the Housing Voucher Program.

Washington

Housing Market Schools

Popular Searches

- Swimming Pool
- Basement
- Central Air
- Affordable Apartments
- Dog Friendly
- In-Unit Laundry
- Two Car Garage
- Pets Allowed
- Luxury Apartments
- Cat Friendly

GEICO

97% CUSTOMER SATISFACTION
MAKES CHOOSING EASY.

46. A second screenshot of the bottom of the advertisement page showing defendant Bradley's name and defendant Inclusions as the broker is included here:

realtor.com/realestateandhomes-detail/1414-18th-PI-SE_Washington_DC_20020_M57158-03710

1414 18th PI SE, Washington, DC 20020 · \$2,100

Property Details Schools Neighborhood

Learn more about 1414 18th PI SE

(855) 928-3308

Contact this property

Your Name

Email

Phone


Desired move-in date

I'm interested in 1414 18th PI SE

Send me news, tips and promos from reator.com® using my email.

[Email Agent](#)

By processing, you consent to receive calls and texts at the number you provided, including marketing by autodialer and prerecorded and artificial voice, and email, from reator.com and others about your inquiry and other home-related matters, but not as a condition of any purchase. More...



Presented by:
Michael Bradley

Brokered by:
Inclusions & Associates Real Estate

Broker Location: CLINTON, MD

Data Source: BrightMLS

Source's Property ID: DCDC452696

Data Source Copyright: ©2020 Bright MLS, Inc. All Rights Reserved

47. The Realtor.com advertisement was posted on or about December 16, 2019 and remains visible online.

COUNTS I-IV
DISCRIMINATORY ADVERTISEMENT IN VIOLATION OF THE DCHRA
(All Defendants)

48. Paragraphs 1-47 are incorporated here.

49. Defendant Bradley, a District-licensed real estate salesperson and agent of Inclusions, and defendant Inclusions are both responsible for the discriminatory advertisements posted for the Property.

50. Under the DCHRA it is an “unlawful discriminatory practice” to make “any ... statement, or advertisement, with respect to a transaction, or proposed transaction, in real property ... [that] unlawfully indicates or attempts unlawfully to indicate any preference, limitation, or discrimination based on ... source of income ... of any individual.” D.C. Code § 2-1402.21(a)(5).

51. Rental payment from a Section 8 voucher is a source of income under the DCHRA. D.C. Code § 2-1402.21(e) (“The monetary assistance provided to an owner of a housing accommodation under section 8 of the United States Housing Act of 1937 ... shall be considered a source of income under this section.”); *see also* OHR Guidance No. 16-01 (stating that source of income includes “short- and long-term rental subsidies” such as “Housing Choice Vouchers”). Inspection and approval of properties to be paid for with a Section 8 voucher take place only *after* a voucher participant identifies an available unit and submits a lease-up package for that unit, not before. D.C. Housing Authority, DCHA HCVP LEASE-UP PROCESS,

http://www.dchousing.org/docs/201103151336219171_dcha_lease-up_processlh.pdf.

Thus, an assertion in an advertisement that an owner is not approved for a voucher program adds no new information; rather, it attempts to indicate a preference or limitation based on the applicant's source of income.

52. The statement in the Property's Zillow posting that "the owner is not approved for the Housing Voucher Program" is a discriminatory advertisement based on the source of income of individuals in violation of D.C. Code § 2-1402.21(a)(5). The Zillow advertisement was visible online from at least December 16, 2019 to present.

53. The statement in the Property's Hotpads posting that "the owner is not approved for the Housing Voucher Program" is a discriminatory advertisement based on the source of income of individuals in violation of D.C. Code § 2-1402.21(a)(5). The Craigslist advertisement was visible online from at least December 16, 2019 to present.

54. The statement in the Property's Trulia posting that "the owner is not approved for the Housing Voucher Program" is a discriminatory advertisement based on the source of income of individuals in violation of D.C. Code § 2-1402.21(a)(5). The Trulia advertisement was visible online from at least December 16, 2019 to present.

55. The statement in the Property's Realtor.com posting that "the owner is not approved for the Housing Voucher Program" is a discriminatory advertisement based on the source of income of individuals in violation of D.C. Code § 2-1402.21(a)(5). The Realtor.com advertisement was visible online from at least December 16, 2019 to present.

56. Defendants violated the DCHRA each time they posted a discriminatory advertisement. Defendants' discriminatory advertisements discourage potential tenants of the Property based on their source of income.

COUNTS V-VIII
DISPARATE IMPACT BASED ON RACE IN VIOLATION OF THE DCHRA
(All Defendants)

57. Paragraphs 1-56 are incorporated here.

58. Defendants posted advertisements on Zillow, Hotpads, Trulia and Realtor.com that discriminate against Section 8 voucher holders.

59. Under the DCHRA, it is an "unlawful discriminatory practice" to "refuse or fail to initiate or conduct any transaction in real property" where such refusal or failure is "wholly or partially ... based on the actual or perceived ... race ... of any individual." D.C Code § 2-1402.21(a)-(a)(1).

60. It is also a violation of the DCHRA to take any action that has "the effect or consequence" of discriminating based on race. D.C. Code § 2-1402.68.

61. Over 90 percent of voucher holders in the District are African American. Defendants' refusal to accept Section 8 voucher holders is also a discriminatory practice against African Americans.

62. Thus, Defendants' statements that discriminate against voucher holders disparately impact African Americans in the District and violate D.C. Code § 2-1402.21(a)-(a)(1).

63. Defendants violated the DCHRA each time they posted a discriminatory advertisement.

COUNTS IX-XII
ACTS OF DISCRIMINATION BY A
REAL ESTATE SALESPERSON IN VIOLATION OF THE DCHRA
(Bradley)

64. Paragraphs 1-63 are incorporated here.

65. Defendant Bradley is a licensed real estate salesperson in the District of Columbia who posted and acted as the point of contact for the discriminatory advertisements of the Property.

66. The discriminatory language was published in at least four separate advertisements on Zillow, Hotpads, Trulia and Realtor.com.

67. It is an “unlawful discriminatory practice” to make “any ... statement, or advertisement, with respect to a transaction, or proposed transaction, in real property ... [that] unlawfully indicates or attempts unlawfully to indicate any preference, limitation, or discrimination based on ... the ... race ... [or] source of income ... of any individual.” D.C. Code § 2-1402.21(a)(5). *See* D.C. Code § 2-1402.23 (holding any real estate salesperson who violates the discrimination provisions of the DCHRA as a danger to the public interest).

68. Defendant Bradley violated the DCHRA four times when he posted four separate advertisements with discriminatory language on Zillow, Hotpads, Trulia and Realtor.com. These advertisements violated the DCHRA on the basis of both source of income and race.

69. As a registered real estate salesperson, defendant Bradley’s discriminatory acts are violations of the DCHRA and therefore have endangered the public interest.

70. His violations of the DCHRA also violate D.C. Code § 2-1402.23.

COUNTS XIII-XVI
ACTS OF DISCRIMINATION BY A
REAL ESTATE BROKER IN VIOLATION OF THE DCHRA
(Inclusions)

71. Paragraphs 1-70 are incorporated here.

72. Defendant Inclusions is a District-registered real estate organization, which is a form of real estate broker. Through its agent defendant Bradley, defendant Inclusions posted discriminatory advertisements for the Property in violation of the DCHRA.

73. The discriminatory language was published in four separate advertisements on Zillow, Hotpads, Trulia and Realtor.com.

74. It is an “unlawful discriminatory practice” to make “any ... statement, or advertisement, with respect to a transaction, or proposed transaction, in real property ... [that] unlawfully indicates or attempts unlawfully to indicate any preference, limitation, or discrimination based on ... the ... race ... [or] source of income ... of any individual.” D.C. Code § 2-1402.21(a)(5); *see* D.C. Code § 2-1402.23 (holding any real estate broker who violates the discrimination provisions of the DCHRA as a danger to the public interest).

75. Defendant Inclusions violated the DCHRA four times when its agent defendant Bradley posted four separate advertisements with discriminatory language on Zillow, Hotpads, Trulia and Realtor.com. The advertisements violated the DCHRA on the basis of both source of income and race.

76. As a real estate organization and broker, defendant Inclusions's discriminatory acts are violations of the DCHRA and therefore have endangered the public interest.

77. Defendant Inclusions's violations of the DCHRA also violate D.C. Code § 2-1402.23.

PRAYER FOR RELIEF

WHEREFORE, the District requests that this Court enter judgment in its favor and grant relief against defendants as follows:

- (a) Injunctive and declaratory relief;
- (b) Damages;
- (c) Civil penalties;
- (d) The District's reasonable attorney's fees and costs and
- (e) Such other and further relief as this Court deems appropriate based on the facts and applicable law.

JURY DEMAND

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

Dated: June 26, 2020.

Respectfully submitted,

KARL A. RACINE
Attorney General for the District of Columbia

TONI MICHELLE JACKSON
Deputy Attorney General
Public Interest Division

/s/ Michelle D. Thomas
MICHELLE D. THOMAS [993514]
Chief, Civil Rights Section
Public Interest Division

/s/ Kate L. Vlach
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