

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.

STEPHEN TALLEY,
908 Kings Valley Drive
Bowie, MD 20721,

Defendant.

Case No.:
JURY TRIAL DEMANDED

COMPLAINT

Plaintiff the District of Columbia (the District) brings this action against defendant Stephen Talley 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 defendant Stephen Talley, an individual who held himself as a real estate professional, who posted an advertisement for a District property that stated that housing assistance would not be accepted as rental payment. Not only did defendant Talley post a discriminatory advertisement, he also refused to transact on the basis of source of income for two properties in the District.

3. Although housing discrimination is problematic in any form, it is even more concerning when perpetuated by the real-estate profession or someone posing as a real estate professional. Real estate professionals—including brokers, salespersons and property managers—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 act as gatekeepers for renters and buyers. When a real estate broker discriminates against potential tenants who use housing assistance programs, he not only violates his professional licensing standards, but he lends dangerous credibility to discriminatory practices. When that broker is operating without a license, the broker exacerbates the danger to District residents, because he is fraudulently operating under the guise of an authority that he does not in fact have.

4. Defendant's discriminatory online advertisement for rental housing lent 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 susceptible to prosecution 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, civil penalties, costs and attorney's fees to prevent and deter defendant from engaging in discriminatory practices that mislead District residents and limit access to housing for vulnerable District residents.

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 defendant Talley because he is an owner within the meaning of the DCHRA and had the actual or perceived right to rent or lease 4630 Hillside Road S.E. Washington, D.C. 20019 (the Hillside Property) and 5736 27th Street, N.W., Washington, D.C. 20015 (the 27th Street Property). 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 defendant because he has caused tortious injury in the District and transacted 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. Stephen Talley acted as the real estate broker for the Hillside Property the 27th Street Property. Upon information and belief, he is not licensed to deal in real estate in the District, Maryland or Virginia.

FACTS

Housing Assistance and the Rental Housing Market in the District

11. 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.

12. 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.

13. 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

14. In the District, Section 8 vouchers are locally administered by the District of Columbia Housing Authority (DCHA). 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.

15. Over 90 percent of voucher holders are African American in the District, 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 Housing Choice 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**

16. 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

¹ Hereinafter, any reference to the Housing Choice Voucher Program shall be referred to as “Section 8” or “Section 8 vouchers.”

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.

17. Recognizing the critical role that real-estate professionals play in the housing market, including the market for affordable housing, the District of Columbia Regulatory Affairs' Real Estate Commission (the 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.”)

18. 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.

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

20. Acting without the proper licensing requirement endangers the public. D.C. Code § 47-2853.02(d)(1) (requiring a license to “protect the public”). These actors not only lack the necessary training of a real estate professional, but they also are acting without the authority to do so.

Online Discriminatory Advertising

21. 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. Among the most popular online resources is Craigslist, a website where housing providers can list available units. Approximately 17 percent of all tenants rely on Craigslist to find an apartment. J Turner Research, *Marketing to Different Generations: Emerging Online, Language, and Lifestyle Trends 12* (2015), <https://www.jturnerresearch.com/courting-the-baby-boomers>. Online internet platforms, such as Craigslist, act as a third-party website where housing providers can post listings free of cost.

22. 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>.

23. Discriminatory postings and advertisements create permanent barriers in the rental market each day the advertisements are visible. Unlike temporary

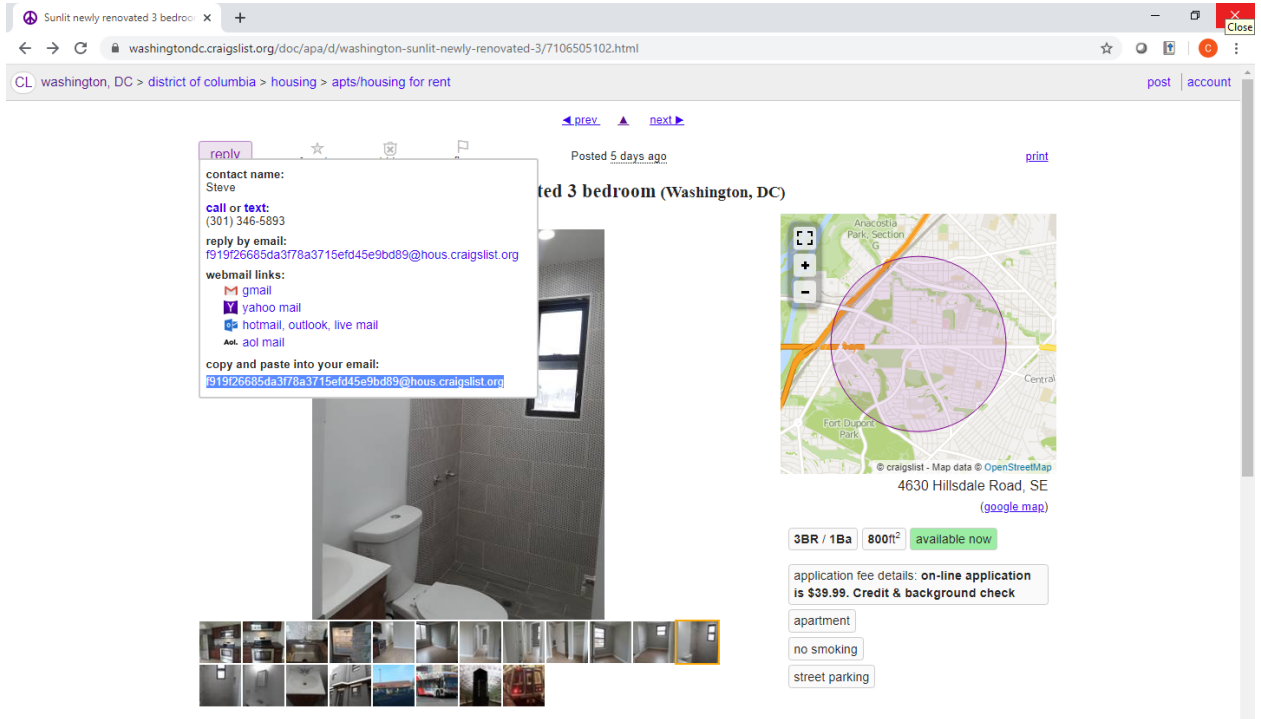
advertisements such as “no one-bedroom units available,” warnings like “no vouchers accepted” send a lasting message to tenants with subsidies, permanently discouraging them from pursuing that housing opportunity. *Cf.* John M. Yinger et al., *The Status of Research into Racial Discrimination and Segregation in American Housing Markets*, 6 OCCASIONAL PAPERS IN HOUSING AND COMMUNITY AFF. 60 (1979), <https://tinyurl.com/housingresearchagenda> (describing discrimination that discourages housing seekers from considering certain areas).

Defendant Talley’s Discriminatory Advertising

24. On April 15, 2020, a discriminatory advertisement for the Hillside Property was posted on Craigslist. The advertisements stated that a three-bedroom, one-bath apartment unit in the Hillside Property was available to rent in the District for \$1,895.00. The advertisement stated that HCVP (Section 8) vouchers were not accepted. The discriminatory advertisement remained on Craigslist for 21 days.

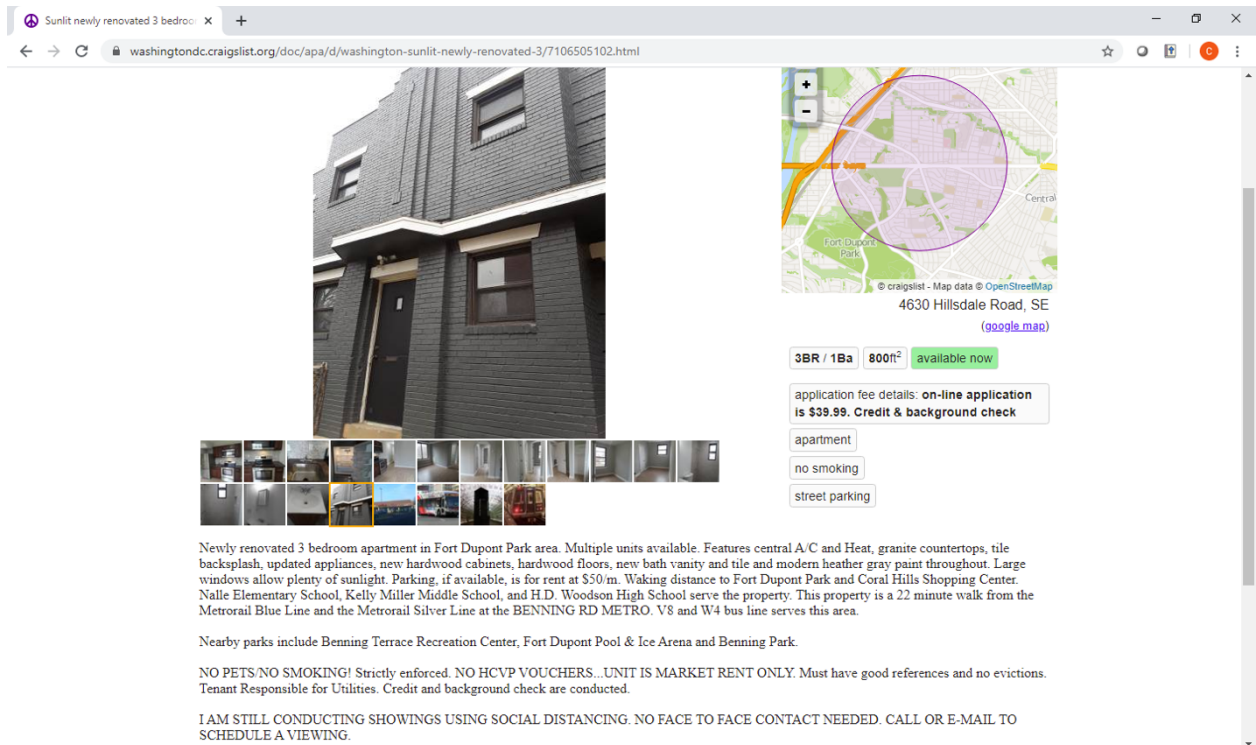
25. Defendant Talley acted as the point of contact for the Craigslist advertisement.

26. A screenshot of his contact information for the Craigslist advertisement is included here:



27. The advertisement also explicitly stated, “NO HCVP VOUCHERS...UNIT IS MARKET RENT ONLY.”

28. A screenshot of the Craigslist advertisement description is included here:



29. This Craigslist advertisement was posted on April 15, 2020, and was visible online for at least 21 days.

Defendant Talley’s Refusal to Rent to Section 8 Voucher Participants

30. Defendant Talley not only posted the discriminatory advertisement, but he also refused to consider Section 8 voucher holders who inquired into leasing the Hillside Property.

31. In an inquiry about the availability of the Hillside Property, Defendant Talley explicitly stated that the Hillside Property is unavailable to voucher holders.

32. Defendant Talley continued this practice for the 27th Street Property. Defendant Talley stated on May 28, 2020 that “the owner of the house does not want to deal with housing vouchers,” and therefore, vouchers would not be accepted at that property.

COUNT I
DISCRIMINATORY ADVERTISEMENT IN VIOLATION OF THE DCHRA

33. Paragraphs 1-32 are incorporated here.

34. Defendant Talley posted the discriminatory advertisement of the Property on Craigslist.

35. 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).

1. Rental payment from a Section 8 voucher is a source of income under the DCHRA. *See* OHR Guidance No. 16-01 (stating that source of income includes “short- and long-term rental subsidies” such as “Housing Choice Vouchers”); *see also* D.C. Code § 2-1402.21(e) (the DCHRA expressly defines “source of income” broadly to encompass income from all legal sources, including funding from “section 8 of the United States Housing Act of 1937[.]”); D.C. Code § 2-1402.21(29) (expressly defining “source of income” to include “federal payments”).

36. The statement in Talley’s Craigslist posting that it would not rent to Housing Choice Voucher holders—“NO HCVP VOUCHERS...UNIT IS MARKET RENT ONLY”—is a discriminatory advertisement based on the source of income of individuals in violation of D.C. Code § 2-1402.21(a)(5).

37. Defendant Talley violated the DCHRA when he posted a discriminatory advertisement. His advertisement discourages potential tenants of the Hillside Property based on their source of income.

**COUNT II
DISPARATE IMPACT BASED ON RACE
IN VIOLATION OF THE DCHRA**

38. Paragraphs 1-38 are incorporated here.

39. Defendant Talley posted a discriminatory advertisement on Craigslist that discriminated against Section 8 voucher holders.

40. 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).

41. Over 90 percent of voucher holders in the District are African American. Defendant Talley’s refusal to accept Section 8 voucher holders is also a discriminatory practice against African Americans.

42. Defendant Talley’s policy to discriminate against voucher holders disparately impacts African Americans in the District and is a violation of D.C. Code § 2-1402.21(a)-(a)(1).

**COUNT III-IV
REFUSAL TO TRANSACT IN VIOLATION OF THE DCHRA**

43. Paragraphs 1-44 are incorporated here.

44. Defendant Talley refused to transact on two separate occasions: He refused to rent to a Section 8 voucher holder for the unit at the Hillside Property. He

also explicitly stated that “the owner of the house does not want to deal with housing vouchers,” for the 27th Street Property.

45. 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 ... source of income ... of any individual.” D.C Code § 2-1402.21(a)-(a)(1).

46. The DCHRA defines “source of income” broadly to encompass income from all legal sources including government payments. *See* D.C. Code § 2-1402.01(29) (defining “source of income” to include “federal payments”).

47. Section 8 vouchers are a source of income under the DCHRA. *See* OHR Guidance No. 16-01 (stating that source of income includes “short- and long-term rental subsidies” such as “Housing Choice Vouchers”).

48. Defendant Talley’s practice of refusing to accept Section 8 vouchers as rental payments is a discriminatory refusal to conduct a transaction in real property based on Section 8 participants’ source of income and violates D.C. Code § 2-1402.21(a)(1).

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) Restitution and 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 22, 2020.

Respectfully submitted,

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