

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

**EQUAL RIGHTS CENTER**

820 First Street, NE,  
Suite LL160  
Washington, DC 20002

Docket No. \_\_\_\_\_

*Plaintiff,*

vs.

**AIR COMMUNITIES, L.P.**

4582 S. Ulster St.  
Suite 1700  
Denver, CO 80237

Service at:

CSC-Lawyers Incorporating Service Co.  
7 St. Paul Street, Suite 820  
Baltimore, MD 21202

**RHODE ISLAND 15 LP, d/b/a  
LATROBE APARTMENT HOMES**

1325 15th Street, NW  
Washington, D.C. 20005

Service at:

Corporation Service Company  
1090 Vermont Ave. NW  
Washington, DC 20005

**VAUGHAN PLACE, LLC**

300 Indiana Ave, NW #4008  
Washington, D.C. 20001

Service at:

Corporation Service Company  
1090 Vermont Ave. NW  
Washington, DC 20005

*Defendants.*

**COMPLAINT**

Housing Choice Vouchers (“Vouchers”) are of critical importance in the District of Columbia, allowing thousands of low-income families to obtain safe, decent, and affordable housing in the neighborhoods of their choice, thus reducing segregation and increasing economic mobility. Recognizing this important goal, the District of Columbia has enacted fair housing laws protecting Voucher holders against discrimination, including prohibiting housing providers from rejecting rental applicants because of their use of Vouchers or implementing unnecessary credit and other background screening requirements on such applicants. In addition, the District of Columbia has enacted legislation protecting all rental housing applicants from overbroad screening requirements based on prior evictions and criminal records, recognizing that these barriers to housing are a key driver of housing instability, homelessness, and poverty.

The Equal Rights Center brings this action against Defendants AIR Communities, L.P., Rhode Island 15 LP, and Vaughan Place, LLC, for their use of discriminatory policies and practices that create unlawful barriers for applicants using Vouchers and applicants with eviction and criminal background histories. These rejections and screening practices shut families out of housing opportunities without any legitimate basis and have been explicitly prohibited under District of Columbia law.

### **NATURE OF THIS ACTION**

1. The Equal Rights Center (“ERC”) brings this action against AIR Communities L.P., Rhode Island 15 LP, and Vaughan Place, LLC (“Defendants”) to challenge Defendants’ unlawful denial of housing to applicants using government-backed housing vouchers (“Voucher holders”) and for its implementation of unlawful rental application requirements—minimum credit scores and income requirements for Voucher holders, along with overbroad eviction history and criminal record screenings—which restrict and deter applicants from obtaining housing at Defendants’

District of Columbia (“D.C.” or “the District”) residential apartment properties, including Latrobe Apartment Homes and Vaughan Place. Defendants’ conduct constitutes unlawful housing discrimination in violation of the D.C. Consumer Protection Procedures Act (“DCCPPA”), as well as the D.C. Human Rights Act (“DCHRA”), the D.C. Rental Housing Act, and the D.C. Fair Criminal Record Screening for Housing Act of 2016 (“DCFCRSHA”), underlying additional violations of the DCCPPA.

2. This is a civil rights and consumer protection action under the DCCPPA, D.C. Code §§ 28-3901, *et seq.*, for declaratory, injunctive, and monetary relief. Violations of the DCHRA, D.C. Code §§ 2-1401.01, *et seq.*, the D.C. Rental Housing Act, D.C. Code §§ 42-3501.01, *et seq.*, and the DCFCRSHA, D.C. Code §§ 42-3541.01, *et seq.*, underlie additional claims under the DCCPPA.

3. Defendants—AIR Communities L.P., the owner and/or manager of the Latrobe Apartment Homes and Vaughan Place apartment complexes, both located in D.C.; Rhode Island 15 LP, a subsidiary of AIR Communities L.P. and the owner of Latrobe Apartment Homes; and Vaughan Place, LLC, a subsidiary of AIR Communities L.P. and the owner of Vaughan Place—have violated the DCHRA, the D.C. Rental Housing Act, and the DCFCRSHA by implementing a policy or practice of refusing to rent units to Voucher holders and/or imposing conditions which aim to exclude or deter Voucher holders, as well as those with an eviction and/or criminal record history, from access to rental units.

4. Through statements made on their websites and in recorded fair housing tests conducted by ERC, Defendants made the following statements: (1) Latrobe Apartment Homes did not have any apartment units available for applicants using Vouchers, despite having available apartments for other renters; (2) Voucher holders must meet minimum credit score requirements

at Latrobe Apartment Homes and Vaughan Place to be approved for apartments at those complexes; (3) Voucher holders must meet minimum income requirements at Latrobe Apartment Homes and Vaughan Place to be approved for apartments at those complexes; (4) sealed eviction records and/or evictions filed three or more years ago may be grounds to deny individuals applying to Latrobe Apartment Homes and Vaughan Place; and (5) a criminal history, even if more than seven years old, may be grounds to deny individuals applying to Latrobe Apartment Homes and Vaughan Place.

5. Under the DCCPPA, it is a violation of law “for any person to engage in an unfair or deceptive trade practice[.]” D.C. Code § 28-3904. Trade practices arising in the context of landlord-tenant relations are subject to this law and may be vindicated by both consumers, on behalf of themselves and the general public, and non-profit organizations, on behalf of themselves and the general public. D.C. Code §§ 28-3905(k)(1)(A)–(C), (6). Public interest organizations may also bring such suits “on behalf of the interests of a consumer or a class of consumers,” so long as they have a “sufficient nexus” to “adequately represent those interests.” D.C. Code § 28-3905(k)(1)(D).

6. A violation of an underlying D.C. law, including the DCHRA, the D.C. Rental Housing Act, and the DCFCRSHA, in the consumer context, constitutes a violation of the DCCPPA. *See, e.g., Dist. Cablevision Ltd. P’ship v. Bassin*, 828 A.2d 714, 723 (D.C. 2003). By refusing to accept Vouchers and/or implementing restrictions which seek to exclude Voucher holders as well as individuals with an eviction and/or criminal record history in violation of the DCHRA, D.C. Rental Housing Act, and DCFCRSHA, Defendants engaged in unfair trade practices in violation of the DCCPPA.

7. Vouchers are a protected source of income under the DCHRA. D.C. Code § 2-1401.02(29). It is unlawful to discriminate based on source of income, including by denying applicants because of their use of a Voucher. D.C. Code §§ 2-1402.21(a), (e). Defendants and their agents' policy or practice of refusing to accept applicants because these applicants use Vouchers is a facial violation of the DCHRA, and because this violation is in the context of a consumer transaction, it is in turn a violation of the DCCPPA.

8. Under the DCHRA, it is also unlawful to deny housing to Voucher holders based on income level, credit score, or the lack of a credit score. D.C. Code §§ 2-1402.21(a), (g)(1)(B). Defendants and their agents' policy or practice of requiring Voucher holders to meet certain minimum income or credit score requirements is a facial violation of the DCHRA, and because this violation is in the context of a consumer transaction, it is in turn a violation of the DCCPPA.

9. It is also unlawful under the DCHRA to deny housing to any individual based on prior evictions that have been sealed. D.C. Code §§ 2-1402.21(a), (h)(1). In D.C., eviction records are sealed three years after an eviction. D.C. Code § 42-3505.09(a)(2). Eviction proceedings that do not result in an eviction are sealed 30 days after the final resolution of the eviction proceeding. D.C. Code § 42-3505.09(a)(1). Defendants and their agents' policy or practice of excluding individuals with sealed eviction records facially violates the DCHRA, and because this violation is in the context of a consumer transaction, it is in turn a violation of the DCCPPA.

10. Under the D.C. Rental Housing Act, it is also unlawful to make any inquiry about, require the prospective tenant to disclose or reveal, or base an adverse action on a previous eviction that was filed three or more years ago, or that did not result in a judgment for possession in favor of the housing provider. D.C. Code § 42-3505.10(d)(1). An "adverse action" includes denial of a prospective tenant's rental application. *Id.* at § 42-3505.10(j)(1)(A). Defendants and their agents'

policy or practice of inquiring about, requiring prospective tenants to disclose or reveal, or excluding individuals with evictions filed three or more years ago facially violates the D.C. Rental Housing Act, and because this violation is in the context of a consumer transaction, it is in turn a violation of the DCCPPA.

11. Defendants have also engaged in unlawful discrimination by excluding prospective tenants with criminal convictions more than seven years old, which is an explicit violation of the DCFCRSHA. D.C. Code § 42-3541.02(d). Defendants and their agents' policy or practice of excluding individuals with criminal convictions more than seven years old facially violates the DCFCRSHA, and because this violation is in the context of a consumer transaction, it is in turn a violation of the DCCPPA.

12. Defendants and their agents' discrimination has harmed, and continues to harm, the ERC because the ERC has a sufficient nexus to the interests involved of the class of consumers—individuals seeking housing in the District—to adequately represent those interests.

13. Accordingly, the ERC brings this action to vindicate its consumer protection rights and the consumer protection rights of those it represents under the DCCPPA, and to obtain an injunction and damages—including statutory and treble damages under the DCCPPA—to remedy those injuries.

### **PARTIES**

14. **Plaintiff Equal Rights Center** is a national non-profit public interest organization and civil rights membership corporation organized under the laws of D.C. Its principal place of business is 820 First Street NE, Suite LL160, Washington, D.C. 20002. The ERC's mission is to identify and eliminate unlawful and unfair discrimination in housing, employment, and public accommodations in its home community of greater Washington, D.C. and nationwide. The ERC

is the only private fair housing organization dedicated to serving the entire greater Washington, D.C. region. It is committed to assisting individuals in the area who believe they have experienced housing discrimination or who need assistance with preparing and/or submitting requests for reasonable accommodations and modifications. The ERC's various programs and activities provide guidance and information on civil rights to the community, as well as assistance to members of classes protected under federal, state, and local laws who face discrimination.

15. **Defendant AIR Communities L.P.** is a Colorado corporation, with its principal place of business in Denver, Colorado. On information and belief, AIR Communities manages over 37 residential apartment buildings along the east coast, including in the District. During the time period relevant to this action, AIR Communities managed and continues to manage the **Latrobe Apartment Homes**, a residential apartment building located at 1325 15th Street, NW, Washington, D.C. 20005, and **Vaughan Place**, a residential apartment building located at 3401 38th Street, NW, Washington, D.C. 20016. On information and belief, AIR Communities owns 100% of Vaughan Place and is a majority owner of Latrobe Apartment Homes.

16. **Defendant Rhode Island 15 LP** is a District of Columbia Limited Partnership. On information and belief, Defendant Rhode Island 15 LP is a subsidiary of Defendant AIR Communities and is an owner of Latrobe Apartment Homes.

17. **Defendant Vaughan Place, LLC** is a District of Columbia Limited Liability Company. On information and belief, Defendant Vaughan Place, LLC is a subsidiary of Defendant AIR Communities and is an owner of Vaughan Place.

## **JURISDICTION AND VENUE**

18. This Court has jurisdiction over this action pursuant to D.C. Code § 11-921.

19. This Court has jurisdiction over Defendants pursuant to D.C. Code §§ 13-423(a)(1), (5) because Defendants transact business and manage real property in the District of Columbia. The discriminatory conduct at issue in this litigation arises out of these business activities.

## **FACTUAL BACKGROUND**

### A. Overview of Voucher Programs in the District

20. The Housing Choice Voucher Program, also known as Section 8, is a federally funded housing subsidy program designed to allow low-income families to obtain safe, decent, and affordable housing in the neighborhoods of their choice. Currently assisting more than two-million American families,<sup>1</sup> including roughly 11,500 households in the District,<sup>2</sup> the Voucher Program is the largest rental-assistance program administered by the U.S. Department of Housing and Urban Development (“HUD”). In D.C., the designated program administering the Voucher Program is the District of Columbia Housing Authority (“D.C. Housing Authority”).

21. Tenant-based Vouchers such as the Housing Choice Voucher Program are subsidies that are not linked to any particular housing complex, building, or unit, but rather enable families with a Voucher to rent housing in the private market, at market rates, provided the rent does not exceed the Program’s payment standards (*i.e.*, limits on the monthly rent that are set by the D.C. Housing Authority) and a percentage of the Voucher holder’s income. The Voucher Program thus

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<sup>1</sup> *Housing Choice Voucher Program*, U.S. Dep’t of Housing & Urban Dev., <https://www.hud.gov/hcv> (last visited Feb. 1, 2024).

<sup>2</sup> *AG Racine Announces Largest Civil Penalty in a Housing Discrimination Case in U.S. History*, Off. of the Atty. Gen. for D.C.,

<https://oag.dc.gov/release/ag-racine-announces-largest-civil-penalty-housing> (Oct. 20, 2022) (last visited Feb. 1, 2024).



removes some of the barriers that would otherwise restrict low-income families from the opportunity to obtain rental housing outside of areas of concentrated poverty, allowing families to move to neighborhoods with access to public transportation, grocery stores, green spaces, well-performing schools, and cultural enrichment. Obtaining a Voucher can provide an unhoused or low-income resident of D.C. with a direct path to housing and enable integration in mixed-income neighborhoods. The success of the Voucher program depends in large part on the ability of renters to obtain housing in integrated neighborhoods, as well as participation of landlords in the private housing market.

22. Vouchers are important in high-cost jurisdictions like D.C., where rent burdens on low-income families are particularly severe. Vouchers are especially important in Northwest D.C., where Latrobe Apartment Homes and Vaughan Place are located, because they afford a meaningful chance for low-income residents of color to live in neighborhoods that are more diverse and provide access to better resourced schools, additional employment opportunities, and increased safety—all of which can impact a resident’s economic and educational outcomes in the long-term.

23. In the District, Black households comprise a disproportionate number of Voucher holders. Specifically, nearly all Voucher recipients are Black (95%),<sup>3</sup> even though Black households comprise less than half of the District’s total population (45%).<sup>4</sup> In contrast, a little

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<sup>3</sup>*National and Local, Picture of Subsidized Households*, U.S. Department of Housing and Urban Development, Assisted Housing, available at:

<https://www.huduser.gov/portal/datasets/assths.html#null> (last visited Feb. 1, 2024).

<sup>4</sup>*Quick Facts: District of Columbia*, U.S. Census Bureau, available at:

<https://www.census.gov/quickfacts/fact/table/districtofcolumbiadistrictofcolumbia,DC>. (last visited Feb. 1, 2024).

less than half of the District population is white (46%),<sup>5</sup> but virtually no Voucher holders are white (approximately 1%).<sup>6</sup>

24. Vouchers are also time-limited and can generally only be used to secure housing for a short period after they are issued. Applicants for Vouchers are placed on years-long waiting lists but only have 120 days to find an apartment once they finally receive a Voucher unless they can obtain an extension on their Voucher expiration date.

25. As a result of widespread Voucher discrimination, Voucher holders must frequently accept subpar housing in segregated neighborhoods or risk losing their Voucher altogether.

B. Overview of the DCHRA's Source of Income Protections

26. The DCHRA prohibits housing providers from denying housing or otherwise limiting the availability of housing to an applicant because of the applicant's "source of income." D.C. Code § 2-1402.21(a)(1). Vouchers are included in the definition of "source of income." *Id.* at § 2-1401.02(29). The DCHRA likewise prohibits housing providers from making statements or representations that such a denial or limitation is being made. *Id.* at § 2-1402.21(a)(5).

27. The DCHRA also prohibits housing providers from denying housing to Voucher holders based on the Voucher holder's: income level; credit score or lack of credit; any credit issues that arose while the applicant did not have a Voucher; or prior rental history involving nonpayment or late payment of rent that occurred when the applicant did not have a Voucher. *Id.* at § 2-1402.21(g)(1)(A)-(C). The DCHRA likewise prohibits housing providers from making

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<sup>5</sup> *Id.*

<sup>6</sup> *National and Local, Picture of Subsidized Households, supra* n.3.

statements or representations that such a denial is being made. *Id.* at §§ 2-1402.21(a)(5); (g)(1)(A)-(C).

C. Overview of Eviction Records Screening and the ERSAFRAA Protections

28. Recognizing the detrimental effects of using eviction records to screen rental housing applicants, the District recently enacted protections explicitly making this type of discrimination illegal through the Eviction Record Sealing Authority Amendment Act of 2021 (now the Eviction Record Sealing Authority and Fairness in Renting Amendment Act of 2022, or “ERSAFRAA”), which amended, in part, the DCHRA<sup>7</sup> and the D.C. Rental Housing Act.

29. On December 1, 2021, the D.C. Council Committee on Housing and Neighborhood Revitalization produced a report in support of the ERSAFRAA.

30. The report, in part, stated as follows:<sup>8</sup>

Eviction is a key driver of housing instability, homelessness, and poverty, and the consequences of eviction, even the mark of an eviction filing, can create barriers to finding new housing.<sup>9</sup> In 2018, approximately 11% of D.C. renter households were impacted by the eviction process, with 59% receiving at least one additional eviction filing. Eviction filings and records result in “housing providers often automatically reject[ing] applicants...even when the case was dismissed . . . or if it was filed years ago.”<sup>10</sup>

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<sup>7</sup> ERSAFRAA also amended the DCHRA to strengthen protections for Voucher holders related to their income level, credit score or lack thereof, any credit issues that arose while the applicant did not have a Voucher, and their prior rental history involving nonpayment or late payment of rent that occurred when the applicant did not have a Voucher. D.C. Code § 2-1402.21(g)(1)(A)-(C).

<sup>8</sup> Letter from Councilmember Anita Bonds, Chairperson to Council of the District of Columbia Comm. on Hous. and Neighborhood Revitalization Comm., to all Councilmembers (Dec. 1, 2021) (quoting testimony from a May 20, 2021, public hearing on the proposed bill), available at:

[https://lims.dccouncil.gov/downloads/LIMS/46603/Committee\\_Report/B24-0096-Committee\\_Report1.pdf](https://lims.dccouncil.gov/downloads/LIMS/46603/Committee_Report/B24-0096-Committee_Report1.pdf). (last visited Feb. 1, 2024).

<sup>9</sup> *Id.*, citing Brian J. McCabe, Eva Rosen. “Eviction in Washington, DC: Racial and Geographic Disparities in Hous. Stability.” Fall 2020.

<sup>10</sup> *Id.*, citing Testimony of Gwendolyn Washington, Esquire. May 25, 2021.

. . . .

Importantly, eviction filings and records disproportionately impact tenants of color and are spatially concentrated in Wards 7 and 8 in the District, where the largest share of Black residents and the highest poverty rates in the city exist.<sup>11</sup> By contrast, the wards with the lowest filing rate—Wards 2 and 3—have among the lowest poverty rates and the smallest share of Black residents in the city. In 2018, of all city-wide filings, Ward 8 had 34% of all filings and 35.5% of all executed evictions, whereas Ward 3, which is 7% Black, had only 3.2% of all city-wide eviction filings. Statistics show that the higher the share of Black residents correlates with a higher percentage of filings per 100 renter households.

. . . .

[T]he mere existence of an eviction record can operate against the interest of tenants attempting to obtain housing in the District and are often used by landlords to discriminate against those in search of housing due to the prevalent stigma of an eviction filing.

31. The Committee report also found that “eviction filings are often due to ‘one-time arrearages, other nonrecurring circumstances, or indeed outright errors[.]’ . . . An eviction record serves as a veritable impediment for a prospective renter who could demonstrably be a good tenant, however, because of the accessibility and ‘unreasonable reliance on eviction records as determinants of good tenants,’ public eviction records thus ‘create a sort of ‘blacklist’. . . [and] may mischaracterize the experiences of low-income tenants.’”<sup>12</sup>

32. The Committee report relied in part on the research and hearing testimony of Brian McCabe, a researcher and faculty member at Georgetown University’s McCourt School of Public Policy. Mr. McCabe’s research found that the vast majority of tenants facing eviction—“about 19 out of 20—do *not* ultimately get evicted.’ In fact, in 2018, only approximately 5.5% of filings resulted in a formal eviction. While more than two thirds of filed cases are dismissed, the existence

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<sup>11</sup> *Id.*, citing Brian J. McCabe, Eva Rosen. “Eviction in Washington, DC: Racial and Geographic Disparities in Hous. Stability.” Fall 2020.

<sup>12</sup> *Id.*

of an eviction record, regardless of whether it is a filing or an executed eviction, ‘makes it harder for tenants to find housing in the future[.]’<sup>13</sup>

33. In her introduction to the ERSAFRAA, District Councilmember Mary M. Cheh stated: “Eviction records are created the moment a landlord files with the Court, and endure, even where the Court did not find for the landlord; unfortunately, such instances are not uncommon. Landlords may mistakenly name the wrong tenant when filing, illegally file for eviction after a tenant legally withholds rent, objects to an illegal rent increase, or otherwise exercises one’s tenant rights. In some instances, landlords may even use an eviction proceeding to pressure a tenant to move out. In all of these examples, a permanent eviction record would be created the moment the landlord files with the Court.”<sup>14</sup>

34. Eviction records can therefore cause significant harm to tenants. As Ms. Cheh added, “Landlords may charge tenants with eviction records higher rent or a larger security deposit; in many instances, landlords will refuse to rent to a tenant with an eviction record. This harm is particularly acute for low-income residents and those who have experienced homelessness. In fact, housing-vulnerable residents report that eviction records are one of the primary barriers they face in finding safe and affordable housing. The harms caused by these records may also exacerbate the financial difficulties that resulted in the tenant being evicted from a prior residence. . . .”<sup>15</sup>

35. The DCHRA, as amended by the ERSAFRAA, prohibits housing providers from denying housing or otherwise limiting the availability of housing to any applicant based on the

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<sup>13</sup> *Id.*

<sup>14</sup> Mary M. Cheh, Councilmember, Ward 3 (Feb. 22, 2021), available at: <https://lims.dccouncil.gov/downloads/LIMS/46603/Introduction/B24-0096-Introduction.pdf>. (last visited Feb. 1, 2024).

<sup>15</sup> *Id.*

applicant's sealed eviction records, which includes any eviction that is more than three years old, or the belief that someone has a sealed eviction record. D.C. Code § 2-1402.21(a)(1); § 2-1402.21(h)(1); *see id.* at § 42-3505.09(a)(2). The DCHRA likewise prohibits housing providers from making statements or representations that such a denial or limitation is being made. *Id.* at § 2-1402.21(a)(5).

36. The D.C. Housing Act, as amended by the ERSAFRAA, prohibits housing providers from making inquiries about, requiring the prospective tenant to disclose or reveal, or denying housing to any applicant based on an eviction that was filed three or more years ago, or that did not result in a judgment for possession in favor of the housing provider. D.C. Code § 42-3505.10(d)(1); *see id.* at § 42-3505.10(j)(1)(A).

37. Despite the recent codification of protections for individuals with sealed eviction records and/or evictions filed three or more years ago, these individuals still face significant obstacles in obtaining safe and affordable housing in the District due to ongoing discrimination.

#### D. Overview of Criminal Records Screening and the DCFCRSHA Protections

38. The U.S. criminal legal system is an omnipresent force that impacts many lives across the country, including individuals attempting to obtain rental housing in the District.

39. A criminal record poses an additional barrier to accessing affordable housing for those involved in the criminal justice system, placing them at risk of housing instability, homelessness, and, ultimately, recidivism.

40. Yet many housing providers implement overly broad criminal background check policies that create barriers for people with criminal records, many of whom may be already disadvantaged in the housing market.

41. The criminal legal system disproportionately affects communities of color, and Black people in particular, through more stops by police, arrests, and convictions, as well as higher rates of incarceration and longer sentences.<sup>16</sup>

42. Recognizing this racial disparity, the Department of Housing and Urban Development (HUD) issued guidance in 2016 stating that overly broad criminal record screening policies, such as those that institute blanket bans on individuals with criminal histories, disproportionately impact people of color. “Because of widespread racial and ethnic disparities in the U.S. criminal justice system,” the guidance states, “criminal history-based restrictions on access to housing are likely disproportionately to burden African Americans and Hispanics.”<sup>17</sup>

43. Washington D.C. is no exception. A 2019 report from the D.C. American Civil Liberties Union states that “[f]rom 2013 to 2017, Black individuals composed 47% of D.C.’s population but 86% of its arrestees. During this time, Black people were arrested at 10 times the rate of white people.”<sup>18</sup>

44. Racial disparities in criminal conviction rates in the District are just as stark. In 2019, Black individuals comprised 89% of the total incarcerated population of the District, but only 44% of the general District population. In contrast, white individuals comprised 37% of the

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<sup>16</sup> *Office of General Counsel Guidance on Application of Fair Hous. Act Standards to the Use of Criminal Recs. by Providers of Hous. and Real Estate-Related Transactions*, U.S. Dep’t of Hous. and Urb. Dev. (Apr. 4, 2016), available at:

[https://www.hud.gov/sites/documents/HUD\\_OGCGUIDAPPFHASTANDCR.PDF](https://www.hud.gov/sites/documents/HUD_OGCGUIDAPPFHASTANDCR.PDF). (last visited Feb. 1, 2024).

<sup>17</sup> *Id.*

<sup>18</sup> *Racial Disparities in D.C. Policing: Descriptive Evidence From 2013-2017*, ACLU District of Columbia (May 13, 2019), available at:

<https://www.acludc.org/en/publications/racial-disparities-dc-policing-descriptive-evidence-2013-2017>. (last visited Feb. 1, 2024).

general District population, but only 5% of the total incarcerated population of the District.<sup>19</sup> These disparities have been persistent and enduring over time such that they are reflected in the proportions of District residents with criminal records.

45. As a result of discrimination based on criminal history records, individuals with such records face a significant obstacle in obtaining safe and affordable housing in the District.

46. The DCFCRSHA requires that housing providers only consider pending criminal accusations or criminal convictions that have occurred within the past seven years. D.C. Code § 42-3541.02(d). And even then, the housing provider may only consider a pending criminal accusation or criminal conviction that falls within a list of enumerated offenses, including burglary, aggravated assault, arson, first degree murder, fraud, and various other offenses. *Id.* at § 42-3541.02(d)(1)–(48).

#### E. Defendants’ Rental Operations

47. Defendant AIR Communities had been part of another company, Apartment Investment and Management Company (“AIMCO”), before separating from that company on December 15, 2020. Much of the current leadership of Defendant AIR Communities, including its Chief Executive Officer, Chief Financial Officer, Board Chairman, and members of AIR’s Board, was formerly the leadership of AIMCO.

48. AIMCO and Defendant Rhode Island 15 LP were recently found to have discriminated on the basis of an applicant’s use of a Voucher. *See* Ord. Granting Pl.’s Mot. for Summ. J., at \*9-10, *Martin v. Apartment Inv. And Mgmt Co., et al.*, 17-10032 (D.C. Super. Ct. May 26, 2021). In that case, the plaintiff brought claims against AIMCO and Rhode Island 15 LP,

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<sup>19</sup> District of Columbia Profile, Prison Policy Initiative, available at: <https://www.prisonpolicy.org/profiles/DC.html>. (last visited Feb. 1, 2024).



alleging source of income discrimination under the DCHRA and the DCCPPA, based on representations made on the defendants' website and through statements made to the plaintiff by one of the defendants' rental agents. *See id.* On May 26, 2021, the Superior Court granted summary judgment for the plaintiff, finding that the defendants made discriminatory statements based on source of income in violation of the DCHRA and the DCCPPA. *Id.* at \*11, 18. Then, on February 20, 2022, the Superior Court granted relief to the plaintiff, finding that injunctive relief was appropriate because of the defendants' "recurring violations . . . including violations after the defendants had notice of their unlawful activity." Ord. Granting Relief, at \*10, *Martin v. Apartment Inv. And Mgmt. Co., et al.*, 17-10032 (D.C. Super. Ct. Feb. 20, 2022). The Court also found punitive damages appropriate because the defendants "acted in willful disregard for the rights of the plaintiff." *Id.* at \*13.

49. During the time period relevant to this current action, Defendants AIR Communities and Rhode Island 15 LP owned, operated, controlled, supervised, and/or managed, either directly or indirectly through a parent-subsiary, agency, or other business affiliation, Latrobe Apartment Homes, which consists of the residential apartments located at 1325 15th Street, NW, Washington, D.C. 20005, in the Old City II neighborhood.

50. During the time period relevant to this action, Defendants AIR Communities and Vaughan Place, LLC owned, operated, controlled, supervised, and/or managed, either directly or indirectly through a parent-subsiary, agency, or other business affiliation, Vaughan Place, which consists of the residential apartments located at 3401 38th Street, NW, Washington, D.C. 20016, in the Cleveland Park neighborhood.

51. As the owners, operators, and/or managers of residential real estate, Defendants and their agents are required to comply with antidiscrimination laws, including the DCHRA and the DCFCRSHA, and consumer protection laws, including the DCCPPA.

52. During the time period relevant to this action, Latrobe Apartment Homes offered studio and one-bedroom apartments for rent. In February 2023, Latrobe Apartment Homes had available one-bedroom units starting at \$2,359. At that time, the maximum rent that the D.C. Housing Authority would approve for a one-bedroom unit without utilities in that neighborhood was \$2,467.

53. During the time period relevant to this action, Vaughan Place offered studio, one-bedroom, and two-bedroom apartments for rent. In September 2022, Vaughan place had available one-bedroom apartments for rent at \$2,297 per month and above. At that time, the maximum rent that the D.C. Housing Authority would approve for a one-bedroom unit without utilities in that neighborhood was \$2,467.

54. In February 2023, Vaughan Place had available one-bedroom apartments for rent starting at \$2,195 per month. At that time, the maximum rent that the D.C. Housing Authority would approve for a one-bedroom unit without utilities in that neighborhood was \$2,467.

55. Upon information and belief, as of January 2024, both Latrobe Apartment Homes and Vaughan Place had units available to rent that fall below the maximum allowable rent approved by the D.C. Housing Authority.

#### F. The ERC's Mission and Testing

56. The ERC's mission is to identify and eliminate discrimination in the Washington, D.C. metro area, including the District. Specifically, it is dedicated to promoting equal opportunity in the provision of housing and public accommodations.

57. In connection with its multi-disciplinary Fair Housing Program dedicated to advancing equal housing opportunities in the District, the ERC conducts and participates in programs to educate both consumers and the real estate industry about their rights and obligations under federal, state, and local fair housing laws.

58. In addition, the ERC has grants from HUD to conduct fair-housing related education and outreach. The ERC also conducts education and outreach trainings for Voucher holders at D.C. Housing Authority briefings.

59. Civil rights testing is an investigative tool used to gather evidence, usually to compare the conduct of the target of the testing to the applicable antidiscrimination laws. Fair housing testing involves one or more testers engaging in a transaction or interaction with a housing provider.

60. As a result of its fair housing testing at Latrobe Apartment Homes and Vaughan Place over the last two years, the ERC has uncovered Defendants' discriminatory policies and practices.

#### G. ERC's Discovery of Discrimination at Latrobe Apartment Homes

61. The ERC conducted an investigation in which it used fair housing testers to ascertain whether Defendants were engaging in unlawful discrimination against individuals attempting to rent units at Latrobe Apartment Homes.

62. The testing was partially in response to the Latrobe Apartment Homes' website, which stated the following:

We screen for criminal background, and applicants may be disqualified based on history. We do not allow renters with felony convictions to live at our community . . . Renters may not have had previous evictions. In addition, factors including negative payment history, past or current bad debts, liens, bankruptcies or judgments can disqualify an applicant . . . Income must average 3 times the

monthly rent for prospective tenants, and 5 times the monthly rent for guarantors.

63. This statement violates the DCHRA, D.C. Rental Housing Act, DCFCRSHA and DCCPPA, as it made no reference to the legal limitations on how far back Defendants can look when conducting criminal background or prior eviction screenings for Latrobe Apartment Homes. This statement also made no reference to the legal limitations on which criminal convictions Defendants can consider when conducting timely criminal background screenings.

64. This statement also violates the DCHRA and DCCPPA, as it made no reference to the fact that Defendants cannot deny a Voucher holder's application based on an insufficient or nonexistent credit score.

65. This statement also violates the DCHRA and DCCPPA, as it made no reference to the fact that a housing provider cannot deny a Voucher holder's application based on prior rental history involving nonpayment or late payment of rent if the nonpayment or late payment of rent occurred during a period in which the prospective tenant did not have a Voucher.

66. This statement also violates the DCHRA and DCCPPA, as it made no reference to the fact that a housing provider cannot deny a Voucher holder's application based on any credit issues that arose during a period in which the prospective tenant did not have a Voucher.

67. This statement also violates the DCHRA and DCCPPA, as it made no reference to the fact that Defendants cannot deny a Voucher holder's application based on their income level.

68. In response to the statements made on the Latrobe Apartment Homes website, ERC conducted fair housing testing using individual testers presenting themselves as applicants seeking rental housing or seeking rental housing on behalf of others.

69. The statements made to ERC's fair housing testers by Defendants' representatives consisted of additional violations of the DCHRA, D.C. Rental Housing Act, DCFCRSHA and

DCCPPA, and confirmed that Defendants' rental applicant screening policies and practices violate these laws.

*Tester A*

70. This test was conducted by telephone and was audio recorded by the ERC.

71. On October 3, 2022, the ERC conducted a test consisting of a fair housing tester (Tester A) contacting Latrobe Apartment Homes on behalf of his brother, inquiring about the availability of housing for individuals with criminal convictions.

72. The representative who answered the fair housing tester's phone call presented herself as "Shara," the property manager acting on behalf of Latrobe Apartment Homes.

73. Tester A inquired as to whether applicants with criminal histories could be accepted to live at Latrobe Apartment Homes. In response, Shara stated that full criminal background checks are "ran systematically," but did not know how many years back those background checks went. However, Shara then stated: "In my personal opinion, I would say if there's anything criminal on the background, I just wouldn't suggest applying because I couldn't see how that would be approved."

*Tester B*

74. This test was conducted by telephone and was audio recorded by the ERC.

75. On October 4, 2022, the ERC conducted a test consisting of a fair housing tester (Tester B) contacting Latrobe Apartment Homes inquiring about the availability of housing for himself, as an applicant with a prior eviction.

76. The representative who answered the fair housing tester's phone call presented herself as "Shara," the property manager acting on behalf of Latrobe Apartment Homes.

77. Tester B inquired as to whether an applicant would be denied based on a 9-year-old prior eviction. Shara stated: “Typically you can apply, but it will more than likely, for us, it will typically deny it with the eviction on it. I don’t know how far back it’ll check for evictions, and if it doesn’t deny it, it will flag it and it may ask for additional information.”

*Tester C*

78. This test was conducted by telephone and was audio recorded by ERC.

79. On March 2, 2023, the ERC conducted a test consisting of a fair housing tester (Tester C) contacting Latrobe Apartment Homes on behalf of clients at a small non-profit organization, inquiring about the availability of housing for applicants with Vouchers, as well as regarding minimum income and credit score requirements for Voucher holders and the use of prior eviction and criminal histories for any applicant.

80. The representative who answered the fair housing tester’s phone call presented herself as “Shara,” the property manager acting on behalf of Latrobe Apartment Homes.

81. In response to inquiries about the acceptance of Vouchers, Shara stated: “We do not. We accept Housing Vouchers, but we do not have any Section 8 units . . . We don’t currently have anyone in the building using a Voucher as we speak, so I’m not 100% aware of the process for that.”

82. Under Voucher programs such as Section 8, those receiving Vouchers are free to choose any housing in the rental market so long as the rental unit is within the monthly rental amount limits of the program, and Voucher holders are not limited to certain units within an

apartment complex.<sup>20</sup> There are therefore no restrictions under the program such that participants can only rent “Section 8 units.”

83. Shara then stated that Voucher holders “would however still have to go through the background and credit checks that we do.”

84. In response to inquiries about the credit requirements, Shara stated that all applicants must have a minimum 650 credit score, as well as pass a background check which checks for evictions and any fraud alerts.

85. When asked specifically about the credit score requirement for a Voucher holder whose Voucher covers 100% of their rent, Shara stated that she did not know if having a credit score under 650 would be a problem, but “it’s done systematically, so it will flag.”

86. When asked if prior felonies would preclude an applicant, Shara was not sure if a 10-year-old felony would be a problem but stated that: “Typically, I do know that if there is a criminal background, it typically is denied automatically.”

#### H. ERC’s Discovery of Discriminatory Practices or Policies at Vaughan Place

87. The ERC conducted an investigation in which it used fair housing testers to ascertain whether Defendants were engaging in unlawful discrimination against individuals attempting to rent units at Vaughan Place.

88. The testing was partially in response to the Vaughan Place’s website, which stated the following:

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<sup>20</sup> See, e.g., *Housing Choice Voucher Fact Sheet*, U.S. Dep’t of Hous. and Urban Dev., available at:

[https://www.hud.gov/topics/housing\\_choice\\_voucher\\_program\\_section\\_8#hcv05](https://www.hud.gov/topics/housing_choice_voucher_program_section_8#hcv05). (last visited Feb. 1, 2024).

We screen for criminal background, and applicants may be disqualified based on history. We do not allow renters with felony convictions to live at our community . . . Renters may not have had previous evictions. In addition, factors including negative payment history, past or current bad debts, liens, bankruptcies or judgments can disqualify an applicant . . . Income must average 3 times the monthly rent for prospective residents, and 5 times the monthly rent for guarantors.

89. This statement violates the DCHRA, D.C. Rental Housing Act, DCFCRSHA and DCCPPA, as it made no reference to the legal limitations on how far back housing providers can look when conducting criminal background or prior eviction screenings for Vaughan Place. This statement also made no reference to the legal limitations on which criminal convictions Defendants can consider when conducting timely criminal background screenings.

90. This statement also violates the DCHRA and DCCPPA, as it made no reference to the fact that a housing provider cannot deny a Voucher holder's application based on an insufficient or nonexistent credit score.

91. This statement also violates the DCHRA and DCCPPA, as it made no reference to the fact that a housing provider cannot deny a Voucher holder's application based on prior rental history involving nonpayment or late payment of rent if the nonpayment or late payment of rent occurred during a period in which the prospective tenant did not have a Voucher.

92. This statement also violates the DCHRA and DCCPPA, as it made no reference to the fact that a housing provider cannot deny a Voucher holder's application based on any credit issues that arose during a period in which the prospective tenant did not have a Voucher.

93. This statement also violates the DCHRA and DCCPPA, as it made no reference to the fact that Defendants cannot deny a Voucher holder's application based on their income level.



94. In response to the statements made on the Vaughan Place website, ERC conducted fair housing testing using individual testers presenting themselves as applicants seeking rental housing or seeking rental housing on behalf of others.

95. The statements made to ERC's fair housing testers by Defendants' representatives consisted of additional violations of the DCHRA, D.C. Rental Housing Act, DCFCRSHA and DCCPPA, and confirmed that Defendants' rental applicant screening policies and practices violate these laws.

*Tester D*

96. This test was conducted by telephone and was audio recorded by the ERC.

97. On September 29, 2022, an ERC fair housing tester (Tester D) contacted Vaughan Place by telephone, on behalf of clients at a social services organization, to inquire about the availability of housing for individuals with Vouchers, as well as regarding minimum income and credit score requirements for Voucher holders, and screening of prior evictions and criminal histories for any applicant.

98. The representative who answered the fair housing tester's phone call responded to the tester and presented herself as "Michaela," the on-site leasing agent acting on behalf of Vaughan Place.

99. Michaela stated that the apartment complex did accept Vouchers, but "the only thing with the Vouchers, is that all of our applicants, regardless of how they're paying for the home . . . they would have to pass our same screening requirements." Michaela stated that applicants using Vouchers, like all applicants, must have a credit score of 640 or higher, must pass a background check, cannot have "any previous evictions" or "outstanding balances with another community" and "we can't have anything that comes up on the criminal."

100. Tester D then inquired whether an applicant with a 12-year-old criminal conviction for grand larceny would be accepted despite the applicant's criminal record. Michaela responded: "For that one, probably no. Just because anything on background becomes a liability to our community and our other residents." Michaela stated that she would check with the property manager to see how far they looked back but believed that such an individual would be rejected, "but what I'm thinking off the top is that that one wouldn't be able to be overridden."

101. Michaela then stated that "when it comes to criminal, anything that comes up on the criminal is, like 80% always just like a flat-out denial and there's not much we can do to override it, just because of the liability that it places us in." Michaela stated that she would look up the specific policy and get back to the tester.

102. When asked if the criminal background check goes back farther than 10 years, Michaela stated, "Our screening process is like the FBI, like they're going to pull up anything."

103. Michaela then told Tester D that there had been an applicant with a 30-year-old misdemeanor that the apartment rejected based on that conviction.

104. When asked if there is a minimum income requirement for Voucher holders, Michaela told Tester D that if the Voucher only covers a portion of the rent and the Voucher holder needs to pay the remaining portion, then the Voucher holder still needs to show that they make three times their portion of the rent.

105. Tester D contacted Michaela multiple times following this call to get clarification about the criminal background check policy and never received a response.

*Tester E*

106. On February 27, 2023, the ERC conducted a test consisting of a tester (Tester E) contacting Vaughan Place via the "Contact Us" section of the Vaughan Place website, inquiring

about the availability of housing for individuals with Vouchers, as well as regarding minimum income and credit score requirements for Voucher holders, and the screening of prior eviction histories. Later that day, Tester E called Vaughan Place and left a voicemail, and subsequently exchanged emails and texts with AIR Communities employees or agents.

107. On February 28, 2023, an agent from the Reputation Management department of AIR Communities, Susan Porrit, emailed Tester E back, copying Jay Mattingly, the property manager of Vaughan Place. Mr. Mattingly responded to this email, establishing contact with Tester E.

108. Mr. Mattingly answered Tester E's initial email, stating that for a Voucher holder, the income requirement of three times the monthly rent "applies to rent that is not covered by the Voucher."

109. Tester E then emailed Mr. Mattingly to inquire about the credit requirement for Voucher holders.

110. In his email response, Mr. Mattingly stated: "We do not waive the credit requirement for Voucher applicants—our required score is approx. 640 or higher. All communities owned by AIR would have the same requirement." Mr. Mattingly also attached to this email Vaughan Place's official Resident Selection Criteria.

111. The Resident Selection Criteria states:

- Except for applicants who receive or who will occupy an apartment unit that receives subsidies or voucher assistance, applicants must have a gross income source that can be verified and meets the minimum income requirements for the apartment being leased. . .
- Air Communities may investigate and verify credit history. Landlord evaluates credit history with a scoring method that weighs the indicators of future rent payment performance, but Landlord retains the right to reject an application no matter an applicant's ultimate scoring.

- Landlord reserves the right to reject any applicant who has previously been evicted by a court of law.

112. This document, while making an exception to the minimum income requirement for Voucher holders, makes no similar exception for the credit requirement. This document also makes no exception for evictions that are more than three years old, or for *any* eviction of a Voucher holder that occurred because of nonpayment or late payment of rent before the Voucher holder received their Voucher.

I. Harm to ERC and the Community It Serves

113. Through its investigation, the ERC found that Defendants and their agents have a policy or practice of making statements and/or imposing conditions which aim to exclude Voucher holders as well as those with a sealed eviction, eviction that was filed three or more years ago, and/or criminal records history from access to rental units at Latrobe Apartment Homes and Vaughan Place.

114. By its acts, policies, and/or practices, Defendants and their agents refused to rent to: (1) Voucher holders at Latrobe Apartment Homes by stating that they had no “Section 8 units” available, (2) Voucher holders unable to meet a minimum credit score requirement at Latrobe Apartment Homes and Vaughan Place, (3) Voucher holders unable to meet a minimum income requirement at Latrobe Apartment Homes and Vaughan Place, (4) individuals with sealed eviction histories and/or evictions filed three or more years ago at Latrobe Apartment Homes and Vaughan Place, and (5) individuals with criminal records more than seven years old at Latrobe Apartment Homes and Vaughan Place. In so doing, Defendants and their agents unlawfully discriminated against renters in the District based on their source of income, their eviction history, and their criminal history.

115. Defendants and their agents acted intentionally and willfully, and with callous and reckless disregard for the statutorily protected rights of renters who intend to use Vouchers as a source of income to help pay rent, renters who have an eviction older than three years, and renters with a criminal history older than seven years. Defendants and their agents expressed their policies or practices by publishing statements on their respective websites and making statements to ERC fair housing testers evidencing Defendants' and their agents' intent to exclude and discriminate against individuals based on their source of income, their eviction history, and their criminal record history.

116. Defendants' policies or practices constitute source of income-based discrimination in violation of the DCHRA, D.C. Code §§ 2.1401.01, *et seq.*

117. Defendants' policies or practices also constitute discrimination on the basis of sealed eviction records and/or evictions filed three or more years ago in violation of the DCHRA, D.C. Code §§ 2.1401.01, *et seq.* and the D.C. Rental Housing Act, D.C. Code §§ 42-3505.01, *et seq.*

118. Defendants' policies or practices constitute discrimination on the basis of criminal history in violation of the DCFCRSHA, D.C. Code §§ 42-3541.01, *et seq.*

119. Defendants and their agents also committed violations of consumer protection law under the DCCPPA, D.C. Code §§ 28-3901, *et seq.*

120. Upon information and belief, Defendants and their agents designed, participated in, supervised, controlled, approved, and/or ratified the discriminatory policies and/or practices described above. As a result, Defendants and their agents are liable for the unlawful conduct described herein.

121. Defendants and their agents' unlawful discrimination has harmed the ERC and the communities that it serves by harming the class of consumers—prospective renters in D.C.—that the ERC aims to represent and protect.

122. The ERC has a sufficient nexus to the interests involved of the class of consumers—prospective renters in D.C.—to adequately represent those interests.

123. Defendants and their agents' unlawful discrimination has harmed the ERC and the communities that it serves by (i) frustrating the ERC's mission of eliminating discrimination against members of statutorily protected classes, and (ii) causing it to divert and redirect scarce resources to counteract Defendants' and their agents' unlawful discrimination.

124. The ERC's mission is to identify and eliminate unlawful and unfair discrimination in housing, employment, and public accommodations in its home community of Greater Washington, D.C. and nationwide.

125. Defendants and their agents' refusal to accept Voucher holders as renters—directly, or through the imposition of restrictive income and credit score conditions—along with their refusal to accept individuals with sealed evictions, evictions filed three or more years ago, and/or criminal records more than seven years old, has frustrated the ERC's mission of eliminating housing discrimination in the District.

126. If Defendants and their agents' discriminatory conduct had not required the ERC to divert its scarce resources to investigating the specific discriminatory practices adopted by Defendants and their agents, the ERC would have been able to use its limited resources toward other activities, including: (1) completing deliverables and reporting under the organization's HUD grants; (2) consulting with and advising staff regarding intakes, assistance to complainants,

and advocacy issues; (3) completing deliverables under the organization's various compliance testing contracts; and (4) development of an employment investigation in California.

127. As a result, the ERC was directly harmed and injured by Defendants and their agents' unlawful and discriminatory policies and/or practices.

**COUNT 1, Part A:**

**Trade Practices in Violation of the D.C. Consumer Protection Procedures Act  
(On Behalf of the ERC and the General Public Against All Defendants)**

128. Plaintiff re-alleges and incorporates by reference the allegations set forth in the paragraphs above.

129. The purpose of the DCCPPA is to "assure that a just mechanism exists to remedy all improper trade practices[.]" D.C. Code § 28-3901(b)(1).

130. Under the DCCPPA, it is a violation of law "for any person to engage in an unfair or deceptive trade practice[.]" D.C. Code § 28-3904. This includes, but is not limited to: misrepresentations as to material facts which have a tendency to mislead, representing that a transaction involves obligations which are prohibited by law, failing to state material facts if such failure tends to mislead, disparaging the business of another by false or misleading representations of material facts, enforcing unconscionable terms or provisions of leases, and using deceptive representations in connection with goods or services. *See id.* at (e), (e-1), (f), (g), (r), (t).

131. Under the DCCPPA, a trade practice "means any act which does or would create, alter, repair, furnish, make available, provide information about, or, directly or indirectly, solicit or offer for or effectuate, a sale, lease or transfer, of consumer goods or services." D.C. Code § 28-3901(a)(6). Trade practices arising in the context of landlord-tenant relations are subject to the DCCPPA. D.C. Code § 28-3905(k)(6).

132. Under the DCCPPA, goods and services “means any and all parts of the economic output of society, at any stage or related or necessary point in the economic process, and includes consumer credit, franchises, business opportunities, real estate transactions, and consumer services of all types.” D.C. Code § 28-3901(a)(7).

133. Defendants and their agents meet the definition of “merchant” under the DCCPPA as “a person, whether organized or operating for profit . . . who in the ordinary course of business does or would . . . lease (to) . . . either directly or indirectly, consumer goods or services, or a person who in the ordinary course of business does or would supply the goods or services which are or would be the subject matter of a trade practice.” D.C. Code § 28-3901(a)(3).

134. District residents or other individuals who would rent Defendants’ rental housing properties are “consumers” under the DCCPPA because they are persons who “would [] lease [] consumer goods,” such as the rental housing properties offered by Defendants. D.C. Code § 28-3901(a)(2).

135. Defendants’ misrepresentations about the availability of housing for Voucher holders, as well as representations regarding minimum income and credit score requirements for Voucher holders, in effect discourage Voucher holders from applying to their properties and constitute unfair trade practices in the context of real estate transactions in violation of the DCCPPA.

136. Likewise, Defendants’ representations regarding their screenings for eviction records and criminal background records discourage applicants with such records from applying to their properties and constitute unfair trade practices in the context of real estate transactions in violation of the DCCPPA.



137. Further, by violating the DCHRA and the DCFCRSHA, as alleged below, Defendants violated the DCCPPA.

138. Under the DCCPPA, an action may be brought by a nonprofit organization “on behalf of itself or any of its members, or on any such behalf and on behalf of the general public.” D.C. Code § 28-3905(k)(1)(C). Public interest organizations may also bring such suits “on behalf of the interests of a consumer or a class of consumers,” so long as they have a “sufficient nexus” to “adequately represent those interests.” D.C. Code § 28-3905(k)(1)(D).

139. Plaintiff ERC, a public interest organization, brings this claim on behalf of itself, the general public, and the interests of a class of consumers, *i.e.*, prospective tenants in the District, including Voucher holders, individuals with sealed eviction records and/or eviction records more than three years old, and/or individuals with criminal convictions more than seven years old.

**COUNT 1, Part B:**

**Violation of the D.C. Consumer Protection Procedures Act, Based on Source of Income Discrimination and Eviction History Discrimination in Violation of the D.C. Human Rights Act, D.C. Code § 2-1402.21(a)(1), (a)(5), (b), (g)(1)(A)-(C), (h)(1), and the D.C. Rental Housing Act, D.C. Code § 42.3505.10(d)(1)**

140. Plaintiff re-alleges and incorporates by reference the allegations set forth in the paragraphs above.

141. Under the DCHRA, it is an “unlawful discriminatory practice” to “refuse or fail to initiate or conduct any transaction in real property” if such a practice is “wholly or partially . . . based on the actual or perceived . . . source of income . . . of any individual[.]” D.C. Code § 2-1402.21(a)(1). Source of income includes federal payments for housing assistance, such as Vouchers. D.C. Code § 2-1401.02(29) (defining “source of income” to include “federal or District payments”); *see also* 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.”).

142. The DCHRA likewise prohibits housing providers from making statements or representations that such a refusal or failure is being made. D.C. Code § 2-1402.21(a)(5).

143. Defendants’ policy or practice of discouraging Voucher holders from applying to live at Latrobe Apartment Homes and/or refusing to accept Vouchers violates the DCHRA.

144. Under the DCHRA, it is “an unlawful discriminatory practice” for a landlord to refuse to rent to an applicant using a Voucher based on the applicant’s “credit score, or lack of credit score[.]” D.C. Code § 2-1402.21(g)(1)(B).

145. The DCHRA likewise prohibits housing providers from making statements or representations that such a refusal is being made. D.C. Code § 2-1402.21(a)(5).

146. Defendants’ policy or practice of denying housing to Voucher holders based on failure to meet a minimum credit score requirement at Latrobe Apartment Homes and Vaughan Place violates the DCHRA.

147. Under the DCHRA, it is “an unlawful discriminatory practice” for a landlord to refuse to rent to an applicant using a Voucher based on the applicant’s “income level[.]” D.C. Code § 2-1402.21(g)(1)(B).

148. The DCHRA likewise prohibits housing providers from making statements or representations that such a refusal is being made. D.C. Code § 2-1402.21(a)(5).

149. Defendants’ policy or practice of denying housing to Voucher holders based on failure to meet a minimum income requirement at Latrobe Apartment Homes and Vaughan Place violates the DCHRA.

150. Under the DCHRA, it is “an unlawful discriminatory practice” for a landlord to refuse to rent to an applicant using a Voucher based on the applicant’s “[p]rior rental history involving nonpayment or late payment of rent if the nonpayment or late payment of rent occurred during a period in which the prospective tenant did not have an income-based housing subsidy[.]” D.C. Code § 2-1402.21(g)(1)(A).

151. The DCHRA likewise prohibits housing providers from making statements or representations that such a refusal is being made. D.C. Code § 2-1402.21(a)(5).

152. Defendants’ policy or practice of denying housing to Voucher holders based on prior rental history involving nonpayment or late payment of rent which occurred before the prospective tenant received a Voucher at Latrobe Apartment Homes and Vaughan Place violates the DCHRA.

153. Under the DCHRA, it is “an unlawful discriminatory practice” for a landlord to refuse to rent to an applicant using a Voucher based on the applicant’s “credit issues that arose during a period in which the prospective tenant did not have an income-based housing subsidy[.]” D.C. Code § 2-1402.21(g)(1)(C).

154. The DCHRA likewise prohibits housing providers from making statements or representations that such a refusal is being made. D.C. Code § 2-1402.21(a)(5).

155. Defendants’ policy or practice of denying housing to Voucher holders based on any credit issues which occurred before the prospective tenant received a Voucher at Latrobe Apartment Homes and Vaughan Place violates the DCHRA.

156. It is also unlawful to deny housing to individuals based on prior evictions that have been sealed under the DCHRA. D.C. Code §§ 2-1402.21(a), (h)(1). In D.C., eviction records are sealed after three years of an eviction. *Id.* at § 42-3505.09(a)(2). Eviction proceedings that do not

result in an eviction are sealed 30 days after the final resolution of the eviction proceeding. D.C. Code § 42-3505.09(a)(1).

157. The DCHRA likewise prohibits housing providers from making statements or representations that such a denial is being made. D.C. Code § 2-1402.21(a)(5).

158. Defendants' statements that individuals with evictions more than three years old may be denied housing at Latrobe Apartment Homes and Vaughan Place violates the DCHRA.

159. Under the D.C. Rental Housing Act, it is unlawful for a housing provider to inquire about, require the prospective tenant to disclose or reveal, or deny a prospective tenant's rental application based on a previous eviction that was filed three or more years ago, or that did not result in a judgment for possession in favor of the housing provider. D.C. Code § 42-3505.10(d)(1), (j)(1)(A).

160. Defendants' statements that individuals with evictions more than three years old may be denied housing at Latrobe Apartment Homes and Vaughan Place violates the D.C. Rental Housing Act.

161. Defendants' conduct was intentional, willful, and made in reckless disregard of the known rights of others.

162. "Trade practices that violate other laws . . . fall within the purview of the [DCCPPA]." *Dist. Cablevision Ltd. P'ship*, 828 A.2d at 723. Specifically, a violation of the DCHRA and the D.C. Rental Housing Act in the context of a consumer transaction is a violation of the DCCPPA. *Dist. Of Columbia v. Evolve, LLC*, 2020 D.C. Super. LEXIS 6, \*12 (D.C. Super. Ct. Feb. 25, 2020).

163. By violating the DCHRA and the D.C. Rental Housing Act in the context of a consumer transaction, Defendants violated the DCCPPA.

**COUNT 1, Part C:**

**Violation of the D.C. Consumer Protection Procedures Act, Based on Criminal Record Screening Practices in Violation of the D.C. Fair Criminal Record Screening for Housing Act, D.C. Code § 42-3541.02(d)**

164. Plaintiff re-alleges and incorporates by reference the allegations set forth in the paragraphs above.

165. Defendants' policy or practice of excluding prospective housing applicants with criminal convictions more than seven years old violates the DCFCRSHA because it subjects such individuals to discrimination because of their criminal record.

166. The DCFCRSHA requires that housing providers only consider pending criminal accusations or criminal convictions that have occurred within the past seven years. And even then, the housing provider may only consider a pending criminal accusation or criminal conviction that falls within a list of specific enumerated offenses, including burglary, aggravated assault, arson, first degree murder, fraud, and various other offenses. D.C. Code § 42-3541.02(d).

167. Defendants' policy or practice of denying housing to individuals with criminal records more than seven years old at Latrobe Apartment Homes and Vaughan Place violates the DCFCRSHA.

168. Defendants' conduct was intentional, willful, and made in reckless disregard of the known rights of others.

169. By violating the DCFCRSHA in the context of a consumer transaction, Defendants violated the DCCPPA.

## PRAYER FOR RELIEF

WHEREFORE Plaintiff respectfully requests that the Court:

- (a) Enter a judgment declaring that Defendants' acts, policies, and practices of willfully refusing to rent apartment units or creating barriers to rent apartment units to Voucher holders, individuals with sealed eviction records and/or evictions filed three or more years ago, and individuals with criminal convictions more than seven years old constitutes discrimination in violation of the DCCPPA §§ 28-3901, *et seq.*;
- (b) Enter judgment for appropriate permanent injunctive relief, including an order that Defendants:
  - a. Abandon their policy and/or practice of refusing to rent to Voucher holders, individuals with sealed eviction records and/or evictions filed three or more years ago, and individuals with criminal convictions more than seven years old and take appropriate, nondiscriminatory measures to accept Voucher holders, individuals with sealed eviction records and/or evictions filed three or more years ago, and individuals with criminal convictions more than seven years old as renters;
  - b. Take affirmative steps to educate themselves as to their legal obligations under the DCCPPA, DCHRA, D.C. Rental Housing Act, and DCFCRSHA, and seek expert advice to understand the administrative process for accepting Vouchers in D.C.;
  - c. Provide training to its employees and agents, and adequately supervise them to prevent future illegal housing discrimination;
  - d. Participate in outreach and education efforts to promote the use and acceptance of Vouchers, including but not limited to, compliance testing;
- (c) Award the ERC monetary damages in an amount to be determined at trial;

- (d) Award the ERC and the class of consumers it represents statutory or treble damages;
- (e) Award the ERC reasonable attorneys' fees and costs;
- (f) Award punitive damages in an amount to be determined at trial; and
- (g) Grant such other relief as the Court may deem just and proper.

Dated: February 1, 2024

Respectfully submitted,

/s/ Brian Corman

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