

IN THE SUPERIOR COURT  
FOR THE DISTRICT OF COLUMBIA  
CIVIL DIVISION

**EQUAL RIGHTS CENTER**

11 Dupont Circle NW  
Suite 450  
Washington, DC 20036,

Plaintiff,

v.

**BELMONT CROSSING APARTMENTS  
LLC**

7272 Wisconsin Avenue  
Suite 325  
Bethesda, MD 20814

**SANFORD CAPITAL, LLC**

7272 Wisconsin Avenue  
Suite 325  
Bethesda, MD 20814

**OAKMONT MANAGEMENT GROUP  
LLC**

7605 Arlington Rd  
Suite 250  
Bethesda, MD 20814

**SERVE:**

C T Corporation System,  
1015 15<sup>th</sup> Street, NW, Suite 1000,  
Washington, DC 20005

Defendants.

Case No. 2017 CA 003774 B  
Jury Trial Demanded

**COMPLAINT FOR DECLARATORY JUDGEMENT, INJUNCTIVE RELIEF, AND  
MONETARY DAMAGES**

Plaintiff, the Equal Rights Center (the "ERC"), by its attorneys, Morrison & Foerster LLP  
and the Washington Lawyers' Committee for Civil Rights and Urban Affairs for its complaint

against Belmont Crossing Apartments, LLC and Sanford Capital, LLC (collectively, “Defendants”) states and alleges as follows:

Defendants unlawfully refuse to lease available rental units at Belmont Crossing Apartments to prospective tenants who seek to rent units using temporary subsidies as a source of payment for a portion of their monthly rent and initial security deposit, including Supportive Services for Veteran Families Rapid Rehousing Assistance (“SSVF”) subsidies. The SSVF program is an example of a government subsidy that enables low-income veterans and their families to offset their rent and security deposit payments with the subsidy, allowing homeless veterans to obtain stable housing. Many other similar temporary subsidies also permit beneficiaries to avoid homelessness or be rehoused as quickly as possible by allowing them to use a government subsidy to help them pay rent and security deposits. Temporary subsidies are a protected source of income under the District of Columbia Human Rights Act (“D.C. Human Rights Act” or “DCHRA”). Defendants’ employees and/or agents told an ERC tester and a Housing Counseling Services employee who called the property that they do not accept any temporary subsidies including SSVF. Defendants’ policy or practice of refusing to accept temporary subsidies and Defendants’ statements in connection with such refusals therefore constitute unlawful source of income discrimination under the DCHRA.

### **PRELIMINARY STATEMENT**

1. The ERC brings this civil rights action pursuant to the DCHRA to remedy unlawful source of income discrimination which is excluding temporary subsidy holders from residing in available apartments at Belmont Crossing Apartments.

2. Defendants own and operate Belmont Crossing Apartments (“Belmont Crossing” or “the Subject Property”), a residential property in the District of Columbia.

3. Although the D.C. Human Rights Act requires Defendants to consider temporary subsidies as a lawful source of income to help recipients pay for the rent, Defendants have a policy or practice of unlawfully refusing to rent apartments to tenants seeking to utilize temporary subsidies to obtain housing.

4. On multiple occasions, Defendants' agents and/or employees told an ERC tester and Housing Counseling Services employees that the properties do not accept temporary subsidies of any kind.

5. Among the types of available temporary subsidies is the SSVF program. SSVF are subsidies that are funded by the U.S. Department of Veterans' Affairs and administered by non-profit organizations who assist very low-income Veterans and their families to reside in or transition into permanent housing. The program is designed to allow those families to rent safe, decent, and affordable privately-owned housing. These subsidies are especially important in D.C. where the rate of homelessness is double what it is for many other major U.S. cities.

6. By refusing to accept temporary subsidies and through their statements in connection with such refusals, Defendants have engaged in illegal discrimination on the basis of source of income in violation of the D.C. Human Rights Act, D.C. Code § 2.1401.01, *et seq.*

7. Defendant's discrimination prevents persons who are homeless or at risk of becoming homeless from securing appropriate housing.

8. Defendants' discrimination has harmed and continues to harm the ERC. As a result of Defendants' wrongdoing, the ERC has committed, is committing, and will continue to commit scarce resources to identify and counsel potential renters impacted by Defendants' practices, investigate complaints, engage in an education and outreach campaign, and develop and disseminate educational materials to ameliorate the effects of Defendants' discrimination

against temporary subsidy recipients and to prevent the recurrence of discrimination in the future. Accordingly, the ERC brings this action to vindicate civil rights protections under the DCHRA and to obtain an injunction and damages.

### **NATURE OF THIS ACTION**

9. This is a civil rights action under the DCHRA, D.C. Code § 2.1401.01, *et seq.* for declaratory, injunctive, and monetary relief.

10. Temporary assistance programs are often referred to as rapid re-housing subsidies. These programs provide time-limited financial assistance to individuals and families who are living on the street or in emergency shelters. They are designed to immediately address financial barriers faced by their recipients to obtaining permanent housing in order to reduce the time they experience homelessness.

11. Rapid re-housing models have been implemented across the country as part of the Homeless Prevention and Rapid Re-Housing Program that was included in the American Reinvestment and Recovery Act of 2009. These programs are funded by the federal government and local governments.

12. Rapid re-housing temporary subsidy programs are informed by a “housing first” approach to combatting homelessness, which emphasizes that many homeless families and individuals are homeless because of temporary financial barriers that make these households not unlike other poor families who may have housing. These programs seek to avoid the significant negative effect of prolonged homelessness.

13. As noted in a recent District of Columbia legal service provider agency’s report, the DC Department of Human Services (“DHS”) launched a local version of a rapid re-housing program in the District known as the Family Re-housing and Stabilization Program (“FRSP”) in 2012.

“FRSP is a rapid re-housing program that is designed to help homeless families move back into market rate housing by providing rental assistance and case management.”<sup>1</sup> Participating FRSP households live in private apartments that they find and lease in the rental market and are required to pay 40-60 percent of their income toward the rent while the program pays the landlord the rest of the rent. FRSP is generally intended to provide up to 12 months of rental assistance, with some exceptions.

14. DHS has a contract with The Community Partnership for the Prevention of Homelessness to manage the operations aspects of the program. In addition to The Community Partnership, which acts as the primary contractor for the majority of the District’s homeless services, local organizations such as Community of Hope and Catholic Charities, among others, additionally administer FRSP and offer case management services to FRSP subsidy recipients.

15. To be eligible for FRSP, an applicant must show that the “applicant unit is a family” who “[i]s currently experiencing homelessness . . . , or is at imminent risk of experiencing homelessness;” and “[i]s a resident of the District of Columbia . . . .” 29 DCMR § 7803.1.

16. The SSVF program is a rapid re-housing temporary subsidy program like those described above. It is a federally funded housing subsidy designed to support housing stability among Veteran families with very low incomes. The program is administered by non-profit organizations who assist very low-income veteran families to transition into or continue residing in permanent housing. In the District, Housing Counseling Services is one of the community-based organizations that administers the subsidy as part of its comprehensive efforts to secure housing opportunities for low- and moderate-income tenants.

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<sup>1</sup> Max Tipping, *Set Up to Fail: Rapid Re-Housing in the District of Columbia*, A Washington Legal Clinic for the Homeless Report (May 2017) at page 3.

17. The SSVF subsidy is tenant-based and is not linked to any particular housing complex, building, or unit, but rather enables families who receive SSVF to obtain and remain in permanent housing by increasing the families' income available for rent. The SSVF program removes some of the barriers that would otherwise cause very low-income Veteran families to remain or become homeless. The rapid housing assistance issued to each family subsidizes rent in privately owned rental housing of the subsidy recipient's choice.

18. It is unlawful under the DCHRA for Defendants to discriminate based on source of income, including where that source of income is a temporary subsidy. Defendant's policy or practice of refusing to accept temporary subsidies, including SSVF, violates the DCHRA. D.C. Code § 2.1401.01, *et seq.*

19. Accordingly, the ERC brings this action under the DCHRA to remedy Defendants' unlawful discrimination.

### **PARTIES**

20. **Equal Rights Center.** The ERC is a national non-profit civil rights membership corporation organized under the laws of D.C. Its principal place of business is 11 Dupont Circle Northwest, Suite 450, Washington, DC 20036. The ERC provides a multidisciplinary program dedicated to furthering the advancement of, *inter alia*, fair housing and equal access to public accommodations throughout the United States. The ERC's various programs provide guidance, information, and assistance to members of classes protected under federal, state, and local laws who are seeking housing.

21. **Belmont Crossing Apartments, LLC.** Defendant Belmont Crossing Apartments, LLC is a property management company, located at 7272 Wisconsin Ave, Suite 325, Bethesda, MD 20814, which manages only the Subject Property. Belmont is a limited liability company

organized under the laws of Delaware. Upon information and belief, at all times relevant to this Complaint, Defendant Belmont Crossing Apartments, LLC managed the Subject Property.

**22. Oakmont Management Group, LLC.** Defendant Oakmont Management Group, LLC is a property management company, located at 7605 Arlington Rd, Suite 250, Bethesda, MD 20814, which manages residential property in the District of Columbia. Oakmont is a limited liability company organized under the laws of the state of Delaware. Upon information and belief at all times relevant to this Complaint, Defendant Oakmont Management Group, LLC managed the Subject Property.

**23. Sanford Capital, LLC.** Defendant Sanford Capital, LLC is a residential real estate development and investment company that owns and operates apartment properties in the District of Columbia. Sanford is a limited liability company based in Bethesda, MD and organized under the laws of the state of Delaware. Upon information and belief, at all times relevant to this Complaint, Defendant Sanford Capital, LLC owned Belmont Crossing.

#### **JURISDICTION AND VENUE**

**24.** This court has jurisdiction over this action pursuant to D.C. Code § 11-921.

**25.** This court has jurisdiction over Defendants pursuant to D.C. Code § 13-423 because Defendants transact business and manage real property in the District of Columbia. The discriminatory conduct arises out of these business activities.

## FACTUAL BACKGROUND

### **A. Defendants' Rental Operations**

26. Defendants own, operate, control, supervise, and/or manage, either directly or indirectly through parent-subsidary or other business affiliations the Subject Property, Belmont Crossing, which is located at 4201 7th St SE, Washington, DC 20032.

27. The Subject Property is residential real estate that is offered for rent in the District. The Subject Property offers studio, one-, two-, and three-bedroom apartments with various amenities.

28. As operators of residential real estate, Defendants are required to comply with anti-discrimination laws under the DCHRA.

29. The DCHRA requires that rental properties be made available to prospective tenants irrespective of their source of income. In late 2016, OHR issued OHR Guidance No. 16-01 in order to provide "clarifying guidance on how OHR analyzes" source of income housing discrimination. Guidance No. 16-01 states: "It is an unlawful discriminatory practice to deny, directly or indirectly, any individuals the full and equal enjoyment of housing, including the rental of a dwelling, services, facilities, and privileges based on the source of income of the individual." Further, the D.C. Office of Human Rights has expressly determined that "short-term rental subsidies" or temporary subsidies such as the SSVF are a lawful source of income of the type contemplated by the statute. OHR Guidance No. 16-01 (*citing* D.C. Code § 2.1401.01 *et. seq.*). The DCHRA also prohibits statements with respect to actual or proposed transactions in real property that indicate a preference, limitation, or discrimination based on source of income. *See id.* at § 2.1402.21(a) (5).

30. Defendants' employees and/or agents stated to the ERC's agent and Housing Counseling Services employees that Defendants would not accept temporary subsidies, including SSVF, as a



source of payment for rent at the Subject Property. Defendants' acts, policies, and practices constitute impermissible source of income discrimination.

**B. ERC Mission, Testing, and Discovery of Defendants' Discriminatory Policies**

31. The ERC is a civil rights organization dedicated to promoting equal opportunity in the provision of housing, employment, and public accommodations. In connection with its multi-disciplinary Fair Housing program dedicated to furthering the advancement of equal housing opportunities in the District of Columbia and throughout the United States, the ERC also conducts and participates in programs to educate the real estate industry about its obligations under federal, state, and local fair housing laws.

32. The ERC's education and outreach activities have increased awareness of fair housing issues and generated numerous telephone calls and other communications from individuals who have a variety of needs regarding fair housing opportunities. Many of these calls are complaints of housing discrimination.

33. Often the calls raising complaints of housing discrimination are placed by employees working for non-profit organizations who assist individuals and families with finding suitable housing. These calls, in turn, prompt the ERC to investigate.

34. The ERC investigates housing discrimination through a variety of means, including civil rights testing. By using testers, persons who query housing providers in order to test the housing providers' compliance with applicable fair housing laws, the ERC often uncovers unlawful discrimination.

35. In October 2016, Housing Counseling Services reported to the ERC that Housing Counseling Services' employees inquired about the availability of apartments for rent and

whether the Subject Property accepted temporary housing assistance such as SSVF. The Subject Property informed Housing Counseling Services that no temporary subsidies would be accepted.

36. On July 11, 2016, staff of Housing Counseling Services contacted Defendants to inquire about the availability of rental housing at Belmont Crossing for a Housing Counseling Services' client. After learning that there was availability, Housing Counseling Services assisted its client with the application to rent at the Subject Property. Defendants pre-approved client's application. After receiving pre-approval, on July 26, 2016, Housing Counseling Services determined that the client was eligible for SSVF, which it communicated to Defendants.

37. Once notified that Housing Counseling Services would provide an SSVF payment on its client's behalf, Defendants' representatives, including a "Ms. McDonald", indicated they no longer accepted temporary subsidies, which Defendants continually reiterated. It was only after repeated attempts by Housing Counseling Services to convince Belmont Crossing to accept its client's SSVF subsidy by revising an internal form that in September 2016, Defendants' representative, Ms. McDonald, stated the property would permit Housing Counseling Services' client to reapply. The client was unable to do so because he passed away shortly thereafter while continuing to seek housing. Further, Defendants' subsequent conduct contradicted its statement and alleged offer.

38. Shortly thereafter, Housing Counseling Services reported to the ERC that on October 3, 2016, its employee, Elias Cohn, called Belmont Crossing covertly to confirm Defendants' policy with respect to temporary subsidies. During the conversation, Defendants' representatives stated that, although apartments at Belmont Crossing were available for rent, Defendants would not accept a temporary subsidy as payment toward the rent in response to Mr. Cohn's question. Defendants' representative additionally stated that Belmont Crossing "will not be accepting any

temporary subsidies at all” in response to Mr. Cohn’s inquiry regarding whether Defendants would accept a temporary subsidy as part of his rental payment given that Mr. Cohn had other income.

39. As a result of Housing Counseling Services’ reports to the ERC of discrimination, the ERC investigated further and conducted testing of the Subject Property through which it found that Defendants have a policy or practice of refusing to rent to applicants using temporary subsidies, including SSVF. This policy or practice discriminates against recipients of temporary subsidies based on their source of income, in violation of DCHRA, D.C. Code § 2.1401.01(a)(1).

40. During the ERC’s test, Defendants expressed their policy or practice by stating that they did not accept any temporary subsidies, including SSVF. This statement demonstrates Defendants’ preference, limitation, and/or discrimination against temporary subsidy recipients. These statements discriminated against temporary subsidy recipients based on their source of income, in violation of DCHRA, D.C. Code § 2.1401.21(a)(5).

41. In the instance where the ERC tested the property, Defendants’ representatives again stated that, although apartments were available for rent, temporary housing subsidies such as SSVF would not be accepted as payment towards rent at the property. On October 14, 2016 at approximately 2:50 pm, an ERC tester, who presented herself as a prospective tenant, called Belmont Crossing at 866-544-0709, the phone number listed online. The ERC tester stated that she wished to use SSVF to help pay for a portion of the rent for a one-bedroom apartment. Defendants’ representative, Lisa, told the ERC tester that, although a one-bedroom apartment was available, the property did not accept SSVF, further clarifying directly afterward that the property did not accept *any* short term subsidies. The ERC tester attempted to ensure that Lisa understood the tester’s request to use SSVF, by asking Lisa a second time whether the property

would accept this particular subsidy using the full name of the subsidy, Supportive Services for Veteran Families, instead of an acronym. It was at this point that Lisa reiterated Belmont Crossing did not accept *any* short term subsidies.

42. Upon information and belief, and based on the statements made to Housing Counseling Services' employees and the ERC tester during the calls described above, the representatives who answered each of the phone calls were, and/or are, employees, representatives, or agents of Defendants.

43. Upon information and belief, and based on the statements Defendants' representatives made to Housing Counseling Services' employees and the ERC's tester during the calls described above, Defendants have a policy or practice of refusing to accept temporary subsidies, including SSVF, at Belmont Crossing, which Defendants own or manage.

44. By their acts, policies, and practices, Defendants refuse to rent to individuals who use temporary subsidies, including SSVF, to pay for a portion of the rent for rental units at Belmont Crossing. In so doing, Defendants unlawfully discriminate against renters in the District of Columbia based on their source of income.

45. Upon information and belief, Defendants and/or their owners, subsidiaries, and affiliates designed, participated in, supervised, controlled, and/or approved the discriminatory policy or practice the representative or representatives expressed in the communications described above. As a result, each of Defendants is liable for the unlawful conduct described herein.

46. Defendants' unlawful acts as described above were, and are, intentional and willful, and have been, and are, implemented with callous and reckless disregard for the rights of renters who intend to use temporary subsidies, including SSVF, as a source of income to help pay rent.

### **HARM TO ERC AND THE COMMUNITIES IT SERVES**

47. Defendants' unlawful discrimination has harmed the ERC and the communities that it serves.

48. One purpose of the ERC's rental housing testing program is to monitor compliance with federal, state, and local civil rights laws that prohibit discrimination against individuals based on legally protected traits—including race, religion, national origin, gender, family status, and source of income, among others. If the ERC discovers housing discrimination, the ERC undertakes broad remedial efforts to eliminate it.

49. When the ERC finds discrimination, it is compelled to divert scarce resources to address the problem through education and outreach, advocacy, training, intake assistance, collaboration, and if necessary, through enforcement. Because it is important not only to remedy the past discrimination, but to take steps to prevent similar discrimination from occurring in the future, the activities used in this effort may include outreach and education directed at affected or potentially affected populations, the public at large, and the owners and employees of entities engaged in the discriminatory activity. The ERC also monitors the persons or entities engaged in discriminatory conduct for future compliance with applicable laws. With respect to source of income discrimination, the ERC uses several, and sometimes all, of these measures.

50. In the present case, the ERC was forced to take several steps that diverted resources away from its other projects. The ERC was required to conduct a test of the property. It also sent a letter to DC agencies that help individuals with temporary subsidies find housing to inform them of source of income protections. Further, the ERC conducted a workshop about source of income discrimination against recipients of temporary subsidies at an annual Fair Housing

Symposium and focused on the same issue in its inaugural issue of a newly launched Fair Housing column, all in response to Defendants' discriminatory behavior. But for Defendants' policy or practice of refusing to accept temporary subsidies, the ERC could have focused on previously scheduled programming and activities, described *infra*.

51. The ERC has fought to eliminate discrimination based on source of income since at least 2003, when the ERC first began receiving complaints that housing subsidy recipients were experiencing discriminatory barriers to their use of those subsidies as they sought rental housing. As a result of these initial complaints and information, the ERC began investigation of area rental housing providers to determine the existence and scope of any discrimination against housing subsidy recipients in the District. During the course of these investigations, the ERC conducted tests to inquire about the policies and practices of various landlords throughout D.C. In some instances, the investigation revealed a policy or practice of refusing to accept housing subsidies or of imposing different terms and conditions on subsidy recipients, which prompted the ERC to take steps to address such violations of the law.

52. In instances where the ERC uncovers discriminatory conduct against recipients of housing subsidies, it is forced to divert and expend considerable time and scarce financial resources to fully investigate and identify the extent of such housing providers' unlawful practices and to determine how to counteract them. This discriminatory activity by housing providers, including Defendants, has also caused the ERC to divert and expend resources on extensive education and outreach efforts targeting housing providers, housing subsidy recipients, and the public in general.

53. Defendants' discrimination against recipients of housing subsidies has required the ERC to divert and expend considerable time and scarce financial resources.

### **Testing & Investigation**

54. As a result of Defendants' wrongdoing, the ERC has devoted substantial staff time to identifying the extent of Defendants' discriminatory actions. For example, the ERC devoted scarce resources to conduct a test to identify potential fair housing violations. Specifically, the ERC expended time and resources identifying the extent of the Defendants' unlawful practices. Reports from Housing Counseling Services that Defendants refused to accept temporary subsidies as a form of payment for available units at the Subject Property required the ERC to divert resources to conduct a test of the Subject Property. The test revealed that Defendants' refusal to accept temporary subsidies constituted a policy or practice of refusing to accept temporary subsidies as a source of income at the Subject Property.

### **Outreach: Increased Counseling Efforts**

55. As a result of Defendants' wrongdoing, the ERC has also increased its counseling efforts for recipients of housing subsidies in the District of Columbia by providing anti-discrimination information to local agencies who provide and administer temporary rental assistance to home-seekers.
56. In an effort to counteract Defendants' discriminatory policies or practices, the ERC contacted housing advocates and agencies in the areas of the Subject Property to alert them to source of income protections and make the agencies aware of Defendants' discriminatory practices at Belmont Crossing. For example, the ERC devoted staff time to: a) compile a list of DC agencies that assist individuals in obtaining temporary subsidies and finding housing as well as organizations that provide housing counseling services to low-income renters; b) provide information to these agencies about prohibitions against source of income discrimination; c) make these agencies aware that Defendants currently engage in discrimination based on the

source of an applicant's income; and d) encourage these agencies to contact the ERC if they or their clients encountered source of income discrimination when trying to find housing at the Subject Property or any other DC properties.

57. In a further effort to combat Defendants' discriminatory policies or practices, the ERC facilitated a workshop about source of income protections—including temporary subsidies—in DC during the Fair Housing Month Symposium on April 24, 2017. The ERC originally planned to facilitate a workshop for individuals with criminal histories, informing them of their rights under current HUD guidance. However, the ERC made the difficult decision to instead focus its workshop on source of income protections due to the egregious nature of the violations it uncovered at Belmont Crossing.

58. In addition, the ERC determined that it should focus its inaugural April 2017 Fair Housing Advice Column on the issue of temporary subsidies rather than other topics on which it had originally planned to advise its membership, such as unlawful housing discrimination on the basis of race faced by individuals with criminal records, the denial of reasonable accommodation requests needed by individuals with disabilities, or housing-related hate crimes and harassment. The ERC made this decision as a result of uncovering Defendants' discriminatory policy or practice of refusing to rent to temporary subsidy holders.

59. By devoting staff time to address Defendants' discriminatory policies or practices, the ERC diverted scarce resources away from other planned anti-discrimination efforts.

60. If Defendants' discriminatory conduct had not required the ERC to divert its scarce resources to investigating and counteracting Defendant's discrimination, the ERC would have spent its resources toward activities in which it routinely takes part, including: 1) consulting with and advising staff regarding victim intakes and assistance and advocacy issues; 2) federally funded



grant-based testing activities to detect and address unlawful discrimination; 3) identifying and making contact with prospective funding sources for ERC activities, including individual donors, foundations, and grant opportunities; 4) preparing and presenting fundraising proposals to various donors; and 5) participating in collaboration building with a variety of advocacy groups.

61. Defendants' policies or practices have significantly frustrated the ERC's purpose of promoting equal opportunity in housing and have impaired the ERC's programs. Defendants' pattern of discrimination has made the ERC's mission of ensuring that all individuals (regardless of source of income) have equal access to housing in the District of Columbia more difficult. Defendants' conduct directly decreases the effectiveness of the ERC's efforts to educate the community about laws prohibiting discrimination in housing. As a result of Defendants' wrongdoing, the ERC has committed, is committing, and will continue to commit scarce resources, including staff time, to identify and counsel complainants, investigate complaints, engage in an education and outreach campaign, and develop and disseminate educational materials to ameliorate the efforts of Defendants' discrimination against recipients of temporary housing subsidies and to prevent the recurrence of such discrimination in the future.

62. Defendants' acts, policies, and practices discriminate against temporary subsidy holders in violation of the DCHRA.

63. The ERC has no plain, adequate, or complete remedy at law. It has suffered, is suffering, and will continue to suffer irreparable injury as a result of Defendants' continuing discriminatory conduct. Unless enjoined, Defendants will continue to engage in the unlawful acts and practices described above.

64. Defendants' statements, actions, policies, and practices described above constitute an ongoing, continuing pattern or practice of discrimination.

## **COUNT I: DISPARATE TREATMENT DISCRIMINATION**

**(Source of Income Discrimination under the DCHRA, D.C. Code §2-1402.21(a)(1))**

65. The ERC realleges and incorporates herein by reference all the allegations set forth in paragraphs 1 through 64.

66. 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).

67. Source of income includes federal payments for housing assistance, such as temporary subsidies, including SSVF. D.C. Code §2-1401.02(29) (defining source of income to include federal payments); *see also* DC OHR Guidance 16-01 Source of Income Discrimination in Housing (stating that “discrimination based on one’s ‘source of income’ can include, but is not limited to[] . . . payments from federal and local programs and short and long-term rental subsidies”).

68. Defendants’ policy or practice of refusing to accept temporary subsidies as a source of payment for rental units at the Subject Property is unlawful discrimination based on actual or perceived source of income of individuals, in violation of D.C. Code §2-1402.21(a)(1).

69. As a direct and proximate result of Defendants’ conduct, the ERC has suffered injuries and monetary damages in an amount to be determined at trial.

## **COUNT II: DISCRIMINATORY STATEMENTS**

**(Source of Income Discrimination under the DCHRA, D.C. Code §2-1402.21(a)(5))**

70. The ERC realleges and incorporates herein by reference all of the allegations set forth in paragraphs 1 through 69.
71. The DCHRA makes it an “unlawful discriminatory practice” to make any “statement . . . with respect to a transaction, or proposed transaction, in real property, or financing related thereto” that indicates “any preference, limitation, or discrimination based on” the “source of income . . . of any individual.” D.C. Code §2-1402.21(a)(5).
72. Defendants’ statements and policy or practice that temporary subsidies, including SSVF, are not accepted toward payment of rent for units at the Subject Property additionally constitutes unlawful discrimination. Defendants’ statements confirm a policy or practice of an unlawful preference, limitation, and/or discrimination based on the actual or perceived source of income of individuals, in violation of D.C. Code §2-1402.21(a)(5).
73. As a direct and proximate result of Defendants’ conduct, the ERC has suffered injuries and monetary damages in an amount to be determined at trial.

#### **PRAYER FOR RELIEF**

WHEREFORE Plaintiff, the ERC, respectfully requests that the Court:

- a) Enter judgment declaring that Defendants’ acts, policies or practices and its statements willfully refusing to rent apartment units to temporary subsidy holders, including SSVF recipients, constitute source of income discrimination in violation of DCHRA, D.C. Code §2-1402.21.
- b) Enter judgment for appropriate permanent injunctive relief, including an order that Defendants abandon its policy or practice of refusing to rent to temporary subsidy recipients and instead accept tenants without regard to source of income, and such

remedial actions as are necessary to ameliorate Defendants' past illegal discriminatory conduct;

- c) Award the ERC monetary damages in an amount to be determined at trial;
- d) Award the ERC reasonable attorneys' fees and costs;
- e) Award the ERC punitive damages in an amount to be determined at trial;
- f) Grant such other relief as the Court may deem just and proper.

### **DEMAND FOR JURY TRIAL**

Pursuant to Rule 38(b) of the Superior Court Rules of Civil Procedure, Plaintiff the ERC demands a trial by jury of all issues so triable as of right.

Dated May 31, 2017

Respectfully submitted,

/s/ G. Brian Busey

G. Brian Busey (D.C. Bar No. 366760)  
Joshua Hartman (D.C. Bar No. 992165)  
Corinna Alanis (D.C. Bar No. 999408)  
Morrison & Foerster LLP  
2000 Pennsylvania Ave., N.W.,  
Suite 6000  
Washington, DC 20006  
(202) 887 1500 (tel)  
(202) 887-0763 (fax)

/s/ Jonathan Smith

Jonathan Smith (D.C. Bar No. 396578)  
Matthew Handley (D.C. Bar No. 489946)  
Catherine Cone (D.C. Bar No. 1032267)  
Brook Hill (D.C. Bar No. 1044120)  
Washington Lawyers' Committee for  
Civil Rights And Urban Affairs  
11 Dupont Circle, N.W.,  
Suite 400  
Washington, DC 20036