

GOVERNMENT OF THE DISTRICT OF COLUMBIA  
OFFICE OF THE ATTORNEY GENERAL



In the Matter of:  
**Renewal by Andersen LLC**

**ASSURANCE OF VOLUNTARY  
COMPLIANCE**

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This Assurance of Voluntary Compliance (Assurance) is entered into between the Office of the Attorney General for the District of Columbia (OAG) and Renewal by Andersen LLC (Respondent). OAG and Respondent agree as follows:

**I. THE PARTIES**

1. OAG is authorized to bring legal actions seeking injunctive relief, consumer restitution, civil penalties, attorney's fees and costs for violations of the District of Columbia's laws, including the Consumer Protection Procedures Act (CPPA), D.C. Code §§ 28-3901, *et seq.*

2. Respondent does business in the District of Columbia under business license No. 420215000125.

**II. THE DISTRICT'S ALLEGATIONS**

3. The District alleges as follows:

a. The District of Columbia Human Rights Act (HRA) provides that "it shall be an unlawful discriminatory practice to ... for a

discriminatory reason based on ... place of residence or business of any individual ... deny, directly or indirectly, any person the full and equal enjoyment of the goods, services, facilities, privileges, advantages, and accommodations of any place of public accommodations.” D.C. Code § 2-1402.31(a)(1). “Place[s] of public accommodation” include “all places included in the meaning of such terms as inns, taverns, road houses, hotels, motels ... and establishments dealing with goods or services of any kind ... all public conveyances operated on land or water or in the air.” *Id.* § 2-1402.02(24). The HRA prohibits such establishments from providing fewer services based on the location of potential customers’ residences unless justified by a business necessity. *See Mitchell v. DCX, Inc.*, 274 F. Supp. 2d 33 (D.D.C. 2003) (holding that defendant taxicab service (a public conveyance) had discriminated against the plaintiffs based on their place of residence because of lower pickup rates in the Anacostia neighborhood of the District that were not justified by some business necessity); D.C. Code § 2-1401.03 (“[A] ‘business necessity’ exception is applicable only in each individual case where it can be proved by a respondent that, without such exception, such business cannot be conducted.”).

- b. Respondent offers window and door replacement services in the District of Columbia and surrounding areas from its facilities located

outside of the District but excludes some parts of the District from its regular service area. Respondent informs customers who request services for locations outside the regular service area that it does not provide services in such customers' areas.

- c. In multiple different market areas throughout the United States, Respondent excludes entire zip codes from its regular service area, which Respondent states is based on building restrictions, historic preservation limitations, product limitations, accessibility for installation, crime rates and sales representative or installation capacity.
- d. In the District of Columbia, Respondent excludes nine zip codes from its regular service area, including the three zip codes that cover portions of the District east of the Anacostia River—20019, 20020 and 20032.
- e. Respondent is a “place of public accommodation” under the HRA.
- f. Although in some cases Respondent has made appointments and sales outside its regular service areas, Respondent’s initial exclusion of customers from certain zip codes nevertheless violates the HRA because it discriminates against those customers based on their place of residence or business. *See* D.C. Code § 2-1402.31(a)(1).
- g. Respondent’s conduct constitutes an unlawful business practice under the CPPA. *District Cablevision Ltd. P’ship v. Bassin*, 82 A.2d

714, 723 (D.C. 2003) (“Trade practices that violate other laws, including the common law, also fall within the purview of the CPPA.”); *see also Osbourne v. Capital City Mortg. Corp.*, 727 A.2d 322, 325-26 (D.C. 1999) (CPPA’s “extensive enforcement mechanisms apply not only to the unlawful trade practices proscribed by [the law] ... but to all other statutory and common law prohibitions”).

### III. RESPONDENT'S POSITION

4. Respondent states as follows:
  - a. Respondent does not have any retail store or other establishment located in the District of Columbia. Respondent offers window and door replacement services in the District of Columbia and surrounding areas from its facilities located outside of the District.
  - b. Respondent values diversity, equity and inclusion. Respondent is committed to demonstrating mutual respect and appreciation for our similarities and differences so that each employee can realize his or her potential and we exceed our customers' expectations.
  - c. Respondent provides training to new employees on a variety of subjects, including the company's policies on maintaining a respectful workplace.
  - d. Respondent's customer relationship management system uses zip codes to define Respondent's regular service area. In multiple market areas throughout the United States, Respondent excludes

certain zip codes from its regular service area based on building restrictions, historic preservation limitations, product limitations, accessibility for installation, crime rates and sales representative or installation capacity.

- e. In the District of Columbia, Respondent excludes nine zip codes from its regular service area. Respondent used violent crime rate statistics to identify these zip codes. The excluded zip codes are located in different parts of the District, and there is no demographic commonality. Respondent used violent crime rate statistics as the sole reason for excluding any zip code from its regular service area.
- f. Respondent is not a “place of public accommodation” under the HRA.
- g. Even if Respondent were a “place of public accommodation” under the HRA, the practice of defining Respondent’s regular service area based on violent crime rate statistics does not violate the HRA, with or without the business necessity exception.
- h. Under the Occupational Safety and Health Act (OSHA), Respondent is obligated to furnish to each of its employees a workplace that is free from recognized hazards that are causing or likely to cause death or serious physical harm. The courts have interpreted OSHA's general duty clause to mean that an employer has a legal obligation to provide a workplace free of conditions or activities that the employer recognizes as hazardous. By determining Respondent’s

territory based on crime rate statistics, Respondent has taken reasonable steps to prevent a recognized hazard in the workplace.

**IV. APPLICATION**

5. The provisions of this Assurance shall apply to Respondent, and all persons or entities that it controls or has the ability to control, including without limitation its principals, officers, directors, employees, agents, successors, assignees, affiliates, merged or acquired entities, or wholly owned subsidiaries.

6. The provisions of this Assurance shall apply to Respondent's conduct of business in Washington, D.C.

**V. INJUNCTIVE TERMS**

7. Respondent shall not engage in any unlawful trade practice prohibited by the District's CPPA, D.C. Code §§ 28-3901, *et seq.*

8. Respondent shall not engage in any practice that violates the District's HRA, D.C. Code § 2-1402.31.

9. Respondent shall immediately cease excluding portions of the District of Columbia from its regular service area.

10. Respondent shall implement and maintain written policies regarding compliance with the District of Columbia's laws regarding discrimination based on place of residence or business and other protected categories. Respondent shall provide the policies required under this paragraph to all current employees and management within 30 days of the date of this Assurance. Respondent shall provide

the policies required under this paragraph to all new employees and management within the first 14 days of employment.

11. Respondent shall update its training program to ensure that all employees and management have sufficient knowledge of the District of Columbia's laws regarding discrimination based on place of residence or business and other protected categories.

12. Within 14 days of the date of this Assurance, OAG may provide to Respondent the name(s) and contact information of individual(s) who complained to OAG regarding Respondent's regular service area policy. If OAG provides such information, Respondent shall affirmatively contact and offer services at its ordinary rates to any such individual(s) within 30 days of the date of this Assurance.

13. For a period of two years after entry of this Assurance, on an annual basis, Respondent shall submit to OAG a sworn statement identifying any complaints received by Respondent alleging a violation of the HRA. The statement shall include: (i) the date of the complaint and alleged incident; (ii) a summary of the complaint and alleged incident; and (iii) the remedial measures taken by Respondent with respect to the complaint and alleged incident.

#### VI. MONETARY PROVISIONS

14. Within 30 days of the date of this Assurance, Respondent shall pay the District a total of \$50,000. *See* D.C. Code § 2-1403.13; D.C. Code § 28-3909. Payment under this paragraph shall be made via check made out to the D.C. Treasurer and delivered to the OAG consistent with instructions from OAG.

## VII. ADDITIONAL TERMS

15. The Parties voluntarily agree to this Assurance without trial or adjudication of any issue of fact or law as a compromise settlement of all claims that OAG could have brought under D.C. Code § 28-3909 or HRA against Respondent related to the allegations set out in paragraphs 3 through 9. OAG will take no further enforcement action against Respondent as a result of this compliance investigation if Respondent fully complies with this Assurance.

16. If OAG believes Respondent has violated this Assurance, OAG will provide written notice of the alleged violation to Respondent and will give Respondent 10 days to confer with OAG regarding the alleged violation prior to any enforcement action. If OAG takes further enforcement action against Respondent, nothing in this Assurance constitutes a waiver or release by Respondent of any rights or defenses.

17. This Assurance does not constitute an admission by Respondent: (i) of any wrongdoing or any violation of the HRA or CPPA, or (ii) that the amount paid constitutes a fine or penalty.

18. Respondent shall deliver a copy of this Assurance to all corporate officers and management within 30 days of the date of this Assurance.

19. Respondent shall not cause or encourage any third parties, or knowingly permit third parties acting on its behalf, to engage in any practices from which Respondent is prohibited by this Assurance.

20. This Assurance shall be considered effective and fully executed on the last date which any party executes the Assurance. This Assurance may be executed



in counterparts, and copies of signature pages transmitted electronically shall have the same effect as originals of those signature pages.

21. All notices under this Assurance shall be provided to the following address via first class and electronic mail, unless a different address is specified in writing by the party changing such address:

For the District:

Michael A. Tilghman II  
Assistant Attorney General  
Public Interest Division  
441 4th Street, N.W., Suite 630S  
Washington, D.C. 20001  
(202) 727-6247  
Michael.tilghman@dc.gov

For Respondent:

Renewal by Andersen LLC  
Attn: President  
9900 Jamaica Avenue South  
Cottage Grove, MN 55016

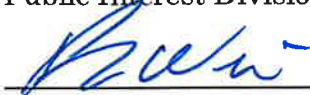
With a copy to:


Renewal by Andersen LLC  
Attn: Chief Legal Officer  
551 North Maine Street  
Bayport, MN 55003

**FOR THE DISTRICT OF COLUMBIA:**

KARL A. RACINE  
Attorney General for the District of Columbia

TONI MICHELLE JACKSON  
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Dated: 08/20/2019

\* Admitted to the Bar of the State of California and practicing in the District of Columbia pursuant to D.C. Ct. App. Rule 49(c)(4) under the supervision of Deputy Attorney General Toni Michelle Jackson.

**FOR RENEWAL BY ANDERSEN LLC:**

*Paul Delahunt*

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PAUL DELAHUNT  
President

Dated:

8/20/19