

IN THE SUPERIOR COURT OF THE DISTRICT OF COLUMBIA
CIVIL DIVISION

DISTRICT OF COLUMBIA,
A municipal corporation
441 4th Street NW,
Washington, D.C. 20001

Plaintiff,

v.

5DESIGN MANAGEMENT LLC,
430 Springvale Road
Great Falls, VA 22066

5DESIGN DEVELOPMENT LLC,
430 Springvale Road
Great Falls, VA 22066

MERIDITH LYDA MOSTASHARI,
430 Springvale Road
Great Falls, VA 22066

SHAW MOSTASHARI
430 Springvale Road
Great Falls, VA 22066

Defendants.

Case No.:

Judge:

COMPLAINT

JURY TRIAL DEMANDED

PRELIMINARY STATEMENT

1. Plaintiff, the District of Columbia, by its Attorney General, files this civil action against Defendants, 5Design Management LLC, 5Design Development LLC, Meredith Lyda Mostashari, and Shaw Mostashari (collectively, “Defendants”), for violations of the District’s Lead-Hazard Prevention and Elimination Act and Consumer Protection Procedures Act in connection with Defendants’ leasing of residential housing.

2. Lead is a well-recognized neurotoxin that, when ingested, causes physical and behavioral disorders, particularly in children and pregnant women. The District's investigation of Defendants' business practices revealed multiple violations of the Lead-Hazardous Prevention and Elimination Act, including failing to provide adequate lead-based paint disclosures to tenants and failing to respond to administrative orders and fines.

3. Defendants' violations threatened consumers and the health and safety of District residents. For these violations, the District seeks injunctive relief and civil penalties.

JURISDICTION

4. This Court has subject matter jurisdiction pursuant to D.C. Code § 8-231.15 and § 11-921(a)(6).

5. The Court has personal jurisdiction pursuant to D.C. Code § 13-423.

PARTIES

6. Plaintiff, the District of Columbia ("District"), a municipal corporation empowered to sue and be sued, is the local government for the territory constituting the permanent seat of the government of the United States. The District is represented in this enforcement action by its chief legal officer, the Attorney General for the District of Columbia. The Attorney General has general charge and conduct of all legal business of the District and all suits initiated by and against the District and is responsible for upholding the public interest. D.C. Code § 1-301.81(a)(1). The Attorney General is specifically authorized to enforce the Lead-Hazard Prevention

and Elimination Act (LHPEA) and the Consumer Protection Procedures Act (CPPA).
See D.C. Code § 8-231.15(e); D.C. Code § 28-3909.

7. Defendant 5Design Development LLC is the owner of the residential apartment building located at 4242 6th Street SE.

8. Defendant 5Design Management LLC is the owner of the residential apartment building located at 433 Atlantic Street SE.

9. Meredith Lyda Mostashari, an individual, is one of two managing partners of 5Design Development LLC and 5Design Management LLC and with Shaw Mostashari, owns or controls eight other LLCs that also own, renovate, sell, maintain, manage, and rent apartments and other multi-family dwellings.

10. Shaw Mostashari, an individual, is one of two managing partners of 5Design Development LLC and 5Design Management LLC, and with Meredith Lyda Mostashari, owns or controls eight other LLCs that also own, renovate, sell, maintain, manage, and rent apartments and other multi-family dwellings.

11. Meredith Lyda and Shaw Mostashari have held themselves out as exercising authority over 5Design Development LLC and 5Design Management LLC. Meredith Lyda and Shaw Mostashari have knowledge and control of the day-to-day work and operations of 5Design Development LLC and 5Design Management LLC.

APPLICABLE LAW

THE LEAD-HAZARD PREVENTION AND ELIMINATION ACT

12. The purpose of the LHPEA is to eliminate lead-based paint hazards from properties built prior to 1978 to reduce the risks of lead poisoning among District

residents, in particular children aged six and under. To accomplish this, the LHPEA generally requires the full disclosure of deteriorated paint and other potential lead-based paint hazards by property owners at the point of turnover to prospective tenants.

13. A residential property constructed prior to 1978 is presumed to have lead-based paint.

14. A lead-based paint hazard is any condition that causes exposure to lead from lead-contaminated dust, lead-contaminated soil, or deteriorated lead-based paint or presumed-lead based paint that is disturbed without containment. D.C. Code § 8-231.01(20).

15. If there is reason to believe that a property owner has violated the LHPEA, the Attorney General for the District of Columbia may bring a civil action to secure a temporary restraining order, a preliminary injunction, a permanent injunction, or other appropriate relief. D.C. Code § 8-231.05(b).

The LHPEA's Disclosure Provisions

16. The disclosure provisions of the LHPEA require owners of a dwelling unit built before 1978 to disclose to the renter of the dwelling unit information reasonably known to the owner about the presence of lead-based paint and lead-based paint hazards. D.C. Code § 8-231.04(a)(1); 20 DCMR § 3313.1(a), (b).

17. Owners are required to provide disclosures on the *Lead Disclosure Form*. D.C. Code § 8-231.04(a)(2); 20 DCMR § 3313.2.

18. The *Lead Disclosure Form* provides an owner three options when providing lead-disclosure information to tenants: 1) the owner knows or reasonably knows lead-based paint is present based on lead-based paint testing; 2) the owner does not know or reasonably know lead-based paint is present based on lead-based paint testing; or 3) while lead-based paint is not known to be present, the owner presumes its presence because the dwelling unit was constructed prior to 1978.

19. Further, owners are required to disclose pending LHPEA enforcement actions to tenants when leasing a residential dwelling unit that is the subject of the action. D.C. Code § 8-231.04(a)(1)(C); 20 DCMR § 3313.1(c).

THE CONSUMER PROTECTION PROCEDURES ACT

20. The CPPA was designed to assure that a just mechanism exists to remedy all improper trade practices and deter the continuing use of such practices. D.C. Code § 28-3901(b). It is a remedial statute to be construed and applied liberally to promote its purpose. D.C. Code § 28-3901(c).

21. A person violates the CPPA when they “engage in an unfair or deceptive trade practice, whether or not any consumer is in fact misled, deceived, or damaged. . . .” D.C. Code § 28-3904.

22. Under the CPPA, a person shall not represent that goods or services are of a particular standard, quality, grade, style, or model, if in fact they are another. D.C. Code § 28-3904(d).

23. The CPPA also prohibits a person from misrepresenting a material fact which tends to mislead. D.C. Code § 28-3904(e).

24. Violating other District laws in the context of a consumer transaction constitutes a violation of the CPPA. *See* D.C. Code § 28-3904(dd).

DEFENDANTS' VIOLATIONS OF THE LHPEA

25. 4242 6th Street SE was originally constructed before 1978.

26. DOEE issued an Administrative Order (No. 18-L-50001590) dated May 15, 2018, to 5Design Development LLC to eliminate lead-based paint hazards observed by a DOEE inspector in Unit #5 of 4242 6th Street SE. The Administrative Order also required 5Design Development LLC to submit a third-party clearance examination report to DOEE, within a month of the order, demonstrating that the work had been properly completed.

27. 5Design Development LLC failed to comply with the Administrative Order, leading DOEE to issue administrative fines, known as Notices of Infraction (NOIs), on November 7, 2018, and July 17, 2019.

28. DOEE's November 7, 2018 NOI (DE-18-L500166) imposed an administrative penalty of \$1000 against 5Design Development LLC for one day—July 18, 2018—of failing to comply with DOEE's Administrative Order.

29. On the November 7, 2018 NOI, the District's Office of Administrative Hearings ("OAH") issued a Final Order on April 1, 2019 against 5Design Development LLC imposing a penalty in the amount of \$3,000 and the accrual of interest at the rate of 1.5% per month if Defendant failed to pay the penalty within 20 days after the date of the Final Order. *See* D.C. Code §§ 2-1801.04(a)(2) and 2-1802.02(f).

30. 5Design Development LLC was properly served with the April 1, 2019 Final Order and failed to timely answer, appeal or comply with the Final Order and has failed to pay the fines and penalties in the Order.

31. DOEE's July 17, 2019 NOI imposed an administrative penalty of \$2000 against 5Design Development LLC for failing to comply with DOEE's Administrative Order for one day—April 3, 2019.

32. On the July 17, 2019 NOI, OAH issued a Final Order on December 3, 2019, against 5Design Development LLC imposing a penalty in the amount of \$6,000, and the accrual of interest at the rate of 1.5% per month if Defendant failed to pay the penalty within 20 days after the date of the Final Order. *See* D.C. Code §§ 2-1801.04(a)(2) and 2-1802.02(f).

33. 5Design Development LLC was properly served with the December 3, 2019 Final Order and failed to timely answer, appeal or comply with the second Final Order and has failed to pay the fines and penalties in the Order.

Defendants' Failure To Provide Lead-Based Paint Disclosures to Tenants

34. In 2020, 5Design Development LLC leased the five residential units at 4242 6th Street SE but failed to provide lead-based paint disclosures on the *Lead Disclosure Form*.

35. The company also incorrectly represented that it did not have knowledge of lead-based paint being present, despite knowing that the building was built before 1978 and was thus presumed to contain lead-based paint.

36. Further, despite having knowledge of DOEE's Administrative Order and OAH's Final Orders for 4242 6th Street SE, Unit #5, 5Design Development LLC failed to disclose these pending LHPEA actions to at least one tenant at this unit.

37. In 2020, 5Design Management LLC leased four residential units at 433 Atlantic Street SE but failed to provide lead-based paint disclosures on the *Lead Disclosure Form*.

38. 5Design Management LLC also stated the company did not have knowledge of lead-based paint being present, despite knowing that the building was built before 1978 and was thus presumed to contain lead-based paint.

DEFENDANTS' VIOLATIONS OF THE CPPA

39. Defendants' false or inaccurate lead-based paint disclosures also violate the CPPA.

40. Real property leased for residential use is a good or service under the CPPA.

41. 5Design Development LLC provided false or inaccurate lead-based paint disclosures to the tenants at 4242 6th Street SE

42. 5Design Management LLC provided false or inaccurate lead-based paint disclosures to the tenants at 433 Atlantic Street SE.

43. For each of the disclosures, Defendants affirmatively stated lead-based paint was not present at the property, despite having either affirmative knowledge that lead-based paint was present or that the properties were presumed to have lead-based paint because of their age.

CLAIMS FOR RELIEF

**COUNT ONE
Violations of the LHPEA**

44. Plaintiff realleges and incorporates by reference the allegations set forth in all preceding paragraphs.

45. Pursuant to D.C. Code § 8-231.03(c) and 20 DCMR § 3318.3, DOEE issued an Administrative Order on May 15, 2018, requiring 5Design Development LLC to eliminate lead-based paint hazards at 4242 6th Street SE, Unit #5 and submit third-party clearance examination reports to DOEE.

46. 5Design Development LLC is required to comply with the Order. D.C. Code § 8-231.03(d)(1)(A) (“Upon receipt of an order . . . the owner of the property shall . . . perform the measures required . . . to eliminate any lead-based paint hazards and underlying conditions[.]”); 20 DCMR § 3318.5(a) (same requirement).

47. 5Design Development LLC has failed to comply with the Order.

48. The District is authorized to obtain a preliminary or permanent injunction or other appropriate relief, to enforce compliance with the LHPEA, including DOEE’s Administrative Order. D.C. Code § 8-231.15(e).

49. The District seeks all appropriate relief for 5Design Development LLC’s, and its managing partners’, Meredith Lyda and Shaw Mostashari, failure to comply with the Order, including civil penalties.

50. The LHPEA requires an owner to disclose to tenants information reasonably known to the owner about the presence of lead-based paint, lead-based

paint hazards, and DOEE enforcement actions at the residential unit. D.C. Code § 8-231.04(a).

51. When leasing five pre-1978 residences at 4242 6th Street SE and four pre-1978 residences at 433 Atlantic Street SE, Defendants did not provide adequate lead-based paint disclosures.

52. Defendants failed to disclose to tenants that lead-based paint was presumed to be at the residences. Instead, Defendants incorrectly provided that “lead-based paint is not known or reasonably known to be present on the interior or on the exterior of the property, including common areas.”

53. Defendants also failed to give notice to the tenant at 4242 6th Street SE, Unit #5, that the unit was the subject of a DOEE Administrative Order.

COUNT THREE
Unlawfully Providing False or Misleading Information to Consumers
in Violation of the CPPA

54. The District realleges and incorporates the allegations in the preceding paragraphs.

55. The Consumer Protection Procedures Act prohibits persons from representing that goods or services are of a particular standard, quality, grade, style, or model, if in fact they are another; and misrepresenting as to a material fact which has a tendency to mislead. D.C. Code § 28-3904(d), (e).

56. When leasing five residential units at 4242 6th Street SE and four residential units at 433 Atlantic Street SE, Defendants did not provide adequate lead-based paint disclosures to the tenants of the residences.

57. Defendants failed to disclose to tenants that lead-based paint was presumed in the pre-1978 residences described in this Count.

58. Defendants made material misrepresentations when leasing the pre-1978 residential properties described in this Count by stating the unit did not have lead-based paint.

COUNT FOUR
Defendants' Violations of Title 16 DCMR That Also Violate the CPPA

59. The District realleges and incorporates the allegations in the preceding paragraphs.

60. It is a separate unlawful trade practice under the CPPA to “violate any provision of title 16 of the District of Columbia Municipal Regulations.” D.C. Code § 28-3904(dd).

61. When leasing five residential units at 4242 6th Street SE and four residential units at 433 Atlantic Street SE, Defendants did not provide adequate lead-based paint disclosures to the lessees of the residences.

62. Each failure to provide adequate disclosures is a violation of the LHPEA and its implementing regulations and therefore a violation of title 16 of the District's Municipal Regulations. D.C. Code § 8-231.04(a); 20 DMCR § 3313.1 and .2; and 16 DCMR § 4003.4(q) and (r).

63. Defendants' violations of the LHPEA's disclosure provision constitute separate violations of the CPPA. D.C. Code § 28-3904(dd).

COUNT FIVE
Converting OAH's Final Orders to Judgment and Order to Enforce Judgment

64. DOEE issued a Notice of Infraction (DE-18-L500166) on November 7, 2018, to 5Design Development LLC for failure to respond or otherwise comply with Administrative Order (No. 18-L-50001590), dated May 15, 2018.

65. DOEE issued a Notice of Infraction (DE-19-L500200) on July 17, 2019, to 5Design Development LLC for failure to respond or otherwise comply with Administrative Order (No. 18-L-50001590), dated May 15, 2018.

66. DOEE properly petitioned OAH to issue Final Orders finding 5Design Development LLC in default of the NOIs for Defendant's failure to answer or comply with the NOIs.

67. The OAH issued two Final Orders against 5Design Development LLC imposing penalties in the amount \$3000 and \$6000, including the accrual of interest, for each penalty, at the rate of 1.5% per month if Defendant failed to pay the civil penalty within 20 days after the date of the Final Orders. True and accurate copies of the Final Order are attached as Exhibit A and B.

68. 5Design Development LLC were properly served with the OAH Final Orders and failed to timely answer, appeal or comply with the Final Orders including the payment of fines and penalties.

69. The District requests that the OAH Final Orders be converted to civil judgment against 5Design Development LLC and that Defendant be ordered to

comply with those judgments including any interest due and owing according to the terms of the Final Orders.

REQUEST FOR RELIEF

WHEREFORE, the District respectfully request that judgment be entered in its favor and against Defendants, and that this Court impose civil penalties, fines, and injunctive relief as follows:

1. Declare that Defendants have violated the Lead-Hazard Prevention and Elimination Act and Consumer Protection Procedures Act.
2. Award statutory penalties against Defendants, as authorized under the Lead-Hazard Prevention and Elimination Act and Consumer Protection Procedures Act, in an amount to be proven at trial;
3. Enter a permanent injunction enjoining the Defendants from violating the Lead-Hazard Prevention and Elimination Act and Consumer Protection Procedures Act; and
4. Such other relief as this Court deems just and proper.

JURY DEMAND

The District demands a jury trial on all issues triable of right by a jury in this matter.

Dated this 30th of April, 2021.

Respectfully submitted,

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Columbia

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Public Advocacy Division

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