

IN THE SUPERIOR COURT OF THE DISTRICT OF COLUMBIA
Civil Division

DISTRICT OF COLUMBIA,
400 6th Street NW
Washington, D.C. 20001

Plaintiff,

v.

SOLID BRICK VENTURES L.L.C.
1407 T Street NW, Suite 200
Washington, D.C. 20009

93 HAWAII VENTURES L.L.C.
1407 T Street NW, Suite 200
Washington, D.C. 20009

98 WEBSTER VENTURES L.L.C.
1407 T Street NW, Suite 200
Washington, D.C. 20009

and

M SQUARED REAL ESTATE LLC
1407 T Street NW, Suite 200
Washington, D.C. 20009

Serve for all parties on:

Mark Mlakar
1407 T Street NW, Suite 200
Washington, D.C. 20009

Defendants.

Case No.:

**COMPLAINT FOR VIOLATIONS OF THE TENANT RECEIVERSHIP ACT,
CONSUMER PROTECTION PROCEDURES ACT, AND LEAD-HAZARD
PREVENTION AND ELIMINATION ACT**

Plaintiff the District of Columbia (the “District”), through the Office of the Attorney General, brings this action against Defendants Solid Brick Ventures L.L.C., 93 Hawaii Ventures L.L.C., 98 Webster Ventures L.L.C., and M Squared Real Estate LLC (collectively, “Defendants”) pursuant to the Tenant Receivership Act (the “TRA”), D.C. Code §§ 42-3651.01 — 42-3651.08, the Consumer Protection Procedures Act, (the “CPPA”), D.C. Code §§ 28-3901 —28-3913, and the Lead-Hazard Prevention and Elimination Act (the “LHPEA”), D.C. Code § 8-231.01 *et seq.*.

Defendants are the owners and managers of the 88 unit Hawaii-Webster apartments located at 65 through 97 Hawaii Avenue NE and 66 and 98 Webster Street NE (collectively, the “Properties”). Solid Brick Ventures L.L.C. owns 65 through 89 Hawaii Avenue NE, 97 Hawaii Avenue NE, and 66 Webster Street NE. 93 Hawaii Ventures L.L.C. owns 93 Hawaii Avenue NE. 98 Webster Ventures L.L.C. owns 98 Webster Street NE.



INTRODUCTION

1. More than 52 families call the 11 apartment buildings at Hawaii Avenue NE and Webster Street NE home. Many of the tenants at the Properties have lived in their homes for over ten years. The apartments house working class families with young children, older adults, and Latinx immigrants who chose this location for its affordability. Most have limited income and few other housing options in the District's expensive rental market. Defendants' refusal to maintain the Properties places these tenants in a precarious situation – remain in unsafe homes or face displacement.

2. Defendants' active neglect of the Properties poses a serious threat to the tenants' health, safety, and security. Heat malfunctions often, exposing tenants to bitter indoor temperatures. Pervasive water leaks have disintegrated drywall and paint, creating holes in tenants' walls and ceilings. One tenant fears that the leaking bedroom ceiling may collapse onto her children. Extensive mold growth covers entire walls, including the wall behind one child's crib. Pervasive chipping paint, likely lead-based, threatens the health of children in the Properties.



*Mold covers the wall behind a crib
at 73 Hawaii Avenue NE.*

3. Defendants neglect their basic legal responsibilities. For instance, Defendants did not remove trash from the Properties from July through October 2021. The stagnant garbage invited rats, mice, and cockroaches. Because extermination efforts were lackluster, tenants still battle vermin.

4. Conditions devolved after Defendants took over ownership and management of the Properties in October 2020 and continuously neglected upkeep. Prior to Defendants' ownership, tenants could call a maintenance employee, who lived at the property, for emergency repairs. In contrast, for much of Defendants' current ownership and management, tenants had no number to call for repairs. While a maintenance line recently was created, no one answers calls.

5. When tenants plead for repairs, Defendants are unresponsive, often outright contemptuous. One tenant called management to report a leak in her ceiling, only for management to respond that they were not going to make any repairs. In retaliation for the tenant contacting the District's Department of Consumer and Regulatory Affairs ("DCRA") for assistance, Defendants told her that they were "going to move her to Southeast and they weren't going to let her come back nor repair the ceiling."

6. Defendants' failure to maintain the Properties is consistent with a plan for constructive eviction of current tenants. Consistent with such a plan, in April 2021, Defendants' submitted an application to the Board of Zoning Adjustment ("BZA") to redevelop the Property into market rate condominiums and rental units.

7. Tenants living in the 52 occupied units of the Properties rightfully fear that they will be displaced, since only 16 units of the 134 apartments in the planned re-development will be affordable units.

8. Tenants suspect that Defendants' failure to maintain the Properties is designed to displace them and pave the way for redevelopment of the Properties. In fact, tenants were coerced into signing away their right to purchase the property as provided for in the Tenant Opportunity to Purchase Act, D.C. Code § 42-3404.01 *et seq.* In the spring of 2020, prior to Defendants' purchase of the Properties, an agent of Defendants visited the Properties and offered \$300 to one tenant to collect signatures of other tenants. The document tenants signed formed a Tenants' Association and was written in English, even though most tenants speak Spanish. The Tenants' Association never met and never held a vote. Defendants later submitted the document to the Department of Housing and Community Development as evidence that the Tenants' Association assigned Defendants their right to purchase the Properties.

9. Since Defendants took over ownership, management told tenants of 93 Hawaii Avenue NE, that they must leave. The building is now completely vacant.

10. Defendants' neglect of maintenance of the Properties threatens tenants' health, safety, and security in violation of the District's Housing Code, 14 D.C.M.R. § 400 *et seq.*, Property Maintenance Code, 12 D.C.M.R. § PM-101G *et seq.*, and the LHPEA, D.C. Code § 8-231.01 *et seq.* The District seeks injunctive relief to remedy Defendants' illegal conduct, restitution for tenants who were promised habitable housing, civil penalties under the CPPA and LHPEA, attorneys' fees and costs.

PARTIES

11. Plaintiff, the District of Columbia, a municipal corporation empowered to sue and be sued, is the local government for the territory constituting the seat of the government for the United States. The District brings this action through 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 TRA, the CPPA, and the LHPEA. *See* D.C. Code § 28-3909; § 42-3651.03; § 8-231.15(e).

12. Defendant Solid Brick Ventures L.L.C. is a District-licensed corporation that has owned the apartments at 65, 69, 73, 77, 81, 85, 89, and 97 Hawaii Avenue NE, Washington, D.C. 20011 and the apartments at 66 Webster Street NE, Washington, D.C. 20011 since October 29, 2020.

13. Defendant 93 Hawaii Ventures L.L.C. is a District-licensed corporation that has owned the apartments at 93 Hawaii Avenue NE, Washington, D.C. 20011 since August 26, 2020.

14. Defendant 98 Webster Ventures L.L.C. is a District-licensed corporation that has owned the apartments at 98 Webster Street NE, Washington, D.C. 20011 since August 14, 2020.

15. Defendant M Squared Real Estate LLC (“M Squared”) is a District-licensed company that manages the properties at 65, 69, 73, 77, 81, 85, 89, 93 and 97 Hawaii Avenue NE, Washington, D.C. 20011 and 66 and 98 Webster Street NE, Washington, D.C. 20011. M Squared’s property management division is called M Squared Management.

JURISDICTION

16. The Court has subject matter jurisdiction over the District’s claims pursuant to D.C. Code §§ 11-921, 28-3909, and 8-231.15.

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

FACTS

Defendants Have Routinely Neglected the Properties, Threatening Tenants' Health, Safety, and Security

18. There are eleven buildings at the Hawaii-Webster apartments. Each building has eight one-bedroom units, for a total of 88 units. Approximately 52 of these units are currently occupied.

19. Since Defendants took over ownership and management of the Properties in August and October 2020, they have been repeatedly notified of conditions that threaten tenants' health, safety and security in violation of the Housing and Property Maintenance Codes.

20. As set forth further below, and confirmed by multiple DCRA inspections, inspections by OAG investigators, and tenant declarations and reports, Defendants' failure to maintain the Properties in accordance with District law has resulted in unsafe conditions including, but not limited to:

- a. lack of heat;
- b. mold and water intrusion;
- c. vermin and pest infestations;
- d. deteriorating lead paint;
- e. broken safety systems;
- f. security failures; and
- g. failing appliances.

Lack of Heat

21. Since Defendants have owned and managed the Properties, they have been cited by DCRA twice for failing to maintain the heating systems to maintain required minimum temperatures in the colder months between October 1 and May 1, in violation of the Housing Code.

22. On November 19, 2021, OAG received reports that heat was insufficient or completely nonfunctional in 17 units across nine buildings at the Properties. When a local non-profit, Housing Counseling Services, emailed Mark Mlakar, owner of Defendant LLCs, about the lack of heat, Mlakar stated “[a]s you can see the buildings in their current condition are are [sic] threat to all the occupants and this is not sustainable.”

23. The heat in 77 Hawaii Avenue NE malfunctioned from November 21 through December 7, 2021. After the heat was restored on December 7, the heat broke yet again on December 10 and did not return for 12 days. Tenants had heat for only three days over a 32-day period, when temperatures consistently dropped into the 30s at night. Tenants used their gas ovens or purchased space heaters to provide their own heat.

24. The building-wide heating system, even when functioning, does not sufficiently heat tenants’ units. Each unit has three radiators, but in several units, at least one radiator is broken. Tenants regularly rely on space-heaters to maintain a safe, comfortable temperature in the winter. This additional heat is at tenants’ own expense, since the electric bill is not included in the rent.

Mold and Water Intrusion

25. The Properties suffer from long-term water damage that causes pervasive mold growth.

26. In at least two buildings, rain leaks through the windows. A window in 97 Hawaii Avenue NE fell out of its frame, leaving a gap open to the exterior of the building.

27. Faulty plumbing causes water to leak between neighboring units. Ceilings in at least five different units are leaking or have water damage from the upstairs unit, including holes in the ceiling. One tenant has been suffering from a leaky ceiling since July 2021. When he reported the leaks to management, instead of pursuing emergency repairs, management asked if in the tenant

wanted to move. Defendants never sent anyone to make the repair, and his ceiling was still leaking in November 2021. Another tenant, in 73 Hawaii Avenue NE, sought repairs for a leaking wall in her children's bedroom which was causing mold and affecting the children's health. A representative of Defendant M Squared told her that her family would be moved out and would not be able to return.

28. Surfaces in bathrooms are not sealed effectively. There are holes in the bathroom walls near the baseboards. Bathroom tiles have cracks down the sides of the showers and through the middle of the floors. Caulk between tiles is disintegrating, allowing water to seep into the floors and walls.

29. The leaks have spurred mold growth in tenants' homes. Ceilings, walls, bathtubs, showers, and windows have mold growth. The mold has spread to tenants' personal belongings, ruining clothes and leaving a musty stench. In some apartments, entire walls have turned black with mold.



Mold covers a wall and ceiling at 85 Hawaii Avenue NE.



Mold growth on the ceiling and wall of a bathroom in 89 Hawaii Avenue NE.

30. DCRA cited the Properties for the presence of unabated “mold like substance” as recently as October 1, 2021.

31. The presence of mold threatens tenants’ health. A child living in one mold-ridden apartment has suffered respiratory issues.

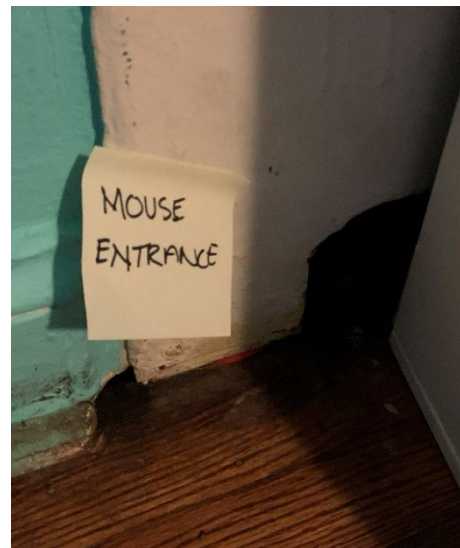
Vermin and Pest Infestations

32. Mice, cockroaches, and bedbugs have infested the Properties for years. The infestation intensified significantly in 2021, after Defendants failed to remove trash from the Properties from July through October 2021. During that time, trash accumulated in the back alleyway and attracted rats, mice, roaches, and crows. Now, tenants see rats or mice inside their apartments almost daily.

33. In November 2021, OAG investigators observed evidence of mice and cockroach infestations in all 15 units they visited. Every tenant the investigators spoke with reported infestations of mice and cockroaches that enter apartments easily through holes in walls, floorboards and behind radiators of apartments.



Holes in the wall at 66 Webster Street NE allow for ingress and egress of rodents.



Gaps between the floorboards and walls allow rodents to enter a unit in 89 Hawaii Avenue NE.

34. There are so many rodents that one tenant purchases 30 mouse traps a month. Another tenant places a new mouse trap out every week because each trap fills up so quickly.



A rodent trap at 97 Hawaii Avenue NE.

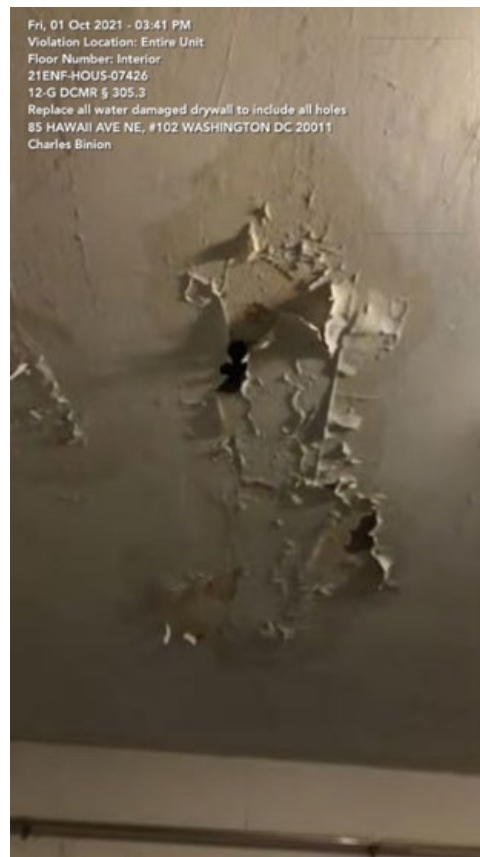
35. Defendants do not provide regular or effective pest extermination or exclusion services. The few, one-off exterminations they performed did not eliminate mice and roaches. In September 2021, Defendants were cited by DCRA for failing to prevent re-infestation after extermination. Due to Defendants' lack of extermination, tenants have to purchase their own mouse traps, sprays, and other treatment products.

Deteriorating Lead Paint

36. The Properties are rife with lead-based paint hazards. The buildings were constructed in 1941, and the paint is presumed to contain lead. Across the Properties, paint and drywall is peeling, cracking, crumbling and bubbling.

37. When OAG investigators visited the Properties in November 2021, they found peeling, chipping and defective paint in every unit they entered.

38. DCRA has cited the Properties for bubbling and cracked paint and damaged drywall four times since Defendants became the owners of the Properties.



Peeling paint at 85 Hawaii Avenue NE.

39. Lead-based paint hazards are also present in bathtubs and showers, where glaze is chipping.

Broken Safety Systems

40. Since Defendants took control of the Properties, DCRA has cited them for defects of standard residential safety measures, including missing and defective smoke detectors, blocked fire exits, missing carbon monoxide detectors, and exposed outlets.

41. OAG investigators confirmed ongoing safety violations at the Properties, finding multiple missing and defective smoke alarms and exposed outlets.

Security Failures

42. The front exterior doors of at least three buildings are unsecured. Locks are broken or jammed, making it impossible to open the door. Tenants must walk through the dark back alley to enter the building through the back door. The alternative, propping open the stuck front doors, provides unfettered access of non-residents to the buildings.

Failing Appliances

43. Seven of the fifteen units that OAG investigators visited in November 2021 had broken stoves. Some stoves were damaged because vermin ate through wires. Another stove emits a gas smell throughout the entire unit. That tenant reported the gas smell to management, to no avail. In early summer 2021, she was out of town when the police had to break down her door after receiving a call that the smell of gas was coming from her apartment. Defendants still did not repair or replace her stove. As of December 2021, the stove was still emitting the smell.

44. Many tenants' refrigerators and freezers do not function properly. DCRA cited the Properties for this issue in June 2021. DCRA took pictures of empty refrigerators, kept so by tenants who knew the appliances would only allow their food to spoil. Some refrigerators function partially, but leak so that tenants must keep bowls in their refrigerators to catch water and prevent their food from getting soggy.

COUNT ONE

(Petition for Appointment of a Receiver Under the Tenant Receivership Act)

45. The District incorporates by reference paragraphs 1 through 44.

46. The Attorney General may petition the Court to appoint a receiver over a rental housing accommodation that "has been operated in a manner that demonstrates a pattern of neglect for the property for a period of 30 consecutive days and such neglect poses a serious threat to the health, safety, or security of the tenants." D.C. Code § 42-3651.02(b). The term "pattern of neglect"

includes “all evidence that the owner, agent, lessor, or manager of the rental housing accommodation has maintained the premises in a serious state of disrepair, including vermin or rat infestation, filth or contamination, inadequate ventilation, illumination, sanitary, heating or life safety facilities, inoperative fire suppression or warning equipment, or any other condition that constitutes a hazard to its occupants or to the public.” *Id.*

47. Defendants have operated the Properties in a manner that demonstrates a pattern of neglect under D.C. Code § 42-3651.02(b). The Property has suffered from systemic repair issues that relate to leaks and mold, vermin and rat infestation, heating, fire and life safety systems and multiple other conditions that threaten tenants’ health, safety, and security.

48. The pattern of neglect has been ongoing since Defendants took over ownership and management of the Properties in August and October 2020. Management has ignored tenants’ calls for help in repairing hazardous, unsanitary conditions.

COUNT TWO
(Violations of the Lead-Hazard Prevention and Elimination Act)

49. The District incorporates by reference paragraphs 1 through 48.

50. The LHPEA requires that owners maintain a pre-1978 multi-family residential property free of lead-based paint hazards, including chipping and peeling of presumed lead-based paint. *See* D.C. Code § 8-231.02(a); *see also* 20 DCMR § 3301.1. Whenever lead-based paint hazards are identified, the LHPEA authorizes the District to order a property owner to perform any action the District considers necessary to eliminate lead-based paint hazards. *See* D.C. Code § 8-231.03(c).

51. Defendants are “owners” of a property, as that term is defined in the Act, because they own and control an interest in the Properties. *See* D.C. Code § 8-231.01(30).

52. The Properties were constructed prior to 1978 and, therefore, presumed to contain lead-based paint. *See* D.C. Code § 8-231.01(32). The peeling, chipping, and flaking, of the presumed lead-based paint at the Properties is a lead-based paint hazard. *See* D.C. Code § 8-231.01(22). Lead-based paint hazards have been identified by the District at the Properties.

53. The presence of lead-based paint hazards severely and negatively impacts tenants, especially children.

COUNT THREE
(Misrepresentations and Omissions in Violation of the Consumer Protection Procedures Act)

54. The District incorporates by reference paragraphs 1 through 53.

55. The Consumer Protection Procedures Act is a remedial statute that is to be broadly construed. It establishes an enforceable right to enjoin unfair or deceptive trade practices regarding consumer goods and services that are or would be purchased, leased, or received in D.C.

56. Defendants, in their ordinary course of business, offer to lease or supply consumer goods and services and therefore, are “merchants” under the CPPA.

57. Tenants at the Properties are “consumers” under the CPPA because they rent their apartments for personal, household, or family purposes.

58. Under the CPPA, it is an unlawful trade practice for any person to:

- a. represent that goods or services have a source sponsorship, approval, certification, or connection that they do not have;
- d. represent that goods or services have a particular standard, quality, grade, style, or model, if in fact they are of another;
- e. misrepresent as to material fact which has a tendency to mislead; [or]
- f. fail to state a material fact if such failure tends to mislead [...]

D.C. Code § 28-3904.

59. Defendants committed unfair or deceptive trade practices under the CPPA when, among other acts, they made the following representations or omissions:

- a. representing to tenants, through the collection of rent, that the Properties were safe and habitable and would be maintain in compliance with District laws and regulations when, in fact, the Properties are not habitable and Defendants have not maintained them in a manner consistent with District laws and regulations, in violation of the Housing Code, 14 D.C.M.R. § 400 *et seq.*, and the Property Maintenance Code, 12 D.C.M.R. § PM-101G *et seq.*
- b. representing to tenants/consumers that Defendants have abated or will abate all housing code violations and any other material defects that pose a serious threat to the health, safety, or security of the tenants/consumers when, in fact, Defendants have not done so in violation of the Housing Code, 14 D.C.M.R. §400 *et seq.*, the Property Maintenance Code, 12 D.C.M.R. § PM-101G *et seq.*, and the LHPEA, D.C. Code § 8-231 *et seq.*

COUNT FOUR
(Unlawful Trade Practices Contrary to District Law in Violation of the Consumer Protection Procedures Act Arising from Housing Code Violations)

60. The District incorporates by reference paragraphs 1 through 59.

61. The CPPA prohibits any person from engaging in unfair or deceptive trade practices, including trade practices that violate other District of Columbia laws and regulations, including “any provision of title 16 of the District of Columbia Municipal Regulations.” D. C. Code § 28-3904(dd).

62. Defendants have committed unlawful trade practices in violation of D.C. Code § 28-3904(dd) by engaging in trade practices that violate District laws and regulations meant to protect and promote the health, safety, and welfare of tenants by failing to abate the numerous violations of the Housing Code, 14 D.C.M.R. § 400 *et seq.*, the Property Maintenance Code, 12 D.C.M.R. § PM-101G *et seq.*, all of which also constitute violations of 16 D.C.M.R. § 3305.

RELIEF REQUESTED

WHEREFORE, Plaintiff, the District of Columbia, respectfully requests that the Court:

a. Appoint a receiver who has demonstrated to the Court the expertise to develop and supervise a viable financial and repair plan for the satisfactory rehabilitation of the multi-unit rental housing accommodations which are the subject of this lawsuit;

b. Order that Defendants, jointly and severally, contribute funds in excess of the rents collected from the rental housing accommodation for the purposes of abating Housing Code violations and assuring that any conditions that are a serious threat to the health, safety, or security of the occupants or public are corrected pursuant to D.C. Code § 42-3651.05(f);

c. Enter injunctive relief as appropriate against Defendants to eliminate and/or abate all lead-based paint hazards at the Properties pursuant to D.C. Code § 8-231.15(e);

d. Award restitution to disgorge the rent amounts that Defendants charged tenants while the Properties were in violation of the District's Housing Code or otherwise uninhabitable under D.C. Code § 28-3909(a);

e. Award civil penalties in an amount to be proven at trial and as authorized per violation of the CPPA pursuant to D.C. Code § 28-3909(b)(1)(2);

f. Award civil penalties in an amount to be proven at trial and as authorized per violation of the LHPEA pursuant to D.C. Code § 8-231.15(b);

- g. Award reasonable attorneys' fees pursuant to D.C. Code § 28-3909(b)(4) and D.C. Code § 42-3651.07(b)(1);
- h. Award all allowable costs pursuant to D.C. Code § 28-3909(b)(4) and 20 D.C.M.R. § 3320.8; and
- i. Grant such further relief as the Court deems just and proper.

Jury Demand

The District of Columbia demands a trial by jury by the maximum number of jurors permitted by law on all claims triable to a jury.

Dated: January 31, 2022

Respectfully submitted,

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Attorney General for the District of Columbia

KATHLEEN KONOPKA
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