

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

DISTRICT OF COLUMBIA,)	
Plaintiff)	
)	Case No. 2021-CA-2209-B
v.)	
)	Judge Neal E. Kravitz
MP PPH, LLC, <i>et al.</i>,)	
Defendants)	

**MEMORANDUM OPINION AND ORDER GRANTING PLAINTIFF’S RENEWED
MOTION TO ADJUDICATE DEFENDANT MP PPH, LLC IN CIVIL CONTEMPT**

The District of Columbia (the “District”) has filed a renewed motion to adjudicate defendant MP PPH, LLC (“MP PPH”) in civil contempt of court. The District contends that MP PPH, the owner of the Marbury Plaza apartment complex, is in flagrant violation of a consent order requiring it to remediate mold, leaks, flooding, failed plumbing and electrical systems, insect and rodent infestations, nonfunctioning elevators and chairlifts, and other serious housing code violations affecting the health, safety, and enjoyment of the residents of the complex. MP PPH has filed an opposition to the motion in which it argues that it substantially complied with several of the order’s requirements and was unable to comply with others. For the following reasons, the court concludes that the District’s motion should be granted.

I. BACKGROUND

A. Marbury Plaza

Marbury Plaza is located east of the Anacostia River in the 2300 block of Good Hope Road SE. Built in 1968, the complex has a total of 674 residential units in two eleven-story high-rise towers and seven smaller garden-style buildings. With 582 of the units presently occupied, the complex is home to more than 2,500 residents of all ages. According to MP PPH, the rents for 122 of the occupied units are subsidized by the District of Columbia Government.

MP PPH is a limited liability company owned by Anthony Pilavas, a New York City ophthalmologist, and his wife, Helen Pilavas. Mr. Pilavas is the managing member of MP PPH. Through other limited liability companies, he and his wife also own a 455-unit apartment complex in the Bronx, New York; a 376-unit apartment complex in southern New Jersey; a 22-unit apartment building in Queens, New York; a 42-suite office building in Melville, New York; and a house in Queens, New York that has three family rental units and Mr. Pilavas's office.

MP PPH bought Marbury Plaza in 2015 for \$55 million. To fund the purchase, the Pilavas used \$11 million they cleared from a refinancing of the mortgage on their Bronx apartment complex for a down payment and took out a \$44 million loan for the rest. The Pilavas refinanced the Marbury Plaza loan in 2021, netting more than \$15 million in cash, most of which they transferred back to the limited liability company through which they own their Bronx apartment complex.

B. The Litigation

The District brought this case on July 1, 2021 against MP PPH, Mr. Pilavas, and Vantage Management, Inc., the property management company at Marbury Plaza at the time. The complaint alleged violations of the Tenant Receivership Act, D.C. Code §§ 42-3651.01–3651.08, and the Consumer Protection Procedures Act, D.C. Code §§ 28-3901–3913. Contrasting the actual conditions in the complex with the defendants' advertisements promising an "exceptional . . . living experience" and the "best high-rise living in Southeast Washington, D.C.," the District alleged that the defendants had long neglected the complex, leaving its residents to live in sordid conditions, with pervasive leaks and mold infestations, failed plumbing and electrical systems, nonfunctioning elevators and chairlifts, insect and rodent infestations, and perilous fire and safety hazards. The District alleged further that the complex's management unlawfully

discriminated against holders of housing vouchers and falsely advertised amenities that were not available at the complex. The District sought a permanent injunction requiring the defendants to restore the complex to habitability; damages, including restitution for tenants; the appointment of a receiver; civil penalties; and an award of reasonable attorney's fees.

C. The Consent Order

The District filed a motion for preliminary injunctive relief on July 20, 2021, alleging emergent and dangerous conditions throughout the complex. The District sought a preliminary injunction compelling the defendants to conduct full property assessments, provide reports of the assessments, and make all necessary repairs identified by the inspectors.

The court (Judge Heidi Pasichow) scheduled a hearing for January 28, 2022 on the District's motion for a preliminary injunction. Several weeks before the hearing, however, the District and MP PPH reached agreement on a written consent order to be presented to the court in lieu of litigating the motion. The District and MP PPH filed a consent motion on January 4, 2022 asking the court to approve the consent order. At the hearing on January 28, 2022, Judge Pasichow reviewed the consent order jointly proposed by the parties and orally approved it on the record.

The consent order required MP PPH to complete several categories of assessments and repairs at varying intervals of time. Within 30 days of the effective date of the consent order, MP PPH was to finish ongoing extermination work in all units and common areas; conduct full mold assessments of all units and common areas; and complete full assessments of all plumbing and HVAC systems, elevators and chairlifts, exterior lighting, and electrical and other safety hazards.

Within 60 days of the effective date of the consent order, MP PPH was to resolve all outstanding notices of infraction issued by the District's Department of Consumer and Regulatory Affairs; complete all necessary repairs identified in previous inspections conducted by CTI District Services, Inc., a general property inspector; secure all points of entry into all buildings in the complex; return all laundry facilities to operational status; install security cameras in all laundry room areas; ensure sufficient exterior lighting throughout the property; and maintain a proper cadre of security personnel.

Within 90 days of the effective date, MP PPH was to complete all mold remediation work identified by the mold assessments in all units and common areas. And within 120 days, MP PPH was to complete the remediation of all HVAC, plumbing, elevator, and chairlift deficiencies and all electrical and fire safety hazards; repair and replace the roof, as necessary; and ensure that the swimming pool was safe for the residents' use and enjoyment.

The consent order made clear that MP PPH was to "expeditiously and fully fund all repairs" identified in the course of the required inspections and assessments. The order also required MP PPH to provide monthly extermination treatments to all units and to file monthly reports, beginning on January 5, 2022, detailing its progress in all areas. MP PPH filed its first monthly report as required and has continued filing monthly reports ever since.

Judge Pasichow issued the written consent order on March 2, 2022, approximately five weeks after orally approving its terms on the record on January 28, 2022. The judge included the written consent order in an omnibus order that addressed several pending motions. She made no changes to the written consent order jointly proposed by the parties, incorporating it verbatim and in full.

D. Initial Post-Order Litigation

Litigation soon arose over the consent order. On March 25, 2022, the District filed a motion to adjudicate MP PPH in civil contempt for failing to complete the exterminations and assessments required within the first 30 days after the entry of the order. On May 5, 2022, MP PPH filed a motion to modify the consent order, stating that it was behind schedule because tenants were denying access to their units for the required exterminations and assessments and because of other delays caused by permitting needs, contractors, and supply chain issues. MP PPH asked the court to add a provision to the consent order acknowledging that its ability to comply with its obligations under the order could be adversely affected by circumstances beyond its control and that, in the event its performance was so affected, its obligations under the order would be deferred or excused.

Judge Pasichow issued a written order on October 19, 2022 denying both motions. The judge denied the District's motion for contempt on the ground that the District had not shown by clear and convincing evidence that MP PPH failed to make good faith efforts to complete the requisite exterminations and assessments. She denied the defendant's motion to modify the consent order on the ground that she likely lacked authority to modify a consent order without the consent of all parties.

E. The District's Renewed Motion for Contempt

The District filed a renewed motion for an order adjudicating MP PPH in civil contempt of court on January 5, 2023. The District alleged that MP PPH remained woefully out of compliance with the requirements of the consent order more than 340 days after its effective date. In particular, the District alleged that MP PPH still had not:

1. completed mold assessments of all units and common areas;

2. completed mold remediation of all units and common areas in accordance with the assessments;
3. completed an assessment of all plumbing-related issues throughout the complex, including water infiltration, water heating, and drywall;
4. completed remediation of all issues identified in the plumbing assessment;
5. completed an assessment of all HVAC systems throughout the complex;
6. completed remediation of all issues identified in the HVAC assessment;
7. completed remediation of all electrical and fire safety hazards identified in an assessment conducted pursuant to the order;
8. completed mold remediation in all units inspected by Arrowhead Consulting before the entry of the consent order;
9. completed property repairs identified in an inspection report from CTI District Services, Inc.;
10. brought all laundry facilities to operational status;
11. made the swimming pool safe and available for use by residents;
12. provided monthly extermination services for six consecutive months in all units and selected common areas;
13. installed the necessary security enhancements;
14. brought the elevators to operational status;
15. replaced the wheelchair lift in one of the high-rise buildings; and
16. expeditiously and fully funded all necessary repairs.

MP PPH filed an opposition to the District’s motion, maintaining that it has substantially complied with the consent order and that, to the extent it has missed deadlines, the deadlines were unreasonable or unattainable because of delays caused by others.

The court held an evidentiary hearing on the motion on March 13, 14, and 15, 2023. Thirteen witnesses testified at the hearing, including tenants, representatives of management, contractors, experts, and Mr. Pilavas. The parties subsequently filed post-hearing briefs and then presented oral arguments on April 13, 2023.

II. LEGAL STANDARD

Civil contempt is a sanction “designed to enforce compliance with an order of the court and to compensate the aggrieved party for any loss or damage sustained as a result of the contemnor’s noncompliance.” *D.D. v. M.T.*, 550 A.2d 37, 43-44 (D.C. 1988). “To support a finding of civil contempt, a complainant must prove that the alleged contemnor (i) was subject to the terms of a court order and (ii) violated the order.” *Loewinger v. Stokes*, 977 A.2d 901, 916 (D.C. 2009). A court order must be “clear and unambiguous” to form the basis of a civil contempt finding, *Project B.A.S.I.C. v. Kemp*, 947 F.2d 11, 16 (1st Cir. 1991), but a party that elects to follow its own interpretation of a court order and to ignore available means of obtaining judicial clarification may be found to have acted at its own peril, *McComb v. Jacksonville Paper Co.*, 336 U.S. 187, 192 (1940); *see also D.D.*, 550 A.2d at 44.

The intent of a party that has violated the terms of a court order is “immaterial” to a civil contempt proceeding, and a showing of good faith is “of no avail.” *D.D.*, 550 A.2d at 44. “This is so because ‘civil contempt is remedial and designed to ensure the enjoyment by the aggrieved party of that to which that party is entitled ... [and because] it is of no consolation to an

individual denied rights secured by a court order that [the violation] was done in good faith or upon the advice of counsel.” *Loewinger*, 977 A.2d at 916 (quoting *D.D.*, 550 A.2d at 47).

“The law thus recognizes only two defenses in civil contempt proceedings: substantial compliance with the court order and an inability to do that which the court commanded.” *Id.* Both defenses are narrow.

Regarding the defense of substantial compliance, courts “have a right to demand . . . full and unstinting compliance with their commands.” *District of Columbia v. Jerry M.*, 571 A.2d 178, 190 n.28 (D.C. 1990). “One who is subject to a court order has the obligation to obey it honestly and fairly, and to take all necessary steps to render it effective.” *Id.* “[H]e or she must be diligent and energetic in carrying out the orders of the court, and a token effort to comply will not do.” *Id.*; see also *Link v. District of Columbia*, 650 A.2d 929, 932 (D.C. 1994); *D.D.*, 550 A.2d at 44.

The burden of proving impossibility—or an inability to comply—is similarly “difficult to meet.” *Fortin v. Comm'r of Mass. Dep't of Pub. Welfare*, 692 F.2d 790, 796 (1st Cir. 1982). A party can prove impossibility only if it shows it was “powerless to comply,” *Nat. Res. Def. Council v. Train*, 510 F.2d 692, 713 (D.C. Cir. 1974), and the standard is “particularly strict” in circumstances in which the needs of the people at risk of harm from the noncompliance are “urgent,” *Fortin*, 692 F.2d at 796. Indeed, the challenge of demonstrating impossibility may be at its most difficult when the court order at issue was negotiated through experienced counsel and entered by consent. See *Pigford v. Veneman*, 307 F. Supp. 2d 51, 58 (D.D.C. 2004).

“Because ‘drastic’ sanctions, up to and including conditional imprisonment and substantial fines, may be imposed upon a finding of civil contempt, proof of the alleged contemnor’s violation of a court order must be made by clear and convincing evidence.”

Loewinger, 977 A.2d at 916 (quoting *D.D.*, 550 A.2d at 44). Clear and convincing evidence “lies somewhere between a preponderance of [the] evidence and evidence probative beyond a reasonable doubt.” *In re A.B.*, 955 A.2d 161, 166 (D.C. 2008). It must “produce in the mind of the trier of fact a firm belief or conviction as to the facts sought to be established.” *District of Columbia v. Hudson*, 404 A.2d 175, 179 n.7 (D.C. 1979).

III. ANALYSIS

The District alleges that MP PPH failed to comply with sixteen distinct requirements of the consent order. As to each alleged violation, MP PPH contends that it either substantially complied with its obligations under the order or was unable to do so. MP PPH argues further that some of the deadlines in the consent order were unreasonable and that the cost of some of the required repairs was prohibitive. The court will address each of the sixteen alleged violations below.

As an initial matter, however, the parties disagree over the effective date of the consent order. The District argues that the order took effect on January 28, 2022 when Judge Pasichow orally approved the terms of the consent order on the record in open court. MP PPH argues that the order did not become effective until March 2, 2022, the date on which the judge issued her omnibus order formally incorporating the terms of the consent order.

The court concludes that the consent order took effect on January 28, 2022 when Judge Pasichow reviewed the order with the parties and orally approved it on the record. The language of the order, including the provision requiring the filing of MP PPH’s first monthly progress report on January 5, 2022, indicates the parties’ intention that the order take effect immediately upon its approval, and it is uncontested that Judge Pasichow approved the order, and all of its terms, at the hearing on January 28, 2022. MP PPH has not cited any case law or other legal

precedent supporting its position that the judge’s delay in formally docketing the order postponed its effectiveness.

Ultimately, the dispute over the effective date of the consent order is immaterial to the court’s determination of whether MP PPH is in contempt. Even if the court were to conclude that the consent order took effect on March 2, 2022, the court would readily find multiple violations of the order, as MP PPH remained in extensive noncompliance more than 120 days after March 2, 2022.

A. Mold Assessments

The consent order required MP PPH to complete a “full assessment” of “all living units, unoccupied units, and common areas for mold” within 30 days of the effective date of the order (February 27, 2022). MP PPH did not comply with this requirement. MP PPH’s third monthly report, filed on March 25, 2022, stated that as of March 11, 2022, ARC Environmental, the initial mold assessor, had “inspected” the units on nine floors of one of the high-rise buildings, meaning that “full” mold assessments had not been completed in the units on those nine floors and that no mold assessments of any type had been conducted in the remainder of the complex.

MP PPH’s noncompliance continued for months following the expiration of the February 27, 2022 deadline. At the time the District filed its renewed motion for contempt on January 5, 2023—more than ten months after the deadline—only 285 of the 674 of units in the complex had been assessed for mold. Indeed, Noah Rabin, the director of maintenance for TM Associates, the current property manager for the complex, testified at the hearing in March 2023—more than a year after the deadline—that 72 units still had not been assessed for mold. The evidence showed, moreover, that none of the common areas in the entire complex had been assessed for mold as of the time of the hearing.

MP PPH did have 317 units assessed for mold between the filing of the District's renewed motion for contempt on January 5, 2023 and the hearing on the motion in March 2023. MP PPH asserts in its closing brief that its assessment work has continued in the weeks following the hearing, with all but 33 units in the complex assessed as of April 10, 2023.

MP PPH's recent efforts are encouraging, to be sure. They strongly suggest, however, that MP PPH has been motivated far more by the risks attendant to the District's renewed motion for contempt than it was by the consent order itself. And while encouraging, MP PPH's recent efforts have come many months after the deadline agreed to by the parties and set by the court. The consent order required the completion of all mold assessments by February 27, 2022, yet even with the recent activity leading up to and following the contempt hearing, the assessments remain incomplete fourteen months after the deadline.

The recently-conducted mold assessments, moreover, have been "visual" only and have not involved looking behind drywall or in other places where mold may exist but not be exposed to view. Thomas Re, the president of Pro Service Environmental, the company currently doing the mold remediation work at Marbury Plaza, explained that it is not unusual to find mold beyond what is described in the assessment protocols, as mold often exists behind drywall or is otherwise indiscernible to an inspector conducting only a visual inspection. This means not only that MP PPH has failed to conduct "full" assessments as required by the consent order, but that units for which "clearance" reports have been issued may not actually be free of mold. This is of particularly grave concern in a decades-old complex like Marbury Plaza, which, the evidence showed, has a long history of leaking pipes and internal flooding. The less-than-comprehensive mold assessments, moreover, will inevitably lead to equally less-than-comprehensive mold

remediations, leaving the residents of the complex to continue living with mold, and all of its attendant health and safety hazards, in and around their units.

MP PPH nonetheless argues that it was unreasonable to expect all of the mold assessments to be completed within 30 days, and that a range of circumstances beyond its control, including tenants refusing access to their units and a conflict of interest that allegedly arose when ARC Environmental was retained to conduct both the mold assessments and the subsequent clearance inspections, made compliance impossible. The court is not persuaded.

First, the claimed unreasonableness of the 30-day period for conducting mold assessments is not a proper defense to civil contempt. *See Loewinger*, 977 A.2d at 916. The record reflects that MP PPH was represented by experienced counsel throughout the negotiations that led to the consent order. MP PPH expressly agreed to the deadlines set forth in the order and cannot now be heard to complain about their reasonableness. If MP PPH thought the 30-day deadline for mold assessments was unreasonable or unfair, then it should have declined the District's settlement offer and proceeded to a hearing on the District's motion for a preliminary injunction, at which it could have explained to the court why requiring full mold assessments within 30 days was unreasonable. *See Pigford*, 307 F. Supp. 2d at 58.

Second, PPH's compliance was not rendered impossible by a conflict of interest. At the hearing in March 2023, Mr. Pilavas testified that under New York law a single company may not conduct both initial mold assessments and post-remediation clearance inspections. The evidence showed, however, that there is no such prohibition in the District of Columbia. Stacey Kahatapitiya, of ARC Environmental, testified that the practice of having a single company conduct both the initial mold assessments and the post-remediation clearance inspections is not only legal but common in the District. More important, the evidence showed that this supposed

conflict was not the reason MP PPH paused the mold assessment and remediation work. To the contrary, emails and other evidence presented at the hearing established that Mr. Pilavas became concerned about the cost of the mold remediation and that his concerns about cost caused him to suspend both ARC's and ACM's services and then, several months later, to hire another, less expensive company to complete the remaining assessments and remediations.

In sum, this was hardly the kind of "full and unstinting compliance" with the court's order required by the case law. *See Jerry M.*, 571 A.2d at 190 n.28. MP PPH exhibited neither diligence nor energy in carrying out the mold assessments required by the consent order and, instead, made only a "token" effort until, months after the deadline, it faced a real and present danger of a civil contempt finding. Given MP PPH's consent, through experienced counsel, to the 30-day deadline and the "urgent" need of the residents of Marbury Plaza to be rid of the mold infestation, the defense of impossibility or an inability to comply is unavailable. *See Fortin*, 692 F.2d at 796; *Pigford*, 307 F. Supp. 2d at 58.

The court accordingly finds by clear and convincing evidence that MP PPH failed to comply with the provision of the consent order requiring full mold assessments of all units and common areas within 30 days of the effective date of the order.

B. Mold Remediation

The consent order required MP PPH to complete mold remediation work in all units and common areas of the complex within 90 days of the effective date of the order (April 28, 2022). MP PPH did not comply with this requirement. In its fourth monthly report, filed on April 29, 2022, MP PPH conceded that only 30 of the 674 units in the complex had been remediated for mold, a 4.5% rate of completion as of the deadline agreed to by the parties and ordered by the court.

MP PPH's noncompliance has continued long after the deadline set by the consent order. At the time the District filed its renewed motion for contempt, in early January 2023, MP PPH had completed mold remediations in only 124 of the 674 units in the complex, constituting an 18% completion rate more than eight months after the deadline. To this day, not a single common area in the complex has been remediated for mold, in part because an assessment must precede a remediation and no common areas have been assessed.

Nor is the mold remediation provision of the consent order likely to be satisfied any time soon. MP PPH's counsel conceded at oral argument that the mold remediations will take an additional four to six months to complete after the mold assessments have been done. Even then, there will be serious doubts about the effectiveness of the mold remediations to the extent they are based on the less-than-full "visual" inspections MP PPH's contractor has conducted.

MP PPH argues that here, too, it was unreasonable to expect mold remediations to be completed in 90 days and that tenant access challenges have interfered with its ability to comply. The court rejects these arguments. For the reasons stated previously, MP PPH's concerns about the reasonableness of the 90-day deadline do not make out a proper defense to civil contempt in the circumstances. *See Loewinger*, 977 A.2d at 916. And while some tenants reportedly have not granted access to their units at the times demanded by MP PPH, the evidence showed that delays caused by tenant access issues explain at most a tiny fraction of MP PPH's noncompliance. The court likely would view the tenant access issues differently had MP PPH completed mold remediations in all, or even most, of the units other than those to which they were denied access. But that is decidedly not the case. MP PPH's compliance with this critical provision of the consent order has been anything but substantial, and the evidence of tenant

access challenges fell far short of that necessary to establish a “powerless[ness] to comply.” *See Nat. Res. Def. Council v. Train*, 510 F.2d at 713.

The court therefore finds by clear and convincing evidence that MP PPH failed to comply with the provision of the consent order requiring mold remediations of all units and common areas within 90 days of the effective date of the order.

C. Plumbing Assessment

The consent order required MP PPH to have a licensed professional conduct a full assessment of all plumbing in the complex, including water infiltration and water heating issues and any necessary drywall repair identified during the inspection, within 30 days of the effective date of the order (February 27, 2022). MP PPH points to three inspections it has conducted, but none of the three satisfied MP PPH’s obligations under this provision.

First, MP PPH submitted a “Uniform Physical Condition Standards” (UPCS) report prepared by U.S. Inspection Group (“USIG”), a company that conducted a general inspection of Marbury Plaza in the fall of 2021. UPCS reports are required by many U.S. Department of Housing and Urban Development programs but do not include full assessments of water heating or drywall issues. USIG inspectors, moreover, are not licensed plumbers, and Mr. Rabin, the director of maintenance for the current property manager at the complex, confirmed at the hearing in March 2023 that the USIG report could not have satisfied the requirements of the consent order, given that it was produced several months before the order was entered.

Second, MP PPH submitted a survey report produced by TRC Engineering in May 2022. Joseph Nichols, a senior mechanical specialist for TRC, testified at the hearing that TRC conducted a one-day survey—not a full assessment—of the property. The evidence showed that the survey was limited to a visual inspection of the pipes and that TRC did not visit any occupied

units or interview any residents. TRC was not asked to create a record of the leaks at the property or to determine their cause, and Mr. Nichols conceded at the hearing that TRC did not fully assess the water infiltration or water heating issues in the complex. TRC conducted the survey, moreover, on May 10, 2022, more than two months after the deadline set by the consent order.

Finally, MP PPH relies on a one-page letter prepared by RSC Electrical & Mechanical on January 13, 2023—eight days after the District filed its renewed motion for contempt, and more than ten months after the deadline. The letter does not even say a plumbing assessment was conducted. Instead, it simply refers to ad hoc plumbing work that has been done at the complex between 2020 and 2022 and states that RSC “do[es] not believe the current pipes have caused risk to the individual units and many of the plumbing issues internally are addressed in an ongoing basis.” Even had this letter been timely submitted, it most certainly would not have served as the full assessment required by the consent order.

The court thus finds by clear and convincing evidence that MP PPH failed to comply with the provision of the consent order requiring a full plumbing assessment within 30 days of the effective date. This was a critical failure, given the pervasive problems with leaks, floods, and mold at the complex. Without the full assessment, there is no way successfully to perform the plumbing remediation required by the order and so necessary to the health and safety of the residents of the complex.

D. Plumbing Remediation

The consent order required MP PPH to remediate all plumbing issues identified in the plumbing assessment within 120 days of the effective date of the consent order (May 28, 2022).

Given its failure to conduct a full plumbing assessment, MP PPH has not complied with this obligation. Indeed, no plumbing remediation whatsoever has been done.

MP PPH argues that it would cost up to \$17 million and take a year and a half to replace the hot water system, making the 120-day deadline in the consent order unrealistic. This argument might have some validity had MP PPH made any meaningful efforts to address the plumbing problems in the complex. But it has not, and as a result the residents of Marbury Plaza continue to suffer the consequences of the leaks, floods, and mold that inevitably follow.

The court accordingly finds by clear and convincing that MP PPH failed to comply with the provision of the consent order requiring remediation of all plumbing issues in the complex within 120 days of the effective date of the order.

E. HVAC Assessment

The consent order required MP PPH to have a licensed professional conduct a full assessment of the HVAC systems in the complex within 30 days of the effective date of the order (February 27, 2022). The evidence showed that no assessment consistent with the requirements of the order has ever been conducted, while the residents of Marbury Plaza have endured multi-week air conditioning outages in the middle of the summer.

MP PPH argues that the general inspection report produced by USIG and the survey conducted by TRC satisfy this requirement. For the reasons discussed in Section C, they do not.

The court thus finds by clear and convincing evidence that MP PPH failed to comply with the provision of the consent order requiring a full HVAC assessment within 30 days of the effective date of the order.

F. HVAC Remediation

The consent order required MP PPH to remediate all HVAC issues identified in the HVAC assessment, including the replacement of HVAC systems where necessary, within 120 days of the effective date (May 28, 2022). MP PPH has not complied with this requirement, as the necessary HVAC assessment was never conducted. MP PPH points to its replacement of four chillers, but without the requisite assessment, MP PPH cannot make a serious argument for a finding of full, or even substantial, compliance.

The court therefore finds by clear and convincing evidence that MP PPH failed to comply with the provision of the consent order requiring remediation of all HVAC issues identified in the HVAC assessment within 120 days of the effective date of the order.

G. Electrical and Fire Safety Hazard Remediation

The consent order required MP PPH to remediate all electrical, fire, and other safety hazards in the complex within 120 days of the effective date of the order (May 28, 2022). In particular, MP PPH was to remediate all electrical, fire, and other safety hazards identified in an assessment to be conducted by a licensed professional within the first 30 days after the effective date of the order. The District alleges that the USIG inspection report completed in the fall of 2021 listed at least 361 distinct electrical and fire issues at the property and that MP PPH has failed to present proof of their remediation. MP PPH states in opposition that it has addressed all electrical, fire, and other safety hazards in the complex and that this item has been completed.

The court is troubled by the absence of affirmative proof of MP PPH's compliance with this provision of the consent order. Ultimately, however, the District has the burden of proving MP PPH's noncompliance by clear and convincing evidence, and on this record the court finds that the District has not satisfied its burden. The District has not presented any persuasive

evidence of a failure to comply or of any ongoing electrical, fire, or other safety hazards in the complex. In the circumstances, the evidence has not left the court with the “firm belief or conviction,” *Hudson*, 404 A.2d at 179 n.7, essential to a proper finding by clear and convincing evidence that MP PPH failed to remediate the electrical, fire, and other safety hazards.

H. Mold Remediation in Units Inspected by Arrowhead

The consent order required MP PPH to complete mold remediations within 90 days of the effective date of the order (April 28, 2022) in fourteen units inspected by Arrowhead Environmental Consulting in July 2021 and found to contain mold. MP PPH has not complied with this requirement. Its fifteenth monthly report, filed on March 31, 2023, stated that ten of the fourteen units had been remediated. But its fourteenth monthly report, filed on February 28, 2023, stated that ProServ, a recently-retained mold remediation company, did not start remediating the units identified by Arrowhead Environmental Consulting until January 2023, at least eight months after the remediations were to be completed. Although the completion of remediations in ten of the fourteen units might constitute substantial performance in some circumstances, it does not do so here. MP PPH did not even begin these remediations until after the filing of the District’s renewed motion for contempt, and nothing in the record shows, or even suggests, diligent and energetic efforts on MP PPH’s part before then. *See Jerry M.*, 571 A.2d at 190 n.28.

The court accordingly finds by clear and convincing evidence that MP PPH failed to comply with the provision of the consent order requiring mold remediations within 90 days of the effective date of the order of the fourteen units found by Arrowhead Environmental Consulting to contain mold.

I. CTI Inspection Repairs

The consent order required MP PPH to complete, within 60 days of the effective date of the order (March 29, 2022), a set of repairs in eighteen units identified in the report of a general property inspection conducted by CTI District Services, Inc. in July 2021. The inspection report outlined a range of serious housing code violations in the units, including malfunctioning exhaust fans, mold, and a lack of hot water. The District alleges that MP PPH failed to make the necessary repairs in twelve of the eighteen units. MP PPH acknowledges in its fifteenth monthly report, filed on April 7, 2023, that it has not made the necessary repairs in all of the units but states that six of the units are now awaiting remediation and that the others have not been remediated because tenants denied them access.

The court finds by clear and convincing evidence that MP PPH failed to comply with this provision of the consent order. The six units still awaiting remediation were required to be remediated more than a year ago, and MP PPH has not provided any information about steps it has taken to obtain access to the other units since it began reporting in March 2022 that the tenants in those units had denied access to its contractors. In the circumstances, the court does not find the type of diligent and energetic efforts essential to a proper finding of substantial performance. *See Jerry M.*, 571 A.2d at 190 n.28.

J. Laundry Facilities

The consent order required MP PPH to ensure that all laundry facilities in the complex were operational within 60 days of the effective date of the order (March 29, 2022). MP PPH concedes that it has not complied with this requirement and that the laundry facilities in one of the high-rise towers—home to approximately 1,000 residents—have not been operational since the issuance of the consent order and remain unavailable today, more than a year after the

deadline for ensuring their operability. MP PPH claims an inability to comply, citing a fire in the laundry room believed to have been caused by a roofing contractor working on the building.

The court is not persuaded by MP PPH's impossibility defense. MP PPH first reported the fire to the District and the court in its sixth monthly report, filed on June 30, 2022. The report stated that a fire caused by the roofing contractor had forced MP PPH to close the laundry facilities in the high-rise building "temporarily." For seven straight months, MP PPH then repeated the statement in its monthly reports that the laundry facilities were closed "temporarily" due to the fire, while failing to respond to the District's inquiries about its plans to remediate the fire damage and reopen the facilities. It became clear at the hearing on the District's renewed motion for contempt that the extraordinary delay has resulted primarily from a dispute between MP PPH and its insurer over the extent of MP PPH's insurance coverage for the necessary build-back and repairs.

The fire may very well have made it impossible for MP PPH to bring the laundry facilities in the high-rise building to operational status within 60 days of the effective date of the consent order. But a dispute over insurance coverage is not a legitimate reason to delay the build-back process and to keep the laundry facilities in an eleven-story apartment building—with 1,000 residents and often malfunctioning elevators—closed and unavailable for more than a year. MP PPH has not established it was "powerless" to pay for the build-back with its own funds, or through a loan if necessary, while it continued to seek payment from the insurance company as remediation work was being done. *See Nat. Res. Def. Council v. Train*, 510 F.2d at 713.

The court therefore finds by clear and convincing evidence that MP PPH failed to comply with the provision of the consent order requiring that all laundry facilities in the complex be operational within 60 days of the effective date of the order.

K. Swimming Pool

The consent order required MP PPH to ensure that the swimming pool at the complex was safe for the use and enjoyment of the residents within 120 days of the effective date of the order (May 28, 2022). MP PPH did not comply with this requirement. A resident named Barbara Cooper testified at the hearing that the pool was open for only about a week in the summer of 2022 and has since been left uncovered in an unclean state. Noah Rabin, the current maintenance director at the complex, confirmed that the pool did not open in the summer of 2022 until sometime in August because repairs were ongoing until then. As a result of MP PPH's delay in compliance, the residents of Marbury Plaza missed most of the 2022 summer pool season, which had been scheduled to stretch from Memorial Day through Labor Day. MP PPH presented no evidence that its compliance was impossible or that it took "all necessary steps" to open the pool by the deadline set in the order. *See Jerry M.*, 571 A.2d at 190 n.28.

The court therefore finds by clear and convincing evidence that MP PPH failed to comply with the provision of the consent order requiring that the swimming pool be rendered safe for the use and enjoyment of the residents within 120 days of the effective date of the order.

L. Exterminations

The consent order required MP PPH to complete ongoing extermination work in 100% of the units in the complex and in selected common areas within 30 days of the effective date of the order (February 27, 2022), and then to continue to provide monthly treatments in all units and selected common areas for at least six more months and thereafter for all residents who requested additional treatments. MP PPH concedes that it did not comply with this requirement until after the District filed its renewed motion for contempt, and the evidence at the hearing showed that residents of the complex continue to be plagued by infestations of insects and vermin in their

apartments. Francine Gladden, a long-time resident of one of the high-rise buildings, testified at the hearing in March 2023 that she has “[l]ots and lots of rats” in her unit.

MP PPH argues that the extermination requirements in the consent order are ambiguous. The court disagrees. The order clearly states that the extermination company shall “continue to provide monthly treatments of the Property’s units and selected common areas for at least (6) months and continue to provide monthly treatments for living units who request service thereafter.” Nothing about this is ambiguous. And even if there was something unclear about the order’s requirements, MP PPH had nearly a year to seek judicial clarification of the provision before the District filed its renewed motion but never did. MP PPH therefore failed to act “at its own peril.” *See McComb*, 336 U.S. at 192.

The court accordingly finds by clear and convincing evidence that MP PPH failed to comply with the provision in the consent order requiring that all apartments and select common areas be exterminated monthly for six months and, at the request of individual residents, on a monthly basis thereafter.

M. Security Enhancements

The consent order required MP PPH to make a significant upgrade to the security systems at the complex within 60 days of the effective date of the order (March 29, 2022). Among other things, the order required MP PPH to secure all points of entry to all of the buildings on the property so that only people with key access could enter the buildings. In particular, MP PPH was to add access control readers and electronic locks at all exterior door locations, CCTV cameras at new access control doors, and regular guard patrols two or three times per night shift.

The District alleges that MP PPH failed to comply with these requirements. Specifically, the District claims that the doors to several of the buildings still lack access control readers after

the deadline, that many of the doors are frequently left open and unlocked, and that Marbury Plaza security officials routinely allow people without key fobs or other proper credentials to enter the buildings. Barbara Cooper, a resident of one of the garden-style buildings, testified at the hearing that the front door to her building is always unlocked and that a key fob is not necessary to gain access.

MP PPH concedes that it did not have functioning access control readers installed at all exterior doors in the complex until several months after the deadline but asserts that its delay in complying was caused by supply chain problems beyond its control. MP PPH explains that a part essential to the operation of the access control readers was on backorder for many months and was not available from other sources. As for the issue of unlocked doors, MP PPH presented the testimony of Antonio Picerno, a building manager at the Pilavases' apartment complex in the Bronx, New York who has been working and living at Marbury Plaza four days a week since November 2022. Mr. Picerno testified that he regularly goes in and out of the buildings in the complex and that the entry doors are always locked and require key fobs for entry.

No evidence rebutted MP PPH's assertion that supply chain delays interfered with its ability to install functioning access control readers within 60 days of the effective date of the order. Those readers are now in place, and in the circumstances the court finds that MP PPH was "powerless to comply" on this issue within the time required by the consent order.

The conflict in the evidence regarding the front doors to the buildings is more difficult to reconcile. It is likely that the reality falls somewhere between the extremes testified to by Ms. Cooper and Mr. Picerno. In the end, the court does not find by clear and convincing evidence that MP PPH has failed to keep the entry doors to the buildings locked.

N. Elevators

The consent order required MP PPH to remediate all defects in the property's elevators identified in an earlier assessment and, to the extent the assessment deemed the replacement of the elevators necessary, to engage a contractor to replace the elevators within 120 days of the effective date of the order (May 28, 2022). Uncontested evidence at the hearing showed that the company that conducted the assessment recommended the replacement of all seven elevators in the complex but that an elevator replacement project did not begin until November 1, 2022 (five months after the deadline) and will not be completed until December 2023 (eighteen months after the deadline). In the meantime, the elevators, including those in the high-rise buildings, have been, and will continue to be, out of service for months at a time.

The District alleges that MP PPH's failure to replace the elevators within 120 days of the effective date of the consent order constitutes another violation of the consent order. MP PPH disagrees, arguing that the order required only that it engage a contractor to replace the elevators, if deemed necessary, within 120 days and that it contracted with TK Elevator Company in February 2022, well within the 120-day period. MP PPH argues in the alternative that it was unreasonable, and even infeasible, to require the replacement of seven elevators in 120 days.

As the court noted on the record during oral arguments, this provision of the consent order is ambiguous. The District reasonably understood the provision to require the repair—or, if necessary, the replacement—of all the elevators within 120 days, while MP PPH correctly states that the order can be read to require that MP PPH merely enter into a contract to replace the elevators within 120 days of the effective date of the order. MP PPH's argument on this point ultimately fails, however, because counsel for MP PPH acknowledged during her oral argument that she discovered the ambiguity only when preparing her response to the District's

renewed motion and that her current interpretation of the provision therefore was not the reason why MP PPH failed to replace the elevators by the deadline.

MP PPH's alternative argument fares no better. With the assistance of experienced counsel, MP PPH negotiated and expressly agreed to the 120-day deadline for the repair or replacement of the elevators. Particularly given the heightened significance of the elevators to the health and safety of the residents of the high-rise buildings, MP PPH's complaints of unreasonableness and infeasibility provide no defense to civil contempt. *See Loewinger*, 977 A.2d at 916. Indeed, Aaron Sleasman, a modernization superintendent for TK Elevator and a witness for MP PPH at the hearing, testified that his company could replace seven elevators in four months with a "significant" amount of overtime and that MP PPH also could have accelerated the project by bringing in more than one company to do the work. MP PPH's impossibility defense accordingly lacks merit.

The court therefore finds by clear and convincing evidence that MP PPH violated the elevator remediation provision of the consent order.

O. Wheelchair Lift

The consent order required MP PPH to remediate all defects in the property's wheelchair lift identified in an earlier assessment and, to the extent the assessment deemed replacement of the wheelchair lift necessary, to engage a contractor to replace the lift within 120 days of the effective date of the order (May 28, 2022). The District alleges that MP PPH failed to replace the wheelchair lift despite an assessment recommending its replacement more than ten months ago. MP PPH concedes that it did not replace the wheelchair lift despite the recommendation to do so but argues that it fixed the lift within the time period set by the order before residents then damaged the lift and rendered it unavailable once again.

The court finds by clear and convincing evidence that MP PPH did not comply with this provision. It is uncontested that a contractor hired by MP PPH to assess the wheelchair lift recommended that the lift be replaced, and that MP PPH did not follow the recommendation.

The consequences of MP PPH's noncompliance have been severe for residents who have limited mobility and rely on the wheelchair lift to get in and out of their buildings. One resident, Francine Gladden, has lived in a first-floor apartment in one of the high-rise buildings for thirteen years. She testified at the hearing that she uses a scooter to get around because of spinal stenosis that greatly limits her ability to walk or otherwise ambulate on her own. She told the court that the wheelchair lift was out of service on many occasions in the past year and that when the lift is not operating, she has to either stay home or try to leave by "gunning" her scooter off the edge of her porch. Noah Rabin essentially confirmed Ms. Gladden's testimony, stating that although the lift has been operational since November 2022, it was not in consistent working condition before then. Indeed, Mr. Rabin testified at the hearing that he must "regularly" call the repair company to service the lift.

MP PPH's efforts to repair the wheelchair lift do not amount to substantial performance. MP PPH was obliged to "obey [the consent order] honestly and fairly, and to take all necessary steps to render it effective." *Jerry M.*, 571 A.2d at 190 n.28. MP PPH did neither.

P. Expediently and Fully Fund Repairs

Finally, the consent order required MP PPH to "expeditiously and fully fund all repairs identified during the inspections/assessments . . . [and] the replacement of any system/machinery when recommended by an assessor/inspector."

The evidence is overwhelming that MP PPH has repeatedly failed to comply with this requirement, to the detriment of the residents of the complex. MP PPH failed to pay ACM

Services, its previous mold remediator, nearly \$2 million for its work at Marbury Plaza, resulting in a four-month work stoppage last year during which no mold remediations were performed at the complex. MP PPH also failed to pay ARC Environmental, its previous mold assessor, for its work at the property, leading to a similar work stoppage in December 2022. And MP PPH failed to pay White Glove Commercial Cleaning, a general maintenance contractor at the complex, \$450,000 for work performed at Marbury Plaza, almost leading to yet another interruption in essential maintenance services.

MP PPH has likewise failed to pay for proper assessments, repairs, and replacements of critical items required by the consent order. The evidence showed that concerns about cost led to MP PPH conducting only “visual” mold assessments and refusing to replace the wheelchair lift, despite the contractor’s recommendation. In the end, the evidence has made clear that MP PPH has cut corners whenever possible.

Mr. Pilavas testified at the hearing that residents of Marbury Plaza should be grateful for the funds he has invested in the property. The evidence, however, was overwhelming that the Pilavases have not invested the money necessary to maintain the premises in accordance with the District of Columbia Housing Code, as required by law, *see* D.C. Code Mun. Regs. tit. 14 §§ 100-999, or more important for present purposes, to comply with the consent order. The court thus finds by clear and convincing evidence that MP PPH failed to comply with the provision in the consent order requiring it to expeditiously and fully fund all work called for under the consent order.

Q. Summary

As described, the evidence presented in the parties’ filings and at the hearing on the District’s renewed motion has shown clearly and convincingly that MP PPH repeatedly failed to

comply with clear and unambiguous terms of the consent order. Although in a few instances MP PPH established the existence of circumstances beyond its control, the evidence showed that, in the great majority of cases, it was MP PPH's own unwillingness to comply or to invest the money necessary for full compliance that led to its violations of the order. Because of the magnitude and longstanding nature of the violations and their profoundly negative impact on the health and safety of the residents of the Marbury Plaza complex, the court concludes, in its discretion, that MP PPH should be adjudicated in civil contempt of court.

IV. CIVIL CONTEMPT REMEDIES

The District asks the court to fine MP PPH \$5,000.00 per day, starting immediately upon the entry of a civil contempt finding and continuing indefinitely until MP PPH has come into full compliance with the requirements of the consent order. The District also requests a prospective 10% across-the-board reduction in rent for all Marbury Plaza residents if MP PPH has not fully complied with the consent order 60 days after the entry of the contempt finding, a 30% reduction in rent if MP PPH has not fully complied with the consent order within 90 days, and a 50% reduction in rent and the appointment of a receiver to run the apartment complex and oversee all necessary repairs to the property if MP PPH remains out of full compliance with the consent order 120 days after the entry of a finding of contempt. The District also seeks an award of attorney's fees incurred in the enforcement of the consent order.

MP PPH opposes the District's requests for civil contempt sanctions, arguing that a \$5,000.00 daily fine and other costly sanctions would drain its already limited financial resources and interfere with its ongoing remediation work without benefitting the residents of the complex.

The court has broad discretionary authority upon the entry of a finding of civil contempt "to grant full relief through the fashioning of appropriate remedial measures." *Loewinger*, 977

A.2d at 923. Remedial measures may appropriately be aimed at “either or both of two purposes: to coerce the [contemnor] into compliance with the court’s order, and to compensate the complainant for losses sustained.” *Giles v. Crawford Edgewood Trenton Terrace*, 911 A.2d 1223, 1224 (D.C. 2006) (quoting *United States v. United Mine Workers of America*, 330 U.S. 258, 303-04 (1947)). Any sanction the court imposes must be related to the court’s interest in ensuring compliance with the underlying court order. *Jerry M.*, 571 A.2d at 192. But where necessary “to coerce the contemnors into compliance with the court’s order and to compensate the complainant for losses sustained,” *West Texas Utilities Co., Inc. v. National Labor Relations Board*, 206 F.2d 442, 448 (D.C. Cir. 1953), the court “may require the contemnor to perform affirmative acts” even beyond those called for by the underlying order, *Jerry M.*, 571 A.2d at 191. The options available to the court are “numerous even if not unlimited.” *Id.* at 191 n.29.

The court concludes that the best way to coerce MP PPH’s compliance with the consent order and, at the same time, to compensate the victims of MP PPH’s noncompliance is to order an across-the-board rent abatement for all tenants of Marbury Plaza retroactive to June 1, 2022—120 days after the court’s approval of the consent order and the date by which MP PPH was to have completed all of the order’s requirements. The court will order a 50% reduction in rent from June 1, 2022 to the present, in acknowledgement of the severity of the unsafe and unsanitary conditions the residents of the complex have been forced to endure these many months. The pervasive mold, floods, leaks, and insect and rodent infestations, along with the malfunctioning plumbing and HVAC systems and the broken elevators and wheelchair lift—all of which the residents of Marbury Plaza have suffered through because of MP PPH’s abject contempt for the court’s order—have greatly diminished the value of the residents’ tenancies. The residents thus deserve to be compensated for their losses. Even without a finding of civil

contempt, it would be a miscarriage of justice for MP PPH to be allowed to retain the residents' rent in the face of its flagrant and extensive violations of the implied warranty of habitability. *See Javins v. First Nat'l Realty Corp.*, 428 F.2d 1071, 1082 (D.C. Cir. 1970) (“[T]he tenant's obligation to pay rent is dependent upon the landlord's performance of his obligations, including his warranty to maintain the premises in habitable condition.”).

The 50% rent abatement will remain in effect, indefinitely, from the date of this order, with the hope that its ongoing nature will coerce MP PPH's prompt compliance with the terms of the consent order while continuing to compensate the victims of MP PPH's contemptuous conduct. The abatement will be vacated upon the District's—or, if necessary, the court's—certification of MP PPH's full compliance with the consent order, but it will increase to 60% if MP PPH remains out of full compliance 120 days after the date of this order (August 24, 2023) and to 75% if MP PPH remains noncompliant 180 days after the date of this order (October 23, 2023).

The court also will require MP PPH to reimburse the District for its reasonable attorney's fees incurred in seeking to enforce the terms of the consent order. Courts “commonly award counsel fees in civil contempt proceedings to litigants who would not be entitled to recover them for efforts expended in securing the court's initial order.” *Link v. District of Columbia*, 650 A.2d 929, 933 n.6 (D.C. 1994). “The ‘American rule’ notwithstanding, the contemnor is ordinarily required to pay the aggrieved party's counsel fees, even in the absence of a finding of willfulness,” *D.D.*, 550 A.2d at 44, and an award of fees as a civil contempt sanction “is therefore the norm,” *Link*, 650 A.2d at 933. MP PPH has advanced no basis on which to depart from the norm here.

MP PPH does suggest that it is in a precarious financial condition and that costly sanctions will unfairly punish the Pilavases and may prevent them from making the repairs required by the consent order. The court is not persuaded. Mr. Pilavas only reluctantly shared information at the hearing about his family's real estate holdings and was not at all forthcoming about the extent of his family's wealth or its ability to invest additional funds in MP PPH to bring Marbury Plaza up to the requirements of the consent order. The record is clear, however, that the Pilavases have extensive real estate holdings—totaling more than 1,500 residential units and more than 40 office suites in at least three states and the District of Columbia—and that they have repeatedly moved more than \$10 million in and out of MP PPH, seemingly whenever doing so advanced their investment purposes.

It is now time for the interests of the residents of Marbury Plaza to take priority. In the final analysis, this litigation and these contempt proceedings are about remediating the horrid conditions in which more than 2,500 human beings have been forced to live, in violation of a court order and the District of Columbia Housing Code. MP PPH's contempt for the authority of the court—and for the well-being of its residents—is unacceptable and must end.

V. CONCLUSION

For the foregoing reasons, it is this 26th day of April 2023

ORDERED that the District's renewed motion to adjudicate MP PPH in civil contempt is **granted** and that **MP PPH is hereby adjudicated in civil contempt of court**. It is further

ORDERED that by April 30, 2023, MP PPH and/or its employees or agents shall hand-deliver a hard copy of this entire memorandum opinion and order to each occupied unit in Marbury Plaza, for the purpose of providing the residents of the complex full and accurate notice of the court's decision and their rights to receive compensation under it. It is further

ORDERED that by April 30, 2023, MP PPH and/or its employees or agents shall post a link to a PDF of this entire memorandum opinion and order (marked “Owner of Marbury Plaza held in Contempt of Court 4/26/2023”) in a prominent location on the home page of the public website for Marbury Plaza, for the purposes of notifying the public of the court’s findings regarding the housing conditions at Marbury Plaza and providing additional notice to the residents of the complex of the court’s decision and their rights to receive compensation under it. The link shall remain active on the website’s home page unless and until the court issues an order permitting its removal. It is further

ORDERED that by May 5, 2023, MP PPH and/or its employees or agents shall modify the rent ledger and all related accounting records for each occupied unit in Marbury Plaza by granting a 50% credit on the total amount of rent charged for the unit since June 1, 2022 (or since the current tenant’s first date of occupancy of the unit, whichever date is later). For a subsidized unit, the amount of the 50% credit shall be calculated based on the total amount of rent charged for the unit, including both the tenant portion and the subsidy portion of the rent. It is further

ORDERED that by May 5, 2023, MP PPH and/or its employees or agents shall modify the rent ledger and all related accounting records for each occupied unit in Marbury Plaza by granting a prospective 50% credit on the total amount of rent otherwise to be charged for the unit beginning on May 1, 2023 and continuing through August 31, 2023 unless the court rules otherwise in the interim. The amount of the credit to be granted shall increase to 60% beginning on September 1, 2023 and continuing through October 31, 2023 and to 75% beginning on November 1, 2023 and continuing indefinitely thereafter, unless the court rules otherwise in the interim. For a subsidized unit, the amount of the credit granted shall be calculated based on the

total amount of rent charged for the unit, including both the tenant portion and the subsidy portion of the rent. It is further

ORDERED that by May 5, 2023, MP PPH and/or its employees or agents shall (1) file a motion in the Landlord and Tenant Branch asking the court to quash a writ of restitution and/or vacate a judgment for possession in any pending case in which the judgment for possession is based on a tenant's nonpayment of rent and it is determined that no rent is presently owed for the unit in light of the rent credits to be granted as a result of this memorandum opinion and order; or (2) file an amended Notice to Tenant of Payment Required to Avoid Eviction (L&T Form 6) in any pending case in which a judgment for possession has been entered based on a tenant's nonpayment of rent and it is determined that rent is still owed for the unit (albeit a smaller amount than previously determined) notwithstanding the rent credits to be granted as a result of this memorandum opinion and order. It is further

ORDERED that by May 19, 2023, MP PPH and/or its employees or agents shall hand-deliver to each occupied unit in Marbury Plaza a notice informing the unit's tenant(s) of the specific rent credits granted and related modifications to the ledger made as a result of this memorandum opinion and order, and of the future abatements in rent required by the order. It is further

ORDERED that by May 19, 2023, MP PPH and/or its employees or agents shall file a motion for leave to file an amended complaint in any action pending in the Landlord and Tenant Branch for possession of a unit in Marbury Plaza based, in whole or in part, on a tenant's alleged nonpayment of rent if, after application of the 50% rent credit required by this memorandum opinion and order, it is determined that rent is still owed for the unit. The amended complaint proposed for filing shall reflect that the amount of rent due under the lease agreement has been

reduced by 50% beginning on June 1, 2022. In any case in which a protective order has been entered, MP PPH also shall file a motion by May 19, 2023 asking that the amount of the tenant's monthly protective order payment be modified, retroactive to June 1, 2022 or the effective date of the protective order, whichever is later, to reflect the 50% rent credit required by this memorandum opinion and order. It is further

ORDERED that by May 19, 2023, MP PPH and/or its employees or agents shall dismiss any action pending in the Landlord and Tenant Branch for possession of a unit in Marbury Plaza based on a tenant's alleged nonpayment of rent if, after application of the 50% rent credit required by this memorandum opinion and order, it is determined that no rent is presently owed for the unit for the time period covered by the complaint. It is further

ORDERED that by May 19, 2023, MP PPH and/or its employees or agents shall formally withdraw any pending notice to quit or vacate based, in whole or in part, on a Marbury Plaza tenant's alleged nonpayment of rent, without prejudice to the ability of MP PPH and/or its employees or agents to serve a renewed notice that accurately reflects the 50% rent credit required by this memorandum opinion and order. It is further

ORDERED that by June 2, 2023, MP PPH and/or its employees or agents shall make all reasonable efforts to locate and provide refunds to former tenants of Marbury Plaza who vacated their units between June 1, 2022 and the date of this memorandum opinion and order and are entitled to refunds based on the rent credit ordered herein. It is further

ORDERED that by May 1, 2023, Anthony Pilavas shall file an affidavit with the Clerk confirming that MP PPH has timely and fully completed all of the requirements of this order to be completed by April 30, 2023. It is further

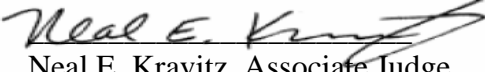
ORDERED that by May 8, 2023, Anthony Pilavas shall file an affidavit with the Clerk confirming that MP PPH has timely and fully completed all of the requirements of this order to be completed by May 5, 2023. It is further

ORDERED that by May 22, 2023, Anthony Pilavas shall file an affidavit with the Clerk confirming that MP PPH has timely and fully completed all of the requirements of this order to be completed by May 19, 2023. It is further

ORDERED that by June 5, 2023, Anthony Pilavas shall file an affidavit with the Clerk confirming that MP PPH has timely and fully completed all of the requirements of this order to be completed by June 2, 2023. It is further

ORDERED that the District has until May 10, 2023 to file a petition for an award of costs, including reasonable attorney's fees, incurred in litigating its renewed motion for contempt and otherwise seeking to enforce the terms of the consent order. MP PPH has until May 24, 2023 to file a response to the District's petition. The District has until May 31, 2023 to file a reply to MP PPH's response. It is further

ORDERED that the case is set for a status hearing in courtroom 311 on June 8, 2023 at 2:30 p.m. for the purpose of reviewing MP PPH's compliance with the terms of this order.


Neal E. Kravitz, Associate Judge
(Signed in Chambers)

Copies to:

Brendan Downes, Esq.
Matthew Meyer, Esq.
Kathryn Bonorchis, Esq.