

IN THE SUPERIOR COURT OF THE DISTRICT OF COLUMBIA  
CIVIL DIVISION

**DISTRICT OF COLUMBIA,**  
A municipal corporation,  
400 6th Street NW,  
Washington, D.C. 20001

Plaintiff,

v.

**KENMORE PEST CONTROL &  
TERMITE SERVICES LLC,**  
8004 Marlboro Pike,  
Forestville, Maryland 20747

Defendant.

Case No.:

Judge:

COMPLAINT

JURY TRIAL DEMANDED

**COMPLAINT FOR VIOLATIONS OF THE DISTRICT OF COLUMBIA'S CONSUMER  
PROTECTION PROCEDURES ACT AND BROWNFIELD REVITALIZATION ACT**

Plaintiff, the District of Columbia (District), by the Office of the Attorney General, files this civil enforcement action against Kenmore Pest Control & Termite Services LLC (Kenmore), for persistent violations of the District's environmental and consumer protection laws. On multiple occasions, Kenmore misapplied pesticides, resulting in actual and threatened harm to human health and the environment. While Kenmore advertised it used licensed employees to apply pesticides and knew that employees must be licensed to perform this service in the District, the company continued to use unqualified employees during hundreds of applications. The District seeks civil penalties, damages, and injunctive relief based on these violations. In support of its claims, the District states:

**JURISDICTION**

1. This Court has subject matter jurisdiction pursuant to D.C. Code § 8-634.07, § 28-3909, and § 11-921(a)(6).

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

### **PARTIES**

3. Plaintiff, the District, is a municipal corporation empowered to sue and be sued. The District is represented by and through its chief legal officer, the elected, independent 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 Consumer Protection Procedures Act (CPPA) and the Brownfield Revitalization Act. *See* D.C. Code § 28-3909; D.C. Code § 8-634.07.

4. Kenmore is a Maryland-based limited liability company that regularly conducts business in the District, including advertising and providing pesticide application services. Kenmore's business office is at 8004 Marlboro Pike, Forestville, Maryland 20747.

### **FACTUAL ALLEGATIONS**

#### **KENMORE'S EXTENSIVE VIOLATIONS OF DISTRICT OF COLUMBIA LAW**

5. From 2019 to 2022, while running its pesticide application business, Kenmore committed significant and repeated violations of District law, stemming from illegal pesticide applications. Under the Pesticide Operations Act, all persons must apply pesticides in accordance with their federally approved label. D.C. Code § 8-417(a); 20 D.C.M.R. § 2201.1. Businesses who apply pesticides for a fee in the District are required to be licensed as a pesticide operator with the District's Department of Energy and Environment ("DOEE"). D.C. Code § 8-404(a); 20 D.C.M.R. § 2400.1. Individuals overseeing or performing applications for the operator must be qualified and be licensed as an applicator or registered as a technician. 20 D.C.M.R. § 2300.2.

6. Violations of the Pesticide Operations Act and its implementing regulations are violations of the CPPA. D.C. Code § 28-3904(dd); *see* 16 D.C.M.R. § 4002.

***I. Kenmore Did Not Use Licensed Employees Yet Advertised Their Legal Compliance.***

7. Kenmore’s pesticide application records show that from 2019 to 2022, the company allowed employees to apply pesticides on hundreds of occasions, but their employees did not have the legally required licenses or registrations.

8. Kenmore’s conduct was particularly egregious in 2022 when it allowed both registered and unregistered technicians to apply pesticides in the District. The fact that some of Kenmore’s technicians were registered shows that Kenmore knew or should have known that all technicians applying pesticides in the District must be registered.

9. Kenmore also misled District consumers as to the qualifications of its employees by saying in Kenmore’s service agreements that:

- “[A] Kenmore certified technician [will] perform[ ] the work . . . .”
- “All work will be performed by a certified technician in a professional manner,”  
and
- “KenMORE Pest Control is fully licensed . . . to provide pest control services in . . . the District of Columbia.”

10. Kenmore’s also aimed its website at District consumers and made similar misrepresentations. For instance, Kenmore stated, “We’re Certified and Associated with All Industry Standards.”

***II. Kenmore’s Misapplied Pesticides on Several Occasions, Threatening and Harming Human Health and the Environment in the Process.***

11. In the fall of 2021, Kenmore misapplied Ditrac Tracking Powder, a restricted use pesticide, at Mayfair Mansion Apartments, a residential community home to over 400 families and located at 3754 Hayes Street NE, Washington, D.C. 20019. The Ditrac Tracking Powder label states application must “only [be] . . . indoors and in [rodent] burrows leading indoors.” Yet,

Kenmore applied Ditrac Tracking Powder on outdoor plants and soil (not in burrows) on the Mayfair Mansion Apartments property. Kenmore's internal records document these applications, and District inspectors observed and sampled a white powder on the outdoor plants and soil. Testing results from the sample confirmed the powder contained Ditrac Tracking Powder's active ingredient.

12. Also at the Mayfair Mansion Apartments in the fall of 2021, Kenmore misapplied ZP Tracking Powder, another restricted use pesticide. The ZP Tracking Powder label states the application must only occur indoors. Yet, Kenmore applied ZP Tracking Powder in outdoor areas at the Mayfair Mansion Apartments property. Kenmore's internal records document these applications, and District inspectors observed and sampled a white powder in the outdoor areas at the Mayfair Mansion Apartments. Testing results from the sample confirmed the powder contained ZP Tracking Powder's active ingredient.

13. Kenmore's application of ZP Tracking Powder, which contains Zinc Phosphide and is a hazardous substance, necessitated the District conducting a response action to protect human health and the environment. After identifying multiple areas with contaminated soil that required excavation, the District surveyed the excavation areas for underground utilities, then dug up the contaminated soil, placed the contaminated soil in a 55-gallon drum, and paid for the transport and proper disposal of the excavated soil at an approved hazardous waste facility. The District's response action cost over \$12,000.

14. In February 2022, Kenmore misapplied Bell Lab Final All Weather Blox at Columbia Heights Village, a residential community with over 400 units and which is located near the 1300 block of Columbia Road NW, Washington, D.C 20009. The label for this pesticide requires placement of the pesticide outside of reach of children and pets. During this time, District

inspectors saw Bell Lab Final All Weather Blox in areas accessible to children and animals at Columbia Height Village. This haphazard application of a dangerous pesticide led to a dog being poisoned. The dog's owner, a District resident, incurred significant expenses because he had to take his dog to the veterinarian where his dog had his stomach pumped and other treatment.

### **CLAIMS FOR RELIEF**

#### **COUNT ONE**

#### **Kenmore Unlawfully Provided False or Misleading Information to Consumers in Violation of the CPPA**

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

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

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

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

19. Under D.C. Code § 28-3904, it is an unlawful trade practice for any person to represent that goods or services have a particular standard, quality, grade, style, or model, if in fact they are of another; misrepresent as to material fact which has a tendency to mislead; or fail to state a material fact if such failure tends to mislead.

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

21. Kenmore provides pesticide application services in the District to consumers for personal, household, or family purposes which, therefore, is a consumer good and service.

22. Kenmore, in the ordinary course of business, offers to provide or supply pesticide application services and therefore, is a “merchant” under the CPPA. See D.C. Code § 28-3901(a)(3).

23. The individuals who received Kenmore’s pesticide application services are “consumers” under the CPPA because they received the services in their homes. *See id.* § 28-3901(a)(2).

24. The CPPA authorizes OAG to file suit against any person it has reason to believe “is using or intends to use any method, act, or practice [that is an unlawful trade practice] in violation of . . . D.C. Code § 28-3904.”

25. Kenmore committed unfair or deceptive trade practices under the CPPA when, among other acts, Kenmore:

- a. Represented in its pesticide service agreements with consumers that Kenmore used employees who were certified or licensed to perform pesticide applications in the District.
- b. Represented on its website that it used employees who were certified or licensed to perform pesticide applications in the District.

**COUNT TWO**  
**Kenmore’s *Per Se* Violations of the CPPA**

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

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

28. Under Title 16 of the District of Columbia Municipal Regulations, it is illegal for a pesticide service company to apply a pesticide not in accordance with its label. 16 D.C.M.R. § 4002.2(a).

29. Under Title 16 of the District of Columbia Municipal Regulations, it is illegal for a pesticide service company to allow its employees to perform pesticide application when they do not have an applicator or technician license. 16 D.C.M.R. § 4002.3(a).

30. Kenmore committed violations of D.C. Code § 28-3904(dd) on each occasion it applied a pesticide not in accordance with its label.

31. Kenmore committed violations of D.C. Code § 28-3904(dd) on each occasion it allowed its employees to perform pesticide application when they did not have an applicator or technician license.

**COUNT THREE**  
**Kenmore’s Violations of the Brownfield Revitalization Act**

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

33. The Brownfield Revitalization Act establishes a comprehensive program for the cleanup of contaminated property in the District. D.C. Code § 8-631.01.

34. The Brownfield Revitalization Act prohibits the release of hazardous substances in the District, unless the release is permitted. D.C. Code § 8-632.01(a).

35. Under the Brownfield Revitalization Act, a responsible person is a person who, with regard to a property from which there is an unpermitted release or threatened release of a

hazardous substance, causes or contributes to the incurrence of a District response cost and is the current operator at the property at the time of contamination. D.C. Code § 8-632.01(c).

36. Kenmore is a responsible person under the Brownfield Revitalization Act because it operated at the Mayfair Mansion Apartments and in doing so it released hazardous substances, including Zinc Phosphide, without a permit.

37. As a responsible person under the Brownfield Revitalization Act, Kenmore is strictly liable, jointly and severally, for the District's response costs (which include costs of cleanup and investigation) to address Kenmore's hazardous substance releases. D.C. Code § 8-632.01(b).

### **REQUEST FOR RELIEF**

WHEREFORE, the District respectfully requests that judgment be entered in its favor and against Kenmore and seeks relief as follows:

1. Statutory civil penalties against Kenmore, as authorized under the Consumer Protection Procedures Act, D.C. Code § 28-3909(b)(1), (2), in an amount to be proven at trial;
2. Pursuant to the Brownfield Revitalization Act, D.C. Code § 8-634.07(2), an award of the District's past response costs to investigate, assess, analyze, monitor, and remediate the hazardous substances that Kenmore released on or about land at the Mayfair Mansion Apartments;
3. An injunction as appropriate against Kenmore for the use of any unfair or deceptive trade practices pursuant to D.C. Code 28-3909(a);
4. An award of reasonable attorneys' fees pursuant to D.C. Code § 28-3909(b)(4);
5. An award of all allowable costs pursuant to D.C. Code § 28-3909(b)(4); and
6. Such other relief as this Court deems just and proper.



**JURY DEMAND**

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

Dated this 6th of August, 2024.

Respectfully submitted,

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