

## **COOPERATION AGREEMENT**

THIS COOPERATION AGREEMENT (“Agreement”) is made by and between The Equal Rights Center (the “ERC”) and WC Smith (“WC Smith”). ERC and WC Smith may be individually referred to as a “Party” and collectively be referred to as the “Parties.”

### **RECITALS**

**WHEREAS**, the ERC, as part of its mission to promote the fair housing rights of home seekers, identified alleged practices of WC Smith in its application screening process which the ERC believe violate the Fair Criminal Record Screening for Housing Act of 2016 (D.C. Code §42-3541.01 *et seq.*), the D.C. Human Rights Act (D.C. Code §2-1402.01 *et seq.*), and the Fair Housing Act (42 USC §3604 *et seq.*) (the “Possible Claims”); and

**WHEREAS**, WC Smith cooperated with the ERC and investigated the Possible Claims and represents that WC Smith does not engage in discrimination in its eligibility screening process as it relates, for purposes of this Agreement, to reviewing or using an applicant’s criminal history except as permitted by applicable law; and

**WHEREAS**, WC Smith is committed to ensuring that its policies and practices are not discriminatory; and

**WHEREAS**, the Parties’ mutual, long-term objective in entering into this Agreement includes the goals of promoting fair housing at properties managed by WC Smith; and

**WHEREAS**, in the interest of working cooperatively to further the Parties’ mutual interest in expanding housing opportunities for all and furthering compliance with federal, state, and local fair housing laws, the Parties wish to establish a joint plan on the terms and conditions set forth in this Agreement. Therefore, in consideration of the agreed-to actions of the Parties below, the Parties have executed this Agreement as indicated by the authorized signatures appearing below. The provisions of this Agreement will be binding on the ERC and WC Smith, their respective subsidiaries and their successors and assigns, for a period defined below; and

**WHEREAS**, nothing in this Cooperation Agreement constitutes or may be construed as an admission by WC Smith of any liability or wrongful action as to the Possible Claims or the concerns of the ERC, and ERC represents that it will not make, in any form, any suggestion, statement, or communication to the contrary;

**NOW, THEREFORE**, the Parties agree as follows:

#### **A. DEFINITIONS**

In addition to the terms that are defined elsewhere herein, the following terms shall have the following meanings;

1. **“Effective Date”** means the date on which the ERC and WC Smith execute the Agreement, whichever is the later date;

2. **“Fair Criminal Record Screening for Housing Act”** means D.C. Code §42-3541.01 *et seq.*;
3. **“Fair Housing Act”** means Title VIII of the Civil Rights Act of 1968 as amended by the Fair Housing Amendments Act of 1988, 42 U.S.C. §§ 3601-3619, and its implementing regulations, 24 C.F.R. Parts 100 to 125;
4. **“The Subject Properties”** mean: (1) The Collective DC; (2) Cambridge Square Apartments; (3) 2800 Ontario Rd. Apartments; (4) Dupont Apartments; and (5) WC Smith’s Corporate Office. **“A Subject Property”** means any one of the Subject Properties.

**B. SCOPE AND APPLICABILITY**

5. This Agreement applies to all Possible Claims referenced above arising on or before the Effective Date.

**C. TERM**

6. The term of this Agreement will be from the Effective Date through one (1) year from that date.

**D. NON-DISCRIMINATION POLICY**

7. Prohibition Against Future Discrimination: WC Smith shall continue its policy and practice to not discriminate against prospective renters on any of the bases prohibited by federal, state, or local law.

8. Commitment to a Non-Discrimination Policy:

- a. Within sixty (60) days of the Effective Date, WC Smith shall affirm its non-discrimination policy and distribute a statement about the policy to all relevant employees. The policy will comply with all federal, state, and local fair housing laws, as well as guidance related to criminal record screenings issued by the US Department of Housing and Urban Development and the DC Office of Human Rights, but to the extent not in conflict with or contrary to the Fair Criminal Record Screening for Housing Act. This statement of policy shall include the following statement:

“WC Smith abides by the Fair Housing Act of 1968 as amended, as well as applicable state and local law. In Washington, DC, the DC Human Rights Act prohibits discrimination in the sale or rental of housing based on, among other things, race, and national origin. Additionally, the Fair Criminal Record Screening for Housing Act specifies the timing during an application review that a housing provider can conduct a criminal record screening and limits the criminal record information a housing provider can consider during the screening. WC Smith complies with all applicable federal, state, and local laws pertaining to criminal record screenings of applicants. Every applicant and tenant, regardless of any applicable protected factors, shall be treated equally and with dignity and respect.”

- b. All WC Smith employees formally or informally involved in the rental process of any of WC Smith's properties in Washington, DC, will be provided with a copy of the DC Office of Human Rights' guidance on The Fair Criminal Record Screening for Housing Act of 2016, which is available at:

[https://ohr.dc.gov/sites/default/files/dc/sites/ohr/publication/attachments/FCRSAHousing\\_GENERALPreview\\_092517.pdf](https://ohr.dc.gov/sites/default/files/dc/sites/ohr/publication/attachments/FCRSAHousing_GENERALPreview_092517.pdf).

**E. EMPLOYEE TRAINING**

- 9. Fair Housing Training: During the negotiation of this Agreement, WC Smith completed fair housing training for all WC Smith employees formally or informally involved in the rental process. The training focused on local and federal fair housing laws, including a specific section covering criminal records screenings as permitted pursuant to the Fair Criminal Record Screening for Housing Act, and was conducted by a trainer approved by the ERC -- Joshua M. Greenberg, Esq., an attorney with Greenstein DeLorme & Luchs, P.C.

**F. MONETARY PAYMENT AND RELEASE**

- 10. In consideration for the ERC's waivers and releases stated in Section 11 and Section 16.b., within 15 business days of full execution of this Agreement, WC Smith shall pay to the ERC a settlement payment in the total amount of Eight Thousand and 00/100 Dollars (\$8,000.00) (the "Settlement Payment").
- 11. In consideration for the Settlement Payment and such other consideration from WC Smith, the ERC, on its own behalf and on behalf of its employees who performed testing services, agrees to waive and release WC Smith, and all of their past and current directors, officers, employees, attorneys, agents and assigns (the "Released Parties") from all actual and potential claims by or on behalf of the ERC against the Released Parties on or before the Effective Date and relating to the Possible Claims, the testing of the Subject Properties, the investigation of WC Smith's criminal record screening policies and practices, or any combination of the foregoing, provided however, that this waiver and release shall not apply to the enforcement of this Agreement by ERC.

**G. COMPLIANCE TESTING**

- 16. In further consideration of the waivers and releases stated in Section 11 and 16.b., WC Smith agrees to retain the ERC to conduct six (6) compliance tests over the term of this Agreement.
  - a. Utilizing trained ERC testers, the ERC will design and conduct telephone and/or in person testing to evaluate compliance with fair housing requirements related to the screening of applicant's criminal history by WC Smith leasing and management staff. The ERC will conduct testing at a Subject Property or Subject Properties of the ERC's choosing to ascertain the treatment afforded potential renters who fall within the protected demographics.
  - b. The ERC, on behalf of itself and its testers, expressly waives all claims and rights of action against WC Smith based upon the results of any such

fair housing testing, except to enforce the Agreement. The ERC will report the test results to WC Smith as soon as practicable, but no later than forty-five (45) business days past the date on which such testing is conducted. The ERC will advise WC Smith at the time the test results are conveyed whether the ERC alleges a violation of federal, state, or local fair housing laws related to criminal screening of applicants has occurred and the ERC's suggested practical cure. WC Smith shall have a period of thirty (30) business days to cure the alleged violation or offending conduct, or to otherwise demonstrate to the ERC why the alleged conduct should not be considered a violation or why an alternative means of curing the violation is a sufficient solution. It is understood and agreed between the Parties that by "cure" they mean to correct the offending conduct or policy or set in place a process or policy so that the offending conduct does not occur again and does not mean to pay any money or provide any other form of consideration to the ERC or its testers regarding the violation. If the Parties in good faith cannot reach an agreement, either Party can seek resolution from a Court of competent jurisdiction.

- c. The total cost of this compliance testing is Six Thousand and 00/100 Dollars (\$6,000.00), and it is separate from the Settlement Payment described in Section F.

#### **H. PRESS RELEASE**

17. The Agreement shall be a public document. Nothing herein shall restrict any Party or their respective counsel from commenting to the press with respect to this matter or otherwise communicating about this matter, provided such communications are entirely consistent with the boundaries of this Agreement.

#### **I. DISPUTE RESOLUTION**

18. If either Party believes that the other Party has failed to comply with a provision of this Agreement, the complaining Party will make a good faith effort to resolve the dispute through reasonable written notice and a meeting for discussions prior to resorting to Court action to enforce the Agreement. However, in the event of a failure by either Party to perform in a timely manner any act required by this Agreement or otherwise to act in accordance with any provision hereof, the other Party may seek to enforce this Agreement and ask a Court of competent jurisdiction to impose any remedy authorized by law or equity, including, but not limited to, an order requiring performance of such act or deeming such act to have been performed, and an award of any damages, costs, and reasonable attorneys' fees which may have been occasioned by the violation or failure to perform.

#### **J. OTHER PROVISIONS**

19. Entire Agreement: This Agreement constitutes the entire agreement between the Parties on the matters addressed herein, and the Parties expressly agree that it supersedes and controls over all prior communications, whether oral or written, between the Parties regarding the matters addressed herein.

20. Modification: This Agreement may be modified only by writing signed by the Parties.
21. Communications Among the Parties: All notices, demands, and other communications to be provided pursuant to this Agreement shall be in writing and sent by email and regular mail, postage prepaid or by Federal Express to the following persons and addresses (or other such persons or addresses as the Parties may designate from time to time in writing):
- (a) For the ERC:
- Kate Scott  
Executive Director  
The Equal Rights Center  
820 First St. NE, LL160  
Washington, DC 20002  
Telephone: 202-370-3220  
KScott@equalrightscenter.org
- (b) For WC Smith:
- Glenda Walker  
Vice President – Leasing & Operations  
WC Smith  
1100 New Jersey Avenue, S.E., Suite 1000  
Washington, D.C. 20003  
Telephone: 202-371-1220  
gwalker@wsmith.com
22. Waiver: Failure of any Party hereto to insist upon strict performance of any provision of this Agreement shall not be deemed a waiver of such Party's rights or remedies or a waiver by such party of any default by another Party in performance or compliance with any terms of this Agreement.
23. Authority: Each signatory warrants that he or she is competent and possesses the full and complete authority to covenant to this Agreement on behalf of the Party that he or she represents.
24. Counterparts and Governing Law: This Agreement may be executed in several counterparts, each of which shall constitute one and the same instrument. This Agreement shall be governed by and construed pursuant to the laws of the District of Columbia, notwithstanding any choice-of-law rules.

[SIGNATURE PAGES TO FOLLOW]

Each Party has executed this Agreement as of the date set forth below.

Date: Jul 26, 2023

**The Equal Rights Center**

By: *Amie Kate Scott*

Name: Kate Scott

Title: Executive Director

Date: \_\_\_\_\_

**WC Smith**

By: *[Signature]*

Name: *Joshua H. RITZ*

Title: *President*

*8/1/2023*






# ERC-WC Smith Cooperation Agreement

Final Audit Report

2023-07-26

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By:	Susie McClannahan (smcclannahan@equalrightscenter.org)
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