

**IN THE SUPERIOR COURT OF THE DISTRICT OF COLUMBIA**  
**Civil Division**

**EQUAL RIGHTS CENTER**  
820 First St. NE, Suite LL160  
Washington, D.C. 20002

*Plaintiff,*

v.

**1214 BLADENSBURG LLC**  
1214 Bladensburg Rd. NE  
Washington, D.C. 20002

**McWILLIAMS BALLARD, INC.**  
1029 N. Royal St., Suite 301  
Alexandria, VA 22314

*Defendants.*

Case No. \_\_\_\_\_

**COMPLAINT FOR DECLARATORY JUDGMENT, INJUNCTIVE RELIEF,**  
**AND MONETARY DAMAGES**

The availability of safe and accessible housing is of critical importance to the disability community in the Washington D.C. metropolitan area. For decades, Washington D.C. has been mired in an ongoing housing crisis, with a “severe shortage of rental housing available to the citizens of the District of Columbia.” D.C. Code § 42-3401.01(a)(1)-(2) (1980). Low-income tenants with disabilities are among those most adversely affected by the loss of affordable rental housing stock and high housing costs in the District. *See generally* D.C. Code § 42-3401.01(a). The Metropolitan Council of Washington Governments recently identified a need for up to 300,000 accessible housing units in the Greater Washington, D.C. region, concluding that the

region is “far from meeting these needs.”<sup>1</sup> These estimates assume that new construction multi-family housing complies with accessible design and construction law. And yet, although it is illegal for apartment buildings to be designed and constructed in such a way as to exclude tenancy by people with disabilities, some companies flout this law.

For over twenty years, the Equal Rights Center (“ERC”) has worked to promote equal housing for members of its covered communities and remedy the discrimination of persons with disabilities by investigating and enforcing compliance with federal, state, and local fair housing laws.

In accordance with its pursuit of protecting and expanding equal housing opportunities for D.C. residents, the ERC brings this action against 1214 Bladensburg LLC and McWilliams Ballard, Inc. (collectively, “Defendants”) to challenge Defendants’ unlawful discrimination under the D.C. Human Rights Act (“DCHRA”) in the design, construction, and/or operation of the Bonsai Apartments in violation of the D.C. Consumer Protection Procedures Act (“DCCPPA”). Defendants’ actions have excluded, and are continuing to exclude, persons with disabilities from access to the Bonsai Apartments, flouting obligations under state law to design and construct accessible housing. The ERC seeks to redress the civil rights violations at this property.

### **NATURE OF THIS ACTION**

1. This is a civil rights and consumer protection action under the DCCPPA, D.C. Code §§ 28-3901 *et seq.*, for declaratory, injunctive, and monetary relief.

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<sup>1</sup> Diane Glauber and Peter Tatian, *Metropolitan Washington Regional Fair Housing Plan* (Nov. 2023), at 14, [https://www.mwcog.org/assets/1/6/01\\_Executive\\_Summary\\_Fair\\_Hsg\\_English\\_with\\_cover31\\_\(2\).pdf](https://www.mwcog.org/assets/1/6/01_Executive_Summary_Fair_Hsg_English_with_cover31_(2).pdf).

2. Defendants, the managers and owners of Bonsai Apartments in the District of Columbia (“D.C.” or “the District”), have engaged in unlawful disability discrimination in violation of the DCHRA by setting up unlawful accessibility barriers for prospective tenants to the Bonsai Apartments through the design, construction, and/or operation of the Bonsai Apartments. By violating the DCHRA in the context of a consumer transaction, Defendants have violated the DCCPPA. *District of Columbia v. Evolve, LLC*, 2020 D.C. Super. LEXIS 6, \*12 (D.C. Super. Ct. Feb. 25, 2020).

3. Accordingly, the ERC brings this action on behalf of the interests of consumers, namely prospective renters with disabilities seeking access to the Bonsai Apartments.

### **PARTIES**

4. **Plaintiff Equal Rights Center** is a national non-profit civil rights membership corporation organized under the laws of D.C. Its principal place of business is 820 First Street NE, Suite LL160, Washington, D.C. 20002. The ERC’s mission is to eliminate discrimination in housing, employment, and public accommodations based on disability and other protected classes covered by federal, state, and local anti-discrimination laws, including the DCHRA. The ERC is the only private fair housing organization dedicated to serving the entire greater Washington, D.C. region. It is committed to assisting individuals in the area who believe they have experienced housing discrimination or who need assistance with preparing and/or submitting requests for reasonable accommodations and modifications. The ERC’s various programs and activities provide guidance and information on civil rights to the community, as well as assistance to members of classes protected under federal, state, and local laws who face discrimination. Moreover, the ERC represents the interests of its members, many of whom are

persons with disabilities who have a direct interest in protecting the rights of persons with disabilities.

5. **Defendant 1214 Bladensburg LLC** is a D.C. corporation with its principal place of business in Washington, D.C. Upon information and belief, 1214 Bladensburg LLC owns the Bonsai Apartments, located at 1214 Bladensburg Rd. NE, Washington, D.C. 20002.

6. **Defendant McWilliams Ballard** is a Virginia corporation with its principal place of business in Alexandria, Virginia. Upon information and belief, McWilliams Ballard manages the Bonsai Apartments.

### **JURISDICTION AND VENUE**

7. This Court has jurisdiction over this action pursuant to D.C. Code § 11-921.

8. This Court has jurisdiction over Defendants pursuant to D.C. Code § 13-423 because Defendants transact business and manage real property in the District of Columbia. The discriminatory conduct at issue in this litigation arises out of these business activities.

### **FACTUAL AND LEGAL BACKGROUND**

#### **A. Overview of the DCHRA's Accessibility Requirements.**

9. The DCHRA requires that rental properties be made available to prospective tenants, irrespective of their disability, D.C. Code § 2-1402.21(d)(1), and expressly provides that it is unlawful to discriminate against prospective tenants in the terms, conditions, or privileges of rental of a dwelling, D.C. Code § 2-1402.21(d)(2).

10. The DCHRA expressly provides that it is unlawful discrimination to fail to design and construct covered multifamily dwellings, post first occupancy in April 20, 1999, in a manner such that (i) the public and common use portions of the dwellings are readily accessible to and usable by persons with disabilities; and (ii) doors designed to allow passage into and within the

dwelling are sufficiently wide to allow passage by persons with wheelchairs, D.C. Code § 2-1402.21(d)(3)(C).

11. The DCHRA also provides that all premises within the dwellings contain certain features of minimum accessibility and adaptive design, including:

- (i) An accessible route into and through the dwelling;
- (ii) Light switches, electrical outlets, thermostats, and other environmental controls in accessible locations;
- (iii) Reinforcements in bathroom walls to allow later installations of grab bars;
- (iv) Usable kitchens and bathrooms so that an individual in a wheelchair can maneuver about the space; and
- (v) Accessible premises within the dwellings such that each dwelling shall have at least 1 building entrance on an accessible route unless it is impracticable because of the terrain or unusual characteristics of the site.

D.C. Code § 2-1402.21(d)(3)(D).

12. The DCHRA's specific requirements for the design and construction of covered multifamily dwellings to ensure accessibility align with the standards set forth in the federal Fair Housing Act ("FHA"), 42 U.S.C. § 3604(f)(3)(C).

13. The FHA defines "covered multifamily dwellings" as "buildings consisting of 4 or more units if such buildings have one or more elevators" and "ground floor units in other buildings consisting of 4 or more units." 42 U.S.C.S. § 3604(f)(7).

14. Courts interpret parallel DCHRA and FHA design and construction requirements the same.

15. The U.S. Department of Housing and Urban Development (“HUD”) promulgated guidelines on compliance with FHA design and construction requirements. *See* 56 Fed. Reg. 9472 (Mar. 6, 1991) (“Guidelines”), *codified* at 24 C.F.R. Ch. I, Subch. A, App. II (Apr. 1, 1995).

16. Additionally, HUD’s FHA Design Manual provides clear guidance on ways to design and construct housing that complies with the FHA. U.S. Dep’t of Hous. & Urb. Dev., *Fair Housing Act Design Manual: A Manual to Assist Designers and Builders in Meeting the Accessibility Requirements of the Fair Housing Act* (rev. 1998) (“Design Manual”).

17. HUD recognizes the 2009 ICC A117.1 Accessible and Usable Buildings and Facilities Standard as a “safe harbor” for compliance with the FHA.

18. As described herein, Defendants have engaged in a continuous pattern and practice of discrimination against persons with disabilities in violation of the DCHRA by designing, constructing, and operating a covered multifamily dwelling, and the common-use and public-use areas associated with that dwelling, in such a manner as to deny persons with disabilities access to, and the use of, these facilities as required under D.C. civil rights law.

**B. Defendants’ Policies and Practices of Discrimination**

19. The Bonsai Apartments were constructed in 2024 and feature 41 units in a 5-story elevator building. The last certificate of occupancy for the building was issued February 6, 2024.

20. The Bonsai Apartments are subject to the design and construction requirements set forth in D.C. Code § 2-1402.21(d)(3)(C) because the Bonsai Apartments are covered multifamily dwellings within the meaning of the DCHRA, and built for first occupancy after April 20, 1999.

21. Defendants McWilliams Ballard and 1214 Bladensburg LLC manage and own, respectively, the Bonsai Apartments, a residential apartment building located in Washington, D.C.

22. As managers and owners of residential real estate, Defendants are required to comply with anti-discrimination laws, including the DCHRA and the DCCPPA.

23. Defendants have policies or practices of knowingly discriminating against persons with disabilities in violation of the DCHRA and DCCPPA at the Bonsai Apartments.

24. Covered dwelling units in the Bonsai Apartments subject to the DCHRA design and construction requirements exhibited the following violations:

- a. doors in units that are not sufficiently wide so as to allow passage into bathrooms, bedrooms, and other areas in the units by persons using wheelchairs;
- b. units that do not provide an accessible route through the unit; and
- c. bathrooms that do not have sufficient clear floor space so as to allow a person in a wheelchair to maneuver about the space.

25. Some of the violations in the common areas of the Bonsai Apartments include a lack of accessible routes into common use areas, including the rooftop deck at the Bonsai Apartments.

**C. The ERC's Mission, Discovery of Defendant's Discriminatory Policies, and Testing**

26. The ERC's mission includes identifying and eliminating discrimination in the Washington, D.C. metro area.

27. The ERC has a Fair Housing Program dedicated to advancing equal housing opportunities in the District. The ERC conducts and participates in programs to educate both

consumers and the real estate industry about their rights and obligations under federal, state, and local fair housing laws. The ERC also frequently conducts “know your rights” presentations to service providers, residents, and community groups which include disability discrimination information.

28. Through its Fair Housing Program, the ERC also conducts intakes with individuals and community partners in the Greater Washington, DC region who allege disability discrimination. When an individual or community partner contacts the ERC alleging disability discrimination in the ERC’s service area, the ERC offers counseling about disability rights in housing and offers assistance to try to address the allegations. This assistance can include investigation, such as through civil rights testing.

29. As a result of its activities, the ERC became concerned that new multifamily housing complexes were being constructed in the greater Washington, D.C. area that did not include the required elements of accessible design.

30. On or about August 28, 2024, an ERC fair housing tester tested Units 204, 302, and 308 (collectively, the “Tested Units”), as well as common amenity areas, at the Bonsai Apartments.

31. The ERC identified at least four DCHRA violations at the Bonsai Apartments.

32. In particular, the ERC observed the following violations at the Bonsai Apartments:

- a. doorways in the Tested Units are too narrow to allow passage by persons in wheelchairs, as required by DCHRA, D.C. Code § 2-1402.21(d)(3)(C)&(D). The HUD Guidelines require a clear opening at all doors for user passage that is a nominal 32”, *see* Guidelines at 9506, yet:



- i. The bedroom door in Unit 308 measured at 28,”
- ii. The bedroom door in Unit 204 measured at 27.5”;



Figure 1: Unit 204 bedroom door measuring approximately 27.5 inches.

- b. bathroom clearance in the Tested Units is insufficient to allow a person in a wheelchair to maneuver about the space, as required by DCHRA, D.C. Code § 2-1402.21(d)(3)(D). The FHA’s safe harbors permit a distance of between 16 and 18 inches between the toilet centerline and the side wall of the bathroom, *see, e.g.*, 2009 ICC A117.1 § 604.2, yet:
  - i. Unit 302 had a toilet centerline of 38,”



Figure 2: Unit 302 toilet centerline of approximately 38 inches.

- ii. Unit 308 had a toilet centerline of 21,”



Figure 3: Unit 308 toilet centerline of approximately 21 inches.

- c. hallway clearance is inadequate to allow a person using a wheelchair to maneuver about the space, as required by DCHRA, D.C. Code § 2-1402.21(d)(3)(C). An accessible route is a path that is at least 36 inches

wide, *see* Design Manual at 2.15, yet all Tested Units (units 302, 308, and 204) had hallways that narrowed to points less than 36"; and



Figure 4: Unit 302's hallway narrowed to 34 inches.



Figure 5: Unit 204's hallway narrowed to 33 inches.



Figure 6: Unit 308's hallway narrowed to 34 inches.

- d. the common space rooftop deck featured a very high interior threshold, which does not allow a person using a wheelchair to enter the space, as required by DCHRA, D.C. Code § 2-1402.21(d)(3)(C). The interior threshold far exceeded the 1/2" unbeveled threshold allowed, *see* 2009 ICC A117.1 § 404.2.4.



Figure 7: The rooftop deck's estimated unbeveled interior threshold was at least four inches.

33. Defendants own, manage, and/or operate the Bonsai Apartments. Upon information and belief, Defendants participated in, supervised, controlled, and/or approved the design and construction of the Bonsai Apartments, including the Tested Units.

34. Upon information and belief, the Tested Units share common design elements with the untested units in the Bonsai Apartments, including in the bathrooms and hallway designs of the untested units. On information and belief, as demonstrated by: (a) the pervasiveness and similarity of the DCHRA violations at the Tested Units; and (b) the common elements of design at the Tested Units and untested units, Defendants' continuing pattern and practice of design and construction have resulted in violations at the untested units.

35. Defendants' violations are continuing, ongoing, and demonstrate a pervasive pattern and practice of systematic and continuous DCHRA violations.

36. All of the units at the Bonsai Apartments that constitute part of Defendants' pattern and practice of designing and constructing inaccessible multifamily dwellings have been completed within two years of the filing of this Complaint.

37. In carrying out the aforementioned actions, Defendants acted intentionally and willfully, and with callous and reckless disregard of the DCHRA, as well as of the rights of persons with disabilities to accessible housing.

**COUNT I:**

**Trade Practices in Violation of the D.C. Consumer Protection Procedures Act**

1. The ERC re-alleges and incorporates by reference the allegations set forth above.
2. The purpose of the DCCPPA is to “assure that a just mechanism exists to remedy all improper trade practices[.]” D.C. Code § 28-3901(b)(1).
3. Under the DCCPPA, it is a violation of law “for any person to engage in an unfair or deceptive trade practice[.]” D.C. Code § 28-3904.
4. “Trade practices that violate other laws . . . fall within the purview of the [DCCPPA].” *Dist. Cablevision Ltd. P’shp v. Bassin*, 828 A.2d 714, 723 (D.C. 2003). Specifically, a violation of the DCHRA in the context of a consumer transaction is a violation of the DCCPPA. *Dist. of Columbia v. Evolve, LLC*, 2020 D.C. Super. LEXIS 6, \*12 (D.C. Super. Ct. Feb. 25, 2020) (granting summary judgment to the plaintiff on a DCCPPA claim upon finding that the defendant violated the provisions prohibiting source of income discrimination in the DCHRA).
5. Under the DCCPPA, a trade practice “means any act which does or would create, alter, repair, furnish, make available, provide information about, or, directly or indirectly, solicit or offer for or effectuate, a sale, lease or transfer, of consumer goods or services[.]” D.C. Code § 28-3901(a)(6).
6. Trade practices arising in the context of landlord-tenant relations are subject to the law. D.C. Code § 28-3905(k)(6).

7. Under the DCCPPA, an action may be brought by a nonprofit organization on behalf of the interests of a consumer or a class of consumers, seeking relief from the use by any person of a trade practice in violation of a law of the District. D.C. Code § 28-3905(k)(1)(D).

8. The ERC brings this claim on behalf of the interests of a consumer or a class of consumers, namely members of the disability community seeking accessible rental housing.

9. Under the DCCPPA, goods and services “means any and all parts of the economic output of society, at any stage or related or necessary point in the economic process, and includes consumer credit, franchises, business opportunities, real estate transactions, and consumer services of all types.” D.C. Code § 28-3901(a)(7).

10. Defendants meet the definition of “merchants” under the DCCPPA as “a person . . . organized or operating for profit . . . who in the ordinary course of business does or would . . . lease (to) . . . either directly or indirectly, consumer goods or services, or a person who in the ordinary course of business does or would supply the goods or services which are or would be the subject matter of a trade practice.” D.C. Code § 28-3901(a)(3).

11. The Bonsai Apartments is a covered multifamily dwelling subject to the DCHRA.

12. The ERC tested three units at the Bonsai Apartments and found DCHRA violations at all of the Tested Units, and the common roof deck, at the Bonsai Apartments.

13. On information and belief, based on the violations identified in the Tested Units, and Defendants’ pattern of incorporating common design elements in the design and construction of its covered units, DCHRA violations are also present in certain of the untested units at the Bonsai Apartments.

14. Defendants repeatedly and continually have failed to design and construct the Bonsai Apartments so that they are accessible to persons with disabilities. This includes, but is not limited to, failing to ensure that:
  - a. the public and common use portions of the dwellings are readily accessible to and usable by persons with disabilities;
  - b. doors into and within all premises in the dwellings are sufficiently wide to allow passage by persons with wheelchairs;
  - c. dwellings contain the following features of adaptive design:
    - i. an accessible route through the dwelling; and
    - ii. usable bathrooms such that an individual in a wheelchair can maneuver about the space.
15. Through the actions and inactions described above, Defendants have:
  - a. discriminated in the sale or rental of, otherwise made unavailable, or denied dwellings to persons because of their handicaps in violation of the DCHRA, D.C. Code 2-1402.21(d)(1);
  - b. discriminated against persons because of their handicaps in the terms, conditions, or privileges of rental of a dwelling, or in the provision of services of facilities in connection with the rental of a dwelling, in violation of the DCHRA, D.C. Code § 2-1402.21(d)(2); and
  - c. failed to design and construct dwellings in compliance with the requirements of the DCHRA, D.C. Code § 2-1402.21(d)(3)(C) & (D), and the applicable regulations.
16. The actions complained of constitute a continuing pattern and practice of



repeated and continuing DCHRA and DCCPPA violations in that Defendants have engaged in a systematic and consistent discriminatory pattern and practice of designing and constructing a covered multifamily dwelling in violation of the DCHRA requirements.

17. Defendants' discriminatory policies or practices in violation of the DCHRA constitute unfair trade practices in the context of a real estate transaction in violation of the DCCPPA.

18. Defendants' conduct was intentional, willful, and made in reckless disregard of the known rights of others.

### **PRAYER FOR RELIEF**

WHEREFORE, Plaintiff respectfully requests that this Court enter a judgment in its favor and grant relief against Defendants as follows:

- a) Enter judgment declaring that Defendants' acts, policies, or practices of willfully designing and constructing inaccessible apartment units and common spaces violate the DCHRA and, in turn, the DCCPPA, § 28-3904;
- b) Enter judgment for appropriate permanent injunctive relief, including an order that:
  - i. Orders Defendants, their officers, directors, employees, agents, successors, assigns, and all other persons in active concert or participation with any of them, both temporarily and during the pendency of this action, and permanently to:
    - i. Design and construct any covered multifamily dwelling, including through the acquisition of any building or construction permits, or

certificates of occupancy, and/or public and common areas, in the future to comply with the DCHRA and the applicable regulations;

- ii. refrain from selling any apartment or condominium complex containing a covered unit, or any individual covered dwelling unit, until the entry of final relief herein, or until the completion of such retro-fit alteration to covered units as may be ordered by the Court;
- iii. bring the covered dwelling units and the public use and common use areas of the Bonsai Apartments into immediate compliance with the requirements of D.C. Code § 2-1402.21(d), and the applicable regulations;

- ii. Defendants provide training to its employees and agents, including third parties involved in the design and construction process, and adequately supervise them to prevent future illegal housing discrimination;

- iii. Defendants participate in outreach and education efforts to promote accessible design and construction of covered dwellings;

- iv. Defendants take affirmative steps to educate themselves as to their legal obligations under the DCCPPA;

- c) Award monetary damages in an amount to be determined at trial;

- d) Award the ERC reasonable attorneys' fees and costs;

- e) Award statutory and treble damages pursuant to DCCPPA § 28-3905(k)(2);

- f) Award punitive damages in an amount to be determined at trial; and

- g) Grant such further relief as the Court deems just and proper.

Dated: February 5, 2025

Respectfully submitted,

/s/ Matthew K. Handley

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