

**DISTRICT OF COLUMBIA  
Office of Administrative Hearings**

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GABRIEL FINEMAN,

Tenant/Petitioner,

v.

SMITH PROPERTY HOLDINGS VAN NESS  
L.P.,

Housing Provider/Respondent.

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Case No.: 2016 DHCD TP 30,842  
3003 Van Ness Street, N.W., Apt. W-1131

**HOUSING PROVIDER S OPPOSITION TO MR. FINEMAN S MOTION  
FOR SUMMARY JUDGMENT AND CROSS MOTION FOR SUMMARY  
JUDGMENT**

Housing Provider/Respondent Smith Property Holdings Van Ness L.P. ("Housing Provider"), by undersigned counsel hereby submits its opposition to the Motion for Summary Judgment (the "Motion") filed by Tenant/Petitioner Gabriel Fineman. In support of its opposition, Housing Provider states as follows:

**i. BACKGROUND**

A. The Motion

Mr. Fineman in his tenant petition checked one box, that the Housing Provider did not file the correct rent increase form with the Rental Accommodation Division. Mr. Fineman also added a new claim to the pre-printed form of "improper notice of RAD form 8 to tenant". In his Motion, Petitioner asserts that he is entitled to judgment as a matter of law as the Housing Provider had filed with the Rental Accommodations Division ("RAD") a form on September 22, 2015 (Exhibit C to the Motion) identified that the rent would be increased from \$3,114 to \$3,161, even though the Housing Provider had only debited \$2,329 from his bank account.

B. The Lease

Mr. Fineman has resided in the Housing Accommodation since December 22, 2013. Tenant Petition. Pursuant to a lease agreement commencing on December 22, 2014 and expiring on December 21, 2015, Petitioner leased Unit W-1131 (the "Unit"). A copy of the 2014 Lease is attached hereto as Exhibit 1. The 2014 Lease identifies that the monthly rent is \$3,274, including \$3,114.00 for apartment rent and \$160 for reserved parking. *Id.* The Lease identifies that tenant is entitled a monthly recurring concession of \$945 per month (the "2014 Concession"). *Id.* The Lease includes a Concession Addendum which further explains the Concession. A copy of the Concession Addendum is attached as Exhibit 2. It states:

You have been granted a monthly recurring concession as reflected on the Term Sheet. The monthly recurring concession will expire and be of no further force and effect as of the Expiration Date shown on the Term Sheet.

Consistent with the provisions of the Rental Housing Act of 1985 (DC Law 6-10) as amended (the Act), we reserve the right to increase your rent once each year. In doing so, we will deliver to you a "Housing Provider's **Notice to Tenants of Adjustment in Rent Charged,**" which will reflect the "new rent charged." If you allow your Lease to roll on a month to month basis after the Expiration Date, your monthly rent will be the "new rent charged" amount that is reflected on the Housing Provider's Notice.

It is understood and agreed by all parties that the monthly recurring concession is being given to you as an inducement to enter into the Lease. You acknowledge and agree that you have read and understand the Lease Concessions provision contained in the Terms and Conditions of your **Lease.**

On September 18, 2015, Housing Provider sent notice to Tenant that the rent for the unit would be increasing from \$3,114 to \$3,161 effective December 22, 2015. *See Exhibit B to the Motion.* Thereafter, Housing Provider filed a Certificate of Notice of Rent Increase with the District of Columbia's Rental Accommodations Division on September 22, 2015. *See Exhibit C to the Motion.* Petitioner subsequently entered into a new lease. That lease commenced on December 22, 2015 and expired on December 21, 2016. A copy of the 2015 Lease is attached as Exhibit 3. The 2015 Lease

identifies that the monthly rent is \$3,321, including \$3,161 for apartment rent and \$160 for reserved parking. *Id.* The Lease identifies that tenant is entitled a monthly recurring concession of \$946 per month (the "2015 Concession"). Exhibit 4. The language for the 2015 Concession is identical to the 2014 Concession. Compare Exhibit 3 and Exhibit 4

## ii. ANALYSIS

### A. The Use of a Concession Does Not Reduce the Legal Rent; Rather it Limits the Amount Paid by a Tenant During the Concession Period

The use of a concession does not invalidate the higher, legal rent for a unit. *Maxwell v. Equity Residential Management, LLC*, 2015-DHCD-TP 30,704 (OAH April 22, 2016); *Pope v. Equity Residential Management, et al*, 2014-DHCD-TP 30,612 (OAH July 8, 2015). In both cases, the Administrative Law Judge ruled that the use of a concession was valid and the language of the concession was identical to the concession\* that Mr. Fineman agreed to in the Lease. In *Pope*, the Administrative Law Judge ruled:

In the District of Columbia, rent concessions are also used to offer rent controlled units at or below market value while preserving a higher legal rent level that can be charged later. There are many arguments to be made that such concessions are contrary to the abolishment of rent ceilings. Prior to the Act's amendment in 2005, a Housing Provider was able to reserve future rent increases by increasing the "rent ceiling" for a unit while actually charging a lower rent. The rent ceiling permitted a housing provider to later implement rent increases in amounts that were higher than the annual increase of general applicability. However, there is nothing in the Rental Housing Act that prohibits a housing provider from offering rent concessions as long as the rent charged does not exceed the legally authorized rent that is on file with the Rental Accommodations Division.

It is well established that leases are to be construed as contracts. *Sobelsohn v. Am. Rental Mgmt. Co.*, 926 A.2d 713 (D.C. 2007). This jurisdiction adheres to an "objective" law of contracts, meaning that "the written language embodying the terms of an agreement will govern the rights and liabilities of the parties . . . unless the written language is not susceptible of a clear and definite undertaking." *Id.* at 718. Contracts should "generally be enforced as written, absent a showing of good cause to set it aside, such as fraud, duress, or mistake." *Akassy v. William Penn Apts Ltd P'ship*, 891 A.2d 291, 298 (D.C. 2006)(quoting *Camalier & Buckley, Inc.*,

v. *Sandoz & Lamberton, Inc.*, 667 A.2d 822, 825 (D.C. 1995). Therefore, a tenant and a housing provider are free to contract to rental terms as long as those terms are not contrary to the law. In this case, Tenant knowingly signed the lease agreeing to pay the lower rent amount as a concession for one year.

Tenant argues that she did not understand that the concession would expire, that Housing Provider falsely advertised the rent for the unit at the lower price, and that the paperwork regarding the concession was confusing. These however, are not issues governed by the Rental Housing Act, but amount to a contractual dispute. If Tenant believes she was fraudulently induced into signing the lease, that the terms of the lease are somehow ambiguous, or that there was no meeting of minds, she must seek a remedy through D.C. Superior Court's Civil Division which has the jurisdiction to resolve equitable disputes. The jurisdiction of this administrative court is limited to applying the Rental Housing Act and I find that the rent concession was not in violation of the Rental Housing Act. That however, does not end the inquiry as Tenant alleges that the rent increase exceeded the legally calculated rent for her unit.

A copy of the decision in *Pope* is attached as Exhibit 5. The analysis in *Pope* was adopted by the Administrative Law Judge in *Maxwell*. A copy of the decision in *Maxwell* is attached as Exhibit 6.

In this case, the Lease the Parties entered into an agreement which provided Petitioner a one year concession. See Exhibits 2 and 4. Housing Provider was not bound to continue providing the concession thereafter. *Washington v. UIP Property Management, et al*, 2011-DHCD-TP 30,151 (OAH August 20, 2013) (Housing Provider permitted to provide a concession to tenant to fulfill requirements of a settlement agreement, while identifying the higher rent amount to RAD). See also *In the Matter of Missionary Sisters of the Sacred Heart, III v. NY. State Div. of Horn. & Community Renewal*, 283 A.D.2d 284, 289 (N.Y. App. Div. 1st Dep't 2001) (Concession did not obviate the terms of the lease agreement as it was clear, but the concession permitted the tenant to pay less for a specific period of time); *In the Matter of Century Operating Corp. v. Popolizio*, 60 N.Y.2d 483 (N.Y. 1983).

As discussed in *Pope*, there is no prohibition against providing for an adjustment in rent, but limiting the impact of that adjustment to a tenant. The Office of Administrative Hearings and the Rent Administrator have both approved Voluntary **Agreements** and **settlement** agreements whereby

significant rent increases are imposed on new tenants but not existing tenants through the use of concessions. *See, e.g., In re: Petition for Rent Adjustment based on 70% Voluntary Agreement*, 2012-DHCD-VA 11,016 (OAH June 19, 2012) (“Voluntary Agreements can increase rent charged for future tenants while providing current tenants with a rent concession.”); *In re: Voluntary Agreement Petition for Rent Adjustment WRF 1921 Kalorama Road, LP*, VA No. 08-011 (RAD May 7, 2009), at page 5; *In re: Infinity UIP Kenyon Acquisitions, LLC*, VA 11,001A (RAD January 11, 2011) (citing at page 3 to 14 DCMR 4204.1); *In re Park Manor Joint Venture*, VA 11-020 (RAD March 30, 2012). The use of concessions is permitted by District of Columbia law and therefore it did not reduce the legal rent, but instead reduces the amount paid by the Petitioner during the concession period.

**B. Petitioner Cannot Prevail on His Claim that the Rent Increase was Larger than Permitted Under the Rental Housing Act.**

Petitioner’s challenge must fail. The Housing Provider filed the Certificate of Notice of Rent Increase with the Rental Accommodations Division prior to the implementation of that increase (Exhibit C to the Motion). The Certificate shows that the rent for the Unit was increased by 3.5%, effective December 22, 2015 from \$3,114 to \$3,161. The 2016 Certificate shows that the rent for the Unit was increased by 1.5%, effective April 1, 2016 from \$2,118 to \$2,182. Since concessions are permitted, the filing itself is proper.

Furthermore, the definition of “rent” in D.C. Code § 42-3501.03(28) does not exist in a vacuum.<sup>1</sup> The amount withdrawn from Mr. Fineman’s bank account each month does not negate the fact a contractual agreement was made between Mr. Fineman and the Housing Provider in the 2014 Lease and the 2015 Lease. In both leases, the Housing Provider was contractually obligated to provide a concession for a specific period of time. The Housing Provider was also obligated by the Lease to provide certain related services and facilities. The Lease, in its entirety, defined other rights,

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<sup>1</sup> “Rent” is defined as “the entire amount of money, money’s worth, benefit, bonus, or gratuity demanded, received, or charged by a housing provider as a condition of occupancy or use of a rental unit, its related services, and its related facilities.” D.C. Code § 42-3501.03(28).

obligations and responsibilities of each party. The Office of Administrative Hearings does not have jurisdiction over the terms of the Lease, which Mr. Fineman agreed to. Upon the expiration of the 2014 Concession, the Housing Provider would have been entitled to charge a higher rent. *See Pope*. However, Petitioner and Housing Provider negotiated and executed the 2015 Lease.

C. Claims Regarding Other Tenants of the Housing Accommodation are Irrelevant.

In his Motion, Petitioner asserts that the rent charged can be ascertained by reviewing pending Landlord and Tenant proceedings filed against other tenants of the Housing Accommodations. The rent for those individuals is not within the jurisdiction of the Office of Administrative Hearings as they do not have a pending tenant petition. Even if such arguments would support his allegation, Petitioner has failed to provide legible copies of the Landlord and Tenant cases or the relevant lease in those cases for this Court to consider. Without such, this Court cannot even make the analogy that Mr. Fineman seeks.

**in. CONCLUSION**

For the foregoing reasons, Mr. Fineman's Motion for Summary Judgment should be denied. As there are no disputes as to fact, but instead the sole disputes are legal in nature. Accordingly, judgment should instead be entered in favor of the Housing Provider.

Respectfully submitted,

GREENSTEIN DELORME & LUCHS, P.C.

Dated: January 13, 2017

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Richard W. Luchs (D.C. Bar No. 243931)  
Debra F. Leege (D.C. Bar No. 497380)  
1620 L Street, N.W.  
Suite 900  
Washington, DC 20036-5605  
Telephone: (202) 452-1400

Counsel for Housing Provider/Respondent

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**STATEMENT OF MATERIAL FACTS NOT IN DISPUTE**

1. Smith Property Holdings Van Ness L.P is the owner of the residential rental accommodation located at 3003 Van Ness Street, N.W. in Washington, D.C. (the "Housing Accommodation"). Exhibit A to the Motion.
2. Equity Residential Management, L.L.C. manages the Housing Accommodation. *Id.* Exhibit A to the Motion.
3. Pursuant to a lease agreement commencing on December 22, 2014 and expiring on December 21, 2015 (the "2014 Lease"), Petitioner Gabriel Fineman leased Unit W-1131 at the Housing Accommodation. Exhibit 1, 2014 Lease.
4. The 2014 Lease identifies that the monthly rent is \$3,274, including \$3,114 for the apartment rent and \$160 for reserved parking. *Id.*
5. The 2014 Lease states that Petitioner is entitled a monthly recurring concession of \$945 per month (the "Concession"). *Id.*
6. The 2014 Lease includes a Concession Addendum which further explains the Concession. It states:

You have been granted a monthly recurring concession as reflected on the Term Sheet. The monthly recurring concession will expire and be of no further force and effect as of the Expiration Date shown on the Term Sheet.

Consistent with the provisions of the Rental Housing Act of 1985 (DC Law 6-10) as amended (the Act), we reserve the right to increase your rent once each year. In doing so, we will deliver to you a "Housing Provider's Notice to Tenants of Adjustment in Rent Charged," which will reflect the "new rent charged." If you allow your Lease to roll on a month to month basis after the Expiration Date, your monthly rent will be the "new rent charged" amount that is reflected on the Housing Provider's Notice.

It is understood and agreed by all parties that the monthly recurring concession is being given to you as an inducement to enter into the Lease. You acknowledge and agree that you have read and understand the Lease Concessions provision contained in the Terms and Conditions of your Lease.

Exhibit 2, 2014 Concession Addendum.

7. On September 18, 2015, Housing Provider sent Mr. Fineman a notice that his rent would be increased from \$3,114 to \$3,161 effective December 22, 2015. Exhibits A and B to the Motion.

8. On September 22, 2015, Housing Provider filed a Certificate of Notice to RAD of Adjustment in Rent Charged. It identified that effective December 22, 2015, the rent for the Unit increased by \$47 from \$3,114 to \$3,161. Exhibits A and C to the Motion.

9. Pursuant to a lease agreement commencing on December 22, 2015 and expiring on December 21, 2016 (the "2015 Lease), Petitioner Gabriel Fineman leased Unit W-1131 at the Housing Accommodation. Exhibit 3, 2015 Lease.

10. The 2015 Lease identifies that the monthly rent is \$3,321, including \$3,161 for the apartment rent and \$160 for reserved parking. *Id.*

11. The 2015 Lease states that Petitioner is entitled a monthly recurring concession of \$946 per month (the "Concession"). Exhibit 4.



12. The 2015 Lease also includes a Concession Addendum with the same language as the 2014 Lease. Exhibits 2 and 4.

Respectfully submitted,

GREENSTEIN DELORME & LUCHS, P.C.

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Dated: January 17, 2016

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Richard W. Luchs (D.C. Bar No. 243931)  
Joshua M. Greenberg (D.C. Bar No. 489323)  
Debra F. Leege (D.C. Bar No. 497380)  
1620 L Street, N.W.  
Suite 900  
Washington, DC 20036-5605  
Telephone: (202) 452-1400

Counsel for Housing Provider/Respondent

**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing opposition thereof was served on this the 17<sup>th</sup> day of January, 2016, by first class mail, postage pre-paid upon:

Gabriel Fineman  
3003 Van Ness Street, N.W.  
Apt. W-1131  
Washington, D.C. 20008

Gabriel Fineman  
7270 Ashford Place #206  
Delray Beach, Florida 33446

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Debra F. Leege

# EXHIBIT 1



LESSOR PAYS UNCHECKED UTILITIES / RESIDENT PAYS CHECKED UTILITES

- Electricity:
- Gas/Heating Oil:
- Water:
- Sewer:
- Central Boiler
- Cable: Direct billed by the provider. You pay the provider
- Garbage Removat
- Internet: Direct billed by the provider. You pay the provider

Late Fees: Your rent is due on the 1st of each month. If we do not receive your rent and other recurring charges, in person before the close of business, or electronically by 11:59 pm local time\*, on day 5, you will be charged a late fee as follows:

15% on the 6th

\*Credit card or other payments made through our telephone service must be received by 4:59 pm central time.

Returned Item Fees: If your payment fails to clear the bank for any reason, you will be charged a returned item fee of \$40.00 per item.

Additional Lease Addenda
<b>Residential Lease - Terms and Conditions</b> <b>Requirements and Disclosures Addendum</b> <b>Construction and Rehab Addendum</b> <b>Concession Addendum</b>

By signing this Term Sheet, you acknowledge that each of the Additional Lease Addenda are attached to this term Sheet and are therefore made a part of the Lease. You further acknowledge that you have read and that you agree to all of the provisions set forth in this Term Sheet and the Additional Lease Addenda.

You also acknowledge that you have received, or will receive, (separate from this Lease) a copy of the Resident Handbook and Community Policies and a copy of the Move-In/Move-Out Inspection Form. You acknowledge and agree that the provisions contained in these two documents are incorporated into this Lease and that you will abide by the policies and procedures set forth in these documents.

**You specifically acknowledge that this Lease contains provisions extending the Lease Term if you stay beyond the Expiration Date set forth on the first page of this Term Sheet or if you fail to provide timely written notice of your Intent to vacate the Premises at least 60 days prior to the Expiration Date.**

**READ THIS TERM SHEET BEFORE SIGNING**

Residents (ALL Residents must sign and date):

DocuSigned by:  
*Gabriel Fineman* 11/25/2014 \_\_\_\_\_ Date \_\_\_\_\_ Date  
QADB30V01EOM4C...  
 Gabriel Fineman  
 \_\_\_\_\_ Date \_\_\_\_\_ Date \_\_\_\_\_ Date  
 \_\_\_\_\_ Date \_\_\_\_\_ Date \_\_\_\_\_ Date

Lesson Equity Residential Management, L.L.C., as agent for the Owner

By: *[Signature]* 11/25/2014 \_\_\_\_\_ Date  
It's: Authorized Representative \_\_\_\_\_ Date

Resident Account Number: Z8819-W-1131-2

## RESIDENTIAL LEASE – TERMS AND CONDITIONS (District of Columbia – Rent Controlled Properties)

These Terms and Conditions are attached to and incorporated by reference into the Residential Lease - Term Sheet signed by Resident ("you") and Lessor ("us") with respect to your rental of the Premises identified on the Term Sheet. The Term Sheet, these Terms and Conditions, the Resident Handbook and Community Policies, the Move-In/Move-Out inspection Form, and all Lease addenda or other agreements that may be referenced on the Term Sheet or attached hereto, make up the Lease. The party executing this Lease as the Lessor is Equity Residential Management, L.L.C., which is acting as the managing agent for the owner of the Community. Each person living in the Premises that is 18 years of age or older must sign the Lease as a resident. All others living in the Premises must be designated as occupants. Each person signing the Lease is jointly and severally liable for all of the various resident obligations under the Lease. That means that every individual resident, including all co-residents, is responsible for the entire rental amount and other obligations, even if, as roommates, you have made arrangements among yourselves to allocate the rent or other payments among yourselves.

**1. Lease Term/Month-to-Month Tenancy:** The term of this Lease is set forth in the Lease Term section of the Term Sheet. At the end of your Lease term, if you do not move out or, your Lease will automatically renew on a month-to-month basis. If you stay in the Premises on a month-to-month basis following the term of the Lease, you agree that we have the right to increase your rental rate once each year, on the anniversary of your Lease start date.

**2. Notice to Vacate/Early Termination:**

a. If you plan to move out of the Premises at any time during your Lease term, you must provide us with a written notice of your intent to vacate at least 60 days prior to your move-out date. Once you are in a month-to-month status, you must give 30 days' written notice prior to your move-out date. If you submit your notice to vacate and fail to move out on or before the notice date you provide to us, then, for each day you hold over, you will be charged holdover rent equal to two times your then-current per diem rental rate. If you fail to give the required notice and move out anyway, you will be charged insufficient notice rent for the number of days your notice is short. The insufficient notice rent shall be charged at the per diem rental rate that is in effect on your move-out date. If you move out without providing any notice at all, then, for the purposes of this paragraph, your move-out date will be considered to be your notice date.

b. You have no right to terminate your Lease prior to the end of your Lease term. If you terminate your Lease early, you will be in default under the Lease, and you will be responsible for paying early termination rent at the per diem rental rate that is in effect on your move-out date until the earlier of (i) the end of your Lease term; or (ii) the date a new resident moves into the Premises. If we offer you an early termination settlement as an alternative to paying early termination rent, you must make the election to enter into the settlement at the time you are planning to move out early and pay the early termination settlement amount before you vacate the Premises.

c. If you move out within the last 30 days of your Lease term, you will first be charged early termination rent through your Lease end date, with the balance of your notice requirement, if any, being charged as insufficient notice rent. In all cases where you are charged early termination rent or insufficient notice rent, if a new resident moves into the Premises during the charge period, we will issue a credit to you for the number of days that the new resident was in possession of the Premises.

**3. Move-Out Obligations:** You will not be considered as having moved out, vacated and surrendered possession of the Premises until you have removed all of your personal belongings from the Premises and returned all keys, access cards and remotes to us by the date indicated in your Notice to Vacate. If you move out and fail to return all keys, access cards and remotes to us, you agree that your move-out date will be determined by us in our reasonable judgment, and that you will be charged for any keys, access cards and remotes that are not returned to us. When you move out, you must leave the Premises in substantially the same clean, undamaged, and ready-to-rent condition as existed when you took occupancy of the Premises, less ordinary wear and tear. You will be charged for replacement of any damaged or missing items, as well as all costs to clean or repair any portion of the Premises, carpeting, flooring, wall coverings, paint, counters, trim, window treatments, doors, windows, or appliances which are damaged, dirty, or unsanitary, and the removal of all trash and personal property from the Premises. Cleaning and repair of damage due to smoking of any kind are not considered ordinary wear and tear. In order to avoid being charged for cleaning carpets in the Premises after you move out, you must have the carpets professionally cleaned, as documented by a receipt you provide to us.

**4. Rent:** You agree to pay the amount shown in the Total Monthly Rent section of the Term Sheet and all additional rent (described below), in advance and without demand, on or before the first day of each calendar month. All fees and charges described on the Term Sheet or in this Lease, including, but not limited to, late charges, returned item fees and utility bills that are payable to us or to our utilities billing vendor, are "additional rent." Total Monthly Rent and additional rent are, together, referred to in this Lease as "rent." All rent must be paid in U.S. dollars and we reserve the right to require that payments be made in one lump sum, even if there are multiple residents listed on the Lease. We strongly encourage residents to use on-line or electronic payment methods. We may elect to centralize the collection sites for non-electronic payments and/or require that all payments be made electronically. If we do so, we will notify you in writing of the requirement, and, in the case of centralized collections, the address to which you should send your payments, as well as the effective date for such change. If we designate an off site receivables location, you agree that all rent and other payments directed to that location must be received at the designated location on or before the due date. We do not accept cash, third party personal checks, or checks without a preprinted name and address of the account holder. If you pay by personal check, you are authorizing us to scan the check and convert it into a one-time electronic debit from the bank account against which the check was written. Unless prohibited by law, we reserve the right to refuse payments by personal check, automatic debit or other form of electronic payment if, for example, you have submitted previous checks or other payments to us that have failed to clear the bank. We are not required to re-deposit a dishonored check.

**6. Late Charges and Returned Item Fees:** You acknowledge that if we do not receive your rent or other lease related charges on time, we will incur costs, the exact dollar amount of which is difficult or impracticable to determine. Such costs may include, among other things, lost use of funds, bank or other charges, costs incurred in connection with accounting for and attempting to collect late payments; collection expenses; and other administrative and accounting costs. As a result, if we do not receive your rent when it is due, we will assess late fees as described in the Late Fees section of the Term Sheet. Similarly, if any payment to us (electronic or otherwise) is returned or otherwise rejected by your financial institution for any reason, we will assess a returned item fee as described in the Returned Item Fees section of the Term Sheet, as well as all applicable late fees. The fees described in this paragraph are in addition to any other remedies we may have in the event of your default under the terms of this Lease.

**6. Application and Acceptance of Payments:** Unless we are prohibited from doing so by law, we will apply the payments you make to us in the order of priority we determine, regardless of any notations that you make on checks, money orders or other forms of payment. We reserve the right to accept any amount less than the balance due at any given time and, if we do accept a lesser amount, such acceptance will not represent a waiver of

any right we have to pursue you for the outstanding balance. If you are consistently late with your rent payments, we reserve the right to terminate this Lease.

**7. Security Deposit:** Upon signing this Lease, you have agreed to give us deposits as set forth in the Total Deposits section Of the Term Sheet. These Total Deposits are not prepaid rent but, rather are a good faith deposit for your fulfillment of your Lease obligations, as well as a contingency against damages to the Premises. The Total Deposits will be deposited in an interest bearing account in a financial institution in the District of Columbia established for the sole purpose of holding such deposits. We will pay interest on the Total Deposits as required by the law of the District of Columbia. You are not entitled to apply any part of your Total Deposits against rent or other Lease obligations during the time you are occupying the Premises, nor will we use any part of the Total Deposits during your Lease Term to offset charges incurred during such timeframe. Consistent with the requirements of state law, after you move out, we will inspect the condition of the Premises, and charge, against your Total Deposits, for any damages, beyond ordinary wear and tear, excessive cleaning or trash removal charges, as well as any outstanding balances you owe us. If any balance remains after applying all such charges, we will refund it to you within 45 days from the date you vacate the Premises. If the move-out charges and/or other unpaid amounts remaining on your resident account at the time you move out exceed the amount Of the Total Deposits, you agree to pay us the difference. We reserve the right to charge pre-judgment interest on any balance owing after you move out. Such interest will begin to accrue when the balance, if any, shown on the Statement of Deposit Account we issue to you is not paid within 30 days following the date set forth on the Statement of Deposit Account. The interest charged on the outstanding balance will not exceed the rate of 18% per annum or the highest rate allowed by law, whichever is less, and will be reflected on the statement of Deposit Account that will be issued to you after you move out. We may inspect the Premises within three days (excluding Saturdays, Sundays and holidays) before or after the termination of your tenancy. If we conduct the inspection, we will notify you in writing of the time and date of the inspection at least ten days prior to the scheduled inspection, if there are multiple co-residents on this Lease, you agree that, at the time you provide notice to move out, you will (i) provide a forwarding address to us for receipt of the Statement of Deposit Account; and (ii) select one co-resident, who resides at the forwarding address, to receive the refund of any Total Deposits paid. You may also have the opportunity, upon providing an account number to us, to select to have your refund, if any, directly deposited into the bank account of the selected co-resident. If you fail to provide us with a forwarding address and co-resident designation, we will, within the timeframe required by state law, (i) make the refund check payable to all residents listed in the Lease, and (ii) mail the refund check to the address provided or, if no forwarding address is provided, we will mail the refund check to the Premises address for forwarding by the U.S. Postal Service.

**8. One-time Fees:** If you have paid other fees and charges as set forth in the Total Other Fees and Charges section of the Term Sheet, you acknowledge and understand that such other fees and charges are not refundable, are not considered to be a security deposit or part of the Total Deposits, and will not be applied as a credit toward any amounts owing by you at the time you move out.

**9. Lease Concessions:** If you received a Lease concession, you must fulfill all of your obligations under this Lease for the entire Lease term. Any concession that is designated on the Term Sheet as a one-time or upfront concession must be applied first toward your rent during the first month of the initial term and to consecutive months thereafter until the balance of the concession credit reaches zero. If this Lease is terminated early, you must repay a prorata portion of the total Lease concessions you received based on the number of days remaining in your Lease term after you move out.

**10. Failure to Pay Deposits, Other Fees and Charges and First Month's Rent:** If you fail to pay any deposits, other fees and charges and the first month's rent (or a prorated amount if the first month is a partial month) prior to moving in, you will be in default under the Lease and we can refuse to give you possession of the Premises until you pay such amounts.

**11. Delay in Delivery of Possession:** You are responsible for paying rent effective with the Commencement Date shown in the Lease Term section of the Term Sheet. If we are unable to give you possession of the Premises on the Commencement Date, we will abate the rent until we are able to do so. You agree that you will not seek reimbursement from us for any cost incurred by the delay of possession, including, but not limited to, storage or temporary lodging. Subject to applicable law, if we fail to deliver the Premises to you within 30 days from the date promised, either you or we may terminate the Lease by providing written notice to the other. Requirements for us to make repairs or clean the Premises that do not affect your ability to occupy them will not constitute a delay or entitle you to a rent abatement. If we are unable to deliver the Premises but offer you comparable accommodations at no additional cost, you will not be entitled to a rent abatement.

**12. Rental Application and Resident Information Updates:** You have provided certain information in your Application for Rental that we have relied on in connection with renting the Premises to you. You agree to promptly notify us if any of the information you provided changes. If any of the information you provided to us on your Application or in any subsequent updates is materially false, incomplete or misleading, or if you fail to notify us of any change or if you fail to update your information, you will be in default of your obligations under this Lease, you will be in default of your obligations under this Lease.

**13. Disclosure of Information:** To the extent permitted by applicable law, we may provide information about you, your co-residents, or any of your occupants to third parties such as law enforcement personnel, future landlords, mortgagees, attorneys, collection agencies, and consumer reporting agencies for law-enforcement, governmental, credit, rent payment history, or other business purposes. If we provide such information to third parties at your request, we reserve the right to charge an administrative fee for doing so. If you and your co-residents have a guarantor, we may, without notifying you, provide information to the guarantor.

**14. Utilities and Utility Cost Adjustments During the Lease Term:** You are responsible for paying for all of the utilities identified on the Term Sheet that are checked, and any utilities that we have not specifically agreed to pay. In some cases, the utility service will be provided to you by the utility company and you will pay the utility company directly. In other cases, your utility bill may be calculated based on a submeter reading, an allocation method, or a flat fee (as more fully described in the Utilities Addendum attached to this Lease), in which case you will receive a bill for such utilities from our billing vendor and you will either pay us directly or send your payments to our billing vendor. The Utilities section of the Term Sheet identifies which utility bills are to be billed by and paid directly to the utility company and which utility bills are to be billed by our billing vendor and either paid to us directly or, in some cases, sent to our billing vendor. Amounts due for utility services that are billed by our billing vendor are considered additional rent, irrespective of whether you pay us directly or whether our billing vendor collects such amounts on our behalf. In all cases, your failure to pay the utilities in full when due shall be considered a default under the Lease. You will not allow utilities that are in your name to be disconnected for non-payment or any other reason. If you do not connect the utilities as of your Lease start date or, if you disconnect the utilities early before moving out, and the utilities remain in our name during such timeframes, we will bill you for the utility charges incurred for the days you were in possession of or living in the Premises, along with an administrative fee of \$50.00 for each utility bill we process on your behalf. You agree that this administrative fee is a liquidated damages provision and that such amount is a fair and reasonable estimate of the administrative costs we incur as a result of paying these bills on your behalf. Because many utilities have long billing cycles, we may not have the actual utility bill in hand at the time we process your move out charges, in that circumstance, we reserve the right to estimate the utility charges for you based on typical or average consumption. We make no representation or warranty with respect to the amount of any estimated or actual utility costs associated with the provision of utility services to the Premises or the Community. To the extent we make a request of you in connection with any analysis of overall Utility consumption at the Community, you authorize us,

as your agent, to request and receive copies of your utility billing records directly from the utility provider. You acknowledge that we cannot be held responsible for any outages, interruptions or fluctuations in utility service that are provided to the Premises, and that you have no right to claim constructive eviction or to receive any offset or reduction of rent or diminished rental value of the Premises as a result of any such outages, interruptions, or fluctuations.

15. **Right to Enter:** Subject to notice requirements imposed by applicable law, we and our employees and agents may enter the Premises during reasonable hours for inspections, maintenance, repairs and pest control procedures. We also reserve the right to enter the Premises at any time in the event of an emergency, to check for abandonment, or to abate a nuisance. If you submit a service request to us, such request for service will constitute your permission for us to enter the Premises to do the requested work. You authorize us, in the event of your death or incapacity, to grant access to the Premises and the contents therein to the individual named in the emergency contact section of your Application for Rental or otherwise named by you in connection with updating your resident information. Once we grant access to such person, he/she may remove all personal property from the Premises and dispose of it in accordance with applicable law. You hereby release and discharge us from any liability, claim or damages arising out of or in connection with our granting such access to the person you named. Assuming you have submitted a notice to vacate to us, we may, during the last 30 days of your tenancy and without advance notice to you, show the Premises to prospective new residents during normal business hours. If it is necessary for you to temporarily move out in order for us to exterminate or for other reasons, you agree to do so upon at least seven days' notice or on shorter notice as may be reasonable under the circumstances. If you are forced to temporarily move out for more than one day because of a duty, condition or event that is our responsibility under this Lease or by law and, if we do not make substitute accommodations available to you, we will abate your Total Monthly Rent for the period of time you are unable to occupy the Premises.

16. **Right to Exclude:** We reserve the right to exclude from the Community you and any of your occupants or guests who violate this Lease or any of the Community's policies. We also reserve the right to exclude anyone who disturbs other residents or our employees and agents, as well as anyone we reasonably believe represents a potential threat to other residents or to our employees and agents. We may also exclude from the Community any person who refuses to show photo identification to us or to identify himself or herself as a resident, occupant or guest. We may deny you or any person access to the Premises, including by changing the locks, if any court or legal order restrains or bars you or such person from the Premises.

17. **Liens or Sates by Lessor:** This Lease is subject and subordinate to all present or future ground or underlying leases, loans, mortgages, deeds to secure debt or deeds of trust affecting the Premises and the Community which we or any subsequent owner of the Community may enter into. You hereby appoint us as attorney-in-fact to execute and deliver any and all necessary documents to evidence such subordination of the Lease. Foreclosure of any mortgage or any sale of the Community will not constitute a constructive eviction and, in the event of any such action, you will continue to pay your rent and perform your obligations under this Lease. Upon any foreclosure or sale, we will be released from all obligations under this Lease that accrue after the date of the foreclosure or sale and you will look solely to the then-current owner for the performance of Lessor's duties.

18. **Criminal Activity:** You agree that neither you, nor any of your occupants or guests will (i) engage in any criminal activity of any kind, including, without limitation, drug related criminal activity, prostitution or criminal street gang activity, on or near the Community, (ii) engage in any act intended to facilitate such criminal activity, (iii) use or permit the Premises to be used for, or to facilitate, any criminal activity, or (iv) engage in any acts of violence or intimidation or any threats of violence, verbal or otherwise, including, but not limited to, the discharge or brandishing of firearms or other weapons, on or near the Community or otherwise. For purposes of this section, "drug related criminal activity" includes, but is not limited to, the use of or the manufacture, sale, distribution, dispensation or possession with intent to manufacture, sell distribute, or dispense, marijuana or any other Controlled or Counterfeit Substance, as defined in the Controlled Substances Act (21 U.S.C. 802), as amended from time to time. One or more violations of the provisions of this paragraph will be considered a breach of the Lease and good cause for the immediate termination of your tenancy and your eviction from the Premises. Unless otherwise provided by law, proof of a violation of this paragraph shall not require criminal conviction, but may be based on our reasonable suspicion and a preponderance of the evidence. In addition, if you or any of your occupants have engaged in any criminal activity during the Lease term or otherwise, we may take action to terminate the Lease and pursue eviction-related remedies.

19. **Use and Occupancy:** The Premises are to be occupied and used solely as a private residence and by only those persons identified on the Term Sheet as residents and occupants. Conducting any kind of business in the Premises, or anywhere in the Community, is prohibited. However, a lawful business conducted "at home" by computer, mail or telephone is permissible if customers, clients, patients or other business associates do not come to the Premises for business purposes. The number of people living in the Premises is subject to applicable local occupancy standards. Only those residents and occupants identified on the Term Sheet, and, subject to the Community's occupancy standards, children born or adopted during the Lease term, may occupy the Premises without our prior written consent. If someone stays with you for more than fourteen days (consecutive or otherwise) in any one month, we will consider such person to be an unauthorized occupant and, in order to allow such person to continue residing in the Premises, we must consent. If the person is age 18 or older, we may require him/her to complete an Application for Rental and pay an application fee. If we consent to such person's occupancy in the Premises, we also require that such person, unless he/she is a full-time student residing with a parent or guardian, be named on the Lease as resident. You agree to pay an administrative fee associated with the addition or replacement of co-residents. You further agree that this fee is a liquidated damages provision and that such amount is a fair and reasonable estimate of the administrative costs we incur as a result of your election to add or change co-residents. All co-residents who are added as residents to the Lease are accepting the Premises in as-is condition and are agreeing to be jointly and severally liable for the condition of the Premises. You are responsible for your conduct, as well as the conduct of your occupants and guests. You, your occupants and all guests will: (i) show due consideration for neighbors and not interfere with, disturb or threaten the rights, comfort, health, safety, convenience, quiet enjoyment and use of the Community by us, other residents and occupants and any of their guests, agents or invitees; (ii) not engage in abusive, threatening or harassing conduct toward us or any employees, agents or representatives or unreasonably interfere with our management of the Community; (iii) exercise reasonable care in the use of the Premises and maintain the Premises in a clean, safe and undamaged condition, ordinary wear and tear excepted; (iv) comply with all of the policies and procedures contained in the Resident Handbook and Community Policies we delivered to you via My.EquityApartments.com or otherwise; and (v) comply with federal, state and local laws, regulations, statutes and ordinances which are applicable to the Premises and your tenancy. We reserve the right to be the sole judge of acceptable conduct and to determine the appropriate action necessary to deal with unacceptable conduct, including, but not limited to taking action to terminate the Lease and to pursue eviction-related remedies.

20. **Restrictions on Assignment and Subletting/Prohibition Against Short-Term Rentals:**

a. You may not assign this Lease or sublet the Premises without our prior written consent. If we do consent to any assignment or sublease, you will remain fully responsible and liable for the payment of the rent throughout the remainder of the Lease term.

b. The Premises are not to be used or occupied as a hotel. Under no circumstances are you to rent space in the Premises to occupants on a short-term basis (for a period of time less than 30 days), or for any short-term occupancy that may be governed by or prohibited by state or local laws, including, but not limited to, those applicable to transient housing, code violations or hotel taxes. You are specifically prohibited from advertising the Premises for rental by Short-term or transient occupants on sites such as Airbnb, craigslist, Expedia, Hotels.com or any other similar locator sites.



Should we become aware of any violation of these short-term stay provisions or incur any loss as a result of your violation of this provision, in addition to all other remedies we have under this Lease, you will indemnify us and assume full responsibility for any and all losses that we incur.

**21. Repair and Maintenance:** You confirm that you have inspected the Premises, found them in a clean, rentable, and undamaged condition (other than items listed in the Move-In/Move-Out Inspection Form that you completed or will complete), and that you accept the Premises in "as is" condition. If any part of the Premises is in need of maintenance or repair, you agree to notify us immediately. Damages and defects not itemized will be presumed to have first occurred during your occupancy of fire Premises. You understand that you are responsible for keeping the Premises in a clean, sanitary and undamaged condition, ordinary wear and tear excepted. You are responsible for properly performing routine cleaning of all interior portions of the Premises. If you fail to keep the Premises clean (including, but not limited to eliminating dirt, filth, scum, grease, oil, mud, scuffs, holes, gouges, burns, stains, tears, cuts, rips, fleas, pests, foul scents or odors (including those relating to smoking), surface mold on caulking at the sinks, tub, shower and other locations, and other conditions which could have been avoided by careful use and routine cleaning), or if you, your occupants or any animals cause damage to the Premises in excess of ordinary wear and tear, you will be responsible for the costs to clean and/or repair such damage. Any such charges incurred during the Lease term will be considered additional rent.

**22. Fair Housing Accommodations/Modifications:** We are firmly committed to the principles of Fair Housing. If you or any person residing in the Premises, as a result of a disability, requires accommodations to our rules, policies, practices or services, or a physical modification to the Premises and/or the **common areas** of the Community in order to provide you or your occupants with equal opportunity to use and enjoy the Premises, you will notify us. If you require physical modifications to the Premises, we may require you to enter into a modification agreement identifying the modifications to be made and any restoration obligations you may have.

**23. Military Clause:**

a. If you become an active duty member of the United States Armed Forces during the Lease term, then, pursuant to the provisions of the Servicemembers Civil Relief Act ("SCRA") and other applicable laws, you may be released from your obligations under the Lease, without penalty, so long as you: (i) provide a copy of your official orders; (ii) provide at least 30 days' prior written notice of your anticipated move-out date; (iii) pay all outstanding balances and rent through your move-out date; and (iv) make satisfactory arrangements to pay all costs incurred by us to repair the damages caused by you, your occupants or guests, and pets, consistent with the Security Deposit paragraph above.

b. If you are an active duty member of the United States Armed Forces at the time you are signing this Lease, you affirm that the Lease end date does not extend beyond your anticipated discharge, retirement or release from the United States Armed Forces. Pursuant to the provisions of the SCRA and other applicable laws, you may be released from your obligations under the Lease, without penalty, so long as you: (i) provide a copy of your official permanent change-of-station orders or your official orders to deploy for a period of not less than 90 days; (ii) provide at least 30 days' written notice of your anticipated move-out date; (iii) pay all outstanding balances and rent through your move-out date; and (iv) make satisfactory arrangements to pay all costs incurred by us to repair the damages caused by you, your occupants or guests, and pets, consistent with the provisions of the Security Deposit paragraph above.

c. Notwithstanding the provisions of the Lease Concessions paragraph above, if you are exercising your right to terminate the Lease pursuant to the SCRA and this Military Clause paragraph, you will not be required to repay any portion of Lease concessions set forth on the Term Sheet. The release of any resident under this provision will not release any other resident or roommate unless the other resident is your spouse or dependent, as defined under the SCRA.

**24. Resident Insurance.** We strongly recommend that you secure a renters insurance policy covering your personal belongings, which also includes personal liability insurance covering your actions. Unless there is a prohibition imposed by affordability covenants or other restrictions applicable to the Premises, we require all residents to maintain a policy of liability insurance issued by an authorized insurance company that provides limits of liability in an amount of at least \$100,000 per occurrence. Unless the box labeled "Renters Insurance Required" on the Term Sheet is unchecked, you must furnish proof of insurance to us on or before the commencement date of the Lease and, assuming you enter into renewal leases with us, you must continue to provide evidence of coverage for all subsequent renewal terms. You can obtain such insurance through Residential Insurance Agency, LLC or through the insurance agent of your choice. If you select an insurance company other than Residential Insurance Agency, LLC, you must name the Community as an interested party under your policy. If you fail to pay for the liability insurance and/or you allow the expiration or cancellation of any liability insurance policy during your tenancy, without substitute insurance being put in place, this will be considered a default under the Lease.

**25. Corporate Units:** If the name in the Resident section of the Term Sheet is a company or business (and not an individual person), then the company assumes all responsibility for damage to the Premises and any loss incurred by us or any third party that is caused by any person living in the Premises. The company also agrees to indemnify us for all claims, damages, losses and expenses related in any way to the occupancy of the Premises. The company agrees to identify all persons living in the Premises and to provide written authorization to us to release keys, key cards, and/or access cards to such occupants. The company agrees to maintain, at its sole cost and expense, throughout the term of the Lease and any subsequent renewal terms, the following insurance: Commercial General Liability insurance on a form at least as broad as insurance Services Office ("ISO") Commercial General Liability Coverage "occurrence" form CG 00 01 0196 or another ISO Commercial General Liability "occurrence" form providing equivalent coverage, providing broad form comprehensive general liability coverage, blanket contractual liability coverage, coverage for bodily injury (including death), property damage (including loss of use thereof), products and completed operations with an authorized insurance company with a rating of A X in a minimum amount of One Million Dollars (\$1,000,000) per occurrence. The company must be named the insured and the sole company shall name the owner of the property, ERP Operating limited Partnership, Equity Residential, Equity Residential Management, LLC., and their affiliates and agents (collectively, the "Lessor Entities") as additional insureds under the required policy. In the alternative, the company may purchase renters liability insurance for the Premises from an insurance company of the company's choosing or through the program made available to residents at the Community through Residential Insurance Agency, LLC. If the company elects to purchase such renters liability insurance through a company other than Residential Insurance Agency, LLC, the company must name the Community as an Interested Party under the policy. In any event, the company must, on or before the commencement date of the lease, deliver to us a certificate of insurance evidencing the coverage provided, and provide replacement certificates fifteen (15) days prior to the expiration of any required coverage. Except where prohibited by law, if the company fails to obtain and maintain the insurance as required by this paragraph, the company will be in violation of the Lease. In such event, we will send a written notice to the company demanding that it cure the violation by procuring the insurance and supplying evidence of coverage to us. If the company fails to supply evidence of such insurance to us on or before the date set forth in our notice, we may procure such insurance on the company's behalf and charge the company for the amount of the premium paid to the insurance company, not to exceed \$150.00 per year, along with an administrative fee of \$40.00. The company agrees that this administrative fee is a liquidated damages provision and that such amount is a fair and reasonable estimate of the administrative costs we will incur as a result of procuring the liability insurance coverage for the company. The premium payment made by us on the company's behalf, and the administrative fee we charge to procure the insurance for the company, will be considered additional rent. If the company fails to pay for the liability insurance and/or the company allows the expiration or cancellation of any liability insurance policy during the company's tenancy, without substitute insurance being put in place, this will be considered a default under the Lease.

26. **Default Remedies:** If you fail to perform any of your obligations under this Lease, we may exercise all of our rights under this Lease, at law or in equity. This may include giving you notice to correct or cure such default, taking action to recover possession of the Premises via the eviction process or otherwise, and/or terminating the Lease, all in accordance with applicable law. In addition, we can recover from you all damages, costs and expenses, including, among other things, damage to the Premises, cleaning and trash removal charges, delinquent Total Monthly Rent and additional rent (described in the Rent paragraph above) such as utilities, late fees, and returned item fees. If you terminate your Lease early, skip or are evicted, we can also recover early termination rent for the time it takes for a new resident to move in or until the end of your current Lease term, whichever comes first. In cases where the default is due to non-payment of rent, you hereby expressly waive the right to receive from us a 30 day notice of such payment-related lease violation, and the Lease is hereby terminated. If the Lease is terminated early, you must also repay us a portion of the concessions you received as described in the Lease Concessions paragraph above. In all cases, we reserve the right to report your payment history, outstanding balances, returned item fees, late fees, defaults, and *other* payment-related activity to consumer reporting agencies who track such information.

27. **Abandoned Property:** You understand that if *you* leave personal property in the Premises after you move-out or if you put your property in areas of the Community that are not designated for your use, we can determine that such property has been abandoned and we can take steps to remove or dispose of the property consistent with applicable laws.

28. **Notices:** All notices that we provide to you will be considered delivered when we put them in the U.S. Mail and send them via first class or certified mail; when we personally hand them to you or someone else who is living in the Premises, or when we leave them in the Premises when no one is home by attaching them to the outside of the door. All notices from you will be considered delivered when you put them in the U.S. Mail addressed to the management office and send them via first class or certified mail, or when you personally deliver them to one of our employees at the management office during normal business hours. By providing us with your e-mail address and cell phone number, you agree that we may communicate with you from time to time via e-mail, telephone calls and/or text messages (message and data rates may apply). By entering into this Lease, you expressly authorize us to contact you in such manners. If you wish to opt out of receiving e-mail communications, please unsubscribe using the link at the bottom of the emails. If you wish to opt out of receiving text messages, please following the instructions at the end of the text. If you wish to opt out of receiving calls to your cell phone, please make that election by notifying the management office. The person designated as the on-site manager for the Community is the person authorized to act on our behalf in connection with this Lease. More formal notices, including service of process, can also be made by serving our registered service agent. In addition to U.S. mail and personal delivery options, lease renewal offers may be delivered to you via e-mail, text message and/or via a link to our resident website, My.EquityApartments.com.

29. **Liability:** To the maximum extent permitted by law, you agree that you will look solely to the owner's interest in the Community for the recovery of any judgment against us and that the owner, the management company, and any of their related and affiliated entities (and any of their officers, directors, trustees, employees, partners, shareholders, insurers, agents and representatives) will never be personally liable for such judgment. Except to the extent prohibited by law, we will not be liable for any damage, loss or injury to persons or property occurring in the Premises or in other areas of the Community. To the fullest extent permitted by law, you agree to hold us harmless and to indemnify us from any such liability or claim.

30. **Fire and Casualty:** If the Premises are damaged due to fire, explosion, casualty or any other health/safety issue which is not a result of your negligence or intentional conduct (or the negligence or intentional conduct of any person living in the Premises or any guest of such person), we may elect, in our sole discretion, to repair or re-build the Premises. Rent shall remain due and owing unless we, in our sole discretion, determine that the Premises or the building is uninhabitable. No penalty shall accrue against us for any reasonable delay in repairing the Premises by reason of adjustment of insurance proceeds, labor disputes, or any other cause beyond our reasonable control. If you are unable to live in the Premises while we conduct the repairs, your rent will be abated during the timeframe the repairs are being conducted. However, if we provide alternative accommodations at our expense during such repair, the rent will not be abated. Finally, if the damage to the Premises is caused by your negligence or intentional conduct (or the negligence or intentional conduct of any person living in the Premises or any guest), the rent for the Premises will not be abated, you will be responsible for paying rent on the Premises and for any costs we incur to repair the damage, and we will not provide alternative accommodations to you. If we elect to not repair the Premises or if the Premises are substantially or totally destroyed, we may elect to terminate this Lease.

31. **Waivers:** Our failure to insist upon strict compliance with the terms of this Lease or any delay by us in enforcing your obligations under the Lease will not constitute a waiver of our right to act on other breaches or to make demands on you to perform. Your obligation to pay rent during the Lease term or during your continued occupancy of the Premises will continue notwithstanding our issuance of any notice, demand for possession, notice of termination of tenancy, institution of any action or forcible detainer, or any other act which might result in the termination of your right to live in the Premises. Unless otherwise restricted by applicable law, our acceptance of rent from you after it falls due or after knowledge of your breach of any obligations under this Lease is not a waiver of our rights under this Lease nor is it an election to not proceed under any provision of this Lease or the law.

32. **Severability:** If any provision of this Lease is determined to be illegal, invalid, or unenforceable under present or future laws which are in effect during the Lease term, then, we will substitute similar provisions or language that will make such clause or provision legal, valid, and enforceable. If substitute provisions are not available, then the illegal or unenforceable provision shall be removed from the Lease, but the remaining provisions in the Lease shall remain intact.

33. [Intentionally Omitted]

34. **Laws Governing this Lease/Venue:** This Lease shall be governed by the laws of the state in which the Community is located, and all legal action arising from this Lease shall be tried in the county where the Community is located.

35. **Written Agreement:** This Lease, which includes the Term Sheet, these Terms and Conditions, the Resident Handbook and Community Policies, the Move-In/Move-Out Inspection Form, and all Lease addenda or other agreements that may be referenced on the Term Sheet or attached hereto, contains our entire agreement. We both acknowledge that there are no oral understandings between us, and neither of us have relied on any representations, express or implied, that are not contained in this Lease.

36. **Joint and Several Liability:** Each resident, including all co-residents, is jointly and severally liable for each and every provision of this Lease.

37. **General:** You confirm that you are of legal age to enter into a binding Lease for lodging.

## **DISTRICT OF COLUMBIA REQUIREMENTS AND DISCLOSURES ADDENDUM**

This District of Columbia Requirements and Disclosures Addendum ("Addendum") is dated and effective as of the date on the Residential Lease - Term Sheet (the Term Sheet) to which this Addendum is attached and made a part of (the "Lease") and is made by and between Lessor and Resident for the Premises at the Community identified in the Lease.

Pursuant to Title 14 of the District of Columbia Municipal Regulations, we are required to provide you with notice of certain **housing code provisions, as follows:**

### **300 NOTICE TO TENANTS OF HOUSING CODE PROVISIONS**

300.1 The owner of each habitation shall provide to each existing tenant and shall at the commencement of any tenancy provide to the tenant, a copy of the provisions of this chapter and a copy of the following sections of chapter 1 of this subtitle:

- (a) Chapter 1, § 101 (Civil Enforcement Policy); and
- (b) Chapter 1, § 106 (Notification of Tenants Concerning Violations).

**AUTHORITY:** Unless otherwise noted, the authority for this chapter is contained at paragraphs 28 and 46 of section 7 of An Act Making appropriations to provide for the expenses of the government of the District of Columbia for the fiscal year ending June thirtieth, nineteen hundred and three, and for other purposes ("Act of 1902"), Public, No. 218.32 Stat 590, approved July 1, 1902, as amended by An Act approved July 1, 1932 to amend section 7 [of the Act of 1902], Public, No. 237, 47 Stat 550; and An Act approved July 22, 1947, Public Law 215, 61 Stat. 402.

**SOURCE:** The Housing Regulations of the District of Columbia, 5G DCRR § 2904, Commissioners' Order 55-1503 (August 11, 1955).

### **301 IMPLIED WARRANTY AND OTHER REMEDIES**

301.1 There shall be deemed to be included in the terms of any lease or rental agreement covering a habitation an implied warranty that the owner will maintain the premises in compliance with this subtitle.

301.2 The rights, remedies, and duties set forth in this chapter shall not be deemed to be exclusive of one another unless expressly so declared or to preclude a court of law from determining that practices, acts, lease provisions and other matters not specifically dealt with in this chapter are contrary to public policy or unconscionable or otherwise unlawful.

**SOURCE:** The Housing Regulations of the District of Columbia, 5G DCRR §§ 2902, 2913, Commissioners' Order 55-1503 (August 11, 1955).

### **302 VOIDING LEASE FOR VIOLATION OF REGULATIONS**

302.1 The leasing of any habitation which, at the beginning of the tenancy, is unsafe or unsanitary due to violations of this subtitle in that habitation or in the common space of the premises (whether or not those violations are the subject of a notice issued under this subtitle) of which the owner has knowledge or reasonably should have knowledge, shall render void the lease or rental agreement for the habitation.

302.2 After the beginning of the tenancy, if the habitation becomes unsafe or unsanitary due to violations of this subtitle in that habitation or in the common space of the premises (whether or not the violations are the subject of a notice issued under this subtitle), the lease or rental agreement for the habitation shall be rendered void if both of the following apply:

(a) The violations did not result from the intentional acts or negligence of the tenant or his or her invitees; and

(b) The violations are not corrected within the time allowed for correction under a notice issued under this subtitle (or, if a notice has not been issued, within a reasonable time after the owner has knowledge or reasonably should have knowledge of the violations).

**SOURCE:** The Housing Regulations of the District of Columbia, 5G DCRR § 2902, Commissioners' Order 55-1503 (August 11, 1955).

### **303 SIGNED COPIES OF AGREEMENTS AND APPLICATIONS**

303.1 In each lease or rental of a habitation entered into after June 12, 1970, the owner shall provide to the tenant upon execution (or within seven (7) days after execution) an exact, legible, completed copy of any agreement or application which the tenant has signed.

303.2 This section shall not be subject to any notice requirement of this subtitle.

**SOURCE:** The Housing Regulations of the District of Columbia, 5G DCRR § 2905, Commissioners' Order 55-1503 (August 11, 1955).

### **304 PROHIBITED WAIVER CLAUSES IN LEASE AGREEMENTS**

304.1 Any provision of any lease or agreement contrary to, or providing for a waiver of, the terms of this chapter, or § 101 or § 106 of chapter 1, shall be void and unenforceable.

304.2 No person shall cause any of the provisions prohibited by this section to be included in a lease or agreement respecting the use of the property in the District of Columbia, or demand that any person sign a lease or agreement containing any such provision.

304.3 No owner shall cause to be placed in a lease or rental agreement any provision exempting the owner or premises from liability or limiting the liability of the owner or the residential premises from damages for injuries to persons or property caused by or resulting from the negligence of the owner (or the owner's agents, servants, or employees) in the operation, care, or maintenance of the leased premises, or any facility upon or portion of the property of which the leased premises are a part.

304.4 No owner shall place (or cause to be placed) in a lease or rental agreement a provision waiving the right of a tenant of residential premises to a jury trial, or requiring that the tenant pay the owner's court costs or legal fees, or authorizing a person other than the tenant to confess judgment against a tenant. This subsection shall not preclude a court from assessing court or legal fees against a tenant in appropriate circumstances.

304.5 The provisions of this section shall not be subject to any notice requirement of this subtitle.

**SOURCE:** The Housing Regulations of the District of Columbia, 5G DCRR §§ 2906, 2907, and 2912, Commissioners' Order 55-1503 (August 11, 1955).

### **305 INSPECTION OF PREMISES AFTER BREACH OF WARRANTY OR VOIDED LEASE**

305.1 Following a judicial determination that the owner has breached the implied warranty of habitability applying to the premises (under § 301 of this chapter), or following a judicial determination that a lease or rental agreement is void, the owner shall obtain a certificate from the Director that the habitation is in compliance with this subtitle prior to the next reletting of the habitation.

SOURCE: The Housing Regulations of the District of Columbia, 5G DCRR § 2911, Commissioners' Order 55-1503 (August 11, 1955).

### **306 WRITTEN RECEIPTS FOR PAYMENTS BY TENANT**

**306.1** In each lease or rental of a habitation, the owner shall provide written receipts for all monies paid to him or her by the tenant as rent, security, or otherwise, unless the payment is made by personal check.

**306.2** Each receipt issued under this section shall state the following:

- (a) The exact amount received;
- (b) The date the monies are received; and
- (c) The purpose of the payment.

**306.3** Each receipt shall also state any amounts still due which are attributable to late charges, court costs, or any other such charge in excess of rent.

**306.4** If payment is made by personal check, and there is a balance still due which is attributable to late charges, court costs, or any other such charge in excess of rent, the owner shall provide a receipt stating the nature of the charges and the amount due.

**306.5** The provisions of this section shall not be subject to any notice requirement of this subtitle.

SOURCE: The Housing Regulations of the District of Columbia, 5G DCRR § 2909, Commissioners' Order 55-1503 (August 11, 1955).

### **307 PROHIBITION OF RETALIATORY ACTS AGAINST TENANTS**

**307.1** No action or proceeding to recover possession of a habitation may be brought against a tenant, nor shall an owner otherwise cause a tenant to quit a habitation involuntarily, in retaliation for any of the tenant's actions listed in § 307.3.

**307.2** No demand for an increase in rent from the tenant, nor decrease in the services to which the tenant has been entitled, nor increase in the obligations of a tenant shall be made in retaliation against a tenant for any of the tenant's actions listed in § 307.3.

**307.3** This section prohibits the taking of any of the actions set forth in this section in retaliation against the tenant for any of the following actions by a tenant:

- (a) A good faith complaint or report concerning housing deficiencies made to the owner or a governmental authority, directly by the tenant or through a tenant organization;
- (b) The good faith organization of a tenant organization or membership in a tenant organization;
- (c) The good faith assertion of rights under this subtitle, including rights under §§ 301 and 302 of this chapter, or § 101 of chapter 1.

SOURCE: The Housing Regulations of the District of Columbia, 5G DCRR § 2910, Commissioners' Order 55-1503 (August 11, 1955).

### **308 SECURITY DEPOSITS**

**308.1** For purposes of this chapter, the term "security deposit" shall mean all monies paid to the owner by the tenant as a deposit or other payment made as security for performance of the tenant's obligations in a lease or rental of the property.

**308.2** On or after February 20, 1976, any security deposit or other payment required by an owner as security for performance of the tenant's obligations in a lease or rental of a dwelling unit shall not exceed an amount equivalent to the first full month's rent charged that tenant for the dwelling unit, and shall be charged only once by the owner to the tenant.

**308.3** All monies paid to an owner by tenants for security deposits or other payment made as security for performance of the tenant's obligations shall be deposited by the owner in an interest bearing escrow account established and held in trust in a financial institution in the District of Columbia insured by a federal or state agency for the sole purposes of holding such deposits or payments.

**308.4** All monies held by an owner on February 20, 1976 for security deposits or other payments covered by this section shall be paid into an escrow account within thirty (30) days.

**308.5** The owner of more than one residential building may establish one (1) escrow account for holding security deposits or other payments by the tenants of those buildings.

**308.6** For each security deposit or other payment covered by this section, the owner shall clearly state in the lease or agreement or on the receipt for the deposit or other payment the terms and conditions under which the payment was made.

**308.7** The housing provider shall post in the lobby of the building and rental office at the end of each calendar year, the following information: Where the tenants' security deposits are held and what the prevailing rate was for each six-month (6) period over the past year. At the end of a tenant's tenancy, the housing provider shall list for the tenant the interest rate for each six month period during the tenancy.

**308.8** The provisions of this section shall not be applicable to Federal or District of Columbia agencies' dwelling units leased in the District of Columbia or to units for which rents are Federally subsidized.

SOURCE: The Housing Regulations of the District of Columbia, 5G DCRR § 2908, Commissioners' Order 55-1503 (August 11, 1955); as amended by: section 3 of the Security Deposit Act, D.C. Law 1-48, 22 DCR 2823 (November 28, 1975); and section 2 of the Adjustment of Interest Rates Paid on Rental Security Deposits Amendment Act of 1992, D.C. Law 9-212, §§ 2908.1(b) and 2908.5, 40 DCR 2204 (March 17, 1993), incorporating by reference the text of D.C. Act 9-341, 40 DCR 23 (December 21, 1992).

### **309 REPAYMENT OF SECURITY DEPOSITS TO TENANTS**

**309.1** Within forty-five (45) days after the termination of the tenancy, the owner shall do one of the following:

(a) Tender payment to the tenant, without demand, any security deposit and any similar payment paid by the tenant as a condition of tenancy in addition to the stipulated rent, and any interest due the tenant on that deposit or payment as provided in § 311; or

(b) Notify the tenant in writing, to be delivered to the tenant personally or by certified mail at the tenant's last known address, of the owner's intention to withhold and apply the monies toward defraying the cost of expenses properly incurred under the terms and conditions of the security deposit agreement.

**309.2** The owner, within thirty (30) days after notification to the tenant pursuant to the requirement of § 309.1(b), shall tender a refund of the balance of the deposit or payment,

including interest not used to defray such expenses, and at the same time give the tenant an itemized statement of the repairs and other uses to which the monies were applied and the cost of each repair or other use.

309.3 Failure by the owner to comply with § 309.1 and § 309.2 of this section shall constitute *prima facie* evidence that the tenant is entitled to full return, including interest as provided in § 311, of any deposit or other payment made by the tenant as security for performance of his or her obligations or as a condition of tenancy, in addition to the stipulated rent.

309.4 Failure by the owner to serve the tenant personally or by certified mail, after good faith effort to do so, shall not constitute a failure by the owner to comply with § 309.1 and

309.5 Any housing provider violating the provisions of this chapter by failing to return a security deposit rightfully owed to a tenant in accordance with the requirements of this chapter shall be liable for the amount of the deposit withheld, or in the event of bad faith, for treble that amount.

309.6 For the purposes of § 309.5, the term "bad faith" means any frivolous or unfounded refusal to return a security deposit, as required by law, that is motivated by a fraudulent, deceptive, misleading, dishonest, or unreasonably self-serving purpose and not by simple negligence, bad judgment, or an honest belief in the course of action taken.

**SOURCE:** The Housing Regulations of the District of Columbia, 5G DCRR § 2908, Commissioners' Order 55-1503 (August 11, 1955); as amended by: section 3 of the Security Deposit Act, D.C. Law 1-48, 22 DCR 2823 (November 28, 1975); and section 2 of the Unitary Rent Ceiling Adjustment Amendment Act of 1992, D.C. Law 9-191, §§ 2908.6 and 2908.7, 40 DCR 2184 (April 2, 1993).

### **310 RETURN OF SECURITY DEPOSIT: INSPECTION OF PREMISES**

310.1 In order to determine the amount of the security deposit or Other payment to be returned to the tenant, the owner may inspect the dwelling unit within three (3) days, excluding Saturdays, Sundays, and holidays, before or after the termination of the tenancy.

310.2 The owner shall conduct the inspection, if the inspection is to be conducted, at the time and place of which notice is given to the tenant.

310.3 The owner shall notify the tenant in writing of the time and date of the inspection.

310.4 The notice of inspection shall be delivered to the tenant, or at the dwelling unit in question, at least ten (10) days before the date of the intended inspection.

**SOURCE:** The Housing Regulations of the District of Columbia, 5G DCRR § 2908, Commissioners' Order 55-1503 (August 11, 1955); as amended by section 3 of the Security Deposit Act, D.C. Law 1-48, 22 DCR 2823 (November 28, 1975).

### **311 INTEREST ON SECURITY DEPOSIT ESCROW ACCOUNTS**

311.1 The interest in the escrow account described in § 309 on all money paid by the tenant prior to or during the tenancy as a security deposit, decorating fee, or similar deposit or fee, shall commence on the date the money is actually paid by the tenant, or within thirty (30) days after February 20, 1976, whichever is later, and shall accrue at the passbook rate then prevailing on January 1st and on July 1st for each six (6) month period (or part thereof) of the tenancy which Mows those dates. On those dates, the passbook rate in the District of Columbia financial institution in which the escrow account is held shall be used.

311.2 Interest on an escrow account shall be due and payable by the owner to the tenant upon termination of any tenancy of a duration of twelve (12) months or more, unless an amount is deducted under procedures set forth in § 309.

311.3 Except in cases where no interest is paid to the tenant as provided in § 311.2, no interest or other consideration shall inure to the benefit of the owner by reason of the owner's control over the escrow account nor shall the account be assigned or used as security for loans.

311.4 It is the intent of this section that the account referred to in this section and § 309 shall be used solely for the purpose of securing the lessees' performance under the lease.

311.5 This section and § 309 and § 310 shall not be subject to the notice requirements of any other section of this subtitle.

**SOURCE:** The Housing Regulations of the District of Columbia, 5G DCRR § 2908, Commissioners' Order 55-1503 (August 11, 1955); as amended by: section 3 of the Security Deposit Act, D.C. Law 1-48, 22 DCR 2823 (November 28, 1975); and section 2 of the Adjustment of Interest Rates Paid on Rental Security Deposits Amendment Act of 1992, D.C. Law 9-212, § 2908.4(a), 40 DCR 2204 (March 17, 1993), incorporating by reference the text of D.C. Act 9-341, 40 DCR 23 (December 21, 1992).

### **312 - 314 [RESERVED]**

### **315 NOTIFICATION REQUIRED**

315.1 Prior to the acceptance of a nonrefundable application fee or security deposit, the owner of the habitation shall provide written notice of any requests that are pending for an adjustment in the rent ceiling of the habitation, as the adjustments are specifically enumerated in section 207 of the Rental Housing Act of 1985, D.C. Law 6-10, D.C. Official Code § 42-3502.07 (2001).

315.2 The notification shall include the current rent ceiling, the new rent ceiling requested in the petition, the petition filing date and petition number, and the nature of any repairs or rehabilitation planned in the dwelling unit as part of the petition.

315.3 A violation of this section shall be a Class 2 civil infraction pursuant to Titles I-III of the Department of Consumer and Regulatory Affairs Infractions Act of 1985. Adjudication of any infraction of this article shall be pursuant to titles I-III of the Department of Consumer and Regulatory Affairs Civil Infractions Act of 1985.

**SOURCE:** Section 2 of the Rent Ceiling Adjustment Notification Amendment Act of 1992, D.C. Law 9-79, §§ 2915.1 through 2915.3, 39 DCR 673 (February 7, 1992).

### **399 DEFINITIONS**

399.1 The provisions of section 199 of chapter 1 of this title and the definitions set forth in that section shall be applicable to this chapter.

### **101 CIVIL ENFORCEMENT POLICY**

101.1 The maintenance of leased or rental habitations in violation of the provisions of this subtitle, where those violations constitute a danger to the health, welfare, or safety of the occupants, is declared to be a public nuisance.

101.2 The abatement of the public nuisances referred to in subsection 101.1 by criminal prosecution or by compulsory repair, condemnation, and demolition alone has been and continues to be inadequate.

101.3 The public nuisances referred to in subsection 101.1 additionally cause specific, immediate, irreparable and continuing harm to the occupants of these habitations.



101.4 The public nuisances referred to in subsection 101.1 damage the quality of life and the mental development and well-being of the occupants, as well as their physical health and personal property, and this harm cannot be fully compensated for by an action for damages, rescission or equitable set-off for the reduction in rental value of the premises.

101.5 It is the purpose of this section to declare expressly a public policy in favor of speedy abatement of the public nuisances referred to in subsection 101.1, if necessary, by preliminary and permanent injunction issued by Courts of competent jurisdiction.

**SOURCE:** The Housing Regulations of the District of Columbia, 5G DCRR § 2901, Commissioners' Order 55-1503 (August 11, 1955).

## 106 **NOTIFICATION OF TENANTS CONCERNING VIOLATIONS**

106.1 After an inspection of a habitation, the Director shall provide the tenant of the habitation a copy of any notification with respect to that habitation issued to the owner pursuant to this subtitle.

106.2 The notification to the tenant shall state plainly and conspicuously that it is only for the tenant's information; provided, that if the notice places duties on the tenant, it shall state those duties.

106.3 In any instance where a violation of this subtitle directly involves more than one habitation, the Director shall post a copy of any notification issued to the owner pursuant to this chapter for a reasonable time in one or more locations within the building or buildings in which the deficiency exists. The locations for posting the notification shall be reasonably selected to give notice to all tenants affected.

106.4 No person shall alter, modify, destroy, or otherwise tamper with or mutilate a notification posted under this section.

106.5 Any tenant directly affected by the violation(s) shall, upon request to the Director, be sent a copy of the posted notification.

106.6 This section shall not be subject to any notice requirement of this subtitle.

**SOURCE:** The Housing Regulations of the District of Columbia, 5G DCRR § 2903(b), Commissioners' Order 55-1503 (August 11, 1955).

**CONSTRUCTION AND REHAB ADDENDUM**

This Construction and Rehab Addendum ("Addendum") is dated effective as of the date on the Residential Lease - Term Sheet (the "Term Sheet") to which this Addendum is attached and made a part of (the "Lease") and is made by and between Lessor and Resident for the Premises at the Community identified in the Lease.

We are anticipating the possibility of undertaking major construction at the Community during the term of your Lease. You acknowledge that you may, from time to time, be inconvenienced by the noise and activity that generally accompanies such construction activities. This Addendum is intended to put you on notice of such potential construction activity; however, nothing in this Addendum is intended to be a waiver of either party's rights or obligations under the Lease.

**CONCESSION ADDENDUM**  
**(D.C. Rent Control Properties Only)**

This Concession Addendum ("Addendum") is dated and effective as of the date on the Residential Lease - Term Sheet (the "Term Sheet") to which this Addendum is attached and made a part of (the "Lease") and is made by and between Lessor and Resident for the Premises at the Community identified in the Lease.

You have been granted a monthly recurring concession as reflected on the Term Sheet. The monthly recurring concession will expire and be of no further force and effect as of the Expiration Date shown on the Term Sheet.

Consistent with the provisions of the Rental Housing Act of 1985 (DC Law 6-10) as amended (the Act), we reserve the right to increase your rent once each year. In doing so, we will deliver to you a "Housing Provider's Notice to Tenants of Adjustment in Rent Charged," which will reflect the "new rent charged." If you allow your Lease to roll on a month to month basis after the Expiration Date, your monthly rent will be the "new rent charged" amount that is reflected on the Housing Provider's Notice.

It is understood and agreed by all parties that the monthly recurring concession is being given to you as an inducement to enter into the Lease. You acknowledge and agree that you have read and understand the Lease Concessions provision contained in the Terms and Conditions of your Lease.

Any term that is capitalized but not defined in this Addendum that is capitalized and defined in the Lease shall have the same meaning for purposes of this Addendum as it has for purposes of the Lease.

# EXHIBIT 2

CONCESSION ADDENDUM  
**(D.C. Rent Control Properties Only)**

This Concession Addendum ("Addendum") is dated and effective as of the date on the Residential Lease - Term Sheet (the "Term Sheet") to which this Addendum is attached and made a part of (the "Lease") and is made by and between Lessor and Resident for the Premises at the Community identified in the Lease.

You have been granted a monthly recurring concession as reflected on the Term Sheet. The monthly recurring concession will expire and be of no further force and effect as of the Expiration Date shown on the Term Sheet.

Consistent with the provisions of the Rental Housing Act of 1985 (DC Law 6-10) as amended (the Act), we reserve the right to increase your rent once each year. In doing so, we will deliver to you a "Housing Provider's Notice to Tenants of Adjustment in Rent Charged," which will reflect the "new rent charged." If you allow your Lease to roll on a month to month basis after the Expiration Date, your monthly rent will be the "new rent charged" amount that is reflected on the Housing Provider's Notice.

It is understood and agreed by all parties that the monthly recurring concession is being given to you as an inducement to enter into the Lease. You acknowledge and agree that you have read and understand the Lease Concessions provision contained in the Terms and Conditions of your Lease.

Any term that is capitalized but not defined in this Addendum that is capitalized and defined in the Lease shall have the same meaning for purposes of this Addendum as it has for purposes of the Lease.

# EXHIBIT 3

**RESIDENTIAL LEASE – TERM SHEET**



Lessor: Equity Residential Management, L.L.C.,  
as agent for the Owner

Community: Archstone Van Ness

Premises: W-1131

Address: 3003 Van Ness St. NW

Premises Address: 3003 Van Ness St NW #W1131  
Washington, DC, 20008

Washington, DC, 20008  
(202) 244-3100

Residents: Gabriel Fineman

Guarantor:

Occupants:

**LEASE TERM**

Commencement Date: 12/22/2014

Expiration Date: 12/21/2015

Renters<sup>®</sup> insurance Required: Yes

Lease Term Expiration: You must provide us With a written notice of your intent to vacate at least 60 days prior to your move-out date, if you fail to give the required notice and move out anyway, you will be charged insufficient notice rent for the number of days your notice is short. The insufficient notice rent shall be charged at toe per diem rental rate that is in effect on your move-out date.

Total Deposits Required: \$200.00

Total Monthly Rent: \$3274.00

(includes all monthly recurring charges listed below)

Charge Description	Amount	Charge Description	Amount	Charge Description	Amount
<b>Monthly Apartment Rent</b>	<b>3114.00</b>				
<b>Monthly Reserved Parking</b>	<b>180.00</b>				

Assigned Item Description

**Garage**

Concessions: Monthly Recurring Concession: \$945.00 /per month. Total Amount of One-Time/ Non-Recurring Concession: \$0.00 . Total Amount of Other Recurring Concessions: **\$0.00** . The Total Monthly Rent shown above will be adjusted by these lease concession amounts. if this Lease is terminated early, you may be required to pay us a portion of your concession as set forth in the Lease Concession paragraph of the Terms and Conditions.

Total Other Fees and Charges: \$0.00

(includes ail charges listed below)

Charge Description	Amount	Charge Description	Amount	Charge Description	Amount

	Type	Breed	Weight	UcenseiTag
Approved Pets				

For additional information regarding our pet policy, please refer to toe Resident Handbook and Community Policies.

Resident Account Number: 29819-W-1131-2

LESSOR PAYS UNCHECKED UTILITIES / RESIDENT PAYS CHECKED UTILITES

- Electricity:
- Gas/Heating Oil:
- Water:
- Sewer:
- Central Boiler:
- Cable: Direct billed by the provider. You pay the provider
- Garbage Removal:
- Internet: Direct billed by the provider. You pay the provider

Late Fees: Your rent is due on the 1st of each month. If we do not receive your rent and other recurring charges, in person before the close of business, or electronically by 11:59 pm local time\*, on day 5, you will be charged a late fee as follows:

15% on the 6th

\*Credit card or other payments made through our telephone service must be received by 4:59 pm central time.

Returned Item Fees: If your payment fails to clear the bank for any reason, you will be charged a returned item fee of \$40.00 per item.

Additional Lease Addenda
<b>Residential Lease - Terms and Conditions</b> <b>Requirements and Disclosures Addendum</b> <b>Construction and Rehab Addendum</b> <b>Concession Addendum</b>

By signing this Term Sheet, you acknowledge that each of the Additional Lease Addenda are attached to this term Sheet and are therefore made a part of the Lease. You further acknowledge that you have read and that you agree to all of the provisions set forth in this Term Sheet and the Additional Lease Addenda.

You also acknowledge that you have received, or will receive, (separate from this Lease) a copy of the Resident Handbook and Community Policies and a copy of the Move-In/Move-Out Inspection Form. You acknowledge and agree that the provisions contained in these two documents are incorporated into this Lease and that you will abide by the policies and procedures set forth in these documents.

You specifically acknowledge that this Lease contains provisions extending the Lease Term if you stay beyond the Expiration Date set forth on the first page of this Term Sheet or if you fail to provide timely written notice of your intent to vacate the Premises at least 60 days prior to the Expiration Date.

**READ THIS TERM SHEET BEFORE SIGNING**

Residents (ALL Residents must sign and date):

DocuSigned by:  
**Edrid fibUJHMT** 11/25/2014 Date \_\_\_\_\_ Date \_\_\_\_\_ Date \_\_\_\_\_  
DADD3D701C9044C...  
 Gabriel Fineman  
 \_\_\_\_\_ Date \_\_\_\_\_ Date \_\_\_\_\_ Date \_\_\_\_\_  
 \_\_\_\_\_ Date \_\_\_\_\_ Date \_\_\_\_\_ Date \_\_\_\_\_

Lessor: Equity Residential Management, L.L.C.,  
as agent for the Owner

By:  11/25/2014  
It's: Authorized Representative Date

Resident Account Number: 29819-W-1131-2



## RESIDENTIAL LEASE – TERMS AND CONDITIONS (District of Columbia – Rent Controlled Properties)

These Terms and Conditions are attached to and incorporated by reference into the Residential Lease - Term Sheet signed by Resident ("you") and Lessor ("us") with respect to your rental of the Premises identified on the Term Sheet. The Term Sheet, these Terms and Conditions, the Resident Handbook and Community Policies, the Move-In/Move-Out Inspection Form, and all Lease addenda or other agreements that may be referenced on the Term Sheet or attached hereto, make up the Lease. The party executing this Lease as the Lessor is Equity Residential Management, L.L.C., which is acting as the managing agent for the owner of the Community. Each person living in the Premises that is 18 years of age or older must sign the Lease as a resident. All others living in the Premises must be designated as occupants. Each person signing the Lease is jointly and severally liable for all of the various resident obligations under the Lease. That means that every individual resident, including all co-residents, is responsible for the entire rental amount and other obligations, *even if*, as roommates, you have made arrangements among yourselves to allocate the rent or other payments among yourselves.

**1. Lease Term/Month-to-Month Tenancy:** The term of this Lease is set forth in the Lease Term section of the Term Sheet. At the end of your Lease term, if you do not move out or, your Lease will automatically renew on a month-to-month basis. If you stay in the Premises on a month-to-month basis following the term of the Lease, you agree that we have the right to increase your rental rate once each year, on the anniversary of your Lease start date.

**2. Notice to Vacate/Early Termination:**

a. If you plan to move out of the Premises at any time during your Lease term, you must provide us with a written notice of your intent to vacate at least 60 days prior to your move-out date. Once you are in a month-to-month status, you must give 30 days' written notice prior to your move-out date. If you submit your notice to vacate and fail to move out on or before the notice date you provide to us, then, for each day you hold over, you will be charged holdover rent equal to two times your then-current per diem rental rate. If you fail to give the required notice and move out anyway, you will be charged insufficient notice rent for the number of days your notice is short. The insufficient notice rent shall be charged at the per diem rental rate that is in effect on your move-out date. If you move out without providing any notice at all, then, for the purposes of this paragraph, your move-out date will be considered to be your notice date.

b. You have no right to terminate your Lease prior to the end of your Lease term. If you terminate your Lease early, you will be in default under the Lease, and you will be responsible for paying early termination rent at fee per diem rental rate that is in effect on your move-out date until the earlier of (i) the end of your Lease term; or (ii) the date a new resident moves into the Premises. If we offer you an early termination settlement as an alternative to paying early termination rent, you must make the election to enter into the settlement at the time you are planning to move out early and pay fee early termination settlement amount before you vacate the Premises.

c. If you move out within the last 30 days of your Lease term, you will first be charged early termination rent through your Lease end date, with the balance of your notice requirement, if any, being charged as insufficient notice rent. In all cases where you are charged early termination rent or insufficient notice rent, if a new resident moves into the Premises during fee charge period, we will issue a credit to you for the number of days that the new resident was in possession of the Premises.

**3. Move-Out Obligations:** You will not be considered as having moved out, vacated and surrendered possession of the Premises until you have removed all of your personal belongings from the Premises and returned all keys, access cards and remotes to us by the date indicated in your Notice to Vacate. If you move out and fail to return all keys, access cards and remotes to us, you agree that your move-out date will be determined by us in our reasonable judgment, and that you will be charged for any keys, access cards and remotes that are not returned to us. When you move out, you must leave the Premises in substantially the same clean, undamaged, and ready-to-rent condition as existed when you took occupancy of the Premises, less ordinary wear and tear. You will be charged for replacement of any damaged or missing items, as well as all costs to clean or repair any portion of the Premises, carpeting, flooring, wall coverings, paint, counters, trim, window treatments, doors, windows, or appliances which are damaged, dirty, or unsanitary, and the removal of all trash and personal property from the Premises. Cleaning and repair of damage due to smoking of any kind are not considered ordinary wear and tear. In order to avoid being charged for cleaning carpets in the Premises after you move out, you must have the carpets professionally cleaned, as documented by a receipt you provide to us.

**4. Rent:** You agree to pay the amount shown in the Total Monthly Rent section of the Term Sheet and all additional rent (described below), in advance and without demand, on or before the first day of each calendar month. All fees and charges described on the Term Sheet or in this Lease, including, but not limited to, late charges, returned item fees and utility bills that are payable to us or to our utilities billing vendor, are "additional rent." Total Monthly Rent and additional rent are, together, referred to in this Lease as "rent." All rent must be paid in U.S. dollars and we reserve the right to require that payments be made in one lump sum, even if there are multiple residents listed on the Lease. We strongly encourage residents to use on-line or electronic payment methods. We may elect to centralize fee collection sites for non-electronic payments and/or require that all payments be made electronically. If we do so, we will notify you in writing of the requirement, and, in the case of centralized collections, the address to which you should send your payments, as well as the effective date for such change. If we designate an off-site receivables location, you agree that all rent and other payments directed to that location must be received at the designated location on or before the due date. We do not accept cash, third-party personal checks, or checks without a preprinted name and address of the account holder. If you pay by personal check, you are authorizing us to scan the check and convert it into a one-time electronic debit from the bank account against which the check was written. Unless prohibited by law, we reserve the right to refuse payments by personal check, automatic debit or other form of electronic payment if, for example, you have submitted previous checks or other payments to us that have failed to clear the bank. We are not required to re-deposit a dishonored check.

**5. Late Charges and Returned Item Fees:** You acknowledge that if we do not receive your rent or other lease-related charges on time, we will incur costs, the exact dollar amount of which is difficult or impracticable to determine. Such costs may include, among other things, lost use of funds, bank or other charges, costs incurred in connection with accounting for and attempting to collect late payments; collection expenses; and other administrative and accounting costs. As a result, if we do not receive your rent when it is due, we will assess late fees as described in the Late Fees section of the Term Sheet. Similarly, if any payment to us (electronic or otherwise) is returned or otherwise rejected by your financial institution for any reason, we will assess a returned item fee as described in the Returned Item Fees section of the Term Sheet, as well as all applicable late fees. The fees described in this paragraph are in addition to any other remedies we may have in the event of your default under the terms of this Lease.

**6. Application and Acceptance of Payments:** Unless we are prohibited from doing so by law, we will apply fee payments you make to us in the order of priority we determine, regardless of any notations that you make on checks, money orders or other forms of payment. We reserve the right to accept any amount less than the balance due at any given time and, if we do accept a lesser amount, such acceptance will not represent a waiver of

any right we have to pursue you for the outstanding balance. If you are consistently late with your rent payments, we reserve the right to terminate this Lease.

7. **Security Deposit:** Upon signing this Lease, you have agreed to give us deposits as set forth in the Total Deposits section of the Term Sheet. These Total Deposits are not prepaid rent, but, rather are a good faith deposit for your fulfillment of your Lease obligations, as well as a contingency against damages to the Premises. The Total Deposits will be deposited in an interest bearing account in a financial institution in the District of Columbia established for the sole purpose of holding such deposits. We will pay interest on the Total Deposits as required by the law of the District of Columbia. You are not entitled to apply any part of your Total Deposits against rent or other Lease obligations during the time you are occupying the Premises, nor will we use any part of the Total Deposits during your Lease Term to offset charges incurred during such timeframe. Consistent with the requirements of state law, after you move out, we will inspect the condition of the Premises, and charge, against your Total Deposits, for any damages, beyond ordinary wear and tear, excessive cleaning or trash removal charges, as well as any outstanding balances you owe us. If any balance remains after applying all such charges, we will refund it to you within 45 days from the date you vacate the Premises. If the move-out charges and/or other unpaid amounts remaining on your resident account at the time you move out exceed the amount of the Total Deposits, you agree to pay us the difference. We reserve the right to charge pre-judgment interest on any balance owing after you move out. Such interest will begin to accrue when the balance, if any, shown on the Statement of Deposit Account we issue to you is not paid within 30 days following the date set forth on the Statement of Deposit Account. The interest charged on the outstanding balance will not exceed the rate of 18% per annum or the highest rate allowed by law, whichever is less, and will be reflected on the Statement of Deposit Account that will be issued to you after you move out. We may inspect the Premises within three days (excluding Saturdays, Sundays and holidays) before or after the termination of your tenancy. If we conduct the inspection, we will notify you in writing of the time and date of the inspection at least ten days prior to the scheduled inspection. If there are multiple co-residents on this Lease, you agree that, at the time you provide notice to move out, you will (i) provide a forwarding address to us for receipt of the Statement of Deposit Account; and (ii) select one co-resident, who resides at the forwarding address, to receive the refund of any Total Deposits paid. You may also have the opportunity, upon providing an account number to us, to select to have your refund, if any, directly deposited into the bank account of the selected co-resident. If you fail to provide us with a forwarding address and co-resident designation, we will, within the timeframe required by state law, (i) make the refund check payable to all residents listed in the Lease, and (ii) mail the refund check to the address provided or, if no forwarding address is provided, we will mail the refund check to the Premises address for forwarding by the U.S. Postal Service.

8. **One-time Fees:** If you have paid other fees and charges as set forth in the Total other Fees and Charges section of the Term Sheet, you acknowledge and understand that such other fees and charges are not refundable, are not considered to be a security deposit or part of the Total Deposits, and will not be applied as a credit toward any amounts owing by you at the time you move out.

9. **Lease Concessions:** If you received a Lease concession, you must fulfill all of your obligations under this Lease for the entire Lease term. Any concession that is designated on the Term Sheet as a one-time or upfront concession must be applied first toward your rent during the first month of the initial term and to consecutive months thereafter until the balance of the concession credit reaches zero. If this Lease is terminated early, you must repay a prorata portion of the total Lease concessions you received based on the number of days remaining in your Lease term after you move out.

10. **Failure to Pay Deposits, Other Fees and Charges and First Month's Rent:** If you fail to pay any deposits, other fees and charges and the first month's rent (or a prorated amount if the first month is a partial month) prior to moving in, you will be in default under the Lease and we can refuse to give you possession of the Premises until you pay such amounts.

11. **Delay in Delivery of Possession:** You are responsible for paying rent effective with the Commencement Date shown in the Lease Term section of the Term Sheet. If we are unable to give you possession of the Premises on the Commencement Date, we will abate the rent until we are able to do so. You agree that you will not seek reimbursement from us for any cost incurred by the delay of possession, including, but not limited to, storage or temporary lodging. Subject to applicable law, if we fail to deliver the Premises to you within 30 days from the date promised, either you or we may terminate the Lease by providing written notice to the other. Requirements for us to make repairs or clean the Premises that do not affect your ability to occupy them will not constitute a delay or entitle you to a rent abatement. If we are unable to deliver the Premises but offer you comparable accommodations at no additional cost, you will not be entitled to a rent abatement.

12. **Rental Application and Resident Information Updates:** You have provided certain information in your Application for Rental that we have relied on in connection with renting the Premises to you. You agree to promptly notify us if any of the information you provided changes. If any of the information you provided to us on your Application or in any subsequent updates is materially false, incomplete or misleading, or if you fail to notify us of any change or if you fail to update your information, you will be in default of your obligations under this Lease, you will be in default of your obligations under this Lease.

13. **Disclosure of Information:** To the extent permitted by applicable law, we may provide information about you, your co-residents, or any of your occupants to third parties such as law enforcement personnel, future landlords, mortgagees, attorneys, collection agencies, and consumer reporting agencies for law-enforcement, governmental, credit, rent payment history, or other business purposes. If we provide such information to third parties at your request, we reserve the right to charge an administrative fee for doing so. If you and your co-residents have a guarantor, we may, without notifying you, provide information to the guarantor.

14. **Utilities and Utility Cost Adjustments During the Lease Term:** You are responsible for paying for all of the utilities identified on the Term Sheet that are checked, and any utilities that we have not specifically agreed to pay. In some cases, the utility service will be provided to you by the utility company and you will pay the utility company directly. In other cases, your utility bill may be calculated based on a submeter reading, an allocation method, or a flat fee (as more fully described in the Utilities Addendum attached to this Lease), in which case you will receive a bill for such utilities from our billing vendor and you will either pay us directly or send your payments to our billing vendor. The Utilities section of the Term Sheet identifies which utility bills are to be billed by and paid directly to the utility company and which utility bills are to be billed by our billing vendor and either paid to us directly or, in some cases, sent to our billing vendor. Amounts due for utility services that are billed by our billing vendor are considered additional rent, irrespective of whether you pay us directly or whether our billing vendor collects such amounts on our behalf. In all cases, your failure to pay the utilities in full when due shall be considered a default under the Lease. You will not allow utilities that are in your name to be disconnected for non-payment or any other reason. If you do not connect the utilities as of your Lease start date or, if you disconnect the utilities early before moving out, and the utilities remain in our name during such timeframes, we will bill you for the utility charges incurred for the days you were in possession of or living in the Premises, along with an administrative fee of \$50.00 for each utility bill we process on your behalf. You agree that this administrative fee is a liquidated damages provision and that such amount is a fair and reasonable estimate of the administrative costs we incur as a result of paying these bills on your behalf. Because many utilities have long billing cycles, we may not have the actual utility bill in hand at the time we process your move out charges. In that circumstance, we reserve the right to estimate the utility charges for you based on typical or average consumption. We make no representation or warranty with respect to the amount of any estimated or actual utility costs associated with the provision of utility services to the Premises or the Community. **To the extent we make a request** Of you in connection with any analysis of overall utility consumption at the Community, you authorize us,

as your agent, to request and receive copies of your utility billing records directly from the utility provider. You acknowledge that we cannot be held responsible for any outages, interruptions or fluctuations in utility service that are provided to the Premises, and that you have no right to claim constructive eviction or to receive any offset or reduction of rent or diminished rental value of the Premises as a result of any such outages, interruptions, or fluctuations.

**15. Right to Enter:** Subject to notice requirements imposed by applicable law, we and our employees and agents may enter the Premises during reasonable hours for inspections, maintenance, repairs and pest control procedures. We also reserve the right to enter the Premises at any time in the event of an emergency, to check for abandonment, or to abate a nuisance. If you submit a service request to us, such request for sendee will constitute your permission for us to enter the Premises to do the requested work. You authorize us, in the event of your death or incapacity, to grant access to the Premises and the contents therein to the individual named in the emergency contact section of your Application for Rental or otherwise named by you in connection with updating your resident information. Once we grant access to such person, he/she may remove all personal property from the Premises and dispose of it in accordance with applicable law. You hereby release and discharge us from any liability, claim or damages arising out of or in connection with our granting such access to the person you named. Assuming you have submitted a notice to vacate to us, we may, during the last 30 days of your tenancy and without advance notice to you, show the Premises to prospective new residents during normal business hours. If it is necessary for you to temporarily move out in order for us to exterminate or for other reasons, you agree to do so upon at least seven days' notice or on shorter notice as may be reasonable under the circumstances. If you are forced to temporarily move out for more than one day because of a duty, condition or event that is our responsibility under this Lease or by law and, if we do not make substitute accommodations available to you, we will abate your Total Monthly Rent for the period of time you are unable to occupy the Premises.

**16. Right to Exclude:** We reserve the right to exclude from the Community you and any of your occupants or guests who violate this lease or any of the Community's policies. We also reserve the right to exclude anyone who disturbs other residents or our employees and agents, as well as anyone we reasonably believe represents a potential threat to other residents or to our employees and agents. We may also exclude from the Community any person who refuses to show photo identification to us or to identify himself or herself as a resident, occupant or guest. We may deny you or any person access to the Premises, including by changing the locks, if any court or legal order restrains or bars you or such person from the Premises.

**17. Liens or Sales by Lessor:** This Lease is subject and subordinate to all present or future ground or underlying leases, loans, mortgages, deeds to secure debt or deeds of trust affecting the Premises and the Community which we or any subsequent owner of the Community may enter into. You hereby appoint us as attorney-in-fact to execute and deliver any and all necessary documents to evidence such subordination of the Lease. Foreclosure of any mortgage or any sale of the Community will not constitute a constructive eviction and, in the event of any such action, you will continue to pay your rent and perform your obligations under this Lease. Upon any foreclosure or sale, we will be released from all obligations under this Lease that accrue after the date of the foreclosure or sale and you will look solely to the then-current owner for the performance of Lessor's duties.

**18. Criminal Activity:** You agree that neither you, nor any of your occupants or guests will (i) engage in any criminal activity of any kind, including, without limitation, drug related criminal activity, prostitution or criminal street gang activity, on or near the Community, (ii) engage in any act intended to facilitate such criminal activity, (iii) use or permit the Premises to be used for, or to facilitate, any criminal activity, or (iv) engage in any acts of violence or intimidation or any threats of violence, verbal or otherwise, including, but not limited to, the discharge or brandishing of firearms or other weapons, on or near the Community or otherwise. For purposes of this section, "drug related criminal activity" includes, but is not limited to, the use of or the manufacture, sale, distribution, dispensation or possession with intent to manufacture, sell distribute, or dispense, marijuana or any other Controlled or Counterfeit Substance, as defined in the Controlled Substances Act (21 U.S.C. 802), as amended from time to time. One or more violations of the provisions of this paragraph will be considered a breach of the Lease and good cause for the immediate termination of your tenancy and your eviction from the Premises. Unless otherwise provided by law, proof of a violation of this paragraph shall not require criminal conviction, but may be based on our reasonable suspicion and a preponderance of the evidence. In addition, if you or any of your occupants have engaged in any criminal activity during the Lease term or otherwise, we may take action to terminate the Lease and pursue eviction-related remedies.

**19. Use and Occupancy:** The Premises are to be occupied and used solely as a private residence and by only those persons identified on the Term Sheet as residents and occupants. Conducting any kind of business in the Premises, or anywhere in the Community, is prohibited. However, a lawful business conducted "at home" by computer, mail or telephone is permissible if customers, clients, patients or other business associates do not come to the Premises for business purposes. The number of people living in the Premises is subject to applicable local occupancy standards. Only those residents and occupants identified on the Term Sheet and, subject to the Community's occupancy standards, children born or adopted during the Lease term, may occupy the Premises without our prior written consent. If someone stays with you for more than fourteen days (consecutive or otherwise) in any one month, we will consider such person to be an unauthorized occupant and, in order to allow such person to continue residing in the Premises, we must consent. If the person is age 18 or older, we may require him/her to complete an Application for Rental and pay an application fee. If we consent to such person's occupancy in the Premises, we also require that such person, unless he/she is a full-time student residing with a parent or guardian, be named on the Lease as resident. You agree to pay an administrative fee associated with the addition or replacement of co-residents. You further agree that this fee is a liquidated damages provision and that such amount is a fair and reasonable estimate of the administrative costs we incur as a result of your election to add or change co-residents. All co-residents who are added as residents to the Lease are accepting the Premises in as-is condition and are agreeing to be jointly and severally liable for the condition of the Premises. You are responsible for your conduct, as well as the conduct of your occupants and guests. You, your occupants and all guests will: (i) show due consideration for neighbors and not interfere with, disturb or threaten the rights, comfort, health, safety, convenience, quiet enjoyment and use of the Community for us, other residents and occupants and any of their guests, agents or invitees; (ii) not engage in abusive, threatening or harassing conduct toward us or any employees, agents or representatives or unreasonably interfere with our management of the Community; (iii) exercise reasonable care in the use of the Premises and maintain the Premises in a clean, safe and undamaged condition, ordinary wear and tear excepted; (iv) comply with all of the policies and procedures contained in the Resident Handbook and Community Policies we delivered to you via My.EquityApartments.COM or otherwise; and (v) comply with federal, state and local laws, regulations, statutes and ordinances which are applicable to the Premises and your tenancy. We reserve the right to be the sole judge of acceptable conduct and to determine the appropriate action necessary to deal with unacceptable conduct, including, but not limited to taking action to terminate the Lease and to pursue eviction-related remedies.

**20. Restrictions on Assignment and Subletting/Prohibition Against Short-Term Rentals:**

a. You may not assign this Lease or sublet the Premises without our prior written consent. If we do consent to any assignment or sublease, you will remain fully responsible and liable for the payment of the rent throughout the remainder of the Lease term.

b. The Premises are not to be used or occupied as a hotel. Under no circumstances are you to rent space in the Premises to occupants on a short-term basis (for a period of time less than 30 days), or for any short-term occupancy that may be governed by or prohibited by state or local laws, including, but not limited to, those applicable to transient housing, code violations or hotel taxes. You are specifically prohibited from advertising the Premises for rental by short-term or transient occupants on sites such as Airbnb, Craigslist, Expedia, Hotels.com or any other similar locator sites.

Should we become aware of any violation of these short-term stay provisions or incur any loss as a result of your violation of this provision, in addition to all other remedies we have under this Lease, you will indemnify us and assume full responsibility for any and all losses that we incur.

21. **Repair and Maintenance:** You confirm that you have inspected the Premises, found them in a clean, rentable, and undamaged condition (other than items listed in the Move-In/Move-Out Inspection Form that you completed or will complete), and that you accept the Premises in "as is" condition. If any part of the Premises is in need of maintenance or repair, you agree to notify us immediately. Damages and defects not itemized will be presumed to have first occurred during your occupancy of the Premises. You understand that you are responsible for keeping the Premises in a clean, sanitary and undamaged condition, ordinary wear and tear excepted. You are responsible for properly performing routine cleaning of all interior portions of the Premises. If you fail to keep the Premises clean (including, but not limited to eliminating dirt, filth, scum, grease, oil, mud, scuffs, holes, gouges, burns, stains, tears, cuts, rips, fleas, pests, foul scents or odors (including those relating to smoking), surface mold on caulking at the sinks, tub, shower and other locations, and other conditions which could have been avoided by careful use and routine cleaning), or if you, your occupants or any animals cause damage to the Premises in excess of ordinary wear and tear, you will be responsible for the costs to clean and/or repair such damage. Any such charges incurred during the Lease term will be considered additional rent.

22. **Fair Housing Accommodations/Modifications:** We are firmly committed to the principles of Fair Housing. If you or any person residing in the Premises, as a result of a disability, requires accommodations to our rules, policies, practices or services, or a physical modification to the Premises and/or the common areas of the Community in order to provide you or your occupants with equal opportunity to use and enjoy the Premises, you will notify us. If you require physical modifications to the Premises, we may require you to enter into a modification agreement identifying the modifications to be made and any restoration obligations you may have.

23. **Military Clause:**

a. If you become an active duty member of the United States Armed Forces during the Lease term, then, pursuant to the provisions of the Servicemembers Civil Relief Act ("SCRA") and other applicable laws, you may be released from your obligations under the Lease, without penalty, so long as you: (i) provide a copy of your official orders; (ii) provide at least 30 days' prior written notice of your anticipated move-out date; (iii) pay all outstanding balances and rent through your move-out date; and (iv) make satisfactory arrangements to pay all costs incurred by us to repair the damages caused by you, your occupants or guests, and pets, consistent with the Security Deposit paragraph above.

b. If you are an active duty member of the United States Armed Forces at the time you are signing this Lease, you affirm that the Lease end date does not extend beyond your anticipated discharge, retirement or release from the United States Armed Forces. Pursuant to the provisions of the SCRA and other applicable laws, you may be released from your obligations under the Lease, without penalty, so long as you: (i) provide a copy of your official permanent change-of-station orders or your official orders to deploy for a period of not less than 90 days; (ii) provide at least 30 days' written notice of your anticipated move-out date; (iii) pay all outstanding balances and rent through your move-out date; and (iv) make satisfactory arrangements to pay all costs incurred by us to repair the damages caused by you, your occupants or guests, and pets, consistent with the provisions of the Security Deposit paragraph above.

c. Notwithstanding the provisions of the Lease Concessions paragraph above, if you are exercising your right to terminate the Lease pursuant to the SCRA and this Military Clause paragraph, you will not be required to repay any portion of Lease concessions set forth on the Term Sheet. The release of any resident under this provision will not release any other resident or roommate unless the other resident is your spouse or dependent, as defined under the SCRA.

24. **Resident Insurance.** We strongly recommend that you secure a renters insurance policy covering your personal belongings, which also includes personal liability insurance covering your actions. Unless there is a prohibition imposed by affordability covenants or other restrictions applicable to the Premises, we require all residents to maintain a policy of liability insurance issued by an authorized insurance company that provides limits of liability in an amount of at least \$100,000 per occurrence. Unless the box labeled "Renters Insurance Required" on the Term Sheet is unchecked, you must furnish proof of insurance to us on or before the commencement date of the Lease and, assuming you enter into renewal leases with us, you must continue to provide evidence of coverage for all subsequent renewal terms. You can obtain such insurance through Residential Insurance Agency, LLC or through the insurance agent of your choice. If you select an insurance company other than Residential Insurance Agency, LLC, you must name the Community as an interested party under your policy. If you fail to pay for the liability insurance and/or you allow the expiration or cancellation of any liability insurance policy during your tenancy, without substitute insurance being put in place, this will be considered a default under the Lease.

25. **Corporate Units:** If the name in the Resident section of the Term Sheet is a company or business (and not an individual person), then the company assumes all responsibility for damage to the Premises and any loss incurred by us or any third party that is caused by any person living in the Premises. The company also agrees to indemnify us for all claims, damages, losses and expenses related in any way to the occupancy of the Premises. The company agrees to identify all persons living in the Premises and to provide written authorization to us to release keys, key cards, and/or access cards to such occupants. The company agrees to maintain, at its sole cost and expense, throughout the term of the Lease and any subsequent renewal terms, the following insurance: Commercial General Liability insurance on a form at least as broad as Insurance Services Office ("ISO") Commercial General Liability Coverage "occurrence" form CG 00 01 0196 or another ISO Commercial General Liability "occurrence" form providing equivalent coverage, providing broad form comprehensive general liability coverage, blanket contractual liability coverage, coverage for bodily injury (including death), property damage (including loss of use thereof), products and completed operations with an authorized insurance company with a rating of A X in a minimum amount of One Million Dollars (\$1,000,000) per occurrence. The company must be named the insured and the company shall name the owner of the property, ERP Operating Limited Partnership, Equity Residential, Equity Residential Management, L.L.C., and their affiliates and agents (collectively, the "Lessor Entities") as additional insureds under the required policy. In the alternative, the company may purchase renters liability insurance for the Premises from an insurance company of company's choosing or through the program made available to residents at the Community through Residential Insurance Agency, LLC. If company elects to purchase such renters liability insurance through a company other than Residential Insurance Agency, LLC, the company must name the Community as an Interested Party under the policy. In any event, the company must, on or before the commencement date of the lease, deliver to us a certificate of insurance evidencing the coverage provided, and provide replacement certificates fifteen (15) days prior to the expiration of any required coverage. Except where prohibited by law, if the company fails to obtain and maintain the insurance as required by this paragraph, the company will be in violation of the Lease. In such event, we will send a written notice to the company demanding that it cure the violation by procuring the insurance and supplying evidence of coverage to us. If the company fails to supply evidence of such insurance to us on or before the date set forth in our notice, we may procure such insurance on the company's behalf and charge the company for the amount of the premium paid to the insurance company, not to exceed \$150.00 per year, along with an administrative fee of \$40.00. The company agrees that this administrative fee is a liquidated damages provision and that such amount is a fair and reasonable estimate of the administrative costs we will incur as a result of procuring the liability insurance coverage for the company. The premium payment made by us on the company's behalf, and the administrative fee we charge to procure the insurance for the company, will be considered additional rent. If the company fails to pay for the liability insurance and/or the company allows the expiration or cancellation of any liability insurance policy during the company's tenancy, without substitute insurance being put in place, this will be considered a default under the Lease.

26. **Default Remedies:** If you fail to perform any of your obligations under this Lease, we may exercise all of our rights under this Lease, at law or in equity. This may include giving you notice to correct or cure such default, taking action to recover possession of the Premises via the eviction process or otherwise, and/or terminating the Lease, all in accordance with applicable law. In addition, we can recover from you all damages, costs and expenses, including, among other things, damage to the Premises, cleaning and trash removal charges, delinquent Total Monthly Rent and additional rent (described in the Rent paragraph above) such as utilities, late fees, and returned item fees. If you terminate your Lease early, skip or are evicted, we can also recover early termination rent for the time it takes for a new resident to move in or until the end of your current Lease term, whichever comes first. In cases where the default is due to non-payment of rent, you hereby expressly waive the right to receive from us a 30 day notice of such payment-related lease violation, and the Lease is hereby terminated. If the Lease is terminated early, you must also repay us a portion of the concessions you received as described in the Lease Concessions paragraph above. In all cases, we reserve the right to report your payment history, outstanding balances, returned item fees, late fees, defaults, and other payment-related activity to CONSUMER reporting agencies who track such information.

27. **Abandoned Property:** You understand that if you leave personal property in the Premises after you move-out or if you put your property in *areas* of the Community that are not designated for your use, we can determine that such property has been abandoned and we can take steps to remove or dispose of the property consistent with applicable laws.

28. **Notices:** All notices that we provide to you will be considered delivered when we put them in the U.S. Mail and send them via first class or certified mail; when we personally hand them to you or someone else who is living in the Premises, or when we leave them in the Premises when no one is home by attaching them to the outside of the door. All notices from you will be considered delivered when you put them in the U.S. Mail addressed to the management office and send them via first class or certified mail, or when you personally deliver them to one of our employees at the management office during normal business hours. By providing us with your e-mail address and cell phone number, you agree that we may communicate with you from time to time via e-mail, telephone calls and/or text messages (message and data rates may apply). By entering into this Lease, you expressly authorize us to contact you in such manners. If you wish to opt out of receiving e-mail communications, please unsubscribe using the link at the bottom of the emails. If you wish to opt out of receiving text messages, please following the instructions at the end of the text. If you wish to opt out of receiving calls to your cell phone, please make that election by notifying the management office. The person designated as the on-site manager for the Community is the person authorized to act on our behalf in connection with this Lease. More formal notices, including service of process, can also be made by serving our registered service agent. In addition to U.S. mail and personal delivery options, lease renewal offers may be delivered to you via e-mail, text message and/or via a link to our resident website, My.EquityApartments.com.

29. **Liability:** To the maximum extent permitted by law, you agree that you will look solely to the owner's interest in the Community for the *recovery* of any judgment against us and that the owner, the management company, and any of their related and affiliated entities (and any of their officers, directors, trustees, employees, partners, shareholders, insurers, agents and representatives) will never be personally liable for such judgment. Except to the extent prohibited by law, we will not be liable for any damage, loss or injury to persons or property occurring in the Premises or in other areas of the Community. To the fullest extent permitted by law, you agree to hold us harmless and to indemnify us from any such liability or claim.

30. **Fire and Casualty:** If the Premises are damaged due to fire, explosion, casualty or any other health/safety issue which is not a result of your negligence or intentional conduct (or the negligence or intentional conduct of any person living in the Premises or any guest of such person), we may elect, in our sole discretion, to repair or re-build the Premises. Rent shall remain due and owing unless we, in our sole discretion, determine that the Premises or the building is uninhabitable. No penalty shall accrue against us for any reasonable delay in repairing the Premises by reason of adjustment of insurance proceeds, labor disputes, or any other cause beyond our reasonable control. If you are unable to live in the Premises while we conduct the repairs, your rent will be abated during the timeframe the repairs are being conducted. However, if we provide alternative accommodations at our expense during such repair, the rent will not be abated. Finally, if the damage to the Premises is caused by your negligence or intentional conduct (or the negligence or intentional conduct of any person living in the Premises or any guest), the rent for the Premises will not be abated, you will be responsible for paying rent on the Premises and for any costs we incur to repair the damage, and we will not provide alternative accommodations to you. If we elect to not repair the Premises or if the Premises are substantially or totally destroyed, we may elect to terminate this Lease.

31. **Waivers:** Our failure to insist upon strict compliance with the terms of this Lease or any delay by us in enforcing your obligations under the Lease will not constitute a waiver of our right to act on other breaches or to make demands on you to perform. Your obligation to pay rent during the Lease term or during your continued occupancy of the Premises will continue notwithstanding our issuance of any notice, demand for possession, notice of termination of tenancy, institution of any action or forcible detainer, or any other act which might result in the termination of your right to live in the Premises. Unless otherwise restricted by applicable law, our acceptance of rent from you after it falls due or after knowledge of your breach of any obligations under this Lease is not a waiver of our rights under this Lease nor is it an election to not proceed under any provision of this Lease or the law.

32. **Severability:** If any provision of this Lease is determined to be illegal, invalid, or unenforceable under present or future laws which are in effect during the Lease term, then, we will substitute similar provisions or language that will make such clause or provision legal, valid, and enforceable. If substitute provisions are not available, then the illegal or unenforceable provision shall be removed from the Lease, but the remaining provisions in the Lease shall remain intact.

33. [Intentionally Omitted]

34. **Laws Governing this Lease/Venue:** This Lease shall be governed by the laws of the state in which the Community is located, and all legal action arising from this Lease shall be tried in the county where the Community is located.

35. **Written Agreement:** This Lease, which includes the Term Sheet, these Terms and Conditions, the Resident Handbook and Community Policies, the Move-In/Move-Out inspection Form, and all Lease addenda or other agreements that may be referenced on the Term Sheet or attached hereto, contains our entire agreement. We both acknowledge that there are no oral understandings between us, and neither of us have relied on any representations, express or implied, that are not contained in this Lease.

36. **Joint and Several Liability:** Each resident, including all co-residents, is jointly and severally liable for each and every provision of this Lease.

37. **General:** You confirm that you are of legal age to enter into a binding Lease for lodging.

## **DISTRICT OF COLUMBIA REQUIREMENTS AND DISCLOSURES ADDENDUM**

This District of Columbia Requirements and Disclosures Addendum ("Addendum") is dated and effective as of the date on the Residential Lease - Term Sheet (the "Term Sheet") to which this Addendum is attached and made a part of (the "Lease") and is made by and between Lessor and Resident for the Premises at the Community identified in the Lease.

Pursuant to Title 14 of the District of Columbia Municipal Regulations, we are required to provide you with notice of certain housing code provisions, as follows:

### **300 NOTICE TO TENANTS OF HOUSING CODE PROVISIONS**

300.1 The owner of each habitation shall provide to each existing tenant, and shall at the commencement of any tenancy provide to the tenant, a copy of the provisions of this chapter and a copy of the following sections of chapter 1 of this subtitle:

- (a) Chapter 1, § 101 (Civil Enforcement Policy); and
- (b) Chapter 1, § 106 (Notification of Tenants Concerning Violations).

**AUTHORITY:** Unless otherwise noted, the authority for this chapter is contained at paragraphs 28 and 46 of section 7 of An Act Making appropriations to provide for the expenses of the government of the District of Columbia for the fiscal year ending June thirtieth, nineteen hundred and three, and for other purposes ("Act of 1902"), Public, No. 218, 32 Stat. 590, approved July 1, 1902, as amended by: An Act approved July 1, 1932 to amend section 7 [of the Act of 1902], Public, No. 237, 47 Stat. 550; and An Act approved July 22, 1947, Public Law 215, 61 Stat. 402.

**SOURCE:** The Housing Regulations of the District of Columbia, 5G DCRR § 2904, Commissioners' Order 55-1503 (August 11, 1955).

### **301 IMPLIED WARRANTY AND OTHER REMEDIES**

301.1 There shall be deemed to be included in the terms of any lease or rental agreement covering a habitation an implied warranty that the owner will maintain the premises in compliance with this subtitle.

301.2 The rights, remedies, and duties set forth in this chapter shall not be deemed to be exclusive of one another unless expressly so declared or to preclude a court of law from determining that practices, acts, lease provisions and other matters not specifically dealt with in this chapter are contrary to public policy or unconscionable or otherwise unlawful.

**SOURCE:** The Housing Regulations of the District of Columbia, 5G DCRR §§ 2902, 2913, Commissioners' Order 55-1503 (August 11, 1955).

### **302 VOIDING LEASE FOR VIOLATION OF REGULATIONS**

302.1 The leasing of any habitation which, at the beginning of the tenancy, is unsafe or unsanitary due to violations of this subtitle in that habitation or in the common space of the premises (whether or not those violations are the subject of a notice issued under this subtitle) of which the owner has knowledge or reasonably should have knowledge, shall render void the lease or rental agreement for the habitation.

302.2 After the beginning of the tenancy, if the habitation becomes unsafe or unsanitary due to violations of this subtitle in that habitation or in the common space of the premises (whether or not the violations are the subject of a notice issued under this subtitle), the lease or rental agreement for the habitation shall be rendered void if both of the following apply:

(a) The violations did not result from the intentional acts or negligence of the tenant or his or her invitees; and

(b) The violations are not corrected within the time allowed for correction under a notice issued under this subtitle (or, if a notice has not been issued, within a reasonable time after the owner has knowledge or reasonably should have knowledge of the violations).

SOURCE: The Housing Regulations of the District of Columbia, 5G DCRR § 2902, Commissioners' Order 55-1503 (August 11, 1955).

### **303 SIGNED COPIES OF AGREEMENTS AND APPLICATIONS**

303.1 In each lease or rental of a habitation entered into after June 12, 1970, the owner shall provide to the tenant upon execution (or within seven (7) days after execution) an exact, legible, completed copy of any agreement or application which the tenant has signed.

303.2 This section shall not be subject to any notice requirement of this subtitle.

SOURCE: The Housing Regulations of the District of Columbia, 5G DCRR § 2905, Commissioners' Order 55-1503 (August 11, 1955).

### **304 PROHIBITED WAIVER CLAUSES IN LEASE AGREEMENTS**

304.1 Any provision of any lease or agreement contrary to, or providing for a waiver of, the terms of this chapter, or § 101 or § 106 of chapter 1, shall be void and unenforceable.

304.2 No person shall cause any of the provisions prohibited by this section to be included in a lease or agreement respecting the use of the property in the District of Columbia, or demand that any person sign a lease or agreement containing any such provision.

304.3 No owner shall cause to be placed in a lease or rental agreement any provision exempting the owner or premises from liability or limiting the liability of the owner or the residential premises from damages for injuries to persons or property caused by or resulting from the negligence of the owner (or the owner's agents, servants, or employees) in the operation, care, or maintenance of the leased premises, or any facility upon or portion of the property of which the leased premises are a part.

304.4 No owner shall place (or cause to be placed) in a lease or rental agreement a provision waiving the right of a tenant of residential premises to a jury trial, or requiring that the tenant pay the owner's court costs or legal fees, or authorizing a person other than the tenant to confess judgment against a tenant. This subsection shall not preclude a court from assessing court or legal fees against a tenant in appropriate circumstances.

304.5 The provisions of this section shall not be subject to any notice requirement of this subtitle.

SOURCE: The Housing Regulations of the District of Columbia, 5G DCRR §§ 2906, 2907, and 2912, Commissioners' Order 55-1503 (August 11, 1955).

### **305 INSPECTION OF PREMISES AFTER BREACH OF WARRANTY OR VOIDED LEASE**

305.1 Following a judicial determination that the owner has breached the implied warranty of habitability applying to the premises (under § 301 of this chapter), or following a judicial determination that a lease or rental agreement is void, the owner shall obtain a certificate from the Director that the habitation is in compliance with this subtitle prior to the next reletting of the habitation.

**SOURCE:** The Housing Regulations of the District of Columbia, 5G DCRR § 2911, Commissioners' Order 55-1503 (August 11, 1955).

### **306 WRITTEN RECEIPTS FOR PAYMENTS BY TENANT**

306.1 In each lease or rental of a habitation, the owner shall provide written receipts for all monies paid to him or her by the tenant as rent, security, or otherwise, unless the payment is made by personal check.

306.2 Each receipt issued under this section shall state the following:

- (a) The exact amount received;
- (b) The date the monies are received; and
- (c) The purpose of the payment.

306.3 Each receipt shall also state any amounts still due which are attributable to late charges, court costs, or any other such charge in excess of rent.

306.4 If payment is made by personal check, and there is a balance still due which is attributable to late charges, court costs, or any other such charge in excess of rent, the owner shall provide a receipt stating the nature of the charges and the amount due.

306.5 The provisions of this section shall not be subject to any notice requirement of this subtitle.

**SOURCE:** The Housing Regulations of the District of Columbia, 5G DCRR § 2909, Commissioners' Order 55-1503 (August 11, 1955).

### **307 PROHIBITION OF RETALIATORY ACTS AGAINST TENANTS**

307.1 No action or proceeding to recover possession of a habitation may be brought against a tenant, nor shall an owner otherwise cause a tenant to quit a habitation involuntarily, in retaliation for any of the tenant's actions listed in § 307.3.

307.2 No demand for an increase in rent from the tenant, nor decrease in the services to which the tenant has been entitled, nor increase in the obligations of a tenant shall be made in retaliation against a tenant for any of the tenant's actions listed in § 307.3.

307.3 This section prohibits the taking of any of the actions set forth in this section in retaliation against the tenant for any of the following actions by a tenant:

- (a) A good faith complaint or report concerning housing deficiencies made to the owner or a governmental authority, directly by the tenant or through a tenant organization;
- (b) The good faith organization of a tenant organization or membership in a tenant organization;
- (c) The good faith assertion of rights under this subtitle, including rights under §§ 301 and 302 of this chapter, or § 101 of chapter 1.

**SOURCE:** The Housing Regulations of the District of Columbia, 5G DCRR § 2910, Commissioners' Order 55-1503 (August 11, 1955).



### **308 SECURITY DEPOSITS**

**308.1** For purposes of this chapter, the term "security deposit" shall mean all monies paid to the owner by the tenant as a deposit or other payment made as security for performance of the tenant's obligations in a lease or rental of the property.

**308.2** On or after February 20, 1976, any security deposit or other payment required by an owner as security for performance of the tenant's obligations in a lease or rental of a dwelling unit shall not exceed an amount equivalent to the first full month's rent charged that tenant for the dwelling unit, and shall be charged only once by the owner to the tenant.

**308.3** All monies paid to an owner by tenants for security deposits or other payment made as security for performance of the tenant's obligations shall be deposited by the owner in an interest bearing escrow account established and held in trust in a financial institution in the District of Columbia insured by a federal or state agency for the sole purposes of holding such deposits or payments.

**308.4** All monies held by an owner on February 20, 1976 for security deposits or other payments covered by this section shall be paid into an escrow account within thirty (30) days.

**308.5** The owner of more than one residential building may establish one (1) escrow account for holding security deposits or other payments by the tenants of those buildings.

**308.6** For each security deposit or other payment covered by this section, the owner shall clearly state in the lease or agreement or on the receipt for the deposit or other payment the terms and conditions under which the payment was made.

**308.7** The housing provider shall post in the lobby of the building and rental office at the end of each calendar year, the following information: Where the tenants' security deposits are held and what the prevailing rate was for each six-month (6) period over the past year. At the end of a tenant's tenancy, the housing provider shall list for the tenant the interest rate for each six month period during the tenancy.

**308.8** The provisions of this section shall not be applicable to Federal or District of Columbia agencies' dwelling units leased in the District of Columbia or to units for which rents are Federally subsidized.

SOURCE: The Housing Regulations of the District of Columbia, 5G DCRR § 2808, Commissioners' Order 55-1503 (August 11, 1955); as amended by: section 3 of the Security Deposit Act, D.C. Law 1-48, 22 DCR 2823 (November 28, 1975); and section 2 of the Adjustment of Interest Rates Paid on Rental Security Deposits Amendment Act of 1992, D.C. Law 9-212, §§ 2908.1(b) and 2908.5, 40 DCR 2204 (March 17, 1993), incorporating by reference the text of D.C. Act 9-341, 40 DCR 23 (December 21, 1992).

### **309 REPAYMENT OF SECURITY DEPOSITS TO TENANTS**

**309.1** Within forty-five (45) days after the termination of the tenancy, the owner shall do one of the following:

(a) Tender payment to the tenant, without demand, any security deposit and any similar payment paid by the tenant as a condition of tenancy in addition to the stipulated rent, and any interest due the tenant on that deposit or payment as provided in § 311; or

(b) Notify the tenant in writing, to be delivered to the tenant personally or by certified mail at the tenant's last known address, of the owner's intention to withhold and apply the monies toward defraying the cost of expenses properly incurred under the terms and conditions of the security deposit agreement.

**309.2** The owner, within thirty (30) days after notification to the tenant pursuant to the requirement of § 309.1(b), shall tender a refund of the balance of the deposit or payment,

including interest not used to defray such expenses, and at the same time give the tenant an itemized statement of the repairs and other uses to which the monies were applied and the cost of each repair or other use.

309.3 Failure by the owner to comply with § 309.1 and § 309.2 of this section shall constitute *prima facie* evidence that the tenant is entitled to full return, including interest as provided in § 311, of any deposit or other payment made by the tenant as security for performance of his or her obligations or as a condition of tenancy, in addition to the stipulated rent.

309.4 Failure by the owner to serve the tenant personally or by certified mail, after good faith effort to do so, shall not constitute a failure by the owner to comply with § 309.1 and

309.5 Any housing provider violating the provisions of this chapter by failing to return a security deposit rightfully owed to a tenant in accordance with the requirements of this chapter shall be liable for the amount of the deposit withheld, or in the event of bad faith, for treble that amount.

309.6 For the purposes of § 309.5, the term "bad faith" means any frivolous or unfounded refusal to return a security deposit, as required by law, that is motivated by a fraudulent, deceptive, misleading, dishonest, or unreasonably self-serving purpose and not by simple negligence, bad judgment, or an honest belief in the course of action taken.

**SOURCE:** The Housing Regulations of the District of Columbia, 5G DCRR § 2908, Commissioners' Order 55-1503 (August 11, 1955); as amended by: section 3 of the Security Deposit Act, D.C. Law 1-48, 22 DCR 2823 (November 28, 1975); and section 2 of the Unitary Rent Ceiling Adjustment Amendment Act of 1992, D.C. Law 9-191, §§ 2908.6 and 2908.7, 40 DCR 2184 (April 2, 1993).

### **310 RETURN OF SECURITY DEPOSIT: INSPECTION OF PREMISES**

310.1 In order to determine the amount of the security deposit or other payment to be returned to the tenant, the owner may inspect the dwelling unit within three (3) days, excluding Saturdays, Sundays, and holidays, before or after the termination of the tenancy.

310.2 The owner shall conduct the inspection, if the inspection is to be conducted, at the time and place of which notice is given to the tenant.

310.3 The owner shall notify the tenant in writing of the time and date of the inspection.

310.4 The notice of inspection shall be delivered to the tenant, or at the dwelling unit in question, at least ten (10) days before the date of the intended inspection.

**SOURCE:** The Housing Regulations of the District of Columbia, 5G DCRR § 2908, Commissioners' Order 55-1503 (August 11, 1955); as amended by section 3 of the Security Deposit Act, D.C. Law 1-48, 22 DCR 2823 (November 28, 1975).

### **311 INTEREST ON SECURITY DEPOSIT ESCROW ACCOUNTS**

311.1 The interest in the escrow account described in § 309 on all money paid by the tenant prior to or during the tenancy as a security deposit, decorating fee, or similar deposit or fee, shall commence on the date the money is actually paid by the tenant, or within thirty (30) days after February 20, 1976, whichever is later, and shall accrue at the passbook rate then prevailing on January 1st and on July 1st for each six (6) month period (or part thereof) of the tenancy which follows those dates. On those dates, the passbook rate in the District of Columbia financial institution in which the escrow account is held shall be used.

311.2 Interest on an escrow account shall be due and payable by the owner to the tenant upon termination of any tenancy of a duration of twelve (12) months or more, unless an amount is deducted under procedures set forth in § 309.

311.3 Except in cases where no interest is paid to the tenant as provided in § 311.2, no interest or other consideration shall inure to the benefit of the owner by reason of the owner's control over the escrow account nor shall the account be assigned or used as security for loans.

311.4 It is the intent of this section that the account referred to in this section and § 309 shall be used solely for the purpose of securing the lessees' performance under the lease.

311.5 This section and § 309 and § 310 shall not be subject to the notice requirements of any other section of this subtitle.

SOURCE: The Housing Regulations of the District of Columbia, 5G DCRR § 2908, Commissioners' Order 55-1503 (August 11, 1955); as amended by: section 3 of the Security Deposit Act, D.C. Law 1-48, 22 DCR 2823 (November 28, 1975); and section 2 of the Adjustment of Interest Rates Paid on Rental Security Deposits Amendment Act of 1992, D.C. Law 9-212, § 2908.4(a), 40 DCR 2204 (March 17, 1993), incorporating by reference the text of D.C. Act 9-341, 40 DCR 23 (December 21, 1992).

### **312 - 314 [RESERVED]**

### **315 NOTIFICATION REQUIRED**

315.1 Prior to the acceptance of a nonrefundable application fee or security deposit, the owner of the habitation shall provide written notice of any requests that are pending for an adjustment in the rent ceiling of the habitation, as the adjustments are specifically enumerated in section 207 of the Rental Housing Act of 1985, D.C. Law 6-10, D.C. Official Code § 42-3502.07 (2001).

315.2 The notification shall include the current rent ceiling, the new rent ceiling requested in the petition, the petition filing date and petition number, and the nature of any repairs or rehabilitation planned in the dwelling unit as part of the petition.

315.3 A violation of this section shall be a Class 2 civil infraction pursuant to Titles I-HI of the Department of Consumer and Regulatory Affairs Infractions Act of 1985. Adjudication of any infraction of this article shall be pursuant to titles III of the Department of Consumer and Regulatory Affairs Civil Infractions Act of 1985.

SOURCE: Section 2 of the Rent Ceiling Adjustment Notification Amendment Act of 1992, D.C. Law 9-79, §§ 2915.1 through 2915.3, 39 DCR 673 (February 7, 1992).

### **3B9 DEFINITIONS**

399.1 The provisions of section 199 of chapter 1 of this title and the definitions set forth in that section shall be applicable to this chapter.

### **101 CIVIL ENFORCEMENT POLICY**

101.1 The maintenance of leased or rental habitations in violation of the provisions of this subtitle, where those violations constitute a danger to the health, welfare, or safety of the occupants, is declared to be a public nuisance.

101.2 The abatement of the public nuisances referred to in subsection 101.1 by criminal prosecution or by compulsory repair, condemnation, and demolition alone has been and continues to be inadequate.

101.3 The public nuisances referred to in subsection 101.1 additionally cause specific, immediate, irreparable and continuing harm to the occupants of these habitations.

**101.4** The public nuisances referred to in subsection 101.1 damage the quality of life and the mental development and well-being of the occupants, as well as their physical health and personal property, and this harm cannot be fully compensated for by an action for damages, rescission or equitable set-off for the reduction in rental value of the premises.

**101.5** It is the purpose of this section to declare expressly a public policy in favor of speedy abatement of the public nuisances referred to in subsection 101.1, if necessary, by preliminary and permanent injunction issued by Courts of competent jurisdiction.

**SOURCE:** The Housing Regulations of the District of Columbia, 5G DCRR § 2901, Commissioners' Order 55-1503 (August 11, 1955).

## **106 NOTIFICATION OF TENANTS CONCERNING VIOLATIONS**

**106.1** After an inspection of a habitation, the Director shall provide the tenant of the habitation a copy of any notification with respect to that habitation issued to the owner pursuant to this subtitle.

**106.2** The notification to the tenant shall state plainly and conspicuously that it is only for the tenant's information; provided, that if the notice places duties on the tenant, it shall state those duties.

**106.3** In any instance where a violation of this subtitle directly involves more than one habitation, the Director shall post a copy of any notification issued to the owner pursuant to this chapter for a reasonable time in one or more locations within the building or buildings in which the deficiency exists. The locations for posting the notification shall be reasonably selected to give notice to all tenants affected.

**106.4** No person shall alter, modify, destroy, or otherwise tamper with or mutilate a notification posted under this section.

**106.5** Any tenant directly affected by the violation(s) shall, upon request to the Director, be sent a copy of the posted notification.

**106.6** This section shall not be subject to any notice requirement of this subtitle.

**SOURCE:** The Housing Regulations of the District of Columbia, 5G DCRR § 2903(b), Commissioners' Order 55-1503 (August 11, 1955).

### **CONSTRUCTION AND REHAB ADDENDUM**

This Construction and Rehab Addendum ("Addendum") is dated effective as of the date on the Residential Lease - Term Sheet (the "Term Sheet") to which this Addendum is attached and made a part of (the "Lease") and is made by and between Lessor and Resident for the Premises at the Community identified in the Lease.

We are anticipating the possibility of undertaking major construction at the Community during the term of your Lease. You acknowledge that you may, from time to time, be inconvenienced by the noise and activity that **generally accompanies** such construction activities. This Addendum is intended to put you on notice of such potential construction activity; however, nothing in this Addendum is intended to be a waiver of either party's rights or obligations under the Lease.

**CONCESSION ADDENDUM**  
**(D.C. Rent Control Properties Only)**

This Concession Addendum ("Addendum") is dated and effective as of the date on the Residential Lease - Term Sheet (the "Term Sheet") to which this Addendum is attached and made a part of (the "Lease") and is made by and between Lessor and Resident for the Premises at the Community identified in the Lease.

You have been granted a monthly recurring concession as reflected on the Term Sheet. The monthly recurring concession will expire and be of no further force and effect as of the Expiration Date shown on the Term Sheet.

Consistent with the provisions of the Rental Housing Act of 1985 (DC Law 6-10) as amended (the Act), we reserve the right to increase your rent once each year. In doing so, we will deliver to you a "Housing Provider's Notice to Tenants of Adjustment in Rent Charged," which will reflect the "new rent charged." If you allow your Lease to roll on a month to month basis after the Expiration Date, your monthly rent will be the "new rent charged" amount that is reflected on the Housing Provider's Notice.

It is understood and agreed by all parties that the monthly recurring concession is being given to you as an inducement to enter into the Lease. You acknowledge and agree that you have read and understand the Lease Concessions provision contained in the Terms and Conditions of your Lease.

Any term that is capitalized but not defined in this Addendum that is capitalized and defined in the Lease shall have the same meaning for purposes of this Addendum as it has for purposes of the Lease.

# EXHIBIT 4

**CONCESSION ADDENDUM**  
**(D.C. Rent Control Properties Only)**

This Concession Addendum ("Addendum") is dated and effective as of the date on the Residential Lease - Term Sheet (the "Term Sheet") to which this Addendum is attached and made a part of (the "Lease") and is made by and between Lessor and Resident for the Premises at the Community identified in the Lease.

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Consistent with the provisions of the Rental Housing Act of 1985 (DC Law 6-10) as amended (the Act), we reserve the right to increase your rent once each year. In doing so, we will deliver to you a "Housing Provider's Notice to Tenants of Adjustment in Rent Charged," which will reflect the "new rent charged." If you allow your Lease to roll on a month to month basis after the Expiration Date, your monthly rent will be the "new rent charged" amount that is reflected on the Housing Provider's Notice.

It is understood and agreed by all parties that the monthly recurring concession is being given to you as an inducement to enter into the Lease. You acknowledge and agree that you have read and understand the Lease Concessions provision contained in the Terms and Conditions of your Lease.

Any term that is capitalized but not defined in this Addendum that is capitalized and defined in the Lease shall have the same meaning for purposes of this Addendum as it has for purposes of the Lease.



# EXHIBIT 5



DI:CT OF COLUMBIA  
OFFICE OF  
ADMINISTRATIVE HEARINGS

DISTRICT OF COLUMBIA  
OFFICE OF ADMINISTRATIVE HEARINGS  
One Judiciary Square  
441 Fourth Street, NW  
Washington, DC 20001-2714  
TEL: (202) 442-9094  
FAX: (202) 442-9451

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DEBORAH POPE  
Tenant/Petitioner,

v.

EQUITY RESIDENTIAL MANAGEMENT,  
ALBAN TOWERS LIMITED PARTNERSHIP,  
Housing Providers/Respondents,

Case No.: 2014-DHCD-TP 30,612

*In re*, 3700 Massachusetts Avenue, NW,  
#314

#### ORDER GRANTING PARTIAL SUMMARY JUDGMENT

##### I. Introduction

On December 10, 2014, Tenant/Petitioner Deborah Pope filed TP 30,612 alleging that Housing Provider/Respondent violated the Rental Housing Act of 1985 by (1) Increasing her rent when her unit was not in substantial compliance with fair housing regulations; (2) increasing her rent to an amount that exceeds the legally calculated rent; and (3) serving Tenant with an Improper notice to vacate.

The parties appeared for mediation on January 20, 2015, which was unsuccessful. On February 3, 2015, Housing Provider filed a motion for summary judgment. On February 25, 2015, I ordered Tenant to file a response to the motion for summary judgment no later than March 23, 2015. On March 22, 2015, Tenant filed a response to the motion. On March 30, 2015, Housing Provider filed a reply to Tenant's response. On April 9 and April 29, 2015, Tenant also made unspecified filings, requesting to continue paying a lower rent.

**H. Legal Standard**

This matter is governed by the Rental Housing Act of 1985; substantive rules implementing the Rental Housing Act at 14 DCMR 4100 – 4399; the Office of Administrative Hearings Establishment Act at D.C. Official Code § 2-1831.03(b-1)(1), which authorizes OAH to adjudicate rental housing cases; the District of Columbia Administrative Procedure Act, D.C. Official Code §§ 2-501 *et seq.*, and the OAH procedural rules at 1 District of Columbia Municipal Regulations (DCMR) 2800 *et seq.* and 1 DCMR 2920 *et seq.*

The rules of this administrative court provide that a party may request that an Administrative Law Judge decide a case summarily, without an evidentiary hearing, so long as the summary judgment standard set forth in the Super. Ct Civ. R. 56(c) provides:

The judgment sought shall be rendered forthwith if the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law.

The District of Columbia Court of Appeals described the substantive standard for entry of summary judgment in *Behradrezaee v. Dashtara*, 910 A.2d 349, 364 (D.C. 2006):

Summary judgment is appropriate only if no genuine issue of material fact exists and the movant is entitled to judgment as a matter of law. *GLM P'ship v. Hartford Cas. Ins. Co.*, 753 A.2d 995, 997-998 (D.C. 2000) (citing *Colbert v. Georgetown Univ.*, 641 A.2d 469, 472 (D.C. 1994) (*en banc*)). 'A motion for summary judgment is properly granted if (1) taking all reasonable inferences in the light most favorable to the nonmoving party, (2) a reasonable juror, acting reasonably, could not find for the nonmoving party, (3) under the appropriate burden of proof.' *Kendrick*

v. *Fox Television*, 659 A.2d 814, 818 (D.C. 1995) (quoting *Nader v. de Toledano*, 408 A.2d 31, 42 (D.C. 1979)).

In deciding a motion for summary judgment, I construe the record in the light most favorable to the non-moving party (Tenant), resolving any doubt as to the existence of disputed facts against the movant (Housing Provider). See *Young v. Delaney*, 647 A.2d 784, 788 (D.C. 1994). The moving party has the burden of demonstrating the absence of a genuine issue of material fact. *Id.* It is not the court's function to resolve factual questions, but to determine whether there are any material factual issues. *Id.*

### III. Material Facts Not in Dispute

1. The Housing Accommodation, known as "Alban Towers" is located at 3700 Massachusetts Avenue, NW, and is owned by Smith Property Holdings Alban Towers LLC and is managed by Equity Residential. The Housing Accommodation is a rent control property.
2. In an order dated March 6, 2001, the Rent Administrator approved a voluntary agreement for the Housing Accommodation which increased the rent ceiling for Tenant's unit (#314) to \$3,340.
3. Tenant has resided in unit 314 since November 1, 2013. When Tenant signed a lease for the unit, the monthly rent was identified as \$3,407, which included \$3,357 for rent and a \$50 monthly storage fee. Exhibit B.
4. The term of the lease was November 1, 2013, through October 31, 2014. Tenant was given a rent **concession** of \$1,407 per **month** for one year so that she only had to pay

\$1,955 per month. The lease states: "Concessions: Monthly Recurring Concession: \$1,407/per month . . . The Total Monthly Rent shown above will be adjusted by these lease concession amounts." (emphasis in original) Exhibits A and B.

5. The lease also included a "Concession Addendum." The Addendum states that the "monthly recurring concession will expire and be of no further force and effect as of the expiration date shown on the Term Sheet" Exhibit C. The expiration date on the Term Sheet is October 31, 2014. Exhibit A. The Addendum reserves the right to increase Tenant's rent annually and states that the concession is being given as an inducement to enter the lease.

6. On August 15, 2014, Housing Provider served Tenant with a "Notice to Tenants of Adjustment in Rent Charged" increasing Tenant's rent from \$3,609 to \$3,732 based on the 2014 CPI-W increase of 1.4% (plus 2%). Exhibit D. The increase was effective November 1, 2014.

#### IV. Conclusions of Law

At issue in this case is the proper rent level for Tenant's unit and the legality of the rent concession. I will first address the rent concession issue. Rent concessions are not specifically addressed in the Rental Housing Act, however, they are commonly utilized in the District of Columbia and other areas as a means to induce new leases. The propriety of rent concessions has also not been addressed by the District of Columbia Court of Appeals or the Rental Housing Commission in the context of the District's rent control scheme. However, New York City, which is also rent controlled, has addressed rent concessions in its scheme of rent control.

Although New York does not have any laws or regulations pertaining to rent concessions, there is a similar concept within its legislative framework called "preferential rent." Preferential rent is an amount of rent that a landlord agrees to charge, which is lower than the legal regulated rent the landlord could lawfully collect under the Rent Stabilization Law. *Les Filles Quartre, LLC v. McNeur*, 798 N.Y.S.2d 899, 901-02 (2005); See 9 NYCRR § 2501.2. New York case law has clarified that a 2003 amendment to the Rent Stabilization law making rent preferences revocable upon a renewal or upon a vacancy was not intended to change the law of contracts and to preclude parties to a lease from agreeing that tenants would be charged a preferential rent, during the term of their occupancy. *Romero v. New York State Div. of Hous. and Cmty Renewal*, 16 Misc.3d 484, 842 N.Y.S.2d 213 (2007). The specific terms of the lease are given precedence by the courts over the general rent stabilization provision governing renewal lease terms and preferential rents. *Les Filles Quartre LLC*, 798 N.Y.S.2d at 902. For example, if the lease agreement contains a clause stating that the preferential rent shall continue for the term of the lease, as opposed to the term of the fee tenancy, then the preferential rent cannot be terminated for that entire tenancy. See e.g., *448 West 54th Street Corp. v. Dolg-Marx*, 784 N.Y.S.2d 292 (2004) (finding that landlord was prohibited from offering tenant a renewal lease which calculated renewal increase based on the legal regulated rent, as opposed to the preferential rent provided for in the lease, where the lease rider provided that the tenant would be charged a preferential rent during the term of the tenant's occupancy). In this case, the tenant's lease and the rent concession was for a term of one year and the Housing Provider exercised its discretion to terminate the concession at the end of one year.

In the District of Columbia, rent concessions are also used to offer rent controlled units at or below market value while preserving a higher legal rent level that can be charged later. There

are many arguments to be made that such concessions are contrary to the abolishment of rent ceilings. Prior to the Act's amendment in 2005, a Housing Provider was able to reserve future rent increases by increasing the "rent ceiling" for a unit while actually charging a lower rent. The tent ceiling permitted a **housing provider** to later implement rent **increases in amounts** that were higher than the annual increase of general applicability. However, there is nothing in the Rental **Housing** Act that prohibits a housing provider from offering rent concessions as long as the rent charged does not exceed the legally authorized rent that is on file with the Rental Accommodations Division.

It is well established that leases are to be construed as contracts. *Sobelsohn v. Am. Rental Mgmt. Co.*, 926 A.2d 713 (D.C. 2007). This jurisdiction adheres to an "objective" law of contract, meaning that "the written language embodying the terms of an agreement will govern the rights and liabilities of the parties . . . unless the written language is not susceptible of a clear and definite undertaking." *Id.* at 718. Contracts should "generally be enforced as written, absent a showing of good cause to set it aside, such as fraud, duress, or mistake." *Akassy v. William Perm Apts Ltd P'ship*, 891 A.2d 291, 298 (D.C. 2006) (quoting *Camdler & Buckley, Inc., v. Sandoz & Lamberton, Inc.*, 661 A.2d 822, 825 (D.C. 1995)). Therefore, a tenant and a housing provider are free to contract to rental terms as long as those terms are not contrary to the law. In this case, Tenant knowingly signed the lease agreeing to pay the lower rent amount as a concession for one year.

Tenant argues that she did not understand that the concession would expire, that Housing Provider falsely advertised the rent for the unit at the lower price, and that the paperwork **regarding the concession was confusing**. These however, are not issues governed by the Rental Housing Act, but amount to a contractual dispute. If Tenant believes she was fraudulently



induced into signing the lease, that the terms of the lease are somehow ambiguous, or that there was no meeting of minds, she must seek a remedy through D.C. Superior Court's Civil Division which has the jurisdiction to resolve equitable disputes. The jurisdiction of this administrative court is limited to applying the Rental Housing Act and I find that the rent concession was not in violation of the Rental Housing Act. That however, does not end the inquiry as Tenant alleges that the rent increase exceeded the legally calculated rent for her unit.

I am unable to determine from the submissions whether the rent Tenant was charged when she signed her lease exceeding the legally calculated rent. Although Housing Provider submitted a voluntary agreement that was approved in 2001, Housing Provider did not establish when or how the voluntary agreement increase was implemented or that it provided Tenant with the required disclosures pursuant to D.C. Official Code § 42-3502.22. In addition, the rent in Tenant's lease was identified as \$3,357, but the rent increase notice increased Tenant's rent from \$3,609 to \$3,732. Therefore, I grant Housing Provider summary judgment on the issue of the validity of the rent concession, but there is insufficient evidence regarding the proper rent level to determine whether the rent increase exceeded the legally calculate rent. Therefore, a hearing will be held on that issue and on Tenant's allegations that the rent was increased when the Housing Accommodation was not in substantial compliance with the housing regulations, and that Housing Provider served Tenant with an improper notice to vacate.

In its reply to Tenant's response to the motion for summary judgment, Housing Provider argued that Tenant failed to put Housing Provider on notice of any alleged housing code violations that exist and I agree. Tenant's petition and motion fail to Identify any housing code violations. A petition must give a defending party fair notice of the grounds upon which a claim is based. *Parreco v. D.C. Rental Hous. Comm'n*, 885 A.2d 327, 334 (D.C. 2005). Therefore,

DISP 1 I S I K \*


Tenant is ordered to supplement her petition by filing a statement of housing code violations that existed on the date the rent was increased.

Therefore, it is, fids 8<sup>th</sup> day of July, 2015:

ORDERED, that Housing Provider's motion for summary judgment is GRANTED IN PART; and it is farther

ORDERED, that no later than August 3, 2015, Tenant shall file a supplement to her tenant petition setting forth with specificity any housing code violations that existed when her rent was increased. Failure to file a supplement will result in the allegation being dismissed ; and it is firther

~~ORDERED, that a s\aiite C\elvfanag\entOrder will be issued scheduling a hearing~~  
for September 8, 2015, at 9:30 a.m. at the Office of Administrative Hearings, 441 4<sup>th</sup> Street, N.W., Suite 450 North (die fourth floor on the north side of the building), Washington, D.C.

  
Erika L. Pierson  
Principal Administrative Law Judge

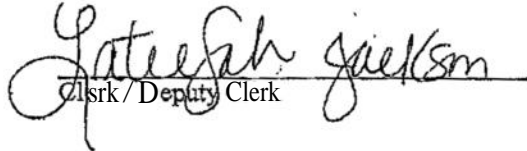
**Certificate of Service:**

By First-Class Mail (Postage Prepaid):

Deborah Pope  
3700 Massachusetts Avenue, NW, #314  
Washington, DC 20016

Richard Luchs, Esquire  
Debra Leege, Esquire  
Greenstein, Delorme & Luohs  
1620 L Street, NW  
Suite 900  
Washington, DC 20036

I hereby certify that on KLA 3, 2015 this document was caused to be served upon the parties listed on this page at the addresses listed and by the means stated.

  
Clerk / Deputy Clerk

# EXHIBIT 6

*mwwm*  
OFFICE OF  
ADMINISTRATIVE HEARINGS

DISTRICT OF COLUMBIA  
OFFICE OF ADMINISTRATIVE HEARINGS  
One Judiciary Square  
441 Fourth Street, NW  
Washington, DC 200.01-27J4  
TEL: (202) 442-9094  
FAX: (202) 442-9451

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MARY JANE MAXWELL,  
Tenant/Petitioner,

v.

EQUITY RESIDENTIAL MANAGEMENT,  
LLC,  
Housing Provider/Respondent

Case No.: 2015-DHCD-TP 30,704

*In re* 3003 Yah Ness Street, NW, #W104

FINAL ORDER

I. Introduction and Procedural History

On August 14, 2015, Tenant/Petitioner Mary Jane Maxwell's tenant petition was transferred to this administrative court. Tenant Maxwell alleged that Housing Provider/Respondent Equity Residential Management, LLC, increased her rent in an amount higher than allowed by Rental Housing Act of 1985 (the "Act"), D.C. Official Code §§ 42-3501.01 - 3509.07.

The parties appeared for mediation on October 20, 2015, which was unsuccessful. On January 6, 2016, Housing Provider filed a Motion for Summary Judgment ("Motion"). On March 9, 2016, I issued an Order for Response to Motion for Summary Judgment and gave Tenant Maxwell until April 8, 2016, to file a response to the Motion. As of the date of this Final Order, Tenant Maxwell has not filed a response nor has she requested additional time to do so.

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## II. Jurisdiction

This matter is governed by the Act (D.C. Official Code §§ 42-3501.01 *et seq.*), Chapters 38-43 of 14 District of Columbia Municipal Regulations (“DCMR”), the District of Columbia Administrative Procedures Act (“DCAPA”) (D.C. Official Code §§ 2-501 *et seq.*), and OAH Rules (1 DCMR 28.00 *et seq.*, and 1 DCMR 2920 *et seq.*).

## III. Legal Standard for Summary Judgment

The rules of this administrative court provide that a party may request that an Administrative Law Judge decide a case summarily, without an evidentiary hearing, so long as the motion includes sufficient evidence, OAH Rule 2819. The summary judgment standard set forth in the Super. Ct. Civ. R. 56(c) provides:

The judgment sought **shall** be rendered forthwith if the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law.

The District of Columbia Court of Appeals described the substantive standard for entry of summary judgment in *Behradrezaee v. Dashtart*, 910 A.2d 349, 364 (D.C. 2006):

Summary judgment is appropriate only if no genuine issue of material fact exists and the movant is entitled to judgment as a matter of law. *GLM P'skip v. Hartford Cos. Ins. Co.*, 753 A.2d 995, 997-998 (D.C. 2000) (citing *Colbert v. Georgetown Univ.*, 641 A.2d 469, 472 (D.C. 1994) (*en banc*)). “A motion for summary judgment is properly granted if (1) taking all reasonable inferences in the light most favorable to the nonmoving party, (2) a reasonable juror, acting reasonably, could not find for the nonmoving party, (3) under the appropriate burden of proof.” *Kendrick v. Fox Television* 659 A.2d 814, 818 (D.C. 1995) (quoting *Nader v. de Toledano*, 408 A.2d 31, 42 (P.C. 1979)).

Therefore, in deciding Ms Motion, I construe the record in the light most favorable to Tenant Maxwell, resolving any doubt as to the existence of disputed facts against Housing Provider. See *Young v. Delaney*, 647 A.2d 784, 788 (D.C. 1994). Housing Provider must demonstrate the absence of a genuine issue of material fact. *Id.* Tenant Maxwell has failed to contest any of Housing Provider's purported "material facts not in dispute." Notwithstanding that circumstance, I scrutinize the documents filed by Housing Provider to determine whether they support the facts.

**IV. Material Facts Not in Dispute**

1. Tenant Maxwell leased Unit W104 at 3003 Van Ness Street, NW, Washington, DC (the "Housing Accommodation"), as of March 20, 2014. Tenant Petition 30,740; Exhibit ("Exh.") B.<sup>1</sup> The Housing Accommodation is a rent-controlled property.
2. Smith Property Holdings Van Ness L.P. owns the Housing Accommodation which is managed by Equity Residential Management, LLC. Exh. A.
3. The first Lease for Unit W104 had a term from March 20, 2014 to March 19, 2015. Exh. B. The monthly payment was \$3,244, made up of \$3,179 for the apartment rent and \$65 as a pet fee. *Id.*

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<sup>1</sup> Housing Provider filed the Affidavit of Avis DuVali, General Manager for the Housing Accommodation, as "Exhibit A" to its Motion. Other documents are referenced in the Affidavit as separate exhibits, beginning with "Exhibit B."

4. The Lease included a concession of \$1,340 per month resulting in a net monthly rent for the apartment of \$1,837 plus the pet fee of \$65 for a total monthly payment of \$1,904. *Id.*
5. The Lease included a "Concession Addendum" which reserves to the Housing Provider the right to increase the rent once a year. *Id.* It explains that the Housing Provider is giving the concession as an incentive to enter the lease and that the concession would expire at the end of the lease term. *Id.* The Concession Addendum also provided that, if the Lease expired and the Tenant chose to go forward on a month-to-month basis, the monthly rent would be increased. *Id.*
6. Housing Provider filed a "Certificate of Notice for RAD of Adjustments in Rent Charged" which included an attachment identifying a rent increase to Tenant Maxwell's unit of \$108. Exh. F. It is date-stamped as filed with RAD on December 29, 2014. *Id.*
7. When Tenant Maxwell's Lease expired in March 2015, Housing Provider gave her the choice of signing a new lease with the benefit of a new concession or paying the new monthly rent amount. Exh. A.
8. Tenant Maxwell signed a new lease ("New Lease"), effective March 20, 2015, Exh. D. The monthly payment was \$3,497, made up of \$3,287 for the apartment rent, \$50 as a pet fee, and \$160 for reserved parking. *Id.*



9. The New Lease included a concession of \$1,287 per month, resulting in a monthly rent of \$2,000 plus the pet and parking fees for a total monthly payment of \$2,210. *Id.* The monthly apartment rent had increased by \$108, from \$3,179 to \$3,287. The monthly concession had decreased by \$53, from \$1,340 to \$1,287.

10. The New Lease included a "Concession Addendum," identical to the Lease, which includes a reservation of the right to increase the rent once a year. *Id.* D, E.

V. Conclusions of Law

In her Tenant Petition, Tenant Maxwell alleges that the 2015 increase in rent was 11.1 percent and, therefore, too high. She does not directly challenge the legality of the Housing Provider's practice of providing rent concessions. To the extent that Tenant Maxwell is alleging that the concessions, in general, are not legal, I adopt the analysis of Hon. Erika L. Pierson in *Pope v. Equity Residential Mgmt.*, 2014-DHCD-TP 30, 612 (OAH July 8, 2015). In that "Order Granting Partial Summary Judgment," Judge Pierson concluded that partial summary judgment on the issue of the legality of rent concessions was warranted in that case. Although it could be argued that rent concessions are contrary to the abolishment of rent ceilings, "there is nothing in the Rental Housing Act that prohibits a housing provider from offering rent concessions as long as the rent charged does not exceed the legally authorized rent that is on file with the Rental Accommodations Division." *Id.* at 6.

Tenant Maxwell is correct in her assertion in the Tenant Petition that if she had not signed a new lease, her rent would have been even higher. The Concession Addenda to the Lease and the New Lease specified that if the tenant opted to rent on a month-to-month basis,

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any rent increase would apply and the concession would not. Exhs. C, E. However, there is nothing *per se* illegal about including such a clause in a lease. It is well established that leases are to be construed as contracts. *Sobekohn v. Am. Rented Mgmt. Co.*, 926 A.2d 713, 715 (D.C. 2007). This jurisdiction adheres to an "objective" law of contracts, meaning that "the written language embodying the terms of an agreement will govern the rights and liabilities of the parties . . . unless the written language is not susceptible of a clear and definite undertaking." *Id.* at 718. A contract should "generally be enforced as written, absent a showing of good cause to set it aside, such as fraud, duress, or mistake." *Akassy v. William Penn Apartments Ltd P'ship*, 891 A.2d 291, 298 (D.C. 2006) (quoting *Camalter & Ruc Uey, Inc. v. Smdoz & Lambertm Sic.*, 667 A.2d 822, 825 (D.C. 1995)). Therefore, a tenant and a housing provider are free to agree to rental terms as long as those terms are not contrary to the law. In this case, Tenant knowingly signed both the Old Lease and the New Lease agreeing to pay the lower rent amount as a concession for one year. There is no evidence suggesting she was somehow coerced into signing either lease or did not have the capacity to understand them. *See, e.g., Double Housing Carp. v. DasAd*, 947 A.2d 38 (D.C. 2008) (a landlord, otherwise entitled to increase a rent, may require, absent coercion, a Tenant to execute a new lease agreement in order to receive a discount).

The assertions about the source of the rent increase made by Tenant Maxwell in her Tenant Petition are contradicted by the Old Lease and the New Lease, both of which bear her signature. She calculates the rent increase in the New Lease as \$200 or an increase of 11.3 percent. Tenant Maxwell states that, in 2014, the unit was advertised as \$1,800 for a 12-month lease.<sup>2</sup> There is no evidence in the record to corroborate her assertion. The Old Lease specifies a monthly apartment rent of \$3,179, and a monthly concession of \$1,340, for a net rent of \$1,839, to which was added

<sup>2</sup> Tenant Maxwell also states that the 2014 Lease included a parking charge but that does not appear on the Old Lease. Tenant Petition; Exh. B.

a pet fee of \$65, for a total monthly payment of \$1,904. Exh. B. Tenant Maxwell correctly states that, under the New Lease, she pays \$2,000 in rent (\$3,287 minus a monthly concession of \$1,287), plus a pet fee of \$50 and a parking charge of \$160. Exh. D. The terms of both leases clearly identify the apartment rent which is then adjusted by an identified concession. The amount of the concession decreased from 2014 to 2015. That change is independent of the increase in the apartment rent. The difference between the 2014 Lease apartment rent of \$3,287 and the 2015 New Lease apartment rent of \$3,179 is \$108, or an increase of 3.4 per cent.

The changes can be summarized as:

Lease Term	Rent for Apartment			Parking Fee	Pet fee	Total
	Rent in Lease	Concession in Lease	Net Rent			
3/20/14-3/19/15	\$3,179	\$1,340	\$1,839	N.A.	\$65	\$1,904
3/20/15-3/19/16	\$3,287	\$1,287	\$2,000	\$160	\$50	\$2,210

On December 29, 2014, Housing Provider filed its notice with the RAD that it was increasing rents at the Housing Accommodation, including that of Tenant Maxwell's unit Bxh. Ft. The rent increase for her unit was identified as \$108, or 3.4 percent. *Id.* The Act permits a housing provider to increase the rents annually by the adjustment of general applicability (also known as "CPI-W") plus two per cent, provided the increase does not exceed 10 per cent of the current allowable rent. D.C. Official Code § 42-3502.08(h)(2). The applicable CPI-W increase, effective May 1, 2014, was 3.4 per cent. 61 D.C. Reg. 1378 (Feb. 14, 2014). I conclude that the rent increase was lawful. Therefore, summary judgment for Housing Provider is appropriate and I grant the Motion.

**VI Order**

Therefore, it is this 22nd day of April, 2016:

ORDERED, that Housing Provider's Motion for Summary Judgment is GRANTED; and it is further

ORDERED, that Tenant Petition 30,704 is DISMISSED WITH PREJUDICE; and it is further

ORDERED, that the reconsideration and appeal rights of any party aggrieved by this Final Order are stated below.

Ami C. Ifabner  
Ami C. Ifabner  
Administrative Law Judge

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### MOTIONS FOR RECONSIDERATION

Any party served with a final order may file a motion for reconsideration within ten (10) calendar days of service of the final order in accordance with 1 DCMR 2938 and 2828.3. When the final order is served by mail, five (5) days are added to the 10 day period in accordance with 1 DCMR 2812.5.

Where substantial justice requires, a motion for reconsideration shall be granted for any reason including, but not limited to: if a party shows that there was a good reason for not attending the hearing; there is a clear error of law in the final order; the final order's findings of fact are not supported by the evidence; or new evidence has been discovered that previously was not reasonably available to the party seeking reconsideration. 1 DCMR 2828.5.

The Administrative Law Judge has forty-five (45) days to decide a motion for reconsideration. If a timely motion for reconsideration of a final order is filed, the time to appeal shall not begin to run until the motion for reconsideration is decided or denied by operation of law. If the Judge has not ruled on the motion for reconsideration and 45 days have passed, the motion is automatically denied and the 10 day period for filing an appeal to the Rental Housing Commission begins to run.

### APPEAL RIGHTS

Pursuant to D.C. Official Code §§ 2-1831.16(b) and 42-3502.16(h), any party aggrieved by a final order issued by the Office of Administrative Hearings may appeal the final order to the District of Columbia Rental Housing Commission within ten (10) business days after service of the final order, in accordance with the Commission's rule, 14 DCMR 3802. If the final order is served on the parties by mail, an additional three (3) days shall be allowed, in accordance with 14 DCMR 3802.2.

Additional important information about appeals to the Rental Housing Commission may be found in the Commission's rules, 14 DCMR 38.00 et seq., or you may contact the Commission at the following address:

District of Columbia Rental Housing Commission  
441 4<sup>th</sup> Street, NW  
Suite 1140 North  
Washington, DC 20001  
(202) 442-8949

**Certificate of Service:**

**By First-Class Mail (Postage Prepaid):**

Mary Jane Maxwell  
3003 Van Ness Street, NW # W-104  
Washington, DC 20008

Richard W. Ducho, Esq.  
Debra F. Lee, Esq.  
Greenstein Delorme & Ltihs  
1620 L Street, NW  
Suite 900  
Washington, DC 20036

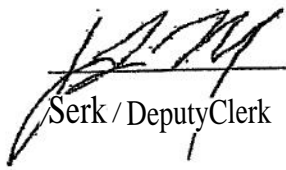
Equity Residential Management, LLC  
3003 Van Ness Street, NW  
Washington, DC 20008

Keith Anderson  
**Acting Rent Administrator**  
District of Columbia Department of  
**Housing and Community Development**  
Housing Regulation Administration  
1800 Martin Luther King Jr. Avenue, SE  
Washington, DC 20020

**By Inter-Agency Mail:**

District of Columbia Rental Housing  
Commission  
4414<sup>th</sup> Steal, NW  
Suite 1140 North  
Washington, DC 20601

I hereby certify that on  
11/12/2016, 2016 this document  
was oaused to be served upon the above-  
named parties at the addresses and by the  
means stated.

  
\_\_\_\_\_  
Serk / Deputy Clerk

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