

**BEFORE THE
COMMISSION ON LANDLORD-TENANT AFFAIRS
FOR MONTGOMERY COUNTY, MARYLAND**

In the matters of:

Brian and Kelly Willett and	*	Case No. 26231
Christopher Senatro;	*	
Courtney and Randy Davenport;	*	Case No. 26234
Shamika Dyson;	*	Case No. 26242
Daniel and Trudy Kahan; □□	*	Case No. 26247
Jeannette and Anil Kamath;	*	Case No. 26254
Keith Bennett;	*	Case No. 26258
Henry and Liliane Bagazonzya;	*	Case No. 26259
Emma Anderson	*	Case No. 26260
Yassah Kamarah;	*	Case No. 26264
Charlene Bascomb;	*	Case No. 26277
Matthew and Shaunna Walewski;	*	Case No. 26306
Frederick and Janet Nuss	*	Case No. 26313
<i>Complainants</i>	*	
	*	
V.	*	
	*	
Redline Express, LLC	*	
Jon Luria President and CEO	*	
<i>Respondent</i>	*	

Rental Facility: Shady Grove Square Townhouses (Rental Facility License No. 17563)

DECISION AND ORDER

The above-referenced captioned cases having come before the Commission on September 27, 2005 Landlord-Tenant affairs for Montgomery County, Maryland (the “Commission”), pursuant to Sections 29-10, 29-14, 29-41, and 29-44, *Landlord-Tenant Relations*, of the Montgomery County Code, 2001, as amended (“County Code”) and Sections 53A-6, 53A-8, and 53A-9, *Tenant Displacement*, of the Montgomery County Code, 2002, as amended, the Commission having considered the testimony and evidence of record, it is therefore, this 4th day of April, 2006, found, determined and ordered as follows:

BACKGROUND

All of the cases herein were filed with the Office of Landlord-Tenant Affairs, within the Department of Housing and Community Affairs (“Department”) between May 16, 2005, and June 20, 2005, by the above-named Complainants against Redline Express, LLC (“Respondent”) for alleged violations of the Montgomery County *Tenant Displacement Act*, County Code §53A-1 et seq. (the “Act”). Specifically all the Complainants, who all were tenants of Shady Grove Square Townhouses (“SGS”), allege that the Respondent, the owner of SGS, was required,

pursuant to §53A-6(c) of the Act, to pay them the equivalent of two months rent as relocation assistance after the Respondent issued each of them a 120-day notice that their townhouses were being sold to the public. It is undisputed that the Respondent refused to provide the legislatively mandated relocation assistance. The Respondent asserts, however, that it is not required to provide relocation assistance because the Complainants' rental units do not fit within the definition set forth in §53A-2(e) of the Act which provides that for the purpose of the Act, "*Rental housing* means a multiple family dwelling, or a group of multiple family dwellings operated as one entity, with a total of at least 4 rental units."

After determining that Case Nos. 26231, 26234, 26242, 26247, 26254, 26258, 26259, 26260, 26264, 26277, 26306 and 26313 were not susceptible to conciliation, the Department referred the matters to the Commission for review on July 12, 2005. The Commission voted to consolidate all of the cases and to conduct a single public hearing rather than individual hearings.

The public hearing commenced on September 27, 2005. On November 7, 2005, the Commission reopened the record to allow for submission of the Complainants' leases in order to confirm that Complainants were tenants and the monthly rental rate for each tenant. The hearing record closed on November 27, 2005.

The record reflects that the Complainants and the Respondent were given proper notice of the hearing and the date and time. Present at the hearing and offering evidence were Complainants Brian Willett, Kelly Willett, Chris Senatro, Dan Kahan, Mrs. Kahan, Matthew Walewski, Courtney Davenport, Jim Fresin, Keith Bennett, Henry Bagazonzya, Liliane Bagazonzya, Charlene Bascomb, Jeannette Kamata, Emma Anderson, Frederick Nuss, Janet Nuss, and Respondent, Jon Luria, who was represented at the hearing by Patrick McKeever, Esquire.

Without objection, the Commission entered into the record the case file compiled by the Department, identified as Commission's Exhibit No. 1. Also without objection, the Commission entered into evidence Montgomery County's Rental Licensing File for SGS, identified as Commission's Exhibit No. 2.

Furthermore, the Commission extended the time period within which it would decide this matter pursuant to Section 7.1 of Appendix L, "Regulations on Commission on Landlord-Tenant Affairs," of the County Code.

FINDINGS OF FACT

Based on the evidence contained in the record, the Commission makes the following findings of fact:

1. Shady Grove Square Townhouses were built in 1984/85 by Redland/WHM LP, William H. Magruder, Jr., General Partner, and managed by Westin Management Company, Inc.

2. On March 18, 2005, William H. Magruder, Jr., submitted a Rental Facility License Application to the Department seeking a rental license for “43 Townhouses” at Shady Grove Square. A Rental Facility License (#17563) was subsequently issued to Redland/WHM LP, and renewed annually up to and including 2004/05.

3. In February 2005, Redline Express, LLC purchased Shady Grove Square Townhouses from Redland/WHM LP.

4. On February 11, 2005, Jon Luria, Redline Express, LLC submitted a Rental Facility License Application to the Department requesting that the existing Rental Facility License be transferred from Redland/WHM LP to Redline Express, LLC.

5. On February 18, 2005, the Rental Facility License #17563 was transferred from Redland/WHM LP to Redline Express, LLC. The Rental Facility License was not renewed.

6. By a letter dated February 1, 2005, Respondent’s management company, Dreyfuss Management (“Dreyfuss”), issued a notice to all tenants at SGS that, “A New Investor Group has acquired Mallard Cove and Shady Grove Square Properties. It is their intention to sell the Condominiums and Townhouses.”

7. By a letter dated February 3, 2005, Dreyfuss issued a second notice to all tenants advising them, in pertinent part, that “All residents will be able to remain for the longer of their lease expiration date or 180 days from the date of notification (the official date of notification will be later this month.)”

8. All of the Complainants, with the exception of Dan Kahan, were tenants at SGS at the time they received notice from the Respondent that the townhouses at SGS were being converted from rental housing to owner-occupied housing.

9. Each of the townhouses at SGS is a single-family dwelling unit as defined by Section 29-1, “Definitions,” *Landlord-Tenant Relations*, of the County Code, which states: “*Dwelling unit, single-family*: A dwelling unit that has at least one direct entrance from the outside for the exclusive use of its occupants. A single family dwelling unit may be detached from other dwelling units or share a side or rear wall with another dwelling unit.”

CONCLUSION OF LAW

Accordingly, based upon a full and fair consideration of the evidence, the Commission on Landlord-Tenant Affairs concludes that:

1. Pursuant to Section 53A-2(a) of the Act, *Convert* and *conversion* mean, in addition to other non-applicable definitions, “any other act that ends the use of the property as rental housing.” Clearly, the sale of the 43 townhouse units at SGS ends their use as rental housing. However, the fundamental question before the Commission is whether or not the 43 townhouses at SGS meet the definition of “Rental housing,” as defined in Section 53A-2(e) of the Act which states, “*Rental housing* means a multiple-family dwelling, or a group of multi-family dwellings operated as one entity, with a total of at least 4 units.”

2. Furthermore, Section 59-A-2.1, *Definitions*, of the Montgomery County Zoning Ordinance defines a townhouse as follows:

Dwelling unit, townhouse: One of a group of 3 or more one-family dwelling units attached to and divided from each other by a vertical party wall. Each townhouse must have a minimum of 2 direct entrances from the outside, either on the front and rear or front and side. This definition does not include a “dwelling unit, one-family attached,” as defined in this section.

3. Although the 43 townhouses at SGS were operated for many years by the original owner, Redland/WHM, LP, as one rental entity for which they obtained a Rental Facility License annually from the Department, it does not change the fact that the units were built as individual townhouses. As such, the 43 townhouses do not meet the definition of “Rental housing” because they are not “a multiple-family dwelling, or a group of multi-family dwellings.”

4. Where the statutory language is plain and free from ambiguity and expresses a definite and simple meaning, the Commission is not to look beyond the words of the statute itself and is required to apply the statute’s plain meaning. *See Board of License Commissioners for Charles County v. Toye*, 354 Md. 116, 729 A.2d 407 (1999).

5. No violation of Chapter 53-A of the Montgomery County Code has occurred on the part of the Respondent, no defective tenancy exists in any of these matters, and the Respondent is not required to pay the Complainants, or any other former tenant at SGS, relocation assistance equal to 2 months rent.

ORDER

In view of the foregoing, the Commission on Landlord-Tenant Affairs hereby orders that Case Nos. 26231, 26234, 26242, 26247, 26254, 26258, 26259, 26260, 26264, 26277, 26306 and 26313 are DISMISSED.

Commissioner Andrea Mack, Commissioner Lyana Palmer, and Commissioner Matthew Moore, Panel Chair, concurred in the foregoing decision unanimously.

Any party aggrieved by this action of the Commission may file an administrative appeal to the Circuit Court for Montgomery County, Maryland within thirty (30) days from the date of this Decision and Order, pursuant to the Maryland Rules governing administrative appeals.

Matthew Moore, Panel Member
Commission on Landlord-Tenant Affairs

[\[1\]](#) Prior to beginning the hearing it was discovered that Daniel and Trudy Kahan were not residents of Shady Grove Square Townhouses, but instead were a residents of Mallard Cove Condominiums. Since it appears that the same facts do not apply to Mr. and Mrs. Kahan's tenancy, Case No. 26247 is referred back to the Office of Landlord-Tenant Affairs for further review.