

SUPERIOR COURT FOR THE DISTRICT OF COLUMBIA
CIVIL DIVISION

**MINNESOTA COMMONS TENANTS
ASSOCIATION, INC.,**
4069–4089 Minnesota Ave. NE
Washington, DC 20019

Plaintiff,

v.

4069 MINNESOTA AVE., NE LLC,
5706 Frederick Avenue
Rockville, MD 20852

and

4069–4089 MINNESOTA AVE NE LLC,
8 The Green, Suite A
Dover, DE 19901

Defendants.

Case No.

Date: October 22, 2024

Jury Trial Requested

COMPLAINT

Plaintiff Minnesota Commons Tenant Association, Inc. (the “Tenants Association”), by and through its undersigned counsel, file this Complaint against 4069 Minnesota Ave., NE LLC and 4069–4089 Minnesota Ave NE LLC, alleging as follows:

INTRODUCTION

1. Minnesota Commons is a multi-family residential property containing buildings at 4069 to 4089 Minnesota Ave. NE, Washington, DC (collectively, “Minnesota Commons” or the “Property”). The Property consists of 83 rental units.

2. In January 2021, Defendant 4069 Minnesota Ave., NE LLC expressed its interest to sell Minnesota Commons. It entered into a third-party sale agreement to FJ LLC.

3. At the outset, Defendant 4069 Minnesota Ave., NE LLC complied with the Tenant Opportunity to Purchase Act (“TOPA”), D.C. Code § 42-3404.01 *et seq.* It issued an offer of sale to the Property’s tenants.

4. In turn, the tenants organized to exercise their statutory right to purchase the property and formed the Minnesota Commons Tenants Association.

5. The Tenants Association satisfied every step required by TOPA, eventually entering into a Purchase and Sale Agreement with Defendant 4069 Minnesota Ave., NE LLC on June 3, 2022.

6. More than a year and a half elapsed, but the sale never went through.

7. Subsequently, for Defendant 4069 Minnesota Ave., NE LLC to sell the Property, it would have to start the TOPA process anew. This never occurred.

8. Without any notice to the Tenants Association, Defendant 4069 Minnesota Ave., NE LLC sold the Property to Defendant 4069–4089 Minnesota Ave NE LLC on March 28, 2024.

9. Both Defendants knew that the sale would violate TOPA. Defendant 4069 Minnesota Ave., NE LLC already had engaged in the TOPA process with the Tenants Association in 2021. And Defendant 4069–4089 Minnesota Ave NE LLC—“presumed to act with full knowledge of tenant rights and public policy”—knew that the Property could only be sold after satisfying TOPA’s requirements. *See* D.C. Code § 42-3404.04.

10. Rather than provide the Tenants Association with their statutory opportunity to purchase Minnesota Commons, Defendants wholly skipped the TOPA process.

11. This egregious TOPA violation warrants unwinding the sale of the Property to give the Tenants Association what it was entitled to by law: the opportunity to purchase their homes.

In the alternative, the Court should award Plaintiff damages and place the Property in a constructive trust.

PARTIES

12. Plaintiff Minnesota Commons Tenants Association, Inc. is a domestic nonprofit corporation registered in the District of Columbia. The principal and registered office of the Tenants Association is located at 4069–4089 Minnesota Ave. NE, Washington, DC 20019. The purpose of the Tenants Association is to promote the common interests of the residents of Minnesota Commons.

13. Defendant 4069 Minnesota Ave., NE LLC is a limited-liability company organized under the laws of Maryland. From 2000 until March 28, 2024, it owned the 11 multi-unit residential buildings comprising Minnesota Commons. The company’s principal business address is 5706 Frederick Ave., Rockville, MD 20852 and it has a registered agent at 1015 15th St. NW, Suite 1000, Washington, DC 20005.

14. Defendant 4069–4089 Minnesota Ave NE LLC is a limited-liability company organized under the laws of Delaware. On March 28, 2024, the deed to the 11 multi-unit residential buildings comprising Minnesota Commons transferred to 4069–4089 Minnesota Ave NE LLC. The company’s principal business address is 8 The Green, Suite A, Dover, DE 19901 and it has a registered agent at 250 11th Street, NE, Washington, DC 20002.

JURISDICTION AND VENUE

15. This Court has subject-matter jurisdiction over the claims and allegations in this Complaint pursuant to D.C. Code § 11-921(a)(6).

16. This Court has personal jurisdiction over Defendants because Plaintiff’s claims arise from Defendants transacting business in the District of Columbia. D.C. Code § 13-423(a)(1).

17. Venue is proper because Defendants regularly conduct business in the District of Columbia and the events giving rise to Plaintiff's claims occurred in the District of Columbia.

FACTS

The Tenant Opportunity to Purchase Act ("TOPA")

18. In 1980, the D.C. Council passed the D.C. Rental Housing Conversion and Sale Act. D.C. Law 3-86. Title IV of that law is known as the Tenant Opportunity to Purchase Act ("TOPA"). *See* D.C. Code § 42-3404.01 *et seq.*.

19. Under TOPA, if an owner of a rental property decides to sell, the tenants must have "an opportunity to purchase the housing accommodation at a price and terms that represent a bona fide offer of sale." *Id.* § 42-3404.02(a).

20. If an owner receives an offer on the property from a third party, the tenants have a "right of first refusal" for 15 days after the owner receives a valid sales contract. *Id.* § 42-3404.08.

21. Specifically, a tenant organization must be permitted to match that offer with "a price or term at least as favorable as that offered to a third party." *Id.* § 42-3404.05(a)(1).

22. The owner must mail the tenants a written copy of the offer of sale and post a copy of the offer of sale in a conspicuous place within common areas of the property. *Id.* § 42-3404.03.

23. Among other things, the offer of sale must include the sale's asking price, a summary of tenant TOPA rights, a statement that the tenant has the right to purchase the property under TOPA, and a statement regarding any existence of a third-party sales contract. *Id.* § 42-3404.03.

24. If 360 days elapse after the original third-party offer of sale, and the owner has not sold or contracted to sell the property, "the owner shall *comply anew* with the terms of [TOPA]." *Id.* § 42-3404.11(4) (emphasis added).

25. At all points during the TOPA process, “[t]he tenant and owner shall bargain in good faith.” *Id.* § 42-3404.11(5)(a).

26. “Third party purchasers are presumed to act with full knowledge of tenant rights and public policy” under TOPA. *Id.* § 42-3404.04.

2021 Attempt to Sell Minnesota Commons

27. On January 12, 2021, Defendant 4069 Minnesota Ave., NE LLC provided the residents of Minnesota Commons with an offer of sale.

28. The offer of sale explained that 4069 Minnesota Ave., NE LLC had accepted a third-party sale contract to sell the Property to FJ LLC for \$10,790,000.

29. The offer of sale also detailed how the residents of Minnesota Commons must be given the opportunity to purchase the Property under TOPA.

30. Under TOPA, Defendant 4069 Minnesota Ave., NE LLC would need to start the TOPA process over if it did not sell or contract to sell the Property within 360 days of the offer of sale—January 7, 2022. *See* D.C. Code § 42-3404.11(4).

31. On October 1, 2021, the tenants of Minnesota Commons incorporated the Minnesota Commons Tenants Association, Inc.

32. On October 7, 2021, the Tenants Association sent 4069 Minnesota Ave., NE LLC a Letter of Interest explaining its interest in purchasing the Property.

33. By January 7, 2022, Defendant 4069 Minnesota Ave., NE LLC had not sold or contracted to sell the Property. If the Defendant received an offer of sale from anyone other than the Tenants Association, it would trigger the TOPA process again.

34. On June 3, 2022, 4069 Minnesota Ave., NE LLC entered into a Purchase and Sale Agreement with the Tenants Association.¹

35. Nearly two years elapsed without the Property being sold.

Illegal Sale of Minnesota Commons

36. On March 28, 2024, the deed for the Property transferred from Defendant 4069 Minnesota Ave., NE LLC to Defendant 4069–4089 Minnesota Ave NE LLC.

37. Defendant 4069 Minnesota Ave., NE LLC had bypassed TOPA entirely and sold the Property without providing the Tenants Association an opportunity to purchase as required by law.

38. Defendant 4069 Minnesota Ave., NE LLC did not issue an offer of sale or comply with the TOPA process whatsoever prior to selling the Property to Defendant 4069–4089 Minnesota Ave NE LLC.

39. Indeed, Defendant 4069 Minnesota Ave., NE LLC did not even inform the tenants of Minnesota Commons that it had sold the Property. Tenants only determined that Minnesota Commons had a new owner by word of mouth.

40. The initial offer of sale to match FJ LLC’s offer—over three years earlier—did not satisfy Defendant 4069 Minnesota Ave., NE LLC’s requirement to provide the Tenants Association with an offer of sale to Defendant 4069–4089 Minnesota Ave NE LLC.

41. Both Defendants knew that the Property must be sold pursuant to TOPA. But rather than give the Tenants Association an opportunity to purchase the Property as required by law,

¹ At this point, the deadlines for tenants to exercise their TOPA rights remained tolled under the Covid-19 public health emergency. *See* D.C. Code § 42-3405.10b. Thus, the Tenants Association’s incorporation, Letter of Interest, and Purchase and Sale Agreement were timely.

Defendant 4069 Minnesota Ave., NE LLC skipped over TOPA to sell the Property to Defendant 4069–4089 Minnesota Ave NE LLC.

COUNT I
Violation of the Tenant Opportunity to Purchase Act (“TOPA”)
D.C. Code § 42-3404.01 *et seq.*
(Defendant 4069 Minnesota Ave., NE LLC)

42. Plaintiff repeats and incorporates by reference the allegations set forth above.

43. Minnesota Commons is a multi-family residential rental property. It is thus subject to TOPA. *See* D.C. Code § 42-3404.11(1).

44. Defendant 4069 Minnesota Ave., NE LLC did not sell the property within 360 days of the offer of sale on January 12, 2021. *See id.* § 42-3404.11(4).

45. Because more than 360 days had elapsed, TOPA required Defendant 4069 Minnesota Ave., NE LLC to begin the process again if it wished to sell the Property. *See id.*

46. At no point after January 7, 2022, did Defendant 4069 Minnesota Ave., NE LLC provide Plaintiff with an offer of sale.

47. On March 28, 2024, Defendant 4069 Minnesota Ave., NE LLC sold the Property to Defendant 4069–4089 Minnesota Ave NE LLC.

48. In doing so, Defendant 4069 Minnesota Ave., NE LLC failed to provide Plaintiff with the opportunity to purchase the property as required by TOPA.

COUNT II
Intentional Interference with Contractual Relations
(Defendant 4069–4089 Minnesota Ave NE LLC)

49. Plaintiff repeats and incorporates by reference the allegations set forth above.

50. “Third party purchasers are presumed to act with full knowledge of tenant rights and public policy” under TOPA. D.C. Code § 42-3404.04.

51. Upon information and belief, Defendant 4069–4089 Minnesota Ave NE LLC was aware of Plaintiff’s right to purchase the Property under TOPA.

52. Upon information and belief, Defendant 4069–4089 Minnesota Ave NE LLC knew that Plaintiff intended to buy the Property and that a Purchase and Sale Agreement was executed between Plaintiff and Defendant 4069 Minnesota Ave., NE LLC.

53. Upon information and belief, Defendant 4069–4089 Minnesota Ave NE LLC knew that Defendant 4069 Minnesota Ave., NE LLC was required to issue a new offer of sale to Plaintiff upon any bid on the Property.

54. Defendant 4069–4089 Minnesota Ave NE LLC intentionally interfered with Plaintiff’s contractual relations with Defendant 4069 Minnesota Ave., NE.

55. This interference caused Defendant 4069 Minnesota Ave., NE LLC to ignore Plaintiff’s TOPA rights and sell the Property to Defendant 4069–4089 Minnesota Ave NE LLC.

56. Defendant 4069–4089 Minnesota Ave NE LLC’s tortious interference with Plaintiff’s contractual relations caused Plaintiff to lose its opportunity to purchase the Property.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff Minnesota Commons Tenants Association respectfully requests that this Court enter judgment against Defendants on all counts and grant the following relief:

a. Declare that Defendant 4069 Minnesota Ave., NE LLC failed to provide Plaintiff with an Offer of Sale and First Right of Refusal pursuant to TOPA.

b. Declare that Defendant 4069–4089 Minnesota Ave. NE LLC is not a *bona fide* purchaser of the Property in accordance with TOPA.

c. Declare null and void the March 28, 2024 deed transferring the Property from Defendant 4069 Minnesota Ave., NE LLC to Defendant 4069–4089 Minnesota Ave. NE LLC.

d. Order Defendant 4069 Minnesota Ave., NE LLC to issue a new Offer of Sale for the Property to Plaintiff.

e. Place a constructive trust on the Property in favor of Plaintiff and order Defendant 4069–4089 Minnesota Ave. NE LLC to account for and disgorge all profits from rents received from the Property, as well as any increase in the value of the Property, and pay the same to Plaintiff.

f. In the alternative, award Plaintiff damages as permitted by law.

g. Award Plaintiff attorney’s fees and expenses as permitted by law.

h. Award Plaintiff court costs.

i. Award any additional relief the Court deems just.

Date: October 22, 2024

Respectfully submitted,

/s/ Kaitlin Welborn

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