

SUPERIOR COURT OF THE DISTRICT OF COLUMBIA
Civil Division

NEW CAPITOL PARK PLAZA)	
TENANTS ASSOCIATION, et al.,)	
Plaintiffs)	
)	
v.)	Case No. 04-CA-7465
)	Calendar 7
DISTRICT OF COLUMBIA, et al.,)	Judge Kravitz
Defendants)	

ORDER GRANTING THE DISTRICT OF COLUMBIA’S SECOND MOTION TO DISMISS OR, IN THE ALTERNATIVE, FOR SUMMARY JUDGMENT

This action for declaratory and injunctive relief is before the Court on the defendants’ renewed motion to dismiss or, in the alternative, for summary judgment. The defendants contend, as an initial matter, that amendments to the Rental Housing Conversion and Sale Act (“RHCSA”) enacted in July 2005 have rendered moot the plaintiffs’ challenges to the former practices of the District of Columbia Department of Consumer and Regulatory Affairs (“DCRA”) in determining the applicability of the RHCSA to so-called 95/5 transactions. As to the merits of the plaintiffs’ challenges, the defendants contend, in the alternative, that the Court must defer to the DCRA’s reasonable interpretation of the then-existing version of the RHCSA, that the plaintiffs’ claims are barred by the doctrine of *res judicata*, and that the DCRA’s actions did not violate the District of Columbia Administrative Procedure Act (“DCAPA”).

The Court has considered the defendants’ motion, the plaintiffs’ opposition, the exhibits appended to the parties’ briefs, and the entire record of the case. For the reasons set forth herein, the Court concludes that the plaintiffs’ claims are moot.

Case: 2004 CA 007465 B
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Although technically not bound by the “case or controversy” requirements of Article III of the United States Constitution, the local courts of the District of Columbia, as a prudential matter, generally do not decide cases that have become moot. *District of Columbia v. Group Ins. Admin.*, 633 A.2d 2, 12 (D.C. 1993). “A case is moot when the legal issues presented are no longer ‘live’ or when the parties lack a legally cognizable interest in the outcome.” *Cropp v. Williams*, 841 A.2d 328, 330 (D.C. 2004). That is, a case is moot “if ‘there is no reasonable expectation that the alleged violation will recur [to the complaining party] and ... interim relief or events have completely and irrevocably eradicated the effects of the violation.’” *Hardesty v. Draper*, 687 A.2d 1368, 1371 (D.C. 1997) (quoting *In re Morris*, 482 A.2d 369, 371 (D.C. 1984)).

The plaintiffs’ claims for declaratory and injunctive relief all arise from the DCRA’s former practice of issuing letters to owners of real estate setting forth the agency’s determinations that 95/5 transactions proposed by the owners did not constitute “sales” within the meaning of the RHCSA. The plaintiffs allege that the DCRA misinterpreted the statutory definition of “sale” in the RHCSA so as to exclude 95/5 transactions and violated the RHCSA and the DCAPA by making determinations of the applicability of the RHCSA -- set forth in what are commonly referred to as “Linda Harried letters” -- without setting up and following formal procedures for hearing and resolving requests for the issuance of declaratory orders concerning the applicability of the RHCSA to proposed real estate transactions.

In July 2005, however, the District of Columbia Council amended the RHCSA in a way that erased any reasonable expectation that the DCRA’s alleged violations will recur and completely and irrevocably eradicated the effects of any of the agency’s past

violations. First, the July 2005 amendments made clear that the RHCSA applies to 95/5 transactions. *See* D.C. Code § 42-3404.02(c)(1) (2005 Supp.) (amending the statutory definition of “sale” so as to include “[t]he transfer of an ownership interest in a corporation, partnership, limited liability company, association, trust, or other entity which owns an accommodation as its sole or principal asset, which, in effect, results in the transfer of the accommodation pursuant to subsection (a) of this section”). Second, the amendments required the DCRA to “promulgate regulations to afford all interested parties an opportunity to participate in any declaratory proceeding,” D.C. Code § 42-3405.03b(c) (2005 Supp.), made clear that “declaratory orders” issued pursuant to the RHCSA “shall be the sole means by which the Mayor shall issue an official, binding determination” of the applicability of the RHCSA to a proposed transaction, D.C. Code § 42-3405.03a(c) (2005 Supp.), and established that “[r]eliance upon any other form of determination shall not be afforded any weight,” *id.*

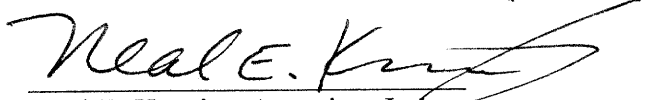
The District of Columbia Government has assured the Court, through counsel, that it will fully comply with the requirements of the RHCSA as amended in July 2005. As the plaintiffs have failed to state any persuasive reason to doubt the government’s good faith in this regard, and as there is no dispute regarding the current meaning of the relevant provisions of the statute, the Court concludes that there is no reasonable likelihood (1) that the plaintiffs will be victimized in the future by legally erroneous interpretations by the DCRA of the statutory definition of “sale”, (2) that the DCRA will continue to issue so-called Linda Harried letters, or (3) that the DCRA will take the position in any forum that Linda Harried letters issued by the DCRA prior to the July 2005 amendments have any legal effect. The Court therefore concludes that the legal

issues raised in the amended complaint are no longer “live” and that the amended complaint should be dismissed as moot.

Accordingly, it is this 26 day of October 2005

ORDERED that the defendants’ motion is **GRANTED**. It is further

ORDERED that the amended complaint is hereby **DISMISSED AS MOOT**.


Neal E. Kravitz, Associate Judge
(Signed in Chambers)

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MAILED From Chambers OCT 27 2005
DOCKETED In Chambers OCT 27 2005