

SUPERIOR COURT OF THE DISTRICT OF COLUMBIA
Civil Division

NEW CAPITOL PARK PLAZA)	
TENANTS ASSOCIATION, INC., et al.,)	
Plaintiffs)	
)	
v.)	Case No. 04CA7465
)	Calendar 7
DISTRICT OF COLUMBIA, et al.,)	Judge Kravitz
Defendants)	
)	

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

This matter is before the Court on the defendants’ motion to dismiss for failure to state a claim, Super. Ct. Civ. R. 12(b)(6), or, in the alternative, for summary judgment, Super. Ct. Civ. R. 56. The defendants principally contend that the claims alleged in the amended complaint are barred by the doctrines of *res judicata* and collateral estoppel and that, in any event, the government practices alleged to be unlawful are fully compliant with both the Rental Housing Conversion and Sale Act and the D.C. Administrative Procedure Act.


The plaintiffs have filed an opposition to the defendants’ motion. The plaintiffs argue that the doctrines of *res judicata* and collateral estoppel are not applicable because the claims of government misconduct alleged in this case are fundamentally different from the claims decided in the cases relied upon by the defendants. They argue further that the so-called 95/5 transactions challenged in this case are covered by the Rental Housing Conversion and Sale Act and that employees of the Department of Consumer and Regulatory Affairs have violated the statute by failing to act pursuant to established criteria and procedures.

The Court has considered the parties' briefs and the entire record of the case. The defendants have made strong arguments, one or more of which may ultimately warrant the entry of summary judgment in the defendants' favor. Given the plaintiffs' arguments in opposition and the absence of a factual record, however, the Court is of the view that the case is not appropriate for pre-discovery summary disposition.

Accordingly, it is this 14 day of January 2005

ORDERED that the defendants' motion is **DENIED** without prejudice to its being renewed following the close of discovery. It is further

ORDERED that the defendants shall file an answer by February 7, 2005.


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

Copies to:

Andrew J. Saindon, Esq.
Assistant Attorney General
441 4th Street, NW
6th Floor South
Washington, DC 20001

Zachary Wolfe, Esq.
People's Law Resource Center
1725 I Street, NW
Suite 300
Washington, DC 20006

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