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For more information, contact:

Heather Crislip
Housing Opportunities Made Equal of Virginia, Inc.
(80) 354-0641 | hcrislip@HOMEofVA.org

Gregg Kelley
Washington Lawyers' Committee for Civil Rights and Urban Affairs
(202) 319-1070 | gregg_kelley@washlaw.org

Stanley Augustin
Lawyers' Committee for Civil Rights Under Law
(202)-662-8327 | saugustin@lawyerscommittee.org

Housing Opportunities Made Equal of Virginia (HOME) and Former Tenants Sue to Protect Housing for Persons with Criminal Records

ALEXANDRIA, VA (October 24, 2019) – Housing Opportunities Made Equal of Virginia (“HOME”), a civil rights organization with the mission to ensure equal access to housing for all, along with individuals Mara Kniaz and Kuir Phillips, filed suit to challenge an unlawful and overly restrictive criminal background screening policy applied by Kay Management Company and its associated entities (“Defendants”) at their properties across Virginia. Kay maintains a policy that automatically bars anyone with a felony conviction and most applicants with misdemeanor convictions from living in an apartment managed by Kay Management. Ms. Kniaz, Mr. Phillips, and their children were forced out of their rental apartment, where they lived without incident for over three years. This policy is applied sweepingly, without regard to the age or nature of the past convictions. Kay Management Company terminated the housing of Ms. Kniaz, Mr. Phillips, and their children on the basis of a decade-old criminal conviction, even though that conviction was irrelevant to whether any member of the household posed a risk to the property or residents.

HOME uncovered the broad nature of the criminal records policy implemented at Defendants’ five Virginia-based properties. Along with Ms. Kniaz and Mr. Phillips, HOME brings this case to have the policy declared illegal and significantly changed to ensure it provides individualized consideration to applicants and for compensation associated with the policy’s wrongful application. HOME asserts that individual assessments are a less discriminatory alternative to blanket exclusions, and has worked to establish a policy based on such

consideration, available at: <https://homeofva.org/wp-content/uploads/2019/08/2019.08.05-Criminal-Background-Policy.pdf>

Plaintiffs HOME, Ms. Kniaz, and Mr. Phillips contend that Kay Management's ban on persons with criminal records violates the federal Fair Housing Act (FHA) and Virginia Fair Housing Law because it has a disparate impact on African-American and Latinx applicants. African-American and Latinx applicants are 4.4 and 2.7 times, respectively, more likely than white applicants to be prevented from renting an apartment from Defendants because of their criminal records screening policy. No legitimate business interest justifies the disproportionate exclusionary effect on African-American and Latinx applicants. To the extent that Defendants' may contend they have an interest in protecting property and the safety of residents, that goal can be met with less discriminatory consequences by using a tenant screening process that includes an individualized assessment, to ensure that persons with criminal records, who pose no threat to others and are otherwise qualified renters, can obtain housing. Criminal record screening policies that use an individualized assessment framework for evaluating the suitability of prospective applicants for tenancy comply with the FHA and U.S. Department of Housing and Urban Development's guidance regarding the application of the FHA to the use of criminal records by housing providers.

Heather Mullins Crislip, President and CEO of HOME states: "When an overly broad policy is set out by a housing provider, it sets our society up for huge inequities. Our criminal justice policy disproportionately arrests and sentences African American and Latinx citizens. Overly broad criminal screening policies, like the one deployed by Kay Management, continue that sentence for a lifetime."

Jonathan M. Smith, Executive Director of the Washington Lawyers' Committee for Civil Rights and Urban Affairs states: "A criminal conviction should not be a life-long sentence. The targeting of people of color for arrest and prosecution and other inequities built into the criminal legal system have created dramatic disparities in rates of conviction based on race. Discrimination based on criminal conviction is race discrimination that serves no legitimate business purpose or social good."

Kristen Clarke, Executive Director for the Lawyers' Committee for Civil Rights Under Law notes: "Astronomically high rates of mass incarceration in this country have already devastated African-American and Latinx communities. Upon returning to society following incarceration, finding housing and employment remain barriers to full societal participation. Much like 'Ban the Box' initiatives have exposed the disparate impact of overly restrictive employment policies regarding criminal history, so too do these policies have a disparate impact in housing. The Lawyers' Committee is committed to fighting these and all discriminatory practices that infringe on the rights of disadvantaged groups."

The Washington Lawyers' Committee for Civil Rights and Urban Affairs, The Lawyers' Committee for Civil Rights Under Law, and national law firm Baker & Hostetler LLP are representing Ms. Kniaz, Mr. Phillips, and HOME in this matter.

A copy of the complaint can be found [here](#).

Individuals who believe they may have experienced illegal discrimination at a Kay Management property are encouraged to report their experiences to the HOME by calling 804-354-0641 or email help@homeofva.org.

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About Housing Opportunities Made Equal of Virginia:

Housing Opportunities Made Equal of Virginia, Inc. (HOME), founded in 1971, is a statewide fair housing and HUD-approved housing counseling 501(c)(3) non-profit. HOME fulfills its mission to ensure equal access to housing for all people by addressing the still glaring individual instances of housing discrimination. Additionally, HOME works to tackle systemically divisive housing practices on a larger scale through fair housing enforcement and research, advocacy, and statewide policy work. HOME also takes direct action to aid first-time homebuyers, families with homes under the threat of foreclosure, families facing eviction, and we help families with housing choice vouchers move to neighborhoods of opportunity. At a time when unequal access to housing and credit contributes most to the United States' growing wealth gap, HOME's multi-faceted approach is a powerful catalyst toward furthering fair housing. You can learn more about HOME and all of its services at www.HOMEofVA.org.

About the Washington Lawyers' Committee for Civil Rights and Urban Affairs:

Founded in 1968, The Washington Lawyers' Committee for Civil Rights and Urban Affairs works to create legal, economic and social equity through litigation, client and public education and public policy advocacy. While we fight discrimination against all people, we recognize the central role that current and historic race discrimination plays in sustaining inequity and recognize the critical importance of identifying, exposing, combatting and dismantling the systems that sustain racial oppression. For more information, please visit <https://www.washlaw.org> or call 202.319.1000. Follow us on Twitter at @WashLaw4CR.

About the Lawyers' Committee for Civil Rights Under Law

The Lawyers' Committee for Civil Rights Under Law, a nonpartisan, nonprofit organization, was formed in 1963 at the request of President John F. Kennedy to involve the private bar in providing legal services to address racial discrimination. Now in its 56th year, the Lawyers' Committee for Civil Rights Under Law is continuing its quest to "Move America Toward Justice." The principal mission of the Lawyers' Committee for Civil Rights Under Law is to secure, through the rule of law, equal justice for all, particularly in the areas of criminal justice, fair housing and community development, economic justice, educational opportunities, and voting rights. For more information, please visit www.lawyerscommittee.org.