

Charge of Discrimination

The particulars are:

1. This charge of discrimination challenges Bozzutto's violations of Chapter 27 of the Montgomery County Code, which prohibits, *inter alia*, age discrimination in conducting housing transactions and in housing notices, statements, listings, or advertisements. *See* Montgomery Cty. Code § 27-12(a), and (d)(1).
2. Housing Rights Initiative ("HRI") is a non-profit organization dedicated to promoting the rights of persons who have been victims of unlawful and discriminatory practices by members of the housing industry. As part of its proactive and systematic approach to protecting tenants' rights, HRI conducts investigations into potential unlawful practices by real estate companies and housing providers. HRI also provides information and assistance to tenants and individuals seeking housing in the New York City and Washington, D.C. metropolitan areas.
3. Neuhtah Opiotennione is a 54-year-old woman who lives in Washington, D.C. During the last 12 months, Ms. Opiotennione was regularly searching for rental housing in the D.C. Metropolitan Area, including Montgomery County. She worked for the D.C. Public School system and had a housing budget of at least \$2,500 per month. She has regularly used Facebook over the last 12 months and was interested in receiving information via Facebook about housing opportunities.
4. This charge is being filed against Bozzutto to challenge its policy or practice of purchasing, authorizing, publishing, circulating and/or causing the publication or circulation of housing-related Facebook advertisements that placed an upper age limit on the population of Facebook users who were eligible to receive its housing advertisements, at any time from the earliest date actionable under the limitations period applicable to the given claim until the date of judgment in any administrative and/or judicial proceeding initiated by the charging parties herein with respect to the claims asserted in this charge.
5. Upon information and belief, the specific properties in question for which Bozzutto purchased, authorized, published, and/or caused the publication of age-restricted housing advertising include, but may not be limited to: The Modern at Art Place, 400 Galloway St NE, Washington, DC 20011; Central, 8455 Fenton Street, Silver Spring, MD 20910; the Banks, 900 7th St SW, Washington, DC 20024; Fenwick Apartments, 8616 2nd Ave, Silver Spring, MD 20910; Aperture, 11410 Reston Station Blvd, Reston, VA 20190; Instrata Pentagon City, 901 15th St S, Arlington, VA 22202; Novel South Capitol, 2 I Street, SE, Washington, DC 20003; Mallory Square, 15251 Siesta Key Way, Rockville, MD 20850; the Maxwell, 4200 N Carlin Springs Rd, Arlington, VA 22203; the Vine, 10945 Price Manor Way, Laurel, MD 20723; Aspire Apollo, 4451 Telfair Blvd, Camp Springs, MD 20746; Flats at Bethesda, 7170 Woodmont Ave, Bethesda, MD 20815; Lindley Apartments, 8405 Chevy Chase Lake Terrace, Chevy Chase, MD; Pike 3400, 3400 Columbia Pike, Arlington, VA 22204; and The View at Liberty Center, 4000 Wilson Blvd, Arlington, VA 22203. The exceptions outlined by Montgomery County Code § 27-14 do not apply to these and other properties of Bozzutto. Examples of the types of age-restricted ads for these properties are attached as Exhibit A. Upon

information and belief, Fore Property Company has targeted its age-restricted housing ads to persons in the District of Columbia Metropolitan area (including Montgomery County).

6. Ms. Opiotennione has been denied housing advertisements and information that similarly-situated individuals who are younger than her have received from Bozzutto. If Ms. Opiotennione had received such housing advertisements from Bozzutto, she would have clicked on those housing advertisements in order to learn more about those opportunities and pursue them.
7. Ms. Opiotennione is filing this charge on behalf of all Facebook users who have been interested in housing opportunities in the District of Columbia metropolitan area (including Montgomery County) and who have been or are being excluded from receiving a housing-related advertisement from Bozzutto because Bozzutto placed an upper age limit on the population of Facebook users who were eligible to receive a housing-related advertisement that excluded such persons, at any time from the earliest date actionable under the limitations period applicable to the given claim until the date of judgment in any administrative and/or judicial proceeding initiated by the charging parties herein in relation to the claims asserted in this charge (“Plaintiff Class Members”).
8. HRI is filing this charge on behalf of itself as an organization seeking to enforce Article I of Chapter 27 of the Montgomery County Code. *See id.* § 27-7(a). HRI has undertaken efforts to identify and combat the age discrimination described in this charge, including by engaging in an investigation of the violations and conducting education and outreach efforts in the D.C. metropolitan area and beyond to inform individuals of their legal rights to receive housing advertisements and opportunities in a non-discriminatory manner. By engaging in these efforts to identify and combat age discrimination, HRI’s resources have been diverted from activities in which HRI would ordinarily engage—including investigating real estate fraud and mobilizing tenants—towards combatting such discrimination, and HRI’s mission to protect tenants’ rights and preserve affordable housing has been frustrated.
9. The Montgomery County Code makes it unlawful to “publish or circulate, or cause to be published or circulated, any housing notice, statement, listing or advertisement . . . indicating that . . . age could influence or affect” the rental, lease, or sale of housing or the availability of housing. *See id.* § 27-12(d)(1); *see also id.* § 27-12(a)(1)-(3).
10. The Montgomery County Code makes it unlawful to “refuse, or refuse to negotiate, to sell, . . . lease, sublease, rent, assign, or otherwise transfer the title, leasehold, or other interest in any housing”; “represent that housing is not available for inspection, sale, lease, sublease, rental, assignment, or other transfer when it is available”; or “otherwise deny or withhold any housing from any person” because of age. *Id.* § 27-12(a)(1)-(3).
11. Disparate impact claims are cognizable under Chapter 27 of the Montgomery County Code, which mirrors the language of federal antidiscrimination laws under which disparate impact claims are also cognizable. *See* Memorandum from Clifford L. Royalty, Assoc. Cty. Attorney, to Michael Faden, Senior Legislative Attorney 4 (May 11, 2005), <http://www.amlegal.com/pdffiles/MCMD/05-11-2005.pdf>.

12. HRI and Ms. Opiotennione are persons within the meaning of Montgomery County Code § 27-6.
13. When advertising housing opportunities via Facebook's advertising platform, Bozzutto has targeted housing advertisements towards younger individuals on the Facebook advertising platform and simultaneously excluded older individuals from receiving the housing advertising and information that Bozzutto directed to younger individuals.
14. When Bozzutto has sent housing-related advertisements on Facebook to prospective tenants or occupants, Bozzutto's housing ads on Facebook have stated that Bozzutto wants to reach people who are below a certain age threshold. These age-based statements communicate information to prospective tenants about the age of the persons whom Bozzutto wants to recruit and lease to for their housing opportunities. The same statements also expressly identify the age range of the persons who received the advertisements and implicitly identify the age range of the persons who did not receive the advertisements. For example, a statement that the advertiser wants to reach persons who are 22- to 40-years-old means that the advertiser only sent the advertisement to persons who are 22- to 40-years-old, and that persons who are older than 40-years-old or younger than 22-years-old did not receive the advertisement.
15. Upon information and belief, when Bozzutto has caused housing ads to be published and distributed, Bozzutto has utilized Facebook's ad delivery algorithm that determines which Facebook users within a population selected by the advertiser will receive the ads; that algorithm makes such determinations based upon age (or proxies for age) in a manner that routinely sends the ads disproportionately to younger individuals rather than older individuals. Upon information and belief, by utilizing Facebook's ad delivery algorithm, Bozzutto has compounded the discrimination that Bozzutto has engaged in by further excluding additional older individuals from receiving its housing advertisements. For example, if an advertisement is only sent to persons 22 to 55-years-old, no one older than 55-years-old will receive the ad. But it is likely that the ad delivery algorithm will result in persons in their 20s or 30s being more likely than persons in their late 40s or early 50s to receive the ads. Bozzutto is responsible for using and relying upon Facebook's ad delivery algorithm to make decisions about which people will receive its housing advertisements. Upon information and belief, Bozzutto knew or should have known that Facebook's ad delivery algorithm was using age or proxies for age and that doing so would disproportionately exclude older persons from receiving their housing advertisements.
16. Bozzutto has engaged in discriminatory advertising and discrimination in the initiation of real property transactions by excluding older individuals from the population of individuals to whom Bozzutto has directed its housing advertisements and information on Facebook's advertising platform.
17. When Bozzutto makes a statement within a housing advertisement that the recipient of the advertisement received the advertisement because Bozzutto wants to reach people between an age range that excludes many older individuals, the advertisement communicates the message to an ordinary person or reader that Bozzutto is less interested in or not interested in renting property to older individuals. Such an advertisement

informs the reader of the advertisement and the public at large that Bozzutto has a preference for younger tenants or occupants over older tenants or occupants and that Bozzutto is limiting housing opportunities to younger tenants or occupants and drawing a distinction between younger and older tenants or occupants in the rental or sale of properties.

18. Bozzutto's policy or practice of discrimination challenged by the charging parties herein has been undertaken with the intent and purpose of discouraging and preventing older individuals from receiving information about housing opportunities or renting or occupying properties based on their age, and refusing or failing to initiate or conduct real property transactions with older individuals who are excluded from receiving such housing advertisements based on their age.
19. This policy or practice of discrimination constitutes intentional discrimination and disparate treatment under the Montgomery County Code. It treats older individuals worse than younger individuals in the renting or leasing of real property based on their age because Bozzutto has excluded older individuals from receiving the same housing advertisements and information that younger individuals received via Bozzutto's ads on Facebook.
20. In addition to constituting intentional discrimination, the policy or practice of discrimination challenged in this charge constitutes unlawful disparate impact discrimination. Excluding older individuals from the population of individuals to whom Bozzutto directs its housing advertisements and information on Facebook's advertising platform has the effect of disproportionately excluding older individuals from receiving housing advertising and informational opportunities based on their age.
21. Excluding older individuals from receiving the same housing advertisements that are provided to younger individuals causes and has a disproportionate adverse effect on the housing advertising and informational opportunities that older individuals receive and their opportunities to rent or occupy properties. Denying older individuals housing advertising disproportionately reduces the number of applications from older persons and increases the number of applications from younger individuals, resulting in an artificially higher share of younger individuals than older individuals renting from Bozzutto.
22. This class charge is meant to exhaust all class-based disparate treatment, class-based disparate impact, and all other class-based claims that are actionable under the Montgomery County Code, including violations of the Montgomery County Code's publication or advertising provisions. The charging parties are filing this charge on behalf of all Facebook users who have been interested in housing opportunities in the District of Columbia metropolitan area (including Montgomery County) and who have been or are being excluded from receiving a housing-related advertisement from Bozzutto because Bozzutto placed an upper age limit on the population of Facebook users who were eligible to receive a housing-related advertisement that excluded such persons and because Bozzutto employed Facebook's delivery algorithm, at any time from the earliest date actionable under the limitations period applicable to the given claim until the date of judgment in any administrative and/or judicial proceeding initiated by the charging parties herein in relation to the claims asserted in this charge ("Plaintiff Class



Members”).

23. Through this charge and legal action, HRI, Ms. Opiotennione, and others similarly situated seek all injunctive, equitable, legal, monetary, punitive, and/or other forms of relief or damages that are available under the Montgomery County Code.
24. HRI and Ms. Opiotennione request that the Office of Human Rights investigate all of the claims made in this charge on a class-wide basis. This charge is intended to toll the statute of limitations for all individuals who may have similar claims against Bozzutto related to the practices challenged in this action and to piggy-back on any prior charges that other persons have filed challenging the same practices by Bozzutto.

Exhibit A – Bozzutto

B The Banks (900 7th St SW, Washington) Sponsored · 🌐


Boutique, modern style residences perfectly placed where Southwest meets the Wharf. #thebanksdc



BANKSDC.COM
The Banks: Now Leasing!

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< Why am I seeing this ad?



One reason you're seeing this ad is that **The Banks** wants to reach people interested in **Pets**, based on activity such as liking Pages or clicking on ads.

There may be other reasons you're seeing this ad, including that The Banks wants to reach **people ages 28 to 45 who live near Silver Spring, Maryland**. This is information based on your

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At Central Apartments, everything you need is just a stone's throw away. Discover what being CENTRAL means to you.

ALL JUST BLOCKS AWAY

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Find Your New Center
 Learn more about all our great amenities an...



1


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 Comment


← Why am I seeing this ad?

One reason you're seeing this ad is that [Central](#) wants to reach **people who may be similar to their customers**. [Learn more.](#)


There may be other reasons you're seeing this ad, including that Central wants to reach **people ages 22 to 40 who live near Silver Spring, Maryland**. This is information based on your Facebook profile and where you've connected to the internet.


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Spacious, light-filled interiors, modern amenities, and easy metro access. Starting at \$1,855/mo. Schedule your tour of Aperture today! 



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Tour Aperture Today [Learn More](#)

 **Why am I seeing this ad?**



One reason you're seeing this ad is that  wants to reach people who were **recently near their business**. This is based on information from your Facebook profile and your mobile device.

There may be other reasons you're seeing this ad, including that Aperture wants to reach **people ages 22 to 45 who live or were recently near Silver Spring, Maryland**. This is information based on your Facebook profile and

Was this explanation useful? [Yes](#) [No](#)

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2. Housing Rights Initiative ("HRI") is a non-profit organization dedicated to promoting the rights of persons who have been victims of unlawful and discriminatory practices by members of the housing industry. As part of its proactive and systematic approach to protecting tenants' rights, HRI conducts investigations into potential unlawful practices by real estate companies and housing providers. HRI also provides information and assistance to tenants and individuals seeking housing in the New York City and Washington, D.C. metropolitan areas.
3. Neuhthah Opiotennione is a 54-year-old woman who lives in Washington, D.C. During the last 12 months, Ms. Opiotennione was regularly searching for rental housing in the D.C. Metropolitan Area, including Montgomery County. She worked for the D.C. Public School system and had a housing budget of at least \$2,500 per month. She has regularly used Facebook over the last 12 months and was interested in receiving information via Facebook about housing opportunities.
4. This charge is being filed against Fairfield Residential to challenge its policy or practice of purchasing, authorizing, publishing, circulating and/or causing the publication or circulation of housing-related Facebook advertisements that placed an upper age limit on the population of Facebook users who were eligible to receive its housing advertisement, at any time from the earliest date actionable under the limitations period applicable to the given claim until the date of judgment in any administrative and/or judicial proceeding initiated by the charging parties herein with respect to the claims asserted in this charge.
5. Upon information and belief, Fairfield Residential markets its properties in the District of Columbia Metropolitan area (including Montgomery County). The exceptions outlined by D.C. Code § 2-1402.24 do not apply to these and other properties of Fairfield Residential. An example of the type of age-restricted ad for these properties is attached as Exhibit A. Upon information and belief, Fairfield Residential has targeted its age-restricted housing ads to persons in the District of Columbia Metropolitan Area (including Montgomery County).
6. Ms. Opiotennione has been denied housing advertisements and information that similarly-situated individuals who are younger than her have received from Fairfield Residential. If Ms. Opiotennione had received such housing advertisements from Fairfield Residential, she would have clicked on those housing advertisements in order to learn more about those opportunities and pursue them.
7. Ms. Opiotennione is filing this charge on behalf of all Facebook users who have been interested in housing opportunities in the District of Columbia metropolitan area

(including Montgomery County) and who have been or are being excluded from receiving a housing-related advertisement from Fairfield Residential because Fairfield Residential placed an upper age limit on the population of Facebook users who were eligible to receive a housing-related advertisement that excluded such persons, at any time from the earliest date actionable under the limitations period applicable to the given claim until the date of judgment in any administrative and/or judicial proceeding initiated by the charging parties herein in relation to the claims asserted in this charge (“Plaintiff Class Members”).

8. HRI is filing this charge on behalf of itself as an organization seeking to enforce Article I of Chapter 27 of the Montgomery County Code. *See id.* § 27-7(a). HRI has undertaken efforts to identify and combat the age discrimination described in this charge, including by engaging in an investigation of the violations and conducting education and outreach efforts in the D.C. metropolitan area and beyond to inform individuals of their legal rights to receive housing advertisements and opportunities in a non-discriminatory manner. By engaging in these efforts to identify and combat age discrimination, HRI’s resources have been diverted from activities in which HRI would ordinarily engage—including investigating real estate fraud and mobilizing tenants—towards combatting such discrimination, and HRI’s mission to protect tenants’ rights and preserve affordable housing has been frustrated.
9. The Montgomery County Code makes it unlawful to “publish or circulate, or cause to be published or circulated, any housing notice, statement, listing or advertisement . . . indicating that . . . age could influence or affect” the rental, lease, or sale of housing or the availability of housing. *See id.* § 27-12(d)(1); *see also id.* § 27-12(a)(1)-(3).
10. The Montgomery County Code makes it unlawful to “refuse, or refuse to negotiate, to sell, . . . lease, sublease, rent, assign, or otherwise transfer the title, leasehold, or other interest in any housing”; “represent that housing is not available for inspection, sale, lease, sublease, rental, assignment, or other transfer when it is available”; or “otherwise deny or withhold any housing from any person” because of age. *Id.* § 27-12(a)(1)-(3).
11. Disparate impact claims are cognizable under Chapter 27 of the Montgomery County Code, which mirrors the language of federal antidiscrimination laws under which disparate impact claims are also cognizable. *See* Memorandum from Clifford L. Royalty, Assoc. Cty. Attorney, to Michael Faden, Senior Legislative Attorney 4 (May 11, 2005), <http://www.amlegal.com/pdffiles/MCMD/05-11-2005.pdf>.
12. HRI and Ms. Opiotennione are persons within the meaning of Montgomery County Code § 27-6.
13. When advertising housing opportunities via Facebook’s advertising platform, Fairfield Residential has targeted housing advertisements towards younger individuals on the Facebook advertising platform and simultaneously excluded older individuals from receiving the housing advertising and information that Fairfield Residential directed to younger individuals.

14. When Fairfield Residential has sent housing-related advertisements on Facebook to prospective tenants or occupants, Fairfield Residential's housing ads on Facebook have stated that Fairfield Residential wants to reach people who are below a certain age threshold. These age-based statements communicate information to prospective tenants about the age of the persons whom Fairfield Residential wants to recruit and lease to for their housing opportunities. The same statements also expressly identify the age range of the persons who received the advertisements and implicitly identify the age range of the persons who did not receive the advertisements. For example, a statement that the advertiser wants to reach persons who are 22- to 40-years-old means that the advertiser only sent the advertisement to persons who are 22- to 40-years-old, and that persons who are older than 40-years-old or younger than 22-years-old did not receive the advertisement.
15. Upon information and belief, when Fairfield Residential has caused housing ads to be published and distributed, Fairfield Residential has utilized Facebook's ad delivery algorithm that determines which Facebook users within a population selected by the advertiser will receive the ads; that algorithm makes such determinations based upon age (or proxies for age) in a manner that routinely sends the ads disproportionately to younger individuals rather than older individuals. Upon information and belief, by utilizing Facebook's ad delivery algorithm, Fairfield Residential has compounded the discrimination that Fairfield Residential has engaged in by further excluding additional older individuals from receiving its housing advertisements. For example, if an advertisement is only sent to persons 22 to 55-years-old, no one older than 55-years-old will receive the ad. But it is likely that the ad delivery algorithm will result in persons in their 20s or 30s being more likely than persons in their late 40s or early 50s to receive the ads. Fairfield Residential is responsible for using and relying upon Facebook's ad delivery algorithm to make decisions about which people will receive its housing advertisements. Upon information and belief, Fairfield Residential knew or should have known that Facebook's ad delivery algorithm was using age or proxies for age and that doing so would disproportionately exclude older persons from receiving their housing advertisements.
16. Fairfield Residential has engaged in discriminatory advertising and discrimination in the initiation of real property transactions by excluding older individuals from the population of individuals to whom Fairfield Residential has directed its housing advertisements and information on Facebook's advertising platform.
17. When Fairfield Residential makes a statement within a housing advertisement that the recipient of the advertisement received the advertisement because Fairfield Residential wants to reach people between an age range that excludes many older individuals, the advertisement communicates the message to an ordinary person or reader that Fairfield Residential is less interested in or not interested in renting property to older individuals. Such an advertisement informs the reader of the advertisement and the public at large that Fairfield Residential has a preference for younger tenants or occupants over older tenants or occupants and that Fairfield Residential is limiting housing opportunities to younger tenants or occupants and drawing a distinction between younger and older tenants or

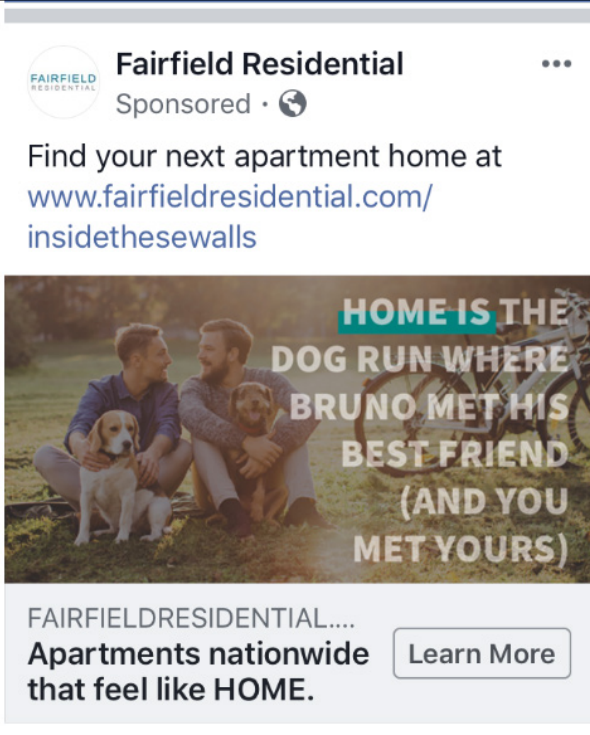
occupants in the rental or sale of properties.

18. Fairfield Residential's policy or practice of discrimination challenged by the charging parties herein has been undertaken with the intent and purpose of discouraging and preventing older individuals from receiving information about housing opportunities or renting or occupying properties based on their age, and refusing or failing to initiate or conduct real property transactions with older individuals who are excluded from receiving such housing advertisements based on their age.
19. This policy or practice of discrimination constitutes intentional discrimination and disparate treatment under the Montgomery County Code. It treats older individuals worse than younger individuals in the renting or leasing of real property based on their age because Fairfield Residential has excluded older individuals from receiving the same housing advertisements and information that younger individuals received via Fairfield Residential's ads on Facebook.
20. In addition to constituting intentional discrimination, the policy or practice of discrimination challenged in this charge constitutes unlawful disparate impact discrimination. Excluding older individuals from the population of individuals to whom Fairfield Residential directs its housing advertisements and information on Facebook's advertising platform has the effect of disproportionately excluding older individuals from receiving housing advertising and informational opportunities based on their age.
21. Excluding older individuals from receiving the same housing advertisements that are provided to younger individuals causes and has a disproportionate adverse effect on the housing advertising and informational opportunities that older individuals receive and their opportunities to rent or occupy properties. Denying older individuals housing advertising disproportionately reduces the number of applications from older persons and increases the number of applications from younger individuals, resulting in an artificially higher share of younger individuals than older individuals renting from Fairfield Residential.
22. This class charge is meant to exhaust all class-based disparate treatment, class-based disparate impact, and all other class-based claims that are actionable under the Montgomery County Code, including violations of the Montgomery County Code's publication or advertising provisions. The charging parties are filing this charge on behalf of all Facebook users who have been interested in housing opportunities in the District of Columbia metropolitan area (including Montgomery County) and who have been or are being excluded from receiving a housing-related advertisement from Fairfield Residential because Fairfield Residential placed an upper age limit on the population of Facebook users who were eligible to receive a housing-related advertisement that excluded such persons and because Fairfield Residential employed Facebook's delivery algorithm, at any time from the earliest date actionable under the limitations period applicable to the given claim until the date of judgment in any administrative and/or judicial proceeding initiated by the charging parties herein in relation to the claims asserted in this charge ("Plaintiff Class Members").
23. Through this charge and legal action, HRI, Ms. Opiotennione, and others similarly

situated seek all injunctive, equitable, legal, monetary, punitive, and/or other forms of relief or damages that are available under the Montgomery County Code.

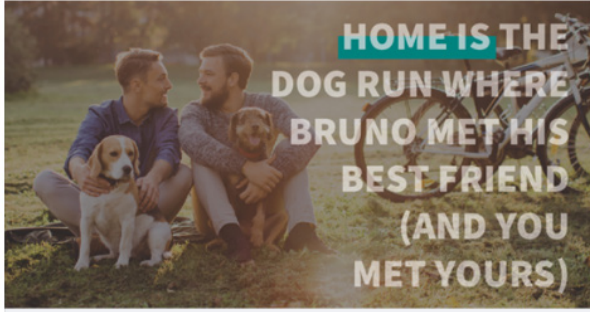
24. HRI and Ms. Opiotennione request that the Office of Human Rights investigate all of the claims made in this charge on a class-wide basis. This charge is intended to toll the statute of limitations for all individuals who may have similar claims against Fairfield Residential related to the practices challenged in this action and to piggy-back on any prior charges that other persons have filed challenging the same practices by Fairfield Residential.

Exhibit A – Fairfield Residential

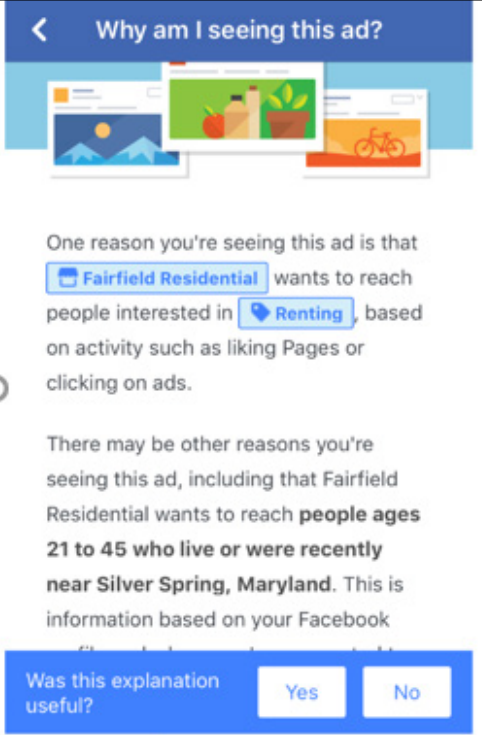


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< Why am I seeing this ad?



One reason you're seeing this ad is that **Fairfield Residential** wants to reach people interested in **Renting**, based on activity such as liking Pages or clicking on ads.

There may be other reasons you're seeing this ad, including that Fairfield Residential wants to reach **people ages 21 to 45 who live or were recently near Silver Spring, Maryland**. This is information based on your Facebook

Was this explanation useful? [Yes](#) [No](#)

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5. Upon information and belief, the specific properties in question for which Fore Property Company purchased, authorized, published, and/or caused the publication of age-restricted housing advertising include, but may not be limited to: The Edition, 3401 East-West Hwy, Hyattsville, MD 20782. The exceptions outlined by Montgomery County Code § 27-14 do not apply to these and other properties of Fore Property Company. An example of the types of age-restricted ads for this property is attached as Exhibit A. Upon information and belief, Fore Property Company has targeted its age-restricted housing ads to persons in the District of Columbia metropolitan area (including Montgomery County).
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13. When advertising housing opportunities via Facebook’s advertising platform, Fore Property Company has targeted housing advertisements towards younger individuals on the Facebook advertising platform and simultaneously excluded older individuals from receiving the housing advertising and information that Fore Property Company directed to younger individuals.



14. When Fore Property Company has sent housing-related advertisements on Facebook to prospective tenants or occupants, Fore Property Company's housing ads on Facebook have stated that Fore Property Company wants to reach people who are below a certain age threshold. These age-based statements communicate information to prospective tenants about the age of the persons whom Fore Property Company wants to recruit and lease to for their housing opportunities. The same statements also expressly identify the age range of the persons who received the advertisements and implicitly identify the age range of the persons who did not receive the advertisements. For example, a statement that the advertiser wants to reach persons who are 22- to 40-years-old means that the advertiser only sent the advertisement to persons who are 22- to 40-years-old, and that persons who are older than 40-years-old or younger than 22-years-old did not receive the advertisement.
15. Upon information and belief, when Fore Property Company has caused housing ads to be published and distributed, Fore Property Company has utilized Facebook's ad delivery algorithm that determines which Facebook users within a population selected by the advertiser will receive the ads; that algorithm makes such determinations based upon age (or proxies for age) in a manner that routinely sends the ads disproportionately to younger individuals rather than older individuals. Upon information and belief, by utilizing Facebook's ad delivery algorithm, Fore Property Company has compounded the discrimination that Fore Property Company has engaged in by further excluding additional older individuals from receiving its housing advertisements. For example, if an advertisement is only sent to persons 22 to 55-years-old, no one older than 55-years-old will receive the ad. But it is likely that the ad delivery algorithm will result in persons in their 20s or 30s being more likely than persons in their late 40s or early 50s to receive the ads. Fore Property Company is responsible for using and relying upon Facebook's ad delivery algorithm to make decisions about which people will receive its housing advertisements. Upon information and belief, Fore Property Company knew or should have known that Facebook's ad delivery algorithm was using age or proxies for age and that doing so would disproportionately exclude older persons from receiving their housing advertisements.
16. Fore Property Company has engaged in discriminatory advertising and discrimination in the initiation of real property transactions by excluding older individuals from the population of individuals to whom Fore Property Company has directed its housing advertisements and information on Facebook's advertising platform.
17. When Fore Property Company makes a statement within a housing advertisement that the recipient of the advertisement received the advertisement because Fore Property Company wants to reach people between an age range that excludes many older individuals, the advertisement communicates the message to an ordinary person or reader that Fore Property Company is less interested in or not interested in renting property to older individuals. Such an advertisement informs the reader of the advertisement and the public at large that Fore Property Company has a preference for younger tenants or occupants over older tenants or occupants and that Fore Property Company is limiting housing opportunities to younger tenants or occupants and drawing a distinction between younger and older tenants or occupants in the rental or sale of properties.

18. Fore Property Company's policy or practice of discrimination challenged by the charging parties herein has been undertaken with the intent and purpose of discouraging and preventing older individuals from receiving information about housing opportunities or renting or occupying properties based on their age, and refusing or failing to initiate or conduct real property transactions with older individuals who are excluded from receiving such housing advertisements based on their age.
19. This policy or practice of discrimination constitutes intentional discrimination and disparate treatment under the Montgomery County Code. It treats older individuals worse than younger individuals in the renting or leasing of real property based on their age because Fore Property Company has excluded older individuals from receiving the same housing advertisements and information that younger individuals received via Fore Property Company's ads on Facebook.
20. In addition to constituting intentional discrimination, the policy or practice of discrimination challenged in this charge constitutes unlawful disparate impact discrimination. Excluding older individuals from the population of individuals to whom Fore Property Company directs its housing advertisements and information on Facebook's advertising platform has the effect of disproportionately excluding older individuals from receiving housing advertising and informational opportunities based on their age.
21. Excluding older individuals from receiving the same housing advertisements that are provided to younger individuals causes and has a disproportionate adverse effect on the housing advertising and informational opportunities that older individuals receive and their opportunities to rent or occupy properties. Denying older individuals housing advertising disproportionately reduces the number of applications from older persons and increases the number of applications from younger individuals, resulting in an artificially higher share of younger individuals than older individuals renting from Fore Property Company.
22. This class charge is meant to exhaust all class-based disparate treatment, class-based disparate impact, and all other class-based claims that are actionable under the Montgomery County Code, including violations of the Montgomery County Code's publication or advertising provisions. The charging parties are filing this charge on behalf of all Facebook users who have been interested in housing opportunities in the District of Columbia metropolitan area (including Montgomery County) and who have been or are being excluded from receiving a housing-related advertisement from Fore Property Company because Fore Property Company placed an upper age limit on the population of Facebook users who were eligible to receive a housing-related advertisement that excluded such persons and because Fore Property Company employed Facebook's delivery algorithm, at any time from the earliest date actionable under the limitations period applicable to the given claim until the date of judgment in any administrative and/or judicial proceeding initiated by the charging parties herein in relation to the claims asserted in this charge ("Plaintiff Class Members").
23. Through this charge and legal action, HRI, Ms. Opiotennione, and others similarly


situated seek all injunctive, equitable, legal, monetary, punitive, and/or other forms of relief or damages that are available under the Montgomery County Code.

24. HRI and Ms. Opiotennione request that the Office of Human Rights investigate all of the claims made in this charge on a class-wide basis. This charge is intended to toll the statute of limitations for all individuals who may have similar claims against Fore Property Company related to the practices challenged in this action and to piggy-back on any prior charges that other persons have filed challenging the same practices by Fore Property Company.


Exhibit A – Fore Property Company


 **Edition Hyattsville** Sponsored · 

Brand new studio, 1 & 2 bedroom apartments in Hyattsville, MD. Join us at The Edition and enjoy being a part of our vibrant community!



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 **Why am I seeing this ad?**



One reason you're seeing this ad is that [Edition Hyattsville](#) wants to reach people interested in [Apartment](#), based on activity such as liking Pages or clicking on ads.

There may be other reasons you're seeing this ad, including that Edition Hyattsville wants to reach **people ages 24 to 45 who live near Silver Spring, Maryland**. This is information based on your Facebook profile and where you've connected to the internet.

Charge of Discrimination

The particulars are:

1. This charge of discrimination challenges Greystar Real Estate Partners and Greystar Management Services, Inc.'s ("Greystar's") violations of Chapter 27 of the Montgomery County Code, which prohibits, *inter alia*, age discrimination in conducting housing transactions and in housing notices, statements, listings, or advertisements. *See* Montgomery Cty. Code § 27-12(a), and (d)(1).
2. Housing Rights Initiative ("HRI") is a non-profit organization dedicated to promoting the rights of persons who have been victims of unlawful and discriminatory practices by members of the housing industry. As part of its proactive and systematic approach to protecting tenants' rights, HRI conducts investigations into potential unlawful practices by real estate companies and housing providers. HRI also provides information and assistance to tenants and individuals seeking housing in the New York City and Washington, D.C. metropolitan areas.
3. Neuhtah Opiotennione is a 54-year-old woman who lives in Washington, D.C. During the last 12 months, Ms. Opiotennione was regularly searching for rental housing in the D.C. Metropolitan Area, including Montgomery County. She worked for the D.C. Public School system and had a housing budget of at least \$2,500 per month. She has regularly used Facebook over the last 12 months and was interested in receiving information via Facebook about housing opportunities.
4. This charge is being filed against Greystar to challenge its policy or practice of purchasing, authorizing, publishing, circulating and/or causing the publication or circulation of housing-related Facebook advertisements that placed an upper age limit on the population of Facebook users who were eligible to receive its housing advertisements, at any time from the earliest date actionable under the limitations period applicable to the given claim until the date of judgment in any administrative and/or judicial proceeding initiated by the charging parties herein with respect to the claims asserted in this charge.
5. Upon information and belief, the specific properties in question for which Greystar purchased, authorized, published, and/or caused the publication of age-restricted housing advertising include, but may not be limited to: Aventine at Fort Totten, 5210 3rd St NE, Washington, DC 20011; The Residences at Pike and Rose, 11803 Grand Park Ave, North Bethesda, MD 20852; Paragon at Columbia Overlook, 8151 Robinson-Jefferson Dr, Elkridge, MD 21075; Heritage at Silver Spring, 8021 Georgia Ave, Silver Spring, MD 20910; Adaire Apartments, 1521 Boyd Pointe Way, Tysons, VA 22182; and EXO Apartments, 1897 Oracle Way, Reston, VA 20190. The exceptions outlined by Montgomery County Code § 27-14 do not apply to these and other properties of Greystar. Examples of the types of age-restricted ads for these properties are attached as Exhibit A. Upon information and belief, Greystar has targeted its age-restricted housing ads to persons in the District of Columbia metropolitan area (including Montgomery County).
6. Ms. Opiotennione has been denied housing advertisements and information that similarly-situated individuals who are younger than her have received from Greystar. If

Ms. Opiotennione had received such housing advertisements from Greystar, she would have clicked on those housing advertisements in order to learn more about those opportunities and pursue them.

7. Ms. Opiotennione is filing this charge on behalf of all Facebook users who have been interested in housing opportunities in the District of Columbia metropolitan area (including Montgomery County) and who have been or are being excluded from receiving a housing-related advertisement from Greystar because Greystar placed an upper age limit on the population of Facebook users who were eligible to receive a housing-related advertisement that excluded such persons, at any time from the earliest date actionable under the limitations period applicable to the given claim until the date of judgment in any administrative and/or judicial proceeding initiated by the charging parties herein in relation to the claims asserted in this charge (“Plaintiff Class Members”).
8. HRI is filing this charge on behalf of itself as an organization seeking to enforce Article I of Chapter 27 of the Montgomery County Code. *See id.* § 27-7(a). HRI has undertaken efforts to identify and combat the age discrimination described in this charge, including by engaging in an investigation of the violations and conducting education and outreach efforts in the D.C. metropolitan area and beyond to inform individuals of their legal rights to receive housing advertisements and opportunities in a non-discriminatory manner. By engaging in these efforts to identify and combat age discrimination, HRI’s resources have been diverted from activities in which HRI would ordinarily engage—including investigating real estate fraud and mobilizing tenants—towards combatting such discrimination, and HRI’s mission to protect tenants’ rights and preserve affordable housing has been frustrated.
9. The Montgomery County Code makes it unlawful to “publish or circulate, or cause to be published or circulated, any housing notice, statement, listing or advertisement . . . indicating that . . . age could influence or affect” the rental, lease, or sale of housing or the availability of housing. *See id.* § 27-12(d)(1); *see also id.* § 27-12(a)(1)-(3).
10. The Montgomery County Code makes it unlawful to “refuse, or refuse to negotiate, to sell, . . . lease, sublease, rent, assign, or otherwise transfer the title, leasehold, or other interest in any housing”; “represent that housing is not available for inspection, sale, lease, sublease, rental, assignment, or other transfer when it is available”; or “otherwise deny or withhold any housing from any person” because of age. *Id.* § 27-12(a)(1)-(3).
11. Disparate impact claims are cognizable under Chapter 27 of the Montgomery County Code, which mirrors the language of federal antidiscrimination laws under which disparate impact claims are also cognizable. *See* Memorandum from Clifford L. Royalty, Assoc. Cty. Attorney, to Michael Faden, Senior Legislative Attorney 4 (May 11, 2005), <http://www.amlegal.com/pdffiles/MCMD/05-11-2005.pdf>.
12. HRI and Ms. Opiotennione are persons within the meaning of Montgomery County Code § 27-6.

13. When advertising housing opportunities via Facebook's advertising platform, Greystar has targeted housing advertisements towards younger individuals on the Facebook advertising platform and simultaneously excluded older individuals from receiving the housing advertising and information that Greystar directed to younger individuals.
14. When Greystar has sent housing-related advertisements on Facebook to prospective tenants or occupants, Greystar's housing ads on Facebook have stated that Greystar wants to reach people who are below a certain age threshold. These age-based statements communicate information to prospective tenants about the age of the persons whom Greystar wants to recruit and lease to for their housing opportunities. The same statements also expressly identify the age range of the persons who received the advertisements and implicitly identify the age range of the persons who did not receive the advertisements. For example, a statement that the advertiser wants to reach persons who are 22- to 40-years-old means that the advertiser only sent the advertisement to persons who are 22- to 40-years-old, and that persons who are older than 40-years-old or younger than 22-years-old did not receive the advertisement.
15. Upon information and belief, when Greystar has caused housing ads to be published and distributed, Greystar has utilized Facebook's ad delivery algorithm that determines which Facebook users within a population selected by the advertiser will receive the ads; that algorithm makes such determinations based upon age (or proxies for age) in a manner that routinely sends the ads disproportionately to younger individuals rather than older individuals. Upon information and belief, by utilizing Facebook's ad delivery algorithm, Greystar has compounded the discrimination that Greystar has engaged in by further excluding additional older individuals from receiving its housing advertisements. For example, if an advertisement is only sent to persons 22 to 55-years-old, no one older than 55-years-old will receive the ad. But it is likely that the ad delivery algorithm will result in persons in their 20s or 30s being more likely than persons in their late 40s or early 50s to receive the ads. Greystar is responsible for using and relying upon Facebook's ad delivery algorithm to make decisions about which people will receive its housing advertisements. Upon information and belief, Greystar knew or should have known that Facebook's ad delivery algorithm was using age or proxies for age and that doing so would disproportionately exclude older persons from receiving their housing advertisements.
16. Greystar has engaged in discriminatory advertising and discrimination in the initiation of real property transactions by excluding older individuals from the population of individuals to whom Greystar has directed its housing advertisements and information on Facebook's advertising platform.
17. When Greystar makes a statement within a housing advertisement that the recipient of the advertisement received the advertisement because Greystar wants to reach people between an age range that excludes many older individuals, the advertisement communicates the message to an ordinary person or reader that Greystar is less interested in or not interested in renting property to older individuals. Such an advertisement informs the reader of the advertisement and the public at large that Greystar has a preference for younger tenants or occupants over older tenants or occupants and that



Greystar is limiting housing opportunities to younger tenants or occupants and drawing a distinction between younger and older tenants or occupants in the rental or sale of properties.

18. Greystar's policy or practice of discrimination challenged by the charging parties herein has been undertaken with the intent and purpose of discouraging and preventing older individuals from receiving information about housing opportunities or renting or occupying properties based on their age, and refusing or failing to initiate or conduct real property transactions with older individuals who are excluded from receiving such housing advertisements based on their age.
19. This policy or practice of discrimination constitutes intentional discrimination and disparate treatment under the Montgomery County Code. It treats older individuals worse than younger individuals in the renting or leasing of real property based on their age because Greystar has excluded older individuals from receiving the same housing advertisements and information that younger individuals received via Greystar's ads on Facebook.
20. In addition to constituting intentional discrimination, the policy or practice of discrimination challenged in this charge constitutes unlawful disparate impact discrimination. Excluding older individuals from the population of individuals to whom Greystar directs its housing advertisements and information on Facebook's advertising platform has the effect of disproportionately excluding older individuals from receiving housing advertising and informational opportunities based on their age.
21. Excluding older individuals from receiving the same housing advertisements that are provided to younger individuals causes and has a disproportionate adverse effect on the housing advertising and informational opportunities that older individuals receive and their opportunities to rent or occupy properties. Denying older individuals housing advertising disproportionately reduces the number of applications from older persons and increases the number of applications from younger individuals, resulting in an artificially higher share of younger individuals than older individuals renting from Greystar.
22. This class charge is meant to exhaust all class-based disparate treatment, class-based disparate impact, and all other class-based claims that are actionable under the Montgomery County Code, including violations of the Montgomery County Code's publication or advertising provisions. The charging parties are filing this charge on behalf of all Facebook users who have been interested in housing opportunities in the District of Columbia metropolitan area (including Montgomery County) and who have been or are being excluded from receiving a housing-related advertisement from Greystar because Greystar placed an upper age limit on the population of Facebook users who were eligible to receive a housing-related advertisement that excluded such persons and because Greystar employed Facebook's delivery algorithm, at any time from the earliest date actionable under the limitations period applicable to the given claim until the date of judgment in any administrative and/or judicial proceeding initiated by the charging parties herein in relation to the claims asserted in this charge ("Plaintiff Class Members").
23. Through this charge and legal action, HRI, Ms. Opiotennione, and others similarly


situated seek all injunctive, equitable, legal, monetary, punitive, and/or other forms of relief or damages that are available under the Montgomery County Code.

24. HRI and Ms. Opiotennione request that the Office of Human Rights investigate all of the claims made in this charge on a class-wide basis. This charge is intended to toll the statute of limitations for all individuals who may have similar claims against Greystar related to the practices challenged in this action and to piggy-back on any prior charges that other persons have filed challenging the same practices by Greystar.

Exhibit A – Greystar


 **The Residences at Pike & Rose** ...
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Spring is a time for new beginnings - and there's nothing like creating a new home in a new community! Sign a lease during the month of March and you'll be able to rent a junior 1 bedroom unit from \$1600 or a 1 bedroom unit from \$1850.





THE RESIDENCES AT PIKE AND ROSE...
Special Pricing For 1 Bedroom Apartments [Learn More](#)

[Why am I seeing this ad?](#)





One reason you're seeing this ad is that [The Residences at Pike & Rose](#) wants to reach people interested in [Renting](#), based on activity such as liking Pages or clicking on ads.


There may be other reasons you're seeing this ad, including that The Residences at Pike & Rose wants to reach **people ages 21 to 48 who live or were recently near Silver Spring, Maryland.** This is information based on your Facebook profile and where you've connected to the internet.

 **Adaire**
Sponsored · 

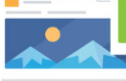


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Modern **Cozy**

Verizon LTE 12:03 AM 22% 






[Why am I seeing this ad?](#)

One reason you're seeing this ad is that [Adaire](#) wants to reach people interested in [Apartment](#), based on activity such as liking Pages or clicking on ads.

There may be other reasons you're seeing this ad, including that Adaire wants to reach **people ages 22 to 40 who live or were recently near Silver Spring, Maryland**. This is information based on your Facebook profile and where you've connected to the internet.

Was this explanation useful?

Charge of Discrimination

The particulars are:

1. This charge of discrimination challenges Kettler's violations of Chapter 27 of the Montgomery County Code, which prohibits, *inter alia*, age discrimination in conducting housing transactions and in housing notices, statements, listings, or advertisements. *See* Montgomery Cty. Code § 27-12(a), and (d)(1).
2. Housing Rights Initiative ("HRI") is a non-profit organization dedicated to promoting the rights of persons who have been victims of unlawful and discriminatory practices by members of the housing industry. As part of its proactive and systematic approach to protecting tenants' rights, HRI conducts investigations into potential unlawful practices by real estate companies and housing providers. HRI also provides information and assistance to tenants and individuals seeking housing in the New York City and Washington, D.C. metropolitan areas.
3. Neuhtah Opiotennione is a 54-year-old woman who lives in Washington, D.C. During the last 12 months, Ms. Opiotennione was regularly searching for rental housing in the D.C. Metropolitan Area, including Montgomery County. She worked for the D.C. Public School system and had a housing budget of at least \$2,500 per month. She has regularly used Facebook over the last 12 months and was interested in receiving information via Facebook about housing opportunities.
4. This charge is being filed against Kettler to challenge its policy or practice of purchasing, authorizing, publishing, circulating and/or causing the publication or circulation of housing-related Facebook advertisements that placed an upper age limit on the population of Facebook users who were eligible to receive its housing advertisements, at any time from the earliest date actionable under the limitations period applicable to the given claim until the date of judgment in any administrative and/or judicial proceeding initiated by the charging parties herein with respect to the claims asserted in this charge.
5. Upon information and belief, the specific properties in question for which Kettler purchased, authorized, published, and/or caused the publication of age-restricted housing advertising include, but may not be limited to: Maple View Flats, 2228 Martin Luther King Jr Ave, SE, Washington, DC, 20020; The George Apartments, 11141 Georgia Ave Wheaton, MD 20902; Solaire, 7077 Woodmont Ave, Bethesda, MD 20815; Acadia at Metropolitan Park, 575 12th Rd S, Arlington, VA 22202; and Dock 79, 79 Potomac Ave SE, Washington, DC 20003. The exceptions outlined by Montgomery County Code § 27-14 do not apply to these and other properties of Kettler. Examples of the types of age-restricted ads for these properties are attached as Exhibit A. Upon information and belief, Kettler has targeted its age-restricted housing ads to persons in the District of Columbia metropolitan area (including Montgomery County).
6. Ms. Opiotennione has been denied housing advertisements and information that similarly-situated individuals who are younger than her have received from Kettler. If Ms. Opiotennione had received such housing advertisements from Kettler, she would

have clicked on those housing advertisements in order to learn more about those opportunities and pursue them.

7. Ms. Opiotennione is filing this charge on behalf of all Facebook users who have been interested in housing opportunities in the District of Columbia metropolitan area (including Montgomery County) and who have been or are being excluded from receiving a housing-related advertisement from Kettler because Kettler placed an upper age limit on the population of Facebook users who were eligible to receive a housing-related advertisement that excluded such persons, at any time from the earliest date actionable under the limitations period applicable to the given claim until the date of judgment in any administrative and/or judicial proceeding initiated by the charging parties herein in relation to the claims asserted in this charge (“Plaintiff Class Members”).
8. HRI is filing this charge on behalf of itself as an organization seeking to enforce Article I of Chapter 27 of the Montgomery County Code. *See id.* § 27-7(a). HRI has undertaken efforts to identify and combat the age discrimination described in this charge, including by engaging in an investigation of the violations and conducting education and outreach efforts in the D.C. metropolitan area and beyond to inform individuals of their legal rights to receive housing advertisements and opportunities in a non-discriminatory manner. By engaging in these efforts to identify and combat age discrimination, HRI’s resources have been diverted from activities in which HRI would ordinarily engage—including investigating real estate fraud and mobilizing tenants—towards combatting such discrimination, and HRI’s mission to protect tenants’ rights and preserve affordable housing has been frustrated.
9. The Montgomery County Code makes it unlawful to “publish or circulate, or cause to be published or circulated, any housing notice, statement, listing or advertisement . . . indicating that . . . age could influence or affect” the rental, lease, or sale of housing or the availability of housing. *See id.* § 27-12(d)(1); *see also id.* § 27-12(a)(1)-(3).
10. The Montgomery County Code makes it unlawful to “refuse, or refuse to negotiate, to sell, . . . lease, sublease, rent, assign, or otherwise transfer the title, leasehold, or other interest in any housing”; “represent that housing is not available for inspection, sale, lease, sublease, rental, assignment, or other transfer when it is available”; or “otherwise deny or withhold any housing from any person” because of age. *Id.* § 27-12(a)(1)-(3).
11. Disparate impact claims are cognizable under Chapter 27 of the Montgomery County Code, which mirrors the language of federal antidiscrimination laws under which disparate impact claims are also cognizable. *See* Memorandum from Clifford L. Royalty, Assoc. Cty. Attorney, to Michael Faden, Senior Legislative Attorney 4 (May 11, 2005), <http://www.amlegal.com/pdffiles/MCMD/05-11-2005.pdf>.
12. HRI and Ms. Opiotennione are persons within the meaning of Montgomery County Code § 27-6.

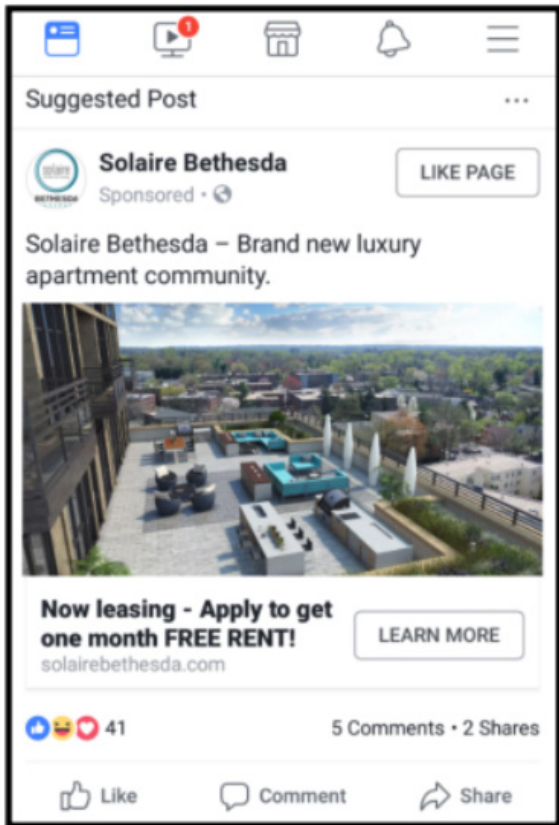
13. When advertising housing opportunities via Facebook's advertising platform, Kettler has targeted housing advertisements towards younger individuals on the Facebook advertising platform and simultaneously excluded older individuals from receiving the housing advertising and information that Kettler directed to younger individuals.
14. When Kettler has sent housing-related advertisements on Facebook to prospective tenants or occupants, Kettler's housing ads on Facebook have stated that Kettler wants to reach people who are below a certain age threshold. These age-based statements communicate information to prospective tenants about the age of the persons whom Kettler wants to recruit and lease to for their housing opportunities. The same statements also expressly identify the age range of the persons who received the advertisements and implicitly identify the age range of the persons who did not receive the advertisements. For example, a statement that the advertiser wants to reach persons who are 22- to 40-years-old means that the advertiser only sent the advertisement to persons who are 22- to 40-years-old, and that persons who are older than 40-years-old or younger than 22-years-old did not receive the advertisement.
15. Upon information and belief, when Kettler has caused housing ads to be published and distributed, Kettler has utilized Facebook's ad delivery algorithm that determines which Facebook users within a population selected by the advertiser will receive the ads; that algorithm makes such determinations based upon age (or proxies for age) in a manner that routinely sends the ads disproportionately to younger individuals rather than older individuals. Upon information and belief, by utilizing Facebook's ad delivery algorithm, Kettler has compounded the discrimination that Kettler has engaged in by further excluding additional older individuals from receiving its housing advertisements. For example, if an advertisement is only sent to persons 22 to 55-years-old, no one older than 55-years-old will receive the ad. But it is likely that the ad delivery algorithm will result in persons in their 20s or 30s being more likely than persons in their late 40s or early 50s to receive the ads. Kettler is responsible for using and relying upon Facebook's ad delivery algorithm to make decisions about which people will receive its housing advertisements. Upon information and belief, Kettler knew or should have known that Facebook's ad delivery algorithm was using age or proxies for age and that doing so would disproportionately exclude older persons from receiving their housing advertisements.
16. Kettler has engaged in discriminatory advertising and discrimination in the initiation of real property transactions by excluding older individuals from the population of individuals to whom Kettler has directed its housing advertisements and information on Facebook's advertising platform.
17. When Kettler makes a statement within a housing advertisement that the recipient of the advertisement received the advertisement because Kettler wants to reach people between an age range that excludes many older individuals, the advertisement communicates the message to an ordinary person or reader that Kettler is less interested in or not interested in renting property to older individuals. Such an advertisement informs the reader of the advertisement and the public at large that Kettler has a preference for younger tenants or occupants over older tenants or occupants and that Kettler is limiting housing

opportunities to younger tenants or occupants and drawing a distinction between younger and older tenants or occupants in the rental or sale of properties.



18. Kettler's policy or practice of discrimination challenged by the charging parties herein has been undertaken with the intent and purpose of discouraging and preventing older individuals from receiving information about housing opportunities or renting or occupying properties based on their age, and refusing or failing to initiate or conduct real property transactions with older individuals who are excluded from receiving such housing advertisements based on their age.
19. This policy or practice of discrimination constitutes intentional discrimination and disparate treatment under the Montgomery County Code. It treats older individuals worse than younger individuals in the renting or leasing of real property based on their age because Kettler has excluded older individuals from receiving the same housing advertisements and information that younger individuals received via Kettler's ads on Facebook.
20. In addition to constituting intentional discrimination, the policy or practice of discrimination challenged in this charge constitutes unlawful disparate impact discrimination. Excluding older individuals from the population of individuals to whom Kettler directs its housing advertisements and information on Facebook's advertising platform has the effect of disproportionately excluding older individuals from receiving housing advertising and informational opportunities based on their age.
21. Excluding older individuals from receiving the same housing advertisements that are provided to younger individuals causes and has a disproportionate adverse effect on the housing advertising and informational opportunities that older individuals receive and their opportunities to rent or occupy properties. Denying older individuals housing advertising disproportionately reduces the number of applications from older persons and increases the number of applications from younger individuals, resulting in an artificially higher share of younger individuals than older individuals renting from Kettler.
22. This class charge is meant to exhaust all class-based disparate treatment, class-based disparate impact, and all other class-based claims that are actionable under the Montgomery County Code, including violations of the Montgomery County Code's publication or advertising provisions. The charging parties are filing this charge on behalf of all Facebook users who have been interested in housing opportunities in the District of Columbia metropolitan area (including Montgomery County) and who have been or are being excluded from receiving a housing-related advertisement from Kettler because Kettler placed an upper age limit on the population of Facebook users who were eligible to receive a housing-related advertisement that excluded such persons and because Kettler employed Facebook's delivery algorithm, at any time from the earliest date actionable under the limitations period applicable to the given claim until the date of judgment in any administrative and/or judicial proceeding initiated by the charging parties herein in relation to the claims asserted in this charge ("Plaintiff Class Members").

23. Through this charge and legal action, HRI, Ms. Opiotennione, and others similarly situated seek all injunctive, equitable, legal, monetary, punitive, and/or other forms of relief or damages that are available under the Montgomery County Code.
24. HRI and Ms. Opiotennione request that the Office of Human Rights investigate all of the claims made in this charge on a class-wide basis. This charge is intended to toll the statute of limitations for all individuals who may have similar claims against Kettler related to the practices challenged in this action and to piggy-back on any prior charges that other persons have filed challenging the same practices by Kettler.


Exhibit A – Kettler






Suggested Post




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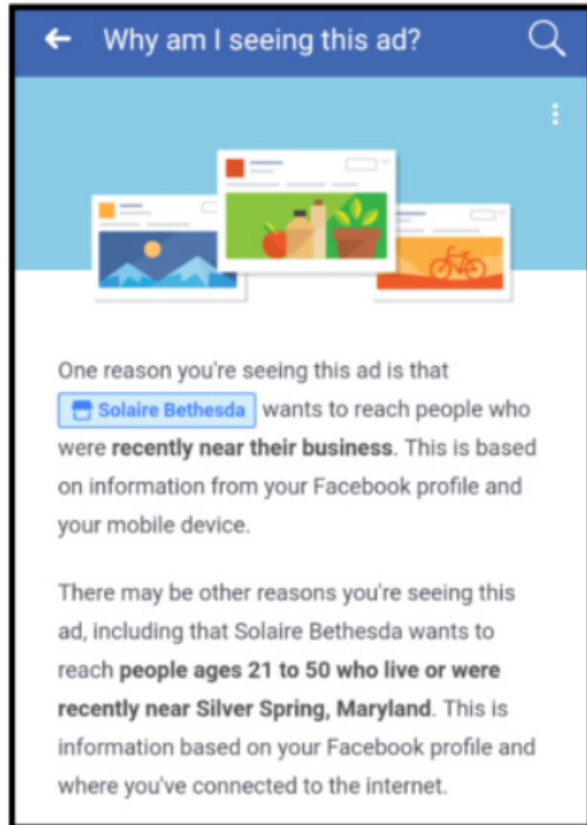
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One reason you're seeing this ad is that [Solaire Bethesda](#) wants to reach people who were **recently near their business**. This is based on information from your Facebook profile and your mobile device.

There may be other reasons you're seeing this ad, including that Solaire Bethesda wants to reach **people ages 21 to 50 who live or were recently near Silver Spring, Maryland**. This is information based on your Facebook profile and where you've connected to the internet.

Suggested Post ...

The George - Wheaton-Glenmont, MD
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The newest addition to luxe living in Wheaton, MD. For a limited time see how to get \$500 off your first month with a \$99 security deposit. Look and lease today!

Stunning Views From
APPLY NOW
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← Why am I seeing this ad? 🔍

One reason you're seeing this ad is that [The George - Wheaton-Glenmont, MD](#) wants to reach people interested in [Apartment](#), based on activity such as liking Pages or clicking on ads.

There may be other reasons you're seeing this ad, including that The George - Wheaton-Glenmont, MD wants to reach **people ages 18 to 50 who live or were recently near Silver Spring, Maryland**. This is information based on your Facebook profile and where you've connected to the internet.

Charge of Discrimination

The particulars are:

1. This charge of discrimination challenges The Tower Companies' violations of Chapter 27 of the Montgomery County Code, which prohibits, *inter alia*, age discrimination in conducting housing transactions and in housing notices, statements, listings, or advertisements. *See* Montgomery Cty. Code § 27-12(a), and (d)(1).
2. Housing Rights Initiative ("HRI") is a non-profit organization dedicated to promoting the rights of persons who have been victims of unlawful and discriminatory practices by members of the housing industry. As part of its proactive and systematic approach to protecting tenants' rights, HRI conducts investigations into potential unlawful practices by real estate companies and housing providers. HRI also provides information and assistance to tenants and individuals seeking housing in the New York City and Washington, D.C. metropolitan areas.
3. Neuhtah Opiotennione is a 54-year-old woman who lives in Washington, D.C. During the last 12 months, Ms. Opiotennione was regularly searching for rental housing in the D.C. Metropolitan Area, including Montgomery County. She worked for the D.C. Public School system and had a housing budget of at least \$2,500 per month. She has regularly used Facebook over the last 12 months and was interested in receiving information via Facebook about housing opportunities.
4. This charge is being filed against The Tower Companies to challenge its policy or practice of purchasing, authorizing, publishing, circulating and/or causing the publication or circulation of housing-related Facebook advertisements that placed an upper age limit on the population of Facebook users who were eligible to receive its housing advertisements, at any time from the earliest date actionable under the limitations period applicable to the given claim until the date of judgment in any administrative and/or judicial proceeding initiated by the charging parties herein with respect to the claims asserted in this charge.
5. Upon information and belief, the specific properties in question for which The Tower Companies purchased, authorized, published, and/or caused the publication of age-restricted housing advertising include, but may not be limited to: The Pearl, 180 High Park Lane, Silver Spring, MD 20910; and The Blairs, 1401 Blair Mill Rd, Silver Spring, MD 20910. The exceptions outlined by Montgomery County Code § 27-14 do not apply to these and other properties of The Tower Companies. Examples of the types of age-restricted ads for these properties are attached as Exhibit A. Upon information and belief, The Tower Companies has targeted its age-restricted housing ads to persons in the District of Columbia metropolitan area (including Montgomery County).
6. Ms. Opiotennione has been denied housing advertisements and information that similarly-situated individuals who are younger than her have received from The Tower Companies. If Ms. Opiotennione had received such housing advertisements from The Tower Companies, she would have clicked on those housing advertisements in order to learn more about those opportunities and pursue them.

7. Ms. Opiotennione is filing this charge on behalf of all Facebook users who have been interested in housing opportunities in the District of Columbia metropolitan area (including Montgomery County) and who have been or are being excluded from receiving a housing-related advertisement from The Tower Companies because The Tower Companies placed an upper age limit on the population of Facebook users who were eligible to receive a housing-related advertisement that excluded such persons, at any time from the earliest date actionable under the limitations period applicable to the given claim until the date of judgment in any administrative and/or judicial proceeding initiated by the charging parties herein in relation to the claims asserted in this charge (“Plaintiff Class Members”).
8. HRI is filing this charge on behalf of itself as an organization seeking to enforce Article I of Chapter 27 of the Montgomery County Code. *See id.* § 27-7(a). HRI has undertaken efforts to identify and combat the age discrimination described in this charge, including by engaging in an investigation of the violations and conducting education and outreach efforts in the D.C. metropolitan area and beyond to inform individuals of their legal rights to receive housing advertisements and opportunities in a non-discriminatory manner. By engaging in these efforts to identify and combat age discrimination, HRI’s resources have been diverted from activities in which HRI would ordinarily engage—including investigating real estate fraud and mobilizing tenants—towards combatting such discrimination, and HRI’s mission to protect tenants’ rights and preserve affordable housing has been frustrated.
9. The Montgomery County Code makes it unlawful to “publish or circulate, or cause to be published or circulated, any housing notice, statement, listing or advertisement . . . indicating that . . . age could influence or affect” the rental, lease, or sale of housing or the availability of housing. *See id.* § 27-12(d)(1); *see also id.* § 27-12(a)(1)-(3).
10. The Montgomery County Code makes it unlawful to “refuse, or refuse to negotiate, to sell, . . . lease, sublease, rent, assign, or otherwise transfer the title, leasehold, or other interest in any housing”; “represent that housing is not available for inspection, sale, lease, sublease, rental, assignment, or other transfer when it is available”; or “otherwise deny or withhold any housing from any person” because of age. *Id.* § 27-12(a)(1)-(3).
11. Disparate impact claims are cognizable under Chapter 27 of the Montgomery County Code, which mirrors the language of federal antidiscrimination laws under which disparate impact claims are also cognizable. *See* Memorandum from Clifford L. Royalty, Assoc. Cty. Attorney, to Michael Faden, Senior Legislative Attorney 4 (May 11, 2005), <http://www.amlegal.com/pdffiles/MCMD/05-11-2005.pdf>.
12. HRI and Ms. Opiotennione are persons within the meaning of Montgomery County Code § 27-6.
13. When advertising housing opportunities via Facebook’s advertising platform, The Tower Companies has targeted housing advertisements towards younger individuals on the

Facebook advertising platform and simultaneously excluded older individuals from receiving the housing advertising and information that The Tower Companies directed to younger individuals.

14. When The Tower Companies has sent housing-related advertisements on Facebook to prospective tenants or occupants, The Tower Companies' housing ads on Facebook have stated that The Tower Companies wants to reach people who are below a certain age threshold. These age-based statements communicate information to prospective tenants about the age of the persons whom The Tower Companies wants to recruit and lease to for their housing opportunities. The same statements also expressly identify the age range of the persons who received the advertisements and implicitly identify the age range of the persons who did not receive the advertisements. For example, a statement that the advertiser wants to reach persons who are 22- to 40-years-old means that the advertiser only sent the advertisement to persons who are 22- to 40-years-old, and that persons who are older than 40-years-old or younger than 22-years-old did not receive the advertisement.
15. Upon information and belief, when The Tower Companies has caused housing ads to be published and distributed, The Tower Companies has utilized Facebook's ad delivery algorithm that determines which Facebook users within a population selected by the advertiser will receive the ads; that algorithm makes such determinations based upon age (or proxies for age) in a manner that routinely sends the ads disproportionately to younger individuals rather than older individuals. Upon information and belief, by utilizing Facebook's ad delivery algorithm, The Tower Companies has compounded the discrimination that The Tower Companies has engaged in by further excluding additional older individuals from receiving its housing advertisements. For example, if an advertisement is only sent to persons 22 to 55-years-old, no one older than 55-years-old will receive the ad. But it is likely that the ad delivery algorithm will result in persons in their 20s or 30s being more likely than persons in their late 40s or early 50s to receive the ads. The Tower Companies is responsible for using and relying upon Facebook's ad delivery algorithm to make decisions about which people will receive its housing advertisements. Upon information and belief, The Tower Companies knew or should have known that Facebook's ad delivery algorithm was using age or proxies for age and that doing so would disproportionately exclude older persons from receiving their housing advertisements.
16. The Tower Companies has engaged in discriminatory advertising and discrimination in the initiation of real property transactions by excluding older individuals from the population of individuals to whom The Tower Companies has directed its housing advertisements and information on Facebook's advertising platform.
17. When The Tower Companies makes a statement within a housing advertisement that the recipient of the advertisement received the advertisement because The Tower Companies wants to reach people between an age range that excludes many older individuals, the advertisement communicates the message to an ordinary person or reader that The Tower Companies is less interested in or not interested in renting property to older individuals. Such an advertisement informs the reader of the advertisement and the public at large that



The Tower Companies has a preference for younger tenants or occupants over older tenants or occupants and that The Tower Companies is limiting housing opportunities to younger tenants or occupants and drawing a distinction between younger and older tenants or occupants in the rental or sale of properties.

18. The Tower Companies' policy or practice of discrimination challenged by the charging parties herein has been undertaken with the intent and purpose of discouraging and preventing older individuals from receiving information about housing opportunities or renting or occupying properties based on their age, and refusing or failing to initiate or conduct real property transactions with older individuals who are excluded from receiving such housing advertisements based on their age.
19. This policy or practice of discrimination constitutes intentional discrimination and disparate treatment under the Montgomery County Code. It treats older individuals worse than younger individuals in the renting or leasing of real property based on their age because The Tower Companies has excluded older individuals from receiving the same housing advertisements and information that younger individuals received via The Tower Companies' ads on Facebook.
20. In addition to constituting intentional discrimination, the policy or practice of discrimination challenged in this charge constitutes unlawful disparate impact discrimination. Excluding older individuals from the population of individuals to whom The Tower Companies directs its housing advertisements and information on Facebook's advertising platform has the effect of disproportionately excluding older individuals from receiving housing advertising and informational opportunities based on their age.
21. Excluding older individuals from receiving the same housing advertisements that are provided to younger individuals causes and has a disproportionate adverse effect on the housing advertising and informational opportunities that older individuals receive and their opportunities to rent or occupy properties. Denying older individuals housing advertising disproportionately reduces the number of applications from older persons and increases the number of applications from younger individuals, resulting in an artificially higher share of younger individuals than older individuals renting from The Tower Companies.
22. This class charge is meant to exhaust all class-based disparate treatment, class-based disparate impact, and all other class-based claims that are actionable under the Montgomery County Code, including violations of the Montgomery County Code's publication or advertising provisions. The charging parties are filing this charge on behalf of all Facebook users who have been interested in housing opportunities in the District of Columbia metropolitan area (including Montgomery County) and who have been or are being excluded from receiving a housing-related advertisement from The Tower Companies because The Tower Companies placed an upper age limit on the population of Facebook users who were eligible to receive a housing-related advertisement that excluded such persons and because The Tower Companies employed Facebook's delivery algorithm, at any time from the earliest date actionable under the limitations period applicable to the given claim until the date of judgment in any administrative and/or judicial proceeding initiated by the charging parties herein in


relation to the claims asserted in this charge (“Plaintiff Class Members”).

23. Through this charge and legal action, HRI, Ms. Opiotennione, and others similarly situated seek all injunctive, equitable, legal, monetary, punitive, and/or other forms of relief or damages that are available under the Montgomery County Code.
24. HRI and Ms. Opiotennione request that the Office of Human Rights investigate all of the claims made in this charge on a class-wide basis. This charge is intended to toll the statute of limitations for all individuals who may have similar claims against The Tower Companies related to the practices challenged in this action and to piggy-back on any prior charges that other persons have filed challenging the same practices by The Tower Companies.


Exhibit A – The Tower Companies


 **The Blairs**
Sponsored · 

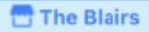

Join an apartment community that inspires you to live the active lifestyle you always wanted. 🏠
Call us now and schedule a tour at The Blairs!



BLAIRAPARTMENTS.COM
Find Your Dream Apartment at The Bla... [Learn More](#)

 **Why am I seeing this ad?**



One reason you're seeing this ad is that  **The Blairs** wants to reach people interested in , based on activity such as liking Pages or clicking on ads.

There may be other reasons you're seeing this ad, including that The Blairs wants to reach **people ages 25 to 44 who live or were recently near Silver Spring, Maryland**. This is information based on your Facebook profile and where you've connected to the internet.



The Pearl

Sponsored · 🌐



Our spacious Studio - 3 bedroom apartments offer you a unique living experience that will make you fall in love with our community. 🏠
Call and schedule a tour today!



LIVEATTHEPEARL.COM

Enjoy a Lifestyle of Zen and Luxury at The Pearl



Why am I seeing this ad?



One reason you're seeing this ad is that **The Pearl** wants to reach people interested in **Luxury goods**, based on activity such as liking Pages or clicking on ads.

There may be other reasons you're seeing this ad, including that The Pearl wants to reach **people ages 25 to 50 who live or were recently near Silver Spring, Maryland**. This is information based on your Facebook profile and where you've connected to the internet.

Charge of Discrimination

The particulars are:

1. This charge of discrimination challenges Wood Partners' violations of Chapter 27 of the Montgomery County Code, which prohibits, *inter alia*, age discrimination in conducting housing transactions and in housing notices, statements, listings, or advertisements. *See* Montgomery Cty. Code § 27-12(a), and (d)(1).
2. Housing Rights Initiative ("HRI") is a non-profit organization dedicated to promoting the rights of persons who have been victims of unlawful and discriminatory practices by members of the housing industry. As part of its proactive and systematic approach to protecting tenants' rights, HRI conducts investigations into potential unlawful practices by real estate companies and housing providers. HRI also provides information and assistance to tenants and individuals seeking housing in the New York City and Washington, D.C. metropolitan areas.
3. Neuhtah Opiotennione is a 54-year-old woman who lives in Washington, D.C. During the last 12 months, Ms. Opiotennione was regularly searching for rental housing in the D.C. Metropolitan Area, including Montgomery County. She worked for the D.C. Public School system and had a housing budget of at least \$2,500 per month. She has regularly used Facebook over the last 12 months and was interested in receiving information via Facebook about housing opportunities.
4. This charge is being filed against Wood Partners to challenge its policy or practice of purchasing, authorizing, publishing, circulating and/or causing the publication or circulation of housing-related Facebook advertisements that placed an upper age limit on the population of Facebook users who were eligible to receive its housing advertisements, at any time from the earliest date actionable under the limitations period applicable to the given claim until the date of judgment in any administrative and/or judicial proceeding initiated by the charging parties herein with respect to the claims asserted in this charge.
5. Upon information and belief, the specific properties in question for which Wood Partners purchased, authorized, published, and/or caused the publication of age-restricted housing advertising include, but may not be limited to: Alloy by Alta, 4700 Berwyn House Rd College Park, MD 20740; and The Belgard, 33 N St NE, Washington, DC 20002. The exceptions outlined by Montgomery County Code § 27-14 do not apply to these and other properties of Wood Partners. An example of the type of age-restricted ads for these properties are attached as Exhibit A. Upon information and belief, Wood Partners has targeted its age-restricted housing ads to persons in the District of Columbia metropolitan area (including Montgomery County).
6. Ms. Opiotennione has been denied housing advertisements and information that similarly-situated individuals who are younger than her have received from Wood Partners. If Ms. Opiotennione had received such housing advertisements from Wood Partners, she would have clicked on those housing advertisements in order to learn more about those opportunities and pursue them.

7. Ms. Opiotennione is filing this charge on behalf of all Facebook users who have been interested in housing opportunities in the District of Columbia metropolitan area (including Montgomery County) and who have been or are being excluded from receiving a housing-related advertisement from Wood Partners because Wood Partners placed an upper age limit on the population of Facebook users who were eligible to receive a housing-related advertisement that excluded such persons, at any time from the earliest date actionable under the limitations period applicable to the given claim until the date of judgment in any administrative and/or judicial proceeding initiated by the charging parties herein in relation to the claims asserted in this charge (“Plaintiff Class Members”).
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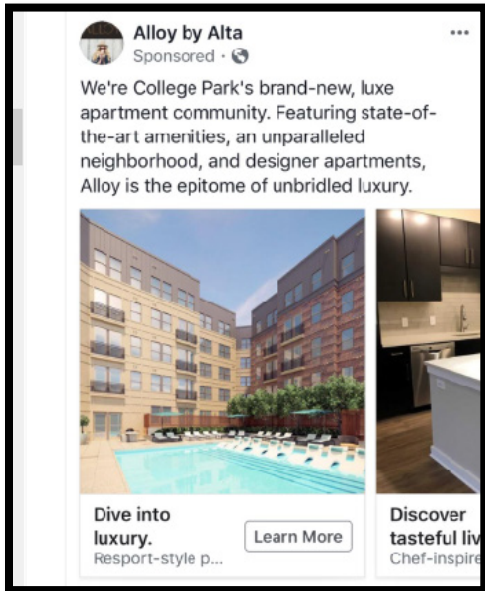
the rental or sale of properties.

18. Wood Partners' policy or practice of discrimination challenged by the charging parties herein has been undertaken with the intent and purpose of discouraging and preventing older individuals from receiving information about housing opportunities or renting or occupying properties based on their age, and refusing or failing to initiate or conduct real property transactions with older individuals who are excluded from receiving such housing advertisements based on their age.
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relief or damages that are available under the Montgomery County Code.



24. HRI and Ms. Opiotennione request that the Office of Human Rights investigate all of the claims made in this charge on a class-wide basis. This charge is intended to toll the statute of limitations for all individuals who may have similar claims against Wood Partners related to the practices challenged in this action and to piggy-back on any prior charges that other persons have filed challenging the same practices by Wood Partners.

Exhibit A – Wood Partners



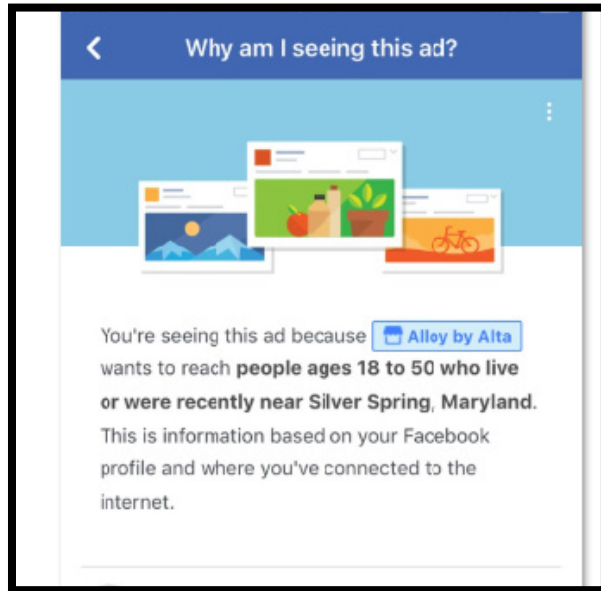
Alloy by Alta
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We're College Park's brand-new, luxe apartment community. Featuring state-of-the-art amenities, an unparalleled neighborhood, and designer apartments, Alloy is the epitome of unbridled luxury.




Dive into luxury.
Resort-style p... [Learn More](#)

Discover tasteful liv
Chef-inspire



< Why am I seeing this ad?



You're seeing this ad because [Alloy by Alta](#) wants to reach **people ages 18 to 50 who live or were recently near Silver Spring, Maryland.** This is information based on your Facebook profile and where you've connected to the internet.