

IN THE MARION COUNTY CIRCUIT/SUPERIOR COURT

CAUSE NO. _____

STATE OF INDIANA,

Plaintiff,

v.

WILLOW BROOK GARDENS, LLC,

BEZTAK MANAGEMENT
COMPANY,U.S. BANK N.A., AS TRUSTEE FOR
THE REGISTERED HOLDERS OF
J.P. MORGAN CHASE
COMMERCIAL MORTGAGE
SECURITIES CORP.,
MULTIFAMILY MORTGAGE PASS-
THROUGH CERTIFICATE SERIES
2021-SB91,

Defendants.

**COMPLAINT
FOR INJUNCTION, CIVIL
PENALTIES, AND COSTS
AND JURY TRIAL DEMAND****I. INTRODUCTION**

1. The State of Indiana, by Attorney General Todd Rokita and Deputy Attorneys General Regan M. Perrodin and Timothy M. Weber, commences this civil action seeking injunctive relief, civil penalties, and costs under the Indiana Deceptive Consumer Sales Act, Ind. Code § 24-5-0.5-1 *et seq.*, and the Indiana Home Loan Practices Act, Ind. Code § 24-9-3-7 *et seq.*, for injunctive relief, civil penalties, costs, and other relief.

2. Defendants failed to satisfy their legal obligations in the State of Indiana and its residents by supporting and engaging in the unlicensed practice of

real estate, failing to repair major systems in a reasonable amount of time, failing to provide reasonable modifications for a tenant with disabilities, mismanaging tenant billing and legal documentation, and failing to meaningfully respond to other issues raised by tenants. In addition to the negative emotional impact these failures caused to the tenants, these failures caused tenants actual monetary harm. Accordingly, Defendants committed unfair, abusive and/or deceptive acts in violation of Ind. Code § 24-5-0.5-3(a) and engaged in deceptive acts in connection with real estate transactions in violation of Ind. Code § 24-9-3-7(c)(3).

3. Ind. Code § 32-31-8 contains the legal responsibilities conferred upon a landlord in Indiana.

4. Ind. Code § 32-31-8-5(2) expressly requires landlords to comply with local health department rules and regulations, which reflects a clear public policy choice by the legislature.

II. PARTIES

5. Plaintiff, the State of Indiana, is authorized to bring this action under Ind. Code § 24-5-0.5-4(c) and Ind. Code § 4-6-12-3(a)(3)(B), and Ind. Code §24-9, et. seq. The Attorney General brings this action in the public interest and pursuant to his powers *parens patriae* in order to hold Defendants accountable and to protect tenant residents who have been adversely affected by their illegal conduct.

6. Willow Brook Gardens, LLC (“Defendant Willow Brook”) is a foreign limited liability company registered on or around April 7, 2021, with the Indiana Secretary of State. Willow Brook is the fee simple owner of a residential complex

located at 2111 East 52nd Street in Indianapolis, Indiana 46205 known as Willow Brook Gardens Apartments. The complex consists of six rows of single level townhouses with shared walls. Willow Brook's registered agent listed with the Indiana Secretary of State is VCORP Agent Services, Inc., 334 North Senate Avenue, Indianapolis, IN 46204.

7. Beztak Management Company ("Defendant Beztak") is a foreign for-profit corporation with no registered agent in Indiana. Its registered office in the State of Michigan is located at 31731 Northwestern Hwy, Suite 250W in Farmington Hills, Michigan 48334.

8. Beztak is not registered to conduct business in the State of Indiana and has not followed the procedures in order to register as a foreign entity as required by Ind. Code § 23-0.5-5-5-2(a). (**Exhibit A**).

9. U.S. Bank, N.A., as Trustee for the Registered Holders of J.P. Morgan Chase Commercial Mortgage Securities Corp., Multifamily Mortgage Pass-Through Certificate Series 2021-SB91 ("U.S. Bank"), is named as a Defendant by virtue of that certain Multifamily Mortgage, Assignment of Rents, Security Agreement and Fixture Filing filed with the Marion County Recorder on July 21, 2021 as Document Number A202100095114 and a subsequent Assignment of Multifamily Mortgage, Assignment of Rents, Security Agreement and Fixture filing, filed with the Marion County Recorder on October 27, 2021 as Document Number A202100143482. (**Exhibits B and C**).

10. This suit may implicate the equitable or other rights held by U.S. Bank by virtue of the property serving as collateral for the payment of an associated mortgage note. As such, U.S. Bank is entitled to notice of this suit wherein they can affirmatively assert their interests.

11. At all times relevant to this complaint, Defendant Willow Brook did business in Indiana by providing real estate-related services to Indiana residents by acting as a landlord in Indiana and engaging in consumer transactions by and through its agent, Defendant Beztak.

12. At all times relevant to this complaint, Defendant Beztak did business in Indiana by receiving compensation in order to provide real estate-related services to Indiana residents by acting as a property manager/landlord for owners of real property located in Indiana.

13. As of the date of filing Defendant Beztak has no professional license of any kind in Indiana. *See Exhibit A.*

III. FACTS RELATED TO UNLICENSED PROPERTY MANAGEMENT

14. Willow Brook Apartments leases each of the apartment units identified in this Complaint (hereafter the “Willow Brook Units”).

15. Defendant Beztak provides property management services for the Willow Brook Units. (**Exhibit D**).

16. Donna Damron serves as the on-site manager and lives or has lived on the premises at Willow Brook. (**Exhibit E**).

17. Defendant Beztak affirmatively states on its website that Defendant Willow Brook is in Defendant Beztak's "portfolio."¹

18. When you choose to "View" Willow Brook on Defendant Beztak's website, it takes you to <https://www.willowbrookindianapolisapts.com/>.

19. The bottom of that same website indicates: "Managed By Beztak: This property is owned by a separate and independent single asset entity."

20. Defendant also manages at least five other multi-family properties (collectively the "Indianapolis Properties") in and around the Indianapolis area, including the following:

- a. Wellington Village located at 1714 Wellington Ave., Indianapolis, IN 46219.
- b. The Hermitage at 2234 Hermitage Way, Speedway, IN 46224.
- c. Eagle Lake Landing at 2054 High Eagle Trail, Indianapolis, IN 46224.
- d. Briergate Apartments at 9117 Briergate Ct. B, Indianapolis, IN 46229.
- e. Beech Meadow at 147 Diplomat Ct., Beech Grove, IN 46107.

IV. FACTS COMMON TO ALL TENANT RESIDENTS OF WILLOW BROOK APARMENTS

21. Upon information and belief, most of the tenants residing in Willow Brook Apartments are elderly, disabled, and/or on a fixed income.

¹ https://beztak.com/portfolio/residential-apartments/?wpv-wpcf-property-state=IN&wpv_aux_current_post_id=73&wpv_aux_parent_post_id=73&wpv_view_count=607; accessed July 6, 2023.

22. Defendant Willow Brook purchased the apartment complex on or about July 20, 2021. (**Exhibit F**).

23. Following Defendant Beztak's management of Willow Brook on behalf of the owner, residents report that Defendants do not reasonably respond to tenant communications or reasonably respond to tenants' maintenance requests.

24. Defendants also do not complete the work adequately when responding to maintenance requests, which has resulted in "band-aid" repairs that defer maintenance costs for the owner and leave the tenant with unresolved habitability issues.

25. Defendants do not make executed lease agreements or tenant communications equally accessible to all tenants.

26. Defendants, despite deferring maintenance and allowing a multitude of other issues with tenants to go unresolved, have started fully refurbishing other Willow Garden Apartments in order to list them on AirBNB.

27. Pictures of a live listing on AirBNB show a fully furnished apartment with brand new appliances and other updated furnishings²:

² Listing visited July 3, 2023 at https://www.airbnb.com/rooms/646432164476134641?adults=1&viralityEntryPoint=1&s=76&unique_share_id=387A9EA7-EE7F-4786-95EA-31B7A51ECA96&branch_match_id=1204565052863537578&branch_referrer=H4sIAAAAAAAAAA8soKSkottLXT0zKS9LLTdW3NM4PcS0zMTJ0TAIAc2mepBsAAAA%3D&source_impression_id=p3_1688428915_Sr8BEvI Sk0btvzAQ



Start your search



Airbnb your home



The Lady retreat

★ 4.89 · 9 reviews · Superhost · Indianapolis, Indiana, United States

Share Save



V. FACTS RELATING TO CONSUMER CHARELLE RICHMOND

28. Charelle Richmond is the tenant of Willow Brook Apartment 38.

29. Ms. Richmond signed a lease with Defendant Willow Brook for Apartment 39 for the term beginning April 1, 2022, until April 30, 2023. **(Exhibit G)**. She signed another lease agreement with Defendant Willow Book for the term beginning May 1, 2023, and ending April 30, 2024. **(Exhibit H)**.

30. On or about August 30, 2022, the Health and Hospital Corporation of Marion County, Indiana (“HHC”) filed a verified complaint against Defendant Willow Brook.

31. The Complaint alleges an HHC inspection discovered violations in Willow Brook Apartment 38 on April 6, 2022, and the violations were not repaired by the filing of the Complaint nearly four months later.

32. The HHC requested an injunction be issued ordering Defendant Willow Brook to bring the premises into compliance with The Code.³

33. On August 30, 2022, the Marion Civil Court ordered Defendant Willow Brook to appear at a pretrial conference on November 22, 2022. (**Exhibit I**). Defendant Willow Brook failed to appear.

34. On November 23, 2022, the Marion Civil Court ordered Defendant Willow Brook to appear on January 24, 2023, for an evidentiary hearing. (**Exhibit J**). Defendant Willow Brook failed to appear. At the evidentiary hearing, the Court found the following:

- a. The property is not maintained in a manner that is free from conditions that may cause or produce a health or safety hazard, in violation of Ordinance 10-303 of The Code.
- b. The plumbing is not properly installed, maintained, or in good working condition, free from defects, leaks, and obstructions, in violation of Ordinance 10-405 of The Code.

³ The Code of the Health and Hospital Corporation of Marion County, Indiana. Ch. 10.

- c. One or more of the following are not maintained in a weather- and watertight condition and/or in good repair: the foundation, roof, exterior wall, door skylight, and/or windows, in violation of Ordinance 10-703 of The Code. (**Exhibit K**).

35. On January 27, 2023, the Court ordered Defendant Willow Brook to (1) ensure all outlets have covers and eliminate the risk of electrical shock, (2) repair or replace the door so that it is properly fitted and locks with ease, (3) repair all plumbing, such that there are no leaks, (4) repair or replace kitchen sink hardware such that the sink is properly sealed so that water cannot get into the cabinets, (5) remediate all moldy caulk, walls, ceilings in the bathrooms and basement, and (6) extend the pressure relief valve on the hot water heater.

36. The Court ordered the HHC to inspect the unit on March 6, 2023, and ordered Defendant Willow Brook to appear in person for a compliance hearing on March 14, 2023.

37. Defendant Willow Brook failed to appear at the March 14 Compliance Hearing, and the Court found they were not in compliance with the January 27 Order and that no effective progress had been made.

38. In a March 20, 2023, Order, the Court ordered Defendant Willow Brook to make the repairs originally ordered in the January 27 Order. (**Exhibit L**).

39. The Court also ordered the HHC to inspect the unit on May 1, 2023, and ordered Defendant Willow Brook to appear in person for a compliance hearing on May 9, 2023.

40. Defendant Willow Brook failed to appear at the May 9 Compliance Hearing, and the Court found they were not in compliance with the March 20 Order and that no progress had been made.

41. In a May 11, 2023, Order, more than a year after the initial citation, the Court ordered Defendant Willow Brook to make the repairs originally ordered in the January 27 Order. (**Exhibit M**).

42. The Court also ordered the HHC to inspect the unit on July 10, 2023, ordered Defendant Willow Brook to appear in person for a compliance hearing on July 18, 2023, imposed a \$500 fine against Defendant Willow Brook, and took a \$2,500 fine under advisement, pending substantial compliance with the May 11 Order.

43. In or about January 2022, Ms. Richmond noticed a gas smell in her apartment and the heat was not working. She notified Beztak.

44. Due to the smell and lack of heat, she left the Property to stay with her mother for approximately one month. She paid rent for the full month of January. The furnace has not been repaired as of the date of this filing.

45. Ms. Richmond was not offered alternative accommodations, nor was she offered a refund or credit related to periods where she was unable to occupy her leased property.

46. In or about August of 2022, Ms. Richmond's toilet and bathtub were leaking. She notified Beztak, but the leaks were not repaired in a reasonable amount of time. This led to a water bill of approximately \$868. Ms. Richmond was able to get

assistance for part of the bill but paid \$197.32 herself. She sent the bill to Beztak and did not receive a response.

47. On or about June 6, 2023, after signing her second lease with Defendant Willow Brook, Ms. Richmond lost her job. In an effort to obtain rental assistance, Ms. Richmond requested a copy of her fully-executed lease from Defendants. Defendants failed to make her lease available to her for several weeks and as a result Ms. Richmond was unable to receive rental assistance for the month of June, 2023.

48. On or around June 28, 2023, Beztak's agent refused to provide an advance bill for the month of July 2023, without reasonable justification, increasing the likelihood that Ms. Richmond would not be able to apply for rental assistance from the Washington Township Trustee in time to avoid a possible eviction.

49. Ms. Richmond has been significantly harmed by Defendants actions, including finding herself under the current threat of being evicted while several months pregnant and caring for her another of her children.

VI. FACTS RELATING TO CONSUMER TERESA DAVIS

50. Teresa Davis rents Willow Brook Apartment 11 from Defendant Willow Brook. Ms. Davis has lived in this unit since May of 2018. (**Exhibit N**).

51. Ms. Davis signed a lease with Defendant Willow Brook for Apartment 11 for the term beginning April 1, 2022, lasting until April 30, 2023. (**Exhibit O**). She signed another lease agreement with Defendant Willow Book for the term beginning May 1, 2023, until April 30, 2024.

52. A fully-executed copy of her most recent lease has not been made available to Ms. Davis.

53. On or about August 8, 2022, Ms. Davis notified Defendants of an issue with her refrigerator which caused it to leak onto the kitchen floor. The tenant submitted eight subsequent maintenance requests, eventually informing Defendants that the prolonged leak had begun to attract insects, affecting her neighbors' units as well as her own. This was finally repaired in or about April of 2023.

54. On or about August 8, 2022, Ms. Davis notified Defendants of possible black mold on the ceiling in her bathroom. Ms. Davis submitted three subsequent requests regarding the mold issue. Eventually her son handled the mold issue as Defendants were unresponsive.

55. For both the refrigerator and mold issue, the resident portal shows dates that these issues were resolved, however, these dates are inaccurate as Defendants did not handle the mold issue and fixed the refrigerator issue much later than the records indicate.

56. On or about May 27, 2023, the hot water in Ms. Davis's unit stopped working. She notified Defendants on that day. The hot water in Ms. Davis's unit was repaired on June 22, 2023, nearly a full month after her request.

57. Throughout her tenancy with Defendant Willow Brook, Ms. Davis has timely made all required rent payments.

58. At all times relevant to this complaint, Ms. Davis, born in 1954, was a senior consumer.

59. Ms. Davis has been harmed by Defendants' actions.

VII. FACTS RELATING TO CONSUMER JIMMIE JOHNSON

60. Jimmie Johnson rents Willow Brook Apartment 10 from Defendant Willow Brook. Mr. Johnson has lived in this unit since April of 2017.

61. Mr. Johnson signed a lease with Defendant Willow Brook for Apartment 10 for the term May 1, 2022, through May 31, 2023. (**Exhibit P**). He signed a second lease agreement with Defendant Willow Brook for the same unit for the term beginning June 1, 2023, and ending May 31, 2024 ("2023-2024 Lease"). (**Exhibit Q and R**).

62. Due to Defendants' billing setup, Mr. Johnson was billed for the water used in his unit and his neighbor's unit (Unit #9). For their entire time as neighbors, Mr. Johnson's neighbor refused to pay him for their share of the water bill. Mr. Johnson informed Defendants of his neighbor's refusal and they took no action.

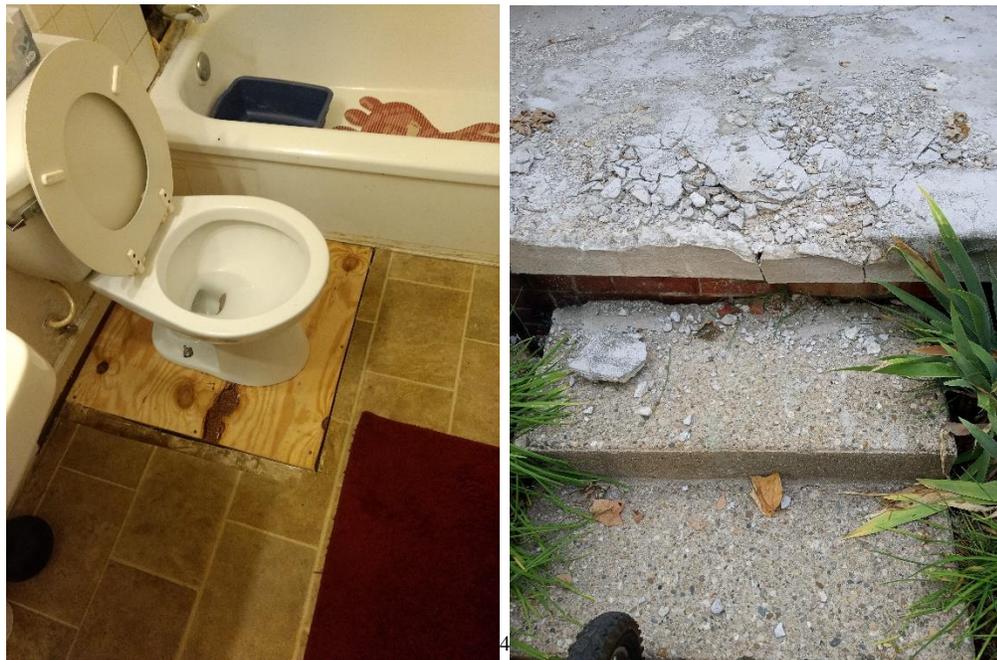
63. When Mr. Johnson's 2023-2024 Lease went into effect, Defendants' billing practices changed, and instead of being billed directly from the utility company, Defendant's charge Mr. Johnson an extra \$50 each month. Mr. Johnson's lease does not contemplate the \$50 fee and specifically states that water and sewer are not included and will be paid by resident.

64. On or about September 3, 2021, Mr. Johnson submitted a work order informing Defendants that the toilet was not flushing. He submitted subsequent requests on September 8, 2021, and September 18, 2021.

65. On or about September 18, 2021, Mr. Johnson submitted a work order informing Defendants that: (1) holes in the walls needed to be fixed; (2) the floor needed to be fixed; and (3) plumbing for the bathtub needed to be corrected.

66. Those issues are exemplified in the following photographs taken by Mr. Johnson:

a.



b.

67. On or about August 25, 2022, Mr. Johnson submitted an additional maintenance request regarding holes in the bathroom and bedroom which were cut by contractors in September 2021.

68. Mr. Johnson submitted another maintenance request on September 6, 2022, regarding the holes cut in the walks in September 2021. The holes in the walls were repaired in or about April 2023.

⁴ The temporary plywood repair shown at the base of the toilet in this photograph was completed by Mr. Johnson after his repair request went ignored.

69. These issues are exemplified in the following photographs taken by Mr. Johnson:



a.

70. Defendants' work order portal indicated the September 18, 2022 Request was completed on October 6, 2022, and that the August 25, 2022 Request was completed on October 4, 2022.

71. On or about August 26, 2022, Mr. Johnson submitted a work order which stated, "Outside faucet leaking in need of repair asap due to this water leakage my water bill is \$175.44 as of to date. Unit # 9 on front."

72. The water leak was from Mr. Johnson's neighbor's outside faucet, but due to Defendants' billing practices, Mr. Johnson was billed for the additional water usage caused by the leak. (**Exhibit S**).

73. Defendants' work order portal indicates this repair was made on October 4, 2022. However, by February 4, 2023, Mr. Johnson's water bill was \$2,743.43.

74. Mr. Johnson is unable to pay this bill.

75. On or about February 16, 2023, Mr. Johnson submitted a work order indicating that the bottom heating element needed to be replaced and provided the model number and serial number.

76. Mr. Johnson received a call from Defendants two weeks after submitting his request but due to his history with maintenance had already fixed the issue himself.

77. Throughout his tenancy with Defendant Willow Brook, Mr. Johnson has remained current on his rent payments.

78. At all times relevant to this complaint, Mr. Johnson, born in 1956, was a senior consumer within the meaning of the Senior Consumer Protection Act, Ind. Code § 24-4.6-6, *et. seq.*

79. Mr. Johnson has been significantly harmed by Defendants' actions.

VIII. FACTS RELATING TO CONSUMER JUANITA NEWLAND

80. Juanita Newland rents Willow Brook Apartment 37 from Defendant Willow Brook. Ms. Newland has lived in this unit since April of 2017. (**Exhibit T**).

81. During the term of her lease, Ms. Newland became increasingly disabled and unable to traverse the concrete steps leading to her apartment door.

82. Ms. Newland made a request for a reasonable modification to the outside of her unit by asking that the owner provide a ramp for her to be able to access her front door without utilizing stairs.

83. In response, Beztak informed Ms. Newland that she would have to provide and install her own ramp and also leave it installed when she leaves her unit.

84. Ms. Newland then had to use a ramp from the inside of a van she purchased and have it installed herself so that she could adequately access her unit.

85. Beztak subsequently informed Ms. Newland that they were choosing not to renew her lease, although they did not provide her with a reason for nonrenewal.

**IX. FACTS RELATING TO CONSUMERS REBECCA DUGGAN AND
ADRIAN BLEDSOE**

86. Rebecca Duggan and Adrian Bledsoe (“Unit #5 Tenants”) rent Willow Brook Apartment 5 from Defendant Willow Brook.

87. Unit #5 Tenants have lived at Willow Brook Apartments since 2015, with their most recent lease covering the term from November 1, 2022, to November 30, 2023.

88. On or about February 13, 2023, the HHC filed a verified complaint against Defendant Willow Brook.

89. The Complaint alleges an HHC inspection on or about November 17, 2021, discovered violations in Willow Brook Apartment 5, and that the violations continued to exist at the time the HHC filed the Complaint.

90. The HHC requested an injunction be issued ordering Defendant Willow Brook to bring the premises back into compliance with The Code.

91. On February 14, 2023, the Marion Civil Court ordered Defendant Willow Brook to appear at a pretrial conference on April 4, 2023. Defendant Willow Brook failed to appear.

92. On April 6, 2023, the Marion Civil Court ordered Defendant Willow Brook to appear on May 9, 2023, for an evidentiary hearing. Defendant Willow Brook failed to appear. At the evidentiary hearing, the Court found the following:

- a. The property is not maintained in a manner that is free from conditions that may cause or produce a health or safety hazard, in violation of Ordinance 10-303 of The Code.
- b. One or more of the following are not maintained in weather- and watertight condition and/or in good repair: the foundation, roof, exterior wall, door, skylight, and/or windows, in violation of Ordinance 10-703 of The Code.

93. On May 11, 2023, The Court ordered Defendant Willow Brook to reglaze or replace the bathtub and replace all broken or missing windowpanes.

94. The Court further ordered the HHC to inspect the unit on July 10, 2023, and ordered Defendant to appear at a compliance hearing on July 18, 2023.

95. Beginning in 2015, prior to Defendants involvement with the property, Unit #5 Tenants noticed the growth of mold in their bathroom and had mold tests performed.

96. Upon receiving notice of Defendant Beztak becoming the property manager for Willow Brook Apartments, Ms. Duggan immediately provided the mold report to Defendants.

97. Defendants have not fully remediated the mold issue. Unit #5 Tenants have, at their own expense, taken steps to remediate the mold issue including

regularly using various mold cleaners to scrub the wall, ceiling, and the grout in the bathroom while they wait for Defendants to properly fix the issue.

98. On March 17, 2023, Ms. Duggan received an email from Defendant Beztak's service manager informing her that he received a "BOH concern" and was reaching out to get more information so he could send the correct vendors or repair the issues.

99. Ms. Duggan, also on March 17, 2023, replied to his email informing him that the HHC was concerned with the bathtub/shower area in the bathroom and a broken window in the basement. Ms. Duggan further informed him of outstanding maintenance requests she had sent: (1) a mousehole in the bathroom that leads to a leak in the basement; (2) the bathroom door handle is loose and comes apart frequently; and (3) the electrical outlets in the bathroom and kitchen need to be replaced to be grounded.

100. Defendants replaced one electrical outlet and completely removed another one on or about March 27, 2023.

101. On April 27, 2023, Ms. Duggan informed Defendant Beztak that she received a notice via email that a maintenance work order had been completed that day. She informed Defendant Beztak no maintenance work order had been completed that day.

102. Unit #5 Tenants have remained current on their rental obligations, despite the condition of their unit.

103. Unit #5 Tenants have been significantly harmed by Defendants' actions and failures to make necessary repairs.

X. FACTS RELATING TO CONSUMER DALE MAYHEW

104. Dale Mayhew rents Willow Brook Apartment 23 from Defendant Willow Brook.

105. Mr. Mayhew has lived at Willow Brook for 34 years.

106. Born in 1938, Mr. Mayhew is a senior consumer within the meaning of the Senior Consumer Protection Act, Ind. Code § 24-4.6-6, *et. seq.*

107. Most recently, Mr. Mayhew had entered into a lease agreement to rent Apartment 23 through January 31, 2023.

108. Mr. Mayhew received a letter from Beztak, attached hereto as **Exhibit U**, indicating that he would need to sign a new lease agreement as a result of his lease expiring.

109. When Beztak prepared a new lease agreement for Mr. Mayhew, they included a \$25.00/month pet fee. (**Exhibit V**).

110. Mr. Mayhew's cat died in November of 2022, so he attempted to reach Beztak in order to have them correct the proposed lease.

111. Beztak would not return his calls related to this issue and instead allowed his lease to lapse and become a month-to-month tenancy, subject to an increased rental rate.

112. Mr. Mayhew does not receive monthly billing statements from Beztak and does not use the internet or email to handle his personal affairs.

113. In at least one instance he reached a representative of Beztak by telephone and they informed him that “they do not do house calls” when he asked for an appointment at his apartment to help remedy the issue with his lease.

114. As of the date of this filing, Mr. Mayhew does not know the status of his account.

115. In approximately December of 2022, Mr. Mayhew paid several thousand dollars in a cashier's check to Beztak to cover his rent for approximately the next year.

116. Upon information and belief, instead of properly communicating with Mr. Mayhew to resolve the inaccurate charges on his proposed lease, Beztak allowed his lease to lapse.

117. According to Beztak’s letter regarding Mr. Mayhew’s renewal, it is likely that Mr. Mayhew’s account has been converted to a month-to-month tenancy at a rate of \$1200/month, or roughly double the proposed base rent offered to him at \$630 (less the inaccurate \$25.00/mo. pet fee). *See Exhibit V.*

118. Mr. Mayhew also alleges that he has maintained renters’ insurance and is concerned that he is also being charged a \$19.00/month fee as a result of automatic enrollment in an insurance waiver program he did not choose to participate in.

119. Despite his best efforts, Mr. Mayhew has not been able to resolve these issues with Beztak’s managers, resulting in real financial harm.

120. Mr. Mayhew lives on a fixed income, so Beztak’s inability to resolve the issues with his lease could nearly double his costs to rent his unit.

XI. CAUSES OF ACTION

COUNT I: VIOLATION OF THE HOME LOAN PRACTICES ACT Ind. Code §24-9, et. seq. Unlicensed Practice of Real Estate (As to Defendant Beztak Management Company)

121. Plaintiff re-alleges and incorporates by reference Paragraphs 1 through 120 of this Complaint.

122. Ind. Code § 25-34.1-3-2 states that if a person wants to “for consideration, sell, buy, trade, exchange, option, *lease, rent, manage*, list, or appraise real estate or negotiate *or offer to perform any of those acts in Indiana or with respect to real estate situated in Indiana*”, they must obtain a license to practice as a real estate broker as defined by § Ind. Code 24-34.1-1-2(4). *Emphasis added.*

123. Each lease and/or lease renewal between Beztak and a tenant residing in Indiana constitutes a “real estate transaction” within the meaning of Ind. Code § 24-9-3-7(b).

124. Defendant Beztak has, for compensation and on behalf of the owner, knowingly and intentionally managed Willow Brook, which is real estate located in the State of Indiana, without a real estate broker or broker company license required by law, which is a *per se* violation of Ind. Code § 24-9-3-7(c)(4).

125. Defendant’s management of Willow Brook is evidenced by the attached **Exhibit D**, a welcome letter to residents of Willow Brook stating that Beztak was managing the property as of the effective date of the letter (June 22, 2021).

126. Defendant's continued management of the other Indianapolis Properties, which are also parcels of real estate located in Indiana, absent a real estate broker or broker company license required by law, is likewise a *per se* violation of Ind. Code § 24-9-3-7(c)(4).

127. Each real estate transaction conducted by Defendant Beztak without a license required by law allows the State of Indiana to seek costs of its investigation, reasonable attorney's fees, and a civil penalty of up to \$10,000 per transaction. Ind. Code § 24-9-8-3(a)(4).

128. As a result of the scope and severity of Defendant's conduct, the State of Indiana seeks the maximum civil penalty per transaction allowable by law.

COUNT II: VIOLATIONS OF THE DECEPTIVE CONSUMER SALES ACT
Ind. Code § 24-5-0.5, et. seq.
(As to Defendants Beztak Management Company and Willow Brook Gardens, LLC)

129. Plaintiff re-alleges and incorporates by reference Paragraphs 1 through 128 of this Complaint.

130. The transactions identified and related to each consumer mentioned *supra* are "consumer transactions" as defined in Ind. Code § 24-5-0.5-2(a)(1).

131. Every real estate transaction that Defendants have consummated with a tenant are also "consumer transactions" as defined in Ind. Code § 24-5-0.5-2(a)(1).

132. Defendants are both "suppliers" as defined in Ind. Code § 24-5-0.5-2(a)(3).

133. Defendants have failed to manage Willow Brook in a manner which complies with local health department rules and regulations, even after being noticed by a court rightfully having jurisdiction to rectify said failures. This failure represents a current and ongoing violation of Ind. Code §32-31-8-5 in that Defendants have failed to maintain the Willow Brook Units in compliance with Ch. 10 of the Marion County Health and Housing Code titled *Minimum Standards for Residential Property and Housing*⁵.

134. Defendants have knowingly and intentionally engaged in a pattern and practice of repeatedly violating Ind. Code § 24-5-0.5-3, Ind. Code § 32-31-8, and Ch. 10 of the Marion County Health and Housing Code, thereby committing unfair, abusive, and/or deceptive acts, omissions, and practices in connection with the aforementioned consumer transactions as prohibited by Ind. Code § 24-5-0.5-3, in at least the following ways:

- a. Engaging in the unlicensed practice of real estate in contravention of Ind. Code § 25-34.1-3-2;
- b. Failing to properly account for and provide legal documentation associated with each lessor when requested;
- c. Failing to timely respond to tenant communications regarding leasing issues, billing issues, and property maintenance issues;
- d. Failing to respond to Marion County Health Department citations and timely remedy violations of Ch. 10 of the local Health and Housing Code

⁵ https://hhcorp.org/images/HHCcode/chapter10_rev.pdf; accessed July 5, 2023.

relating to the Minimum Standards for Residential Property and Housing, thereby violating Ind. Code § 32-31-8-5 and the implied warranty of habitability in each and every lease agreement;

- e. Failing to properly communicate with tenants regarding reasonable accommodations or modifications, and failure to allow and pay for reasonable modifications to structures in the building to allow reasonable access to persons with disabilities in violation of the Fair Housing Act at 42 U.S.C. §§3601, *et. seq.*

**COUNT III: KNOWING AND INTENTIONAL VIOLATIONS OF THE
DECEPTIVE CONSUMER SALES ACT
Ind. Code § 24-5-0.5, et. seq.
(As to Defendants Beztak Management Company and Willow Brook
Gardens, LLC)**

135. Plaintiff re-alleges and incorporates by reference Paragraphs 1 through 134 of this Complaint.

136. As to each violation of the Deceptive Consumer Sales Act alleged *supra*, Plaintiff alleges that each act or omission was done knowingly and intentionally.

137. As such, each count should be subject to increased civil penalties of a fine not exceeding five thousand dollars (\$5,000) per unfair, abusive, or deceptive act in accordance with Ind. Code § 24-5-0.5-4(g).

**COUNT IV: VIOLATION OF THE UNIFORM BUSINESS ORGANIZATIONS
ACT
Ind. Code § 23-0.5-5, et. seq.**

(As to Defendant Beztak Management Company)

138. Plaintiff re-alleges and incorporates by reference Paragraphs 1 through 137 of this complaint.

139. Defendant Beztak is operating a foreign entity in the State of Indiana, as that term is used in Ind. Code § 23-0.5-5.

140. Defendant Beztak, as a foreign entity, may not conduct business in the State of Indiana until it registers with the Secretary of State.

141. Defendant Beztak has conducted business in the State of Indiana by managing properties on behalf of the owners of Willow Brook Gardens Apartments as well as several other properties.

142. Ind. Code § 23-0.5-5-14 states that the Attorney General may maintain an action to enjoin a foreign entity from doing business in Indiana in violation of the law.

143. In addition to an injunction, the Attorney General is entitled to a statutory penalty of not more than ten thousand dollars (\$10,000) for Beztak's failure to file a foreign business registration while operating an illegal property management company pursuant to Ind Code 23-0.5-5-2 (f).

XII. Relief

144. A trial by jury is requested for all issues so triable.

145. Plaintiff, the State of Indiana, requests the Court enter judgment against Defendants, Willow Brook Gardens and Beztak Corp, for the following relief:

- a. Permanently enjoin Defendant Willow Brook from using an unlicensed property management company to manage its real estate assets.
- b. Permanently enjoin Defendant Beztak Corp from engaging in the practice of real estate in Indiana without a license;
- c. Permanently enjoin Defendant Beztak Corp from operating as a business in Indiana without registering with the Secretary of State;
- d. Order Defendants to pay tenants restitution for the extra cost of utilities which resulted from Defendant's failure to make repairs which impacted the amount of the utility used;
- e. Order Defendants to pay reasonable consumer restitution for damages incurred and/or money unjustly obtained from consumers as a result of Defendants' violations of the Home Loan Practices Act and the Indiana Deceptive Consumer Sales Act;
- f. Order Defendants to pay the Office of the Indiana Attorney General its reasonable costs and expenses incurred during the investigation and prosecution of this action, pursuant to Ind. Code § 24-5-0.5-4(c)(4);
- g. Order Defendants to pay a statutory penalty to the State of Indiana in the amount of ten thousand dollars (\$10,000) for failure to register as a foreign entity pursuant to Ind. Code § 23-0.5-5-2(f);

- h. Order Defendants to pay a civil penalty to the State of Indiana in the amount of ten thousand dollars (\$10,000) for each knowing or intentional violation of Ind. Code § 24-9-3-7(c)(4);
- i. Order Defendants to pay a civil penalty to the State of Indiana in the amount of five thousand dollars (\$5,000) for each knowing violation of Ind. Code § 24-5-0.5-3(a);
- j. Order Defendant Willow Brook Gardens, LLC to retain a licensed broker company to manage Willow Brook Gardens Apartments, or in the alternative, order Defendant U.S. Bank to retain a receiver for the purposes of protecting their collateral;
- k. If the parties will not consent to the appointment of a receiver, issue a preliminary and/or permanent order for the appointment of a receiver to manage Willow Brook Gardens Apartments and other Indianapolis Properties being unlawfully managed by Beztak pursuant to Ind. Code § 24-5-0.5-4(c)(5).
- l. All other just and proper relief.

Respectfully submitted,

TODD E. ROKITA
Indiana Attorney General
Attorney No. 13999-20

By:



Regan Perrodin
Deputy Attorney General
Attorney Number 36333-71

Office of the Indiana Attorney General
Indiana Government Center South
302 West Washington St., 5th Floor
Indianapolis, IN 46204
Telephone: (317) 234-7096
Fax: (317) 232-7979
Regan.Perrodin@atg.in.gov

By:



Timothy M. Weber
Deputy Attorney General
Attorney No. 31559-49

Office of the Indiana Attorney General
Indiana Government Center South
302 West Washington Street, 5th Floor
Indianapolis, IN 46204
Telephone: (317) 232-6201
Fax: (317) 232-7979
Timothy.Weber@atg.in.gov