

DISTRICT OF COLUMBIA RENTAL HOUSING COMMISSION

RH-TP-06-28,794

In re: 4501 Connecticut Avenue, N.W., Unit 809

Ward Three (3)

SMITH PROPERTY HOLDINGS FIVE (D.C.) L.P.
Housing Provider/Appellant

v.

KAREN MORRIS AND DAVID POWER
Tenants/Appellees

ORDER TO SUPPLEMENT

July 17, 2014

SZEGEDY-MASZAK, CHAIRMAN. On July 15, 2014, the Tenants Karen Morris and David Power (collectively, Tenants) filed a Motion for Attorney's Fees with the Rental Housing Commission (Commission), seeking compensation for a total of 60.4 hours of work performed by their counsel Joseph Creed Kelly (Counsel) before both the Office of Administrative Hearings (OAH) and the Commission, between February 27, 2007 and July 3, 2014. *See* Motion for Attorney's Fees, Exhibit 1 at 1. The Motion for Attorney's Fees indicates that the Tenants are requesting a rate of \$360 per hour, a rate equal to the Laffey Matrix rate for an attorney with eight (8) years of experience.¹ *See id.* at 5. The Commission's review of the Motion for

¹ The Laffey Matrix begins with rates from 1981–1982 allowed and established by the U.S. District Court for the District of Columbia in the case of Laffey v. Northwest Airlines, 572 F. Supp. 354 (D.D.C. 1983), *aff'd in part, rev'd in part on other grounds*, 746 F.2d 4 (D.C. Cir. 1984), *cert. denied*, 472 U.S. 1021 (1985). It is a matrix form comprised of hourly rates for attorneys of varying experience levels and paralegals/law clerks, which has been compiled by the Civil Division of the United States Attorney's Office for the District of Columbia. It has been used since then by courts in the District to reflect billing rates for attorneys in the Washington, D.C. area with various degrees of experience. *See, e.g., Heller v. District of Columbia*, 832 F. Supp. 2d 32, 40 (D.D.C. 2011). The Laffey Matrix is intended to be used in cases where a fee shifting statute permits a prevailing party to recover "reasonable" attorney's fees. In that regard, it is similar to Title VII of the 1964 Civil Rights Act, 42 U.S.C. § 2000e-5(k), the Freedom of Information Act, 5 U.S.C. § 552(a)(4)(E) and the EAJA, 28 U.S.C. § 2412(b). Rates for subsequent years after 1981-1982 are adjusted annually based on cost of living increases for the Washington, D.C. area.

Attorney's Fees reveals that the Tenants did not submit any documents or other evidence regarding the actual rate(s) that Counsel charged throughout the more than seven (7) year period for which the Tenants are requesting fees. *See generally*, Motion for Attorney's Fees.

The Commission notes that Laffey Matrix rates have been used in the past as a starting point to determine the reasonable hourly rate for *pro bono* counsel, who do not typically charge their clients an hourly rate. *See, e.g., Caesar Arms, LLC v. Lizama*, RH-TP-07-29,063 (RHC Feb. 28, 2014) (awarding hourly rates lower than applicable Laffey Matrix rates to supervising attorneys and student attorneys from the University of the District of Columbia David A. Clark School of Law); Loney v. Tenants of 710 Jefferson St., N.W., SR 20,089 (RHC Jan. 29, 2013) (awarding hourly rates lower than applicable Laffey Matrix rates for counsel from the Legal Aid Society of Washington, D.C.). The Commission's review of the Motion for Attorney's Fees reveals no evidence that Counsel in this case was working *pro bono*, or at a comparable rate to the Laffey Matrix hourly rate which he is seeking now. *See generally*, Motion for Attorney's Fees.

Accordingly, the Commission orders the Tenants to supplement the Motion for Attorney's Fees within ten (10) days from the issuance of this Order, with the following: (1) evidence that Counsel accepted the Tenants' case on a *pro bono* basis; or (2) if not *pro bono* representation, evidence of the hourly rate that Counsel charged the Tenants, for the time period relevant to the Motion for Attorney's Fees (February 27, 2007 – July 3, 2014). If the Tenants paid attorney's fees at a rate less than the requested Laffey Matrix hourly rate of \$360, the Commission requests that the Tenants provide both legal authority and precedent for the Commission's capability to award legal fees at a Laffey Matrix hourly rate which exceeds the

rate actually charged by the Tenants' counsel. *See, e.g.*, 14 DCMR § 3825 (2004); Caesar Arms, LLC, RH-TP-07-29,063; Loney, SR 20,089.

SO ORDERED



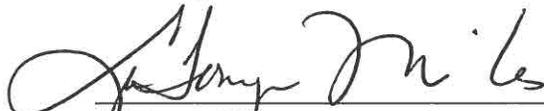
PETER B. SZEGEDY-MASZAK, CHAIRMAN

CERTIFICATE OF SERVICE

I certify that a copy of the foregoing **ORDER TO SUPPLEMENT** in RH-TP-06-28,794 was mailed, postage prepaid, by first class U.S. mail on this **17th day of July, 2014** to:

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