



Kelley Drye's Pro Bono Efforts in Disability Civil Rights Litigation Yield Significant Decision

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A significant ruling was recently issued in *The Equal Rights Center v. AvalonBay Communities, Inc.*, a case involving allegations of discrimination against persons with disabilities. Kelley Drye and its co-counsel, The Washington Lawyers Committee for Civil Rights and Deckert LLP, argued that AvalonBay Communities, Inc., a developer of residential real estate, failed to comply with the design and construction requirements of the Fair Housing Act and the Americans with Disabilities Act. In denying the defendants' motion to dismiss the complaint, United States District Judge Alexander Williams, Jr., of the District of Maryland, ruled that the Equal Rights Center had standing to bring the action and that the "continuing violation" theory applied to the purported statute of limitations defense. AvalonBay Communities, Inc. had argued that, as the Fair Housing Act has a two-year statute of limitations, the only properties properly at issue in the litigation were those designed or constructed within two years of the filing of the complaint.

Judge Williams disagreed, holding that, "AvalonBay's discriminatory behavior did not 'terminate' until the construction of the last non-compliant building. Thus, the statute of limitations does not prevent the ERC from bringing claims based on the buildings constructed more than two years before the filing." This decision impacts not only this case, but other civil rights cases involving access to housing for persons with disabilities, including the case of *Equal Rights Center v. Equity Residential*, another Fair Housing Act case for which Kelley Drye serves as co-counsel.

The decision is available at *The Equal Rights Center v. AvalonBay Communities, Inc.*, No. 05-2626, 2009 WL 1153397 (D. Md. March 23, 2009).