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2 IN THE CIRCUIT COURT FOR THE STATE OF OREGON
3 FOR MULTNOMAH COUNTY
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5
6 **AMBER COOK**
7 individually and on
8 behalf of other tenants

9 Plaintiff

10 vs

11 **GUARDIAN MANAGEMENT LLC**

12 Defendant
13
14

Case No. 23CV00916

**CLASS ACTION
COMPLAINT FOR
EQUITABLE RELIEF**

First Amended

ORS 90.320

Not Subject to Mandatory Arbitration

Filing Fee Authority: ORS 21.135

15 **1.**

16 **THE PARTIES**

17 Plaintiff is a tenant at the Milepost 5 Studios & Apartments in Portland,
18 Oregon. Milepost 5 is a building in Portland for residential tenants living on a fixed
19 income.
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21 **2.**

22 Defendant is the company responsible to maintain the common areas of the
23 Milepost 5 Apartments in a safe and habitable condition. Defendant is a large,
24 sophisticated, multi-state property management company. Motivated by profit,
25 defendant uses its size, power, and legal resources to pursue baseless evictions
26 against low-income tenants who complain, rather than invest its resources in legal
27 compliance and safety protocols to protect its low-income tenants.
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2 **3.**

3 Prior to filing this complaint, the tenants at Milepost 5 Apartments tried
4 repeatedly to get defendant to address their health and safety concerns. Plaintiff
5 now files this class action on behalf of herself and other tenants at the Milepost 5
6 Apartments who have been subjected to unsafe conditions caused by defendant's
7 ongoing failure to maintain the common areas of the Milepost 5 Apartments in a
8 habitable condition over the past year.
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11 **4.**

12 **FACTUAL ALLEGATIONS**

13 For each of the past twelve months, defendant has failed to maintain the
14 common areas of the Milepost 5 Apartments in a habitable condition, resulting in a
15 diminution in rental value for the tenants of the Milepost 5 Apartments.
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17 **5.**

18 For each of the past twelve months, even though tenants pay for access to the
19 communal space workshop, defendants failed to maintain the workshop at the
20 Milepost 5 Apartments in good repair and in an accessible condition, resulting in a
21 diminution in rental value for the tenants of the Milepost 5 Apartments.
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2 **6.**

3 For each of the past twelve months, the premises at the Milepost 5
4 Apartments substantially lacked common area plumbing facilities maintained in
5 good working order, in that the common area bathroom and kitchen facilities
6 regularly don't work, bathrooms are left uncleaned with feces and urine for days
7 sometimes months on end, there is regularly no soap or paper hand towels in
8 communal bathrooms or kitchens for months, for example, creating conditions that
9 pose a health and safety hazard to the tenants. Defendant knew or should have
10 known of these conditions.
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13 **7.**

14 For each of the past twelve months, the common area premises at the Milepost
15 5 Apartments were not safe for normal and reasonably foreseeable uses, in that there
16 are rats, filth, insects, drug paraphernalia, asbestos and mold, animal and human
17 urine and feces and blood in the halls, stairways, and garbage area, and insufficient
18 landscaping causing branches from overgrown trees to fall in the courtyard where
19 residents hang out, for example, creating conditions that pose a health and safety
20 hazard to the tenants. Defendant knew or should have known of these conditions.
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2 **8.**

3 For each of the past twelve months, the common area premises at the Milepost
4 5 Apartments substantially lacked safety from fire hazards, in that there are
5 regularly malfunctioning or broken fire safety doors that also can trap residents in
6 their units, broken smoke detectors unfixd for months, uninspected fire
7 extinguishers, missing break-glass hammers, faulty electrical grid and units on
8 same breakers, blocked hallways, stairway door that cannot be safely exited, water
9 leaks inside the walls, bare wires hanging from and around the ceiling in the
10 common areas, for example, creating conditions that pose a health and safety hazard
11 to the tenants. Defendant knew or should have known of these conditions.
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14 **9.**

15 For each of the past twelve months, the common area premises at the Milepost
16 5 Apartments substantially lacked operable and effective lighting and security
17 cameras, resulting in unrented units' locks being broken by trespassers and left
18 unrepaired, criminal activity including harassment, "camping" in common areas by
19 non-tenants, drug use and drug selling within the building, and incidents of non-
20 tenants littering and looting common areas, for example, creating conditions that
21 pose a health and safety hazard to the tenants. Defendant knew or should have
22 known of these conditions.
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2 **10.**

3 For each of the past twelve months, the common area premises at the Milepost
4 5 Apartments substantially lacked operable and effective door and window locks,
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6 resulting in criminal activity including harassment, “camping” in common areas by
7 non-tenants, drug use and drug selling within the building, and incidents of non-
8 tenants littering and looting common areas, for example, creating conditions that
9 pose a health and safety hazard to the tenants. Defendant knew or should have
10 known of these conditions.
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12 **11.**

13 For each of the past twelve months, the common area premises at the Milepost
14 5 Apartments substantially lacked floors, walls, and ceilings maintained in good
15 repair, in that windows are constantly broken and left unrepaired, portions of the
16 common area floors, walls, and ceilings are dirty, worn, damaged, deteriorated, or
17 missing, and trash piles up in the hallways uncleaned for months including food and
18 soiled carpets leading to major pest infestation across the building, for example,
19 creating conditions that pose a health and safety hazard to the tenants. Defendant
20 knew or should have known of these conditions
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23 **12.**

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25 For each of the past twelve months, the premises at the Milepost 5
26 Apartments substantially lacked a safe, drinkable water supply under the control of
27 the landlord, in that drinking and bath water are discolored, for example, creating
28 conditions that pose a health and safety hazard to the tenants.

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2 **13.**

3 For each of the past twelve months, the common area premises at the Milepost
4 5 Apartments substantially lacked an adequate number of receptacles for garbage,
5 in that the garbage receptacles around the building are uncleaned, unsanitary and
6 constantly overflowing with trash and drug paraphernalia, for example, creating
7 conditions that pose a health and safety hazard to the tenants. Defendant knew or
8 should have known of these conditions.
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11 **14.**

12 For each of the past twelve months, the common area premises at the Milepost
13 5 Apartments substantially lacked adequate heating facilities maintained in good
14 working order, in that there is no heat in most communal living spaces, and the
15 boiler and water is regularly shut off for the entire day, for example, creating
16 conditions that pose a health and safety hazard to the tenants. Defendant knew or
17 should have known of these conditions.
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20 **15.**

21 For each of the past twelve months, the common area premises at the Milepost
22 5 Apartments substantially lacked effective waterproofing and weather protection of
23 roof and exterior walls, in that parts of the roof are leaking or missing, and most or
24 all windows lack screens, for example, creating conditions that pose a health and
25 safety hazard to the tenants. Defendant knew or should have known of these
26 conditions.
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2 **16.**

3 **CLAIM FOR RELIEF – VIOLATION OF ORS 90.320**

4 This is not a class action for damages at this time. This is a class action claim
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6 pertaining only to the habitability of the common areas of the Milepost 5
7 Apartments, not pertaining to any habitability or condition of any individual
8 tenant’s dwelling unit. Plaintiff intends to maintain this case as a class action for
9 damages only if defendant fails to comply with ORCP 32 I. As alleged in this
10 complaint, defendant violated ORS 90.320 with respect to the common areas on the
11 premises of Milepost 5 Apartments, causing plaintiff and the putative class members
12 uniform diminution in rental value of the common areas, in an amount to be decided
13 by the jury based in part on expert testimony. Plaintiff and the putative class are
14 entitled to and so request equitable relief in the form of an accounting of rents
15 received by defendant over the past twelve months at the Milepost 5 Apartments,
16 and unless agreed upon by defendant, an order to preserve all documents,
17 information, and things that pertain to this claim. Plaintiff and the class are entitled
18 to recover attorney fees and costs under ORS 90.225, ORS 20.190, ORS 20.075 and
19 ORCP 68 in amounts to be determined by this Court.
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23 **17.**

24 **REQUEST FOR JURY TRIAL**

25 Plaintiff respectfully requests a trial by jury.
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2 **18.**

3 **PRAYER FOR RELIEF**

4 Plaintiff seeks equitable relief against defendant as requested above, and for
5 any other relief this Court may determine is fair. Plaintiff reserves the right to
6 amend this complaint to adjust the claims for compensation and damages and to add
7 claims and additional defendants, including claims for punitive damages. Some of
8 the complaint's allegations are based in part on the memory of witnesses, which may
9 later prove to be inaccurate in parts, and so the complaint may later be amended
10 before trial to conform the allegations to the evidence obtained throughout the case.
11 This complaint is made on personal knowledge as to plaintiff's actions and based on
12 information and belief as to the actions of others.
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16 January 24, 2023

17 **RESPECTFULLY FILED,**

18 s/ Michael Fuller

19 **Michael Fuller, OSB No. 09357**

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