

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION**

Selena Vincin, Laura Boelens, Phillip Mackie, and Anna Rodriguez, Individually and on Behalf of All Others Similarly Situated,

Plaintiffs,

v.

REALPAGE, INC.; GREYSTAR REAL ESTATE PARTERS, LLC; LINCOLN PROPERTY COMPANY; MID-AMERICA APARTMENT COMMUNITIES, INC.; RPM LIVING, LLC; CORTLAND PARTNERS, LLC; CUSHMAN & WAKEFIELD, INC.; KNIGHTVEST RESIDENTIAL; CAMDEN PROPERTY TRUST; AVENUE5 RESIDENTIAL, LLC; DAYRISE RESIDENTIAL, LLC; KAIROI MANAGEMENT, LLC; ALLIED ORION GROUP, LLC; and CONTI CAPITAL

Defendants.

Case No. 1:22-cv-01329

CLASS ACTION COMPLAINT

JURY TRIAL DEMANDED

Plaintiffs Selena Vincin, Laura Boelens, Phillip Mackie, and Anna Rodriguez individually and on behalf of all others similarly situated (the “Classes,” as defined below), upon personal knowledge as to the facts pertaining to themselves and upon information and belief as to all other matters, and based on the investigation of counsel, bring this class action complaint to recover treble damages, injunctive relief, and other relief as appropriate, based on Defendants RealPage, Inc. and Greystar Real Estate Partners, LLC; Lincoln Property Company; Mid-America Apartment Communities, Inc.; Rpm Living, LLC; Cortland Partners, LLC; Cushman & Wakefield, Inc.; Knightvest Residential; Camden Property Trust; Avenue5 Residential, LLC; Dayrise Residential,

LLC; Kairoi Management, LLC; Allied Orion Group, LLC; and Conti Capital's violations of federal antitrust laws.

Nature of the Action

1. This action arises from Defendants' conspiracy to fix, raise, maintain, and stabilize rental housing prices in the Austin, Dallas, and Houston, Texas housing markets (the "Greater Austin Metro Area";¹ "Greater Dallas Metro Area";² and "Greater Houston Metro Area,"³ respectively).

2. Defendants are RealPage, Inc. ("RealPage"), the developer of a software platform called "AI Revenue Management" (previously known as "YieldStar"), and several managers of large-scale residential apartment buildings that used RealPage's software platform to coordinate and agree upon rental housing pricing, among other things, in Austin, Houston, and Dallas, Texas.

¹ As used throughout this Complaint, the Greater Dallas Metro Area is coterminous with the Dallas–Fort Worth–Arlington, TX Metropolitan Statistical Area, as established by the United States Office of Management and Budget. Specifically, the Greater Dallas Metro Area consists of the City and County of Dallas, Collin County, Denton County, Ellis County, Hunt County, Kaufman County, Rockwall County, Johnson County, Parker County, Tarrant County, and Wise County. References to Dallas throughout this Complaint, unless specifically limited, refer to the Greater Dallas Metro Area.

² As used throughout this Complaint, the Greater Austin Metro Area is coterminous with the Austin–Round Rock–San Marcos, TX Metropolitan Statistical Area, as established by the United States Office of Management and Budget. Specifically, the Greater Austin Metro Area consists of the City of Austin, Bastrop County, Caldwell County, Hays County, Travis County, and Williamson County. References to Austin throughout this Complaint, unless specifically limited, refer to the Greater Austin Metro Area.

³ As used throughout this Complaint, the Greater Houston Metro Area is coterminous with the Houston–The Woodlands–Sugar Land, TX Metropolitan Statistical Area, as established by the United States Office of Management and Budget. Specifically, the Greater Houston Metro Area consists of the City of Houston, Austin County, Brazoria County, Chambers County, Fort Bend County, Galveston County, Harris County, Liberty County, Montgomery County, and Waller County. References to Houston throughout this Complaint, unless specifically limited, refer to the Greater Houston Metro Area.

3. AI Revenue Management works by collecting vast amounts of non-public data from its client property managers regarding lease transactions, rent prices, occupancy levels, and virtually every other possible data point that drives rent. This data is fed into an algorithm, along with additional data collected from Defendant RealPage's myriad other data analytics and rental management software products. RealPage's algorithm uses that data to generate a rental price for each of RealPage's client's available units, which is updated daily. RealPage makes sure all of its clients know that to maximize revenues, they must accept the software's rental price at least 80%-90% of the time, and RealPage's "Revenue Management Advisors" monitor clients' compliance with that recommendation. As the allegations and evidence set forth below demonstrate, RealPage and the property managers who use its revenue management services constitute a price-fixing cartel, and the revenue growth they have achieved is possible only through coordinated price setting.

4. With the assurance that their competitors are respectively setting Austin, Dallas, and Houston rental prices using the same algorithm, each Defendant property manager could allow a larger share of their units to remain vacant while maintaining higher rental prices across their properties. This increased their revenue at the expense of renters.

5. Defendants' strategy only succeeded because of the pricing coordination among competing property managers enabled by this cartel. Knowing this, Defendant RealPage repeatedly and explicitly emphasizes that for the software to work properly, everyone needs to accept its suggested price at least 80%-90% of the time. As one property manager using RealPage put it: "*[W]e are all technically competitors . . . [but RealPage] helps us work together . . . to work with a community in pricing strategies, not to work separately.*"

6. Before the introduction of coordinated rent-setting software, residential property managers generally set prices independently, to maximize occupancy. Allowing apartments to

stand vacant in the Greater Austin, Dallas, and Houston Metro Areas at their advertised rental prices made little sense when similar apartments in the area were available for less. Thus, in the past, property managers had an incentive to lower rents until all available units were occupied. Allowing apartments to sit, unoccupied, would not be a profitable strategy unless there was some assurance or expectation that other property managers in the Greater Austin, Dallas, and Houston Metro Areas would similarly allow their units to remain vacant without lowering rents. Defendant RealPage's software provides that assurance.

7. Beyond the anticompetitive exchange of nonpublic and competitively sensitive information among competing property managers, Defendant RealPage uses additional mechanisms to facilitate coordination among cartel members and prevent cheating by conspiracy participants. First, by allowing property managers to outsource their rent-setting process, RealPage causes them to consider higher rent prices than they ever would have before. In the words of an executive at one of RealPage's major clients: "The beauty of YieldStar is that it pushes you to go places that you wouldn't have gone if you weren't using it."⁴

8. Second, Defendant RealPage polices cartel members by applying heavy pressure on them to accept the algorithm's suggested price at least 80%-90% of the time. The AI Revenue Management service includes more than its rent-setting algorithm. Clients can expect constant communication with one or more of RealPage's Revenue Management Advisors who provide "expert oversight of [clients'] pricing strategy."⁵ Any client property manager who chooses to

⁴ Heather Vogell, *Rent Going Up? One Company's Algorithm Could Be Why*, PROPUBLICA (Oct. 15, 2022) (quoting Kortney Balas, director of revenue management at JVM Realty).

⁵ *RealPage AI Revenue Management*, REALPAGE, INC., <https://www.realpage.com/assetoptimization/revenue-management/> (last visited Nov. 1, 2022).

diverge from the algorithm's price is expected to provide justification to a Revenue Management Advisor.

9. Third, the software also recommends lease renewal dates for its clients' properties. Using Defendant RealPage's vast store of data on lease transactions, the algorithm suggests dates that are staggered to avoid temporary periods of oversupply resulting from the natural ebb and flow of the market.⁶ This further reduces the incentive for property managers to undercut would-be competitors, which is the strongest during these temporary oversupply periods.

10. Fourth, Defendant RealPage facilitates direct information exchanges between competitors and provides opportunities for direct coordination of prices. It hosts online forums, organizes in-person events for its clients,⁷ and maintains standing committees of cartel members to advise on pricing strategy.⁸

11. As the property managers acknowledge, they are competitors. Yet, Defendant RealPage's clients shared a common goal of increasing rent prices across the board and understood that RealPage—which has been explicit that its aim is to help its clients “outperform the market [by] 3% to 7%”⁹—was the means by which to do it. RealPage's clients include many of the largest property managers in the Greater Austin, Dallas, and Houston Metro Areas, who control a majority of the rental units in desirable neighborhoods in each of those markets. A recent analysis

⁶ Revenue Management: Proven in Any Market Cycle: See How These Companies Outperformed During Downturns (2020) (ebook), <https://www.realpage.com/ebooks/outperform-in-a-down-market/>.

⁷ Susan Gaide, *Real World 2022 Customer Conference Recap*, REALPAGE, INC., (July 29, 2022), <https://www.realpage.com/blog/realworld-2022-customer-conference-recap/> (last visited Dec. 7, 2022).

⁸ *User Group Overview*, REALPAGE, INC., <https://www.realpage.com/user-group/overview/> (last visited Nov. 1, 2022).

⁹ Vogell, *supra* note 1 (citing RealPage web page which has since been removed).



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