

March 14, 2024

The Honorable Lina Khan  
Chair  
Federal Trade Commission  
1600 Pennsylvania Avenue, NW  
Washington, DC 20580

Dear Chair Khan:

I am writing to share my concerns regarding potential anticompetitive practices in the multifamily housing industry. As you may know, Arizona Attorney General Kris Mayes recently filed a lawsuit in Maricopa County Superior Court alleging violations of the Arizona Uniform State Antitrust Act and Arizona Consumer Fraud Act by RealPage Inc., a “price sharing” software company. RealPage’s alleged price-fixing scheme would have wide-ranging implications for renters in Arizona and around the country, and I request your attention to this matter to protect renters from anti-competitive practices.

RealPage has become a nationally prominent provider of pricing software for property managers and landlords of multifamily housing developments. RealPage offers technology-based services to real estate owners and property managers, including revenue management products that use non-public, competitively sensitive data specific to geographic areas and unit types. It then generates a “price” to charge for renting those units that maximizes the landlord’s revenue.

RealPage’s 2020 10-K filing indicates that RealPage’s clients control 19.7 million of the 22 million investment-grade units in America, meaning that RealPage’s clients comprise 90% of the U.S. multifamily apartment housing market.<sup>[1]</sup> Considering the inelasticity of housing, demand is less responsive to economic conditions than other commodities, guaranteeing a reliable stream of consumption for property owners.

Such a high concentration of the market in a small number of property owners relying on a digital middleman for their rental price determinations represents a serious risk for price-fixing. The data backs up these concerns – Phoenix residents pay an overcharge average of 12% on units priced by RealPage compared to those not using RealPage.<sup>[2]</sup> A ProPublica investigation found similar anti-competitive behavior in other housing markets. For example, 70% of Seattle

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<sup>[1]</sup> Compl. ¶ at 33

<sup>[2]</sup> <https://www.azag.gov/sites/default/files/2024-02/RealPage%20Complaint.pdf> Compl. at ¶ 29

apartments are overseen by a mere ten property managers, each of whom used pricing software from RealPage.<sup>[3]</sup>

RealPage also actively discourages bargaining with renters, with one of its developers telling ProPublica that leasing agents had “too much empathy” compared to the computer-generated alternative offered by RealPage.<sup>[4]</sup> While apartment managers can reject the software’s suggested prices, close to 90% of pricing recommendations are adopted.<sup>[5]</sup> RealPage also hosts working groups that include landlords that would otherwise be rivals, acknowledging that it feeds its clients’ internal rent data into its pricing software, providing landlords ample opportunity to see what their competitors are charging.<sup>[6]</sup> The resulting coordinated rent increases on the majority of available rental properties potentially amounts to price-fixing, with working Arizonans and families the hardest hit.

The FTC has broad statutory authority to pursue enforcement against companies engaged in anti-competitive practices that harm consumers. Under Section 1 of the Sherman Antitrust Act, similar to the Arizona Uniform State Antitrust Act, price agreements between competitors constitutes an illegal horizontal conspiracy.<sup>[7]</sup> Price fixing may not require the conspirators to explicitly set prices. It can also be achieved by agreeing on an algorithm or other methods for controlling prices, which would appear to cover RealPage’s current pricing modeling services.

I request your full and fair consideration of this matter, and I stand ready to work together to protect Arizona renters and ensure fair, transparent competition in the rental market.

Sincerely,



Ruben Gallego  
MEMBER OF CONGRESS

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<sup>[3]</sup> <https://www.propublica.org/article/yieldstar-rent-increase-realpage-rent>

<sup>[4]</sup> <https://www.propublica.org/article/yieldstar-rent-increase-realpage-rent>

<sup>[5]</sup> *Id.*

<sup>[6]</sup> *Id.*

<sup>[7]</sup> 15 U.S.C. § 1