UNITED STATES OF AMERICA
Federal Trade Commission
WASHINGTON, D.C. 20580

Office of Commissioner
Melissa Holyoak

Concurring Statement of Commissioner Melissa Holyoak

Invitation Homes, FTC Matter No. 203170

September 24, 2024

I support today's settlement with Invitation Homes, which allegedly engaged in numerous unfair and deceptive practices related to lease prices, security deposits, and evictions, in violation of Section 5 of the FTC Act and the Gramm-Leach-Bliley Act. I share some of Commissioner Ferguson's concerns Invitation Homes engaged in unfair eviction practices "during t steering residents away from invoking legal protections agains

[1] This count refers to the "CDC Eviction Moratorium," under which the Centers for Disease Control and Prevention ("CDC") asserted that it had authority under Section 361 of the Public Health Service Act [2] to temporarily halt residential evictions to prevent the further spread of COVID-19. [3]

As Commissioner Ferguson notes, the Supreme Court held in August 2021 that the CDC had no such authority to issue an eviction moratorium. [4] Indeed, the Court noted that "[i]t strains credulity to believe that [the Public Health Service Act] grants the CDC the sweeping authority that it asserts." [5]

By including allegations in the complaint relating to the eviction moratorium, I fear that the Commission may give the appearance that it is seeking to re-legitimize the unlawful moratorium through Section 5 nearly three years after the highest court of the land settled this issue. For that reason, I agree with Commissioner Ferguson that, as a prudential matter, this otherwise strong complaint should not include such allegations. Nor are those allegations necessary. Count VI also alleges that Invitation Homes engaged in unfair eviction practices by pursuing eviction proceedings against former residents who had vacated the property. [6] Such harmful misconduct is the proper subject of an unfairness count and provides an independent basis for Count VI.

[1] Compl. ¶ 124.
[2] 42 U.S.C. § 264(a)
[3] See Compl. ¶ 92 (citing 85 Fed. Reg. 55292 (Sept. 4, 2020))