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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

AvalonBay Communities, Inc.,  
  
Petitioner,  
  
v.  
  
Eaves Realty Group LLC,  
  
Registrant.

Cancellation No. \_\_\_\_\_  
  
Registration No.: 3995281  
Registration Date: July 12, 2011  
Trademark:  
EAVESREALTYGROUP.COM  
International Class: 36

85-154,226

PETITION FOR CANCELLATION

Trademark Trial and Appeal Board  
U.S. Patent and Trademark Office  
P.O. Box 1451  
Alexandria, Virginia 22313-1451

Dear Sir or Madam:

AvalonBay Communities, Inc. ("AvalonBay"), a Maryland corporation having its principal place of business at 671 N. Glebe Road, Suite 800, Arlington, VA 22203, believes that it is being damaged by U.S. Trademark Registration No. 3995281 for "Insurance brokerage in the field of real estate; Real estate appraisal; Real estate brokerage; Real estate financing services; Real estate investment services; Real estate service, namely, rental property management; Real estate services, namely, property management services for condominium associations, homeowner associations and apartment buildings" in International Class 36, and, through its attorneys, hereby



HUI-153505v1

08-20-2012

The PTO did not receive the following  
item(s) No Fees  
enclosed

petitions to cancel the entire registration pursuant to 15 U.S.C. § 1064 and 37 CFR § 2.111(b). As grounds for this petition, it is alleged that:

1. AvalonBay is in the business of developing, redeveloping, acquiring and managing high-quality apartment communities in the United States.

2. On information and belief, Registrant Eaves Realty Group LLC (“Registrant”), a Kentucky limited liability company with an address of 116 North 16th Street, Paducah, KY 42001, is the owner of U.S. Trademark Registration No. 3995281 for “Insurance brokerage in the field of real estate; Real estate appraisal; Real estate brokerage; Real estate financing services; Real estate investment services; Real estate service, namely, rental property management; Real estate services, namely, property management services for condominium associations, homeowner associations and apartment buildings” in International Class 36 (the “Registrant’s Services”). This registration issued on July 12, 2011.

3. Upon information and belief, the term for which registration has been obtained, namely, EAVESREALTYGROUP.COM, has not been used as a trademark or service mark. Therefore, U.S. Trademark Registration No. 3995281 for EAVESREALTYGROUP.COM is subject to cancellation.

4. Upon information and belief, the use of EAVESREALTYGROUP.COM is not a service mark use entitled to registration because it is merely a domain name for Registrant’s website. Such use would be perceived by an ordinary consumer as an

address by which one may reach Registrant's website, not as a service mark for Registrant's Services. As displayed on the advertising material submitted as a specimen of use by Registrant (attached hereto as Exhibit A), EAVESREALTYGROUP.COM, which is in the same font as Registrant's physical address and positioned at the end of Registrant's contact information, is clearly intended to indicate Registrant's website address and does not separately identify Registrant's Services.

5. The specimen of use submitted with U.S. Trademark Registration No. 3995281 (Exhibit A) affirms that EAVESREALTYGROUP.COM does not function as a service mark because the specimen does not support service mark registration. Not only does the specimen not show use of the mark in a manner that would be perceived by potential customers as identifying Registrant's Services and indicating their source, but it also does not show an association between the term EAVESREALTYGROUP.COM and Registrant's Services.

6. In addition, the term EAVESREALTYGROUP.COM has not been used as a service mark because it is not used to identify or indicate the source of Registrant's Services. As shown from a review of the specimen of use and the home page of Registrant's website, a copy of which is attached as Exhibit B, the Registrant appears to have been rendering its services under the trade name EAVES REALTY GROUP, not under the service mark EAVESREALTYGROUP.COM.

7. On the basis of Registrant's failure to use the term EAVESREALTYGROUP.COM as a service mark prior to obtaining its registration, the registration embodied by said term, U.S. Trademark Registration No. 3995281, is subject to cancellation under Section 14 of the United States Trademark Act of 1946, 15 U.S.C. § 1064.

8. AvalonBay believes that it is being damaged and will be damaged by the continued registration of Registrant's EAVESREALTYGROUP.COM mark. For example, AvalonBay is being damaged by this registration because the U.S. Patent and Trademark Office has cited the registration against U.S. Trademark Application Serial No. 85/459,268 filed by AvalonBay for the mark "EAVES BY AVALON."

In view of the above, Registrant is not entitled to maintain a federal registration for the mark EAVESREALTYGROUP.COM in that Registrant has not used the term EAVESREALTYGROUP.COM as a service mark.

WHEREFORE, AvalonBay prays that said U.S. Trademark Registration No. 3995281 be cancelled in its entirety and that this Petition for Cancellation be sustained in favor of AvalonBay. The appropriate fee is submitted herewith. Please direct all future correspondence to the undersigned.

Respectfully submitted,

Dated: August 15, 2012

By: *Anna Raimer*

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CERTIFICATE OF SERVICE

It is hereby certified that a true and complete copy of the foregoing entitled  
Petition for Cancellation has been served on Registrant Eaves Realty Group LLC at the  
correspondence address of record in the United States Patent and Trademark Office by  
mailing said copy on August 15, 2012, via U.S. Mail, postage prepaid to EAVES  
REALTY GROUP LLC, 116 N 16TH ST, PADUCAH, KY 42001-2710.

  

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Anna E. Raimer

# **EXHIBIT A**



# **EAVES REALTY GROUP LLC**

**Eaves Realty Group LLC  
116 North 16th Street  
Paducah KY 42001  
OFFICE - (270) 556-3320**

***eavesrealtygroup.com***



# **EXHIBIT B**



[HOME ▾](#)

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[BUYING OR SELLING?](#)

[REAL ESTATE 101](#)

[CONTACT US](#)

## HOME

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116 N 16th St

Paducah, KY 42001

Office 270-442-2507

### **Want to sell? Here are some things you may have questions about:**

- **What is my home worth on today's market?**
- **How long does it usually take to sell?**
- **What are the costs associated with the sale?**
- **What happens when I accept or decline an offer?**



### **Want to buy?**

**Here are some things you may want to know before you buy a home:**

- **What is my price range?**
- **Why should I get a home inspection?**
- **What are closing cost?**
- **What happens when I make an offer and it's accepted?**
- **How do I find the right home for me?**
- **These are some of the questions that we might be able to answer for you!**



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Web Hosting

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