



## CERBERUS CAPITAL MANAGEMENT'S THREE-HEADED ATTACK ON HOMEOWNERS, TENANTS

THE PRIVATE EQUITY GIANT'S FORAYS INTO THE SINGLE-FAMILY HOME RENTAL AND MORTGAGE BUSINESS HAVE HARMED RENTERS, PROSPECTIVE HOMEBUYERS, AND HOMEOWNERS.



### CERBERUS CAPITAL MANAGEMENT

Cerberus Capital Management LP is an alternative investment firm founded by Stephen Feinberg and William Richter in 1992. The New York-based firm, with \$42 billion in assets under management, focuses on private equity and real estate investments.<sup>1</sup>

Cerberus's executives have close ties to federal politics. Feinberg serves as chair of Donald Trump's Presidential Intelligence Advisory Board<sup>2</sup>, and there are two notable Cerberus board members as well: Dan Quayle, who was Vice President of the United States under George H.W. Bush<sup>3</sup>, and John Snow, United States Treasury Secretary under George W. Bush.<sup>4</sup>

### CERBERUS'S INVESTMENTS IN MORTGAGES, RENTAL PROPERTIES

Cerberus has long been an active investor in US housing, investing primarily in residential mortgages and single-family

### KEY POINTS

- Private equity and debt firm Cerberus Capital Management has multiple portfolio companies active in the housing sector.
- Through its single-family home rental company, FirstKey Homes, Cerberus owns over 20,000 homes across the US.
- FirstKey has filed to evict residents at high rates in cities such as Memphis, Atlanta, and Phoenix.
- Despite the COVID-19 pandemic, Cerberus has advanced eviction cases against some residents of its single-family rental homes.
- In Memphis, TN, FirstKey has been cited dozens of times for code violations at homes it owns.
- Cerberus' FirstKey competes with individual homebuyers, making it more difficult for first time homebuyers to purchase homes.
- In the United Kingdom, Cerberus owns mortgage management company Landmark Mortgages, which has been criticized for keeping homeowners in "mortgage prisons".

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homes that the firm converts to rental properties. Cerberus established its “Residential Opportunities” platform in 2008 to “capitalize on opportunities to acquire distressed residential mortgage-backed securities following the Global Financial Crisis.”<sup>5</sup>

In 2013, FirstKey Mortgage began operations as Cerberus’s mortgage securitization company. It services, facilitates, and acquires large-scale mortgage packages.<sup>6</sup>

Cerberus formed FirstKey Homes in 2014 as a vehicle for single-family housing acquisitions. With more than 21,000 homes in the US throughout 26 markets, the landlord is poised to continue to grow. In 2018, FirstKey Homes CEO Martin Esteverena said that the company, then with a portfolio of 14,000 homes, planned to triple its size.<sup>7</sup>

In the United Kingdom, Cerberus-owned Landmark Mortgages Limited manages a portfolio of mortgages that it acquired from UK Asset Resolution (UKAR), an arm of the government, established in response to the global financial crisis.<sup>8</sup>

## FIRSTKEY HOMES SERVING EVICTION NOTICES TARGETING CERTAIN AREAS

In December 2018, an investigation by the *Washington Post* reported that in the Memphis, Tennessee area, FirstKey Homes was responsible for twice as many eviction filings of any other rental home property manager.<sup>9</sup>

According to the *Post*, FirstKey Homes leases allowed residents only five days after the due date to pay rent before being hit with a 10 percent late fee. Previously, residents had 10 days to come up with rent.<sup>10</sup>

In order to provide “a competitive edge to [its] single-family rental strategy in a scalable and efficient manner,” FirstKey Homes files eviction notices at higher rates than peers.<sup>11</sup>

FirstKey was the largest single family home landlord in the Memphis area as of 2018, with nearly 1,800 houses. According to the *Post’s* analysis, FirstKey also filed for eviction at twice the rate of any other single-family rental property manager there. In the first three quarters of 2018, *FirstKey’s filings amounted to 435 eviction notices.*<sup>12</sup>

FirstKey has continued to file large numbers of eviction filings in Memphis. In the first two months of 2020, FirstKey filed 89 eviction filings in Shelby County, where Memphis is located.<sup>13</sup>

According to the company, the eviction notices were not filed with the intent to actually evict residents, but to motivate residents to pay rent quickly. Known as “pay and stay,” tenants can pay what is owed up until the time of stated eviction while staying in their home. With each filing, though, the company collects more on penalties and fees.<sup>14</sup>

The *Washington Post* story detailed the story of Cassandra and Terry Brown. The Browns paid \$965 a month to rent the same home they had owned before losing it in the 2008 financial crisis. In 2018, Cassandra was back in eviction court battling a balance that started at \$1,058 but had grown to \$2,243. Included in the penalty was a 10 percent late fee and an attorney’s fee. By the time Ms. Brown faced a judge she owed more than double the rent due. The Brown family had faced eviction four times since FirstKey Homes had owned their home.<sup>15</sup>

Similarly, FirstKey resident Marrena Shorter faced eviction *11 times in four years.* The Memphis Housing Authority covered nearly a third of her \$1,200 rent while she covered the rest through work as a cook at a hospital, struggling to pay on time while looking after her disabled son.<sup>16</sup>

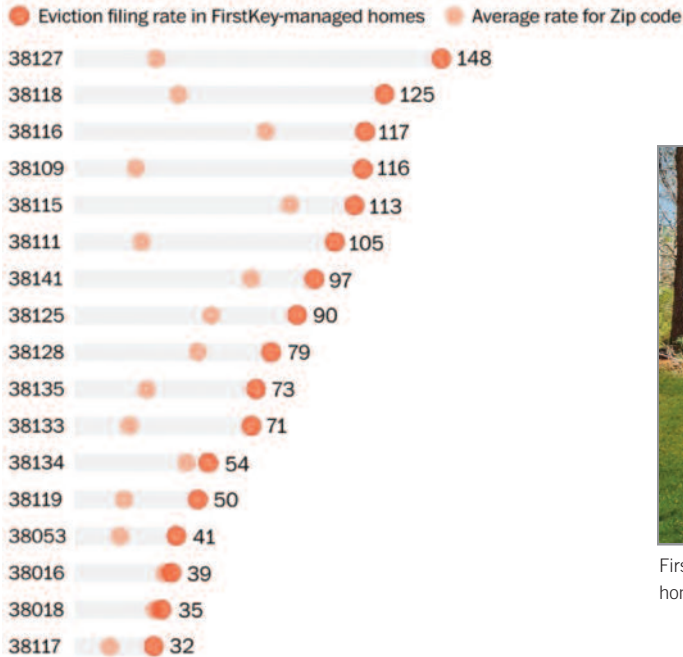
## FIRSTKEY HOMES MARKETS

CITY	STATE	HOMES FOR RENT AS OF 2/24/20
Atlanta	GA	159
Indianapolis	IN	126
Charlotte	NC	93
Miami	FL	84
Orlando	FL	79
Kansas City	MO	78
Chicago	IL	72
Dallas	TX	64
Houston	TX	61
Winston-Salem	NC	57
Phoenix	AZ	47
Memphis	TN	47
Las Vegas	NV	43
St. Louis	MO	35
Tampa	FL	35
Birmingham	AL	31
Jacksonville	FL	25
Raleigh-Durham	NC	24
Fort Myers	FL	24
Kansas City	KS	11
Cincinnati	OH	10
San Antonio	TX	9
Charleston	SC	7
Columbus	OH	2
Louisville	KY	0

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## RENTAL HOMES MANAGED BY FIRSTKEY FOR CERBERUS CONSISTENTLY HAVE A HIGHER RATE OF EJECTION FILINGS THAN OTHER SINGLE-FAMILY RENTALS IN THE SAME AREA

Evictions per 100 homes in Zip codes where Cerberus owns more than 20 rentals and made at least nine eviction filings from September 2015 to October 2018



FirstKey Home in Riverdale, GA in Clayton County, where 38.7 percent of the homes are targeted for eviction. Photo courtesy of FirstKey Homes

Totals in some zip codes are greater than 100 because of multiple eviction filings against one property.  
Source: Shelby County, Tenn., General Sessions Court  
Armand Emamdjomeh and Dan Keating/The Washington Post

### CLAYTON COUNTY, GEORGIA

FirstKey's aggressive evictions do not appear to be isolated to Memphis.

An analysis of eviction filings in Clayton County, Georgia, for example, shows similar eviction practices by FirstKey Homes.

Clayton County consists of six municipalities in the suburbs of Atlanta, Georgia—College Park, Forest Park, Jonesboro, Lake City, Lovejoy, Morrow, and Riverdale. According to the county's real property records, as of February 2020, Cerberus SFR Holdings LP and Cerberus SFR Holdings II LP own 328 homes in the county.<sup>17</sup>

In just 22 months, between May 2018 and February 2020, FirstKey Homes or Cerberus entities filed for eviction at least 222 times through the Clayton County Magistrate Court.<sup>18</sup>

The company filed for eviction against seven individuals at least four times in less than two years.

Filing for eviction against 127 households out of 328 households is a 40 percent rate of filing, assuming all homes are occupied.

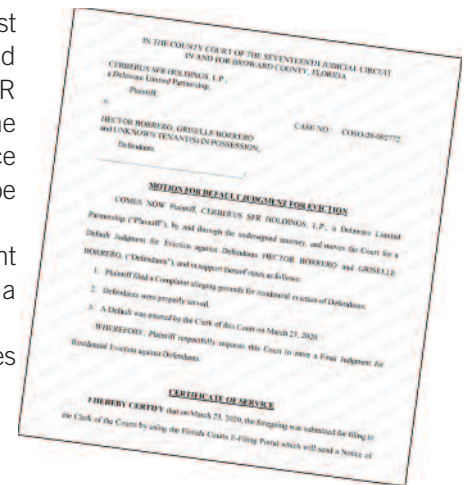
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## CERBERUS CONTINUES TO ADVANCE SOME EVICTIONS DURING COVID-19 PANDEMIC

While state and federal authorities have advised people to stay at home during the COVID-19 pandemic and federal lawmakers and a number of states and cities have called for a halt to evictions, Cerberus has advanced some eviction cases at its single-family rental homes.

### For example:

- On March 18, 2020 FirstKey Homes filed an eviction case against a tenant in Clayton County, Georgia.<sup>19</sup>
- On March 27, Cerberus SFR Holdings LP filed a motion for clerk's default against a tenant in an eviction case in Miami-Dade County.<sup>20</sup> On March 19, Cerberus had served notice to the tenant, stating: "You are being sued by CERBERUS SFR HOLDINGS, LP, a Delaware Limited Partnership, to require you to move out of the place you are living for the reasons given in the attached complaint." The notice advised the tenant to "Write down the reason(s) why you think you should not be forced to move."<sup>21</sup>
- On March 23, Cerberus SFR Holdings LP filed a motion for default judgment against tenants in Broward County, Florida, where it asked the court to "Enter a Final Judgment for Residential Eviction against Defendants."<sup>22</sup>
- Cerberus has several active eviction cases in Cook County, Illinois, though the cases have been continued until late May and June by orders of local judges. Cerberus reports that it has halted new eviction filings during the pandemic.



## FIRSTKEY CODE VIOLATIONS

In addition to aggressive eviction filings, the *Washington Post* also reported that FirstKey Homes had a history of failing to keep its residences up to code for tenants. In 2018, its rate of code violations was higher than other Memphis-area single family rental owners. FirstKey even caught the attention of the Memphis Blight Elimination Steering Team, which published a list of the top 10 residential code violators. For occupied homes, Cerberus-owned properties were at the top of the list, with 46 violations at the beginning of 2018.<sup>23</sup>

"They don't care. They are just here to lease their properties without consequence," said Memphis Public Works Director Robert Knecht, who oversees code enforcement.<sup>24</sup>

A former FirstKey resident, Kelly Jones reported toilets that did not flush and that she had holes in her floors, nonfunctioning air conditioning, and rats in her kitchen. In 2018, Jones sued FirstKey Homes over the state of her home. The case settled without trial within the year and Jones received a settlement of \$5,000-\$10,000 from FirstKey, according to the *Post*.<sup>25</sup>

In Indianapolis, Indiana, FirstKey Homes made the news for refusing to allow a resident to move out of her home when she feared for her safety. Dorothy Black's home was shot at seven times while she was in her living room watching TV. When Black tried to get out of her lease, FirstKey initially refused and noted that she would be responsible for the repairs connected to the gunfire damage. It was only after Black contacted the local TV station that FirstKey allowed her to move out, offering to rent her a different home.<sup>26,27</sup>

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A rental home in Phoenix, AZ, where FirstKey Homes has contributed to the shortage of housing stock for first time and individual homebuyers. Photo courtesy of FirstKey Homes.

## CERBERUS BUYS SINGLE-FAMILY RENTALS, LOCKING FIRST TIME BUYERS OUT OF HOMEOWNERSHIP

In the Phoenix, Arizona area, Cerberus and FirstKey have been active buyers in the single-family market.

Like other institutional single family rental landlords, Cerberus typically pays cash and is willing to outbid individual homebuyers, including first time homebuyers looking to make a home in Phoenix.<sup>28</sup>

“Too many potential first-time buyers are now watching houses they want purchased by a Wall Street investor,” wrote the *Arizona Republic* in April 2018.<sup>29</sup>

Indeed, the *Phoenix Business Journal* reported that Cerberus purchased almost 600 homes between November 2017 and April 2018. Cerberus purchased homes for under \$300,000, which were in short supply, limiting the homes available to first time homebuyers.<sup>30</sup> The homes are now rented under FirstKey Homes and Phoenix-area partner Bullseye Property Management.<sup>31</sup>

## CERBERUS-OWNED UK-BASED LANDMARK MORTGAGES SUBJECTS HOMEOWNERS TO “MORTGAGE PRISON”

In the United Kingdom, the Financial Conduct Authority (FCA) defines “mortgage prisoners” as borrowers who are “unable to switch to a better deal even though they [are] up to date with their payments.” As of January 2020, the FCA estimates 250,000 people are living in a mortgage prison, which arose out of the financial crisis in 2008.<sup>32</sup>

In 2016, Cerberus Capital Management acquired mortgages once held by UK-based defunct bank Northern Rock and created a portfolio company, Landmark Mortgages, to manage them. Cerberus bought the portfolio of 65,000 mortgages for £13 billion from UK Asset Resolution (UKAR), a holding company of UK government-owned businesses, claiming to the government *that it would offer homeowners better mortgage deals*. At the time of the sale, UKAR noted: “by returning ownership to the private sector the option to be offered new deals, extra lending, and fixed rates should become available to them.”<sup>33</sup>

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The government's sale of mortgages from Northern Rock as well as (also defunct) Bradford & Bingley in 2018 have come under scrutiny by public officials including Members of Parliament Seema Malhotra and Lord McFall of Alcluith. MP Malhotra, leading the inquiry of the ordeal that created mortgage prisoners, in May 2019 stated, "we will be looking to make recommendations about how to deal with the most vulnerable cases and about whether the restrictions people face are right and fair."<sup>34</sup>

Lord McFall added, "in some of the case studies I've seen, people with a mortgage would be paying an extra £40-50,000 in the mortgage before it's completed. That is totally unacceptable."<sup>35</sup> McFall had been told by UKAR that mortgage customers would be able to renegotiate mortgage terms with Landmark, the same information they had received from Cerberus.

For example, Mr. Neale and Rachel Neale reported to the BBC that they had kept up to date with their mortgage payments, but that that did not keep Landmark from issuing default notices. Unfortunately, with Rachel dealing with Crohn's Disease, Adrian had to resort to phoning Landmark to settle the issue each time. He said that it had an adverse effect on his business as well, making it difficult to gain credit to get building gigs: "It's held me back massively really in my business."<sup>36</sup>

As of November 2018, Lisa and Mark Elkins paid close to 5 percent interest on their mortgage, significantly more than market rate. Having borrowed £20,000 from loved ones and working multiple jobs, their only option was to sell their home. According to the BBC, the Elkins had paid an extra £30,000 since 2007, having been trapped in the above market mortgage rates.<sup>37</sup>

## Endnotes

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