UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

IN RE MANUFACTURED HOME LOT RENTS ANTITRUST LITIGATION **This Document Relates To:** **All Class Actions**	**Case No. 1:23-cv-06715** **Hon. Franklin U. Valderrama** **Magistrate Judge Beth W. Jantz**

MEMORANDUM OF LAW IN SUPPORT OF PLAINTIFFS' OPPOSITION TO DEFENDANTS' MOTION TO DISMISS PLAINTIFFS' SECOND AMENDED CONSOLIDATED CLASS ACTION COMPLAINT

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I. BACKGROUND

Plaintiffs'[1] lawsuit on behalf of manufactured home lot ("MHL") renters alleges that Defendants[2] use Datacomp's JLT Market Reports ("Reports") to exchange competitively sensitive rent and occupancy information, reduce competition, and increase MHL rents in manufactured home communities ("MHCs") across the United States. Plaintiffs also learned, through a settling Defendant, that Defendants' employees directly exchange information in connection with regular rent increases. Manufactured homes are one of the largest sources of unsubsidized affordable housing in the United States, and many residents are elderly, disabled, veterans, or live on fixed or low incomes. Dkt. 221, SAC ¶¶ 1, 51-66. Most residents own their manufactured homes but rent the lots beneath them from MHC owners and operators. *Id.* ¶¶ 67-71. All Defendants besides Datacomp, which publishes the Reports, are MHC owners and/or operators. *Id.* ¶¶ 34-45. Defendant ELS acquired Datacomp in 2021. *Id.* ¶ 34.

While the core allegations in Plaintiffs' Consolidated Class Action Complaint ("CAC") (Dkt. 126) remain unchanged in the SAC, Plaintiffs amended their complaint to address the Court's ruling on Defendants' prior motions to dismiss (ECF No. 211, Memorandum Opinion and Order, referred to herein as the "MTD Order"). Those new allegations are summarized here.

First, the SAC adds allegations based on cooperation materials from settling Defendant Murex Properties, L.L.C. ("Murex") that MHC Defendants and their agents communicated directly

[1] "Plaintiffs" are the plaintiffs named in the Second Amended Consolidated Class Action Complaint ("SAC"). Dkt. 221.

[2] "Defendants" are the defendants named in the SAC: Datacomp Appraisal Systems, Inc. ("Datacomp"), Equity LifeStyle Properties, Inc. ("ELS"), Hometown America Management, L.L.C. ("Hometown America"), Lakeshore Communities, Inc. ("Lakeshore"), Sun Communities, Inc. ("Sun Communities"), RHP Properties, Inc. ("RHP"), Yes Communities, LLC ("Yes Communities"), Inspire Communities, LLC ("Inspire Communities"), Kingsley Management, Corp. ("Kingsley"), Cal-Am Properties, Inc. ("Cal-Am"), Ascentia Real Estate Holding Company, LLC ("Ascentia"), and Riverstone Communities LLC's ("Riverstone"). Dkt. 221. Defendants other than Datacomp are referred to as the "MHC Defendants."

with competitors in the same local markets to exchange competitively sensitive lot rent pricing information in advance of annual rent increases. SAC ¶¶ 6, 109, 134-138, n.1. Thus, the SAC alleges that Defendants exchanged competitively sensitive pricing and occupancy information through the Reports and through direct communications to implement supracompetitive MHL price increases. SAC ¶ 3.

Second, the SAC materially revises the relevant geographic market allegations in response to the Court's Order. MTD Order at 35-39. The CAC alleged a national geographic market and regional submarkets. The SAC no longer relies on a national geographic market. SAC ¶¶ 211-219. Instead, Plaintiffs allege revised, specific Regional Markets, each corresponding to geographic areas covered by the Reports and plead narrower Area Submarkets in the alternative where the Reports subdivide broader geographies into smaller competitive areas. SAC ¶¶ 214-216, 220-316.

The SAC also adds practical substitutability allegations tied to those markets. It alleges that MHL renters generally do not view lots outside their Regional Market as adequate substitutes because moving outside the market may require impractical commutes and disrupt ties to work, school, family, and medical providers. SAC ¶ 217. The SAC further corroborates the Regional Markets with commuting zones ("CZs")[3] and core based statistical areas ("CBSAs"),[4] geographic frameworks capturing how people organize their lives around work, school, and other core activities. SAC ¶ 218. In many instances, the geographic areas covered by the Reports are nested

[3] "The USDA, Economic Research Service's (ERS) Commuting Zones (CZs) are geographic units of analysis intended to identify rural labor markets. County boundaries are not always adequate confines for a local economy and often reflect political boundaries rather than meaningful boundaries for economic activity." *Commuting Zones and Labor Market Areas*, USDA, Economic Research Service, *available at https://www.ers.usda.gov/data-products/commuting-zones-and-labor-market-areas* (last accessed May 19, 2026).

[4] "The term 'core based statistical area' (CBSA) became effective in 2000 and refers collectively to metropolitan and micropolitan statistical areas." *About Metropolitan and Micropolitan Statistical Areas*, United States Census Bureau, *available at* https://www.census.gov/programs-surveys/metro-micro/about.html (last accessed May 19, 2026).

within one or more CZs and/or CBSAs, which supports the inference that the pleaded Regional Markets reflect the practical area within which renters can seek substitutes. *Id.* For each pleaded Regional Market, the SAC provides market-specific allegations, including maps, lot counts, Area Submarkets where applicable, MHC Defendants operating in the market, and collective market share allegations. SAC ¶¶ 220-316.

Third, the SAC adds market share allegations tied to the pleaded Regional Markets. Plaintiffs allege that Defendants and co-conspirators collectively held shares exceeding 50% in at least twenty-four Regional Markets, including shares exceeding 70% in several markets. SAC ¶ 208; Fig. 38. The SAC then incorporates those allegations into the market-by-market Regional Market sections. SAC ¶¶ 220-316. These allegations bolster Plaintiffs' market structure allegations that the Court previously found lacking. MTD Order at 24-26.

Finally, the SAC adds an economic analysis of pricing variance in Regional Markets. Plaintiffs' consulting economists analyzed rent-increase variance using the inner-quartile range ("IQR"), which is equal to the difference between the 75th and 25th percentile of rent increase percentages for each market, and compared ten high-share Regional Markets to matched lower-share control markets using nearest-neighbor matching across six market attributes. SAC ¶¶ 317-324; Fig. 65. In nine of ten comparisons, the high-share Regional Market showed lower pricing volatility than its matched control market. SAC ¶¶ 325-326; Fig. 66. Plaintiffs allege that this reduced pricing variance is consistent with parallel pricing and collusion. SAC ¶ 326. Although the Court found that Plaintiffs "have done just enough" to sufficiently allege parallel conduct, these allegations strengthen the Plaintiffs' parallel conduct claims.

Taken together, these amendments provide a more detailed and market-specific pleading than the CAC. The SAC alleges how Defendants exchanged and used competitively sensitive

information, where competition was harmed, and what adverse market effects followed. The chart below depicts how the SAC addressed the deficiencies identified in the Court's Order.

Holding From MTD Order	New and/or Strengthened Allegations in the SAC Curing Deficiency
The Court held Plaintiffs did not adequately allege invitation and acceptance nor that Datacomp solicited collusion. MTD Order at 10-12.	Datacomp's questionnaires soliciting competitively sensitive information – SAC ¶ 109. Defendants submitted their competitively sensitive information – SAC ¶ 183.
The Court held Plaintiffs did not allege inter-defendant communications. MTD Order at 11.	Direct communications among MHC owner/operators and their agents – SAC ¶¶ 3, 6, 109, 134-138.
The Court held that Plaintiffs failed to adequately allege market shares to support the market structure plus factor. MTD Order at 25.	Market shares – SAC ¶¶ 208-210; Figs. 38-40.
The Court held Plaintiffs failed to sufficiently allege the opportunities to conspire plus factor. MTD Order at 26-28.	Opportunities to conspire – SAC ¶ 186.
The Court held Plaintiffs failed to sufficiently allege the motive to conspire plus factor. MTD Order at 30.	Motive to conspire – SAC ¶¶ 185, 190, 203-208.
The Court held that alternative explanations undermine the plausibility of Plaintiffs conspiracy claim. MTD Order at 30-33.	Strengthened parallel conduct and plus factors allegations – SAC ¶¶ 182-183, 185-187, 190-194, 317-326; Figs. 65-66.
The Court held that the geographic markets alleged were implausible. MTD Order at 35-39.	Geographic markets – SAC ¶¶ 211-316; Figs. 41-64.

II. PLEADING STANDARD

A complaint need only state "enough factual matter (taken as true) to suggest that" a violation of law occurred. *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544, 556 (2007). "In considering a Rule 12(b)(6) motion, the Court accepts as true all well-pleaded facts in the plaintiff's complaint and draws all reasonable inferences from those facts in the plaintiff's favor." *In re Beyond Meat, Inc., Protein Content Mktg. & Sales Pracs. Litig.*, 718 F. Supp. 3d 800, 809 (N.D. Ill. 2024) (citing *Kubiak v. City of Chicago*, 810 F.3d 476, 480-81 (7th Cir. 2016)).

"To plead a federal antitrust claim under section 1 of the Sherman Act, the plaintiffs must plausibly allege '(1) that defendants had a contract, combination, or conspiracy ('an agreement'); (2) that as a result, trade in the relevant market was unreasonably restrained; and (3) that they were injured.'" *In re MultiPlan Health Ins. Provider Litig.*, 789 F. Supp. 3d 614, 625 (N.D. Ill. 2025) (quoting *Omnicare, Inc. v. UnitedHealth Grp., Inc.*, 629 F.3d 697, 705 (7th Cir. 2011)). "There is no heightened pleading standard for antitrust claims." *In re Delta Dental Antitrust Litig.*, 484 F. Supp. 3d 627, 639 (N.D. Ill. 2020) (internal citation omitted). Although a plaintiff must plead more than facts that are merely consistent with an agreement, *Twombly* does not "impose a probability requirement at the pleading stage." 550 U.S. at 556. "[I]t is not necessary to stack up inferences side by side and allow the case to go forward only if the plaintiff's inferences seem more compelling than the opposing inferences." *Swanson v. Citibank, N.A.*, 614 F.3d 400, 404 (7th Cir. 2010); *see also In re Broiler Chicken Antitrust Litig.*, 290 F. Supp. 3d 772, 801 (N.D. Ill. 2017) ("*Broiler Chicken I"*). "At a minimum [a complaint] must give enough details about the subject matter of the case to present a story that holds together." *Vanzant v. Hill's Pet Nutrition, Inc.*, 934 F.3d 730, 736 (7th Cir. 2019) (internal citation and quotations omitted).

III. ARGUMENT

A. Defendants Should be Precluded from Challenging Unchanged Elements of the Complaint Under the Law of the Case Doctrine

Defendants challenge four elements of the SAC previously upheld by the Court. MTD at 9-14 (relitigating Plaintiffs' parallel conduct allegations); *id.* at 16 (relitigating Plaintiffs' high barriers to entry and high switching cost allegations); *id.* at 17-18 (relitigating Plaintiffs' actions against self-interest plus factor allegations); *id.* at 20-24 (relitigating Plaintiffs' information exchange plus factor allegations). This is improper and should be rejected by the Court. "[T]he law of the case doctrine embodies the notion that a court ought not to revisit an earlier ruling in a

case absent a compelling reason, such as manifest error or a change in the law, that warrants re-examination." *Minch v. City of Chicago*, 486 F.3d 294, 301 (7th Cir. 2007); *see also Acosta v. Board of Trustees of Unite Here Health*, 2024 WL 3888862, *3-4 (N.D. Ill. August 21, 2024). "This presumption against reopening matters already decided reflects interests in consistency, finality, and the conservation of judicial resources, among others." *Minch*, 486 F.3d at 301.

In its Order, the Court concluded that for Count 1: (i) Plaintiffs sufficiently alleged parallel conduct (MTD Order at 16-17); and (ii) Plaintiffs adequately alleged several cognizable antitrust plus factors, including the exchange of information (*id.* at 24), high barriers of entry in the market and the difficulty for MHL renters to switch (*id.* at 25-26), and that the MHC Defendants acted against their self-interest by sharing pricing information (*id.* at 28-30). The allegations in the CAC that supported these conclusions from the Court are the same (or strengthened) in the SAC, so they ought not to be revisited. Moreover, nowhere do Defendants argue that the Court committed a manifest error, nor do they cite a change in the law within the Seventh Circuit on these issues. Thus, their attempt to reargue these issues should be rejected.

B. Plaintiffs Plausibly Allege a Price Fixing Conspiracy

Count 1 alleges that Defendants violated Section 1 of the Sherman Act by entering a contract, combination, or conspiracy to fix, raise, stabilize, or maintain at artificially high levels the price of MHL rents. SAC ¶¶ 337-343. To show an illegal agreement, a plaintiff may rely on direct or circumstantial evidence. *In re Text Messaging Antitrust Litig.*, 630 F.3d 622, 629 (7th Cir. 2010). Because direct evidence of a Section 1 violation—a "smoking gun"—is rare, plaintiffs often rely on circumstantial evidence (*Omnicare, Inc.*, 629 F.3d at 706), which is what Plaintiffs have done here. Circumstantial evidence can take different forms—a plaintiff may allege facts supporting either (1) invitation-and-acceptance—a defendant's awareness "that concerted action was contemplated" and its decision to give "adherence to the scheme and participat[e] in it."

(*Interstate Cir., Inc. v. United States*, 306 U.S. 208, 226 (1939))—or (2) "parallel conduct" plus "context that raises a suggestion of a preceding agreement"—often called "plus factors." *MultiPlan*, 789 F. Supp. 3d at 637 (quoting *Twombly*, 550 U.S. at 557). As detailed below, the SAC sufficiently alleges facts supporting both.

To satisfy the second element of a Section 1 claim—an unreasonable restraint of trade (*see supra*, Part II)—a plaintiff must assert facts sufficient to demonstrate that the concerted action is *per se* illegal or violates the rule of reason ("ROR"). *City of Rockford v. Mallinckrodt ARD, Inc.*, 360 F. Supp. 3d 730, 753-54 (N.D. Ill. 2019). "Courts use a '*per se*' test for conduct such as horizontal price fixing, market allocation, group boycotts, or tying arrangements that are so inherently anticompetitive, they are considered illegal per se." *Id.* at 753. ROR is used for other restraints of trade outside of these categories. *Id.* at 753-54. When conduct is illegal *per se*, it is unnecessary for a plaintiff to make "a showing of actual or likely impact on a [relevant] market." *Denny's Marina, Inc. v. Renfro Prods., Inc.*, 8 F.3d 1217, 1221 (7th Cir. 1993).

At this stage, the Court need not decide which mode of analysis (*per se* or ROR) governs Count 1. *City of Rockford,* 360 F. Supp. 3d at 754. Nevertheless, if the Court reaches the issue, the *per se* test should apply because Count 1 alleges a horizontal agreement to fix, raise, maintain, or stabilize price—MHL rent prices. *See MultiPlan*, 789 F. Supp. 3d at 644 ("[H]orizontal price-fixing agreements are *per se* illegal"); *see also Palmer v. BRG of Ga., Inc.*, 498 U.S. 46, 48 (1990). If the Court instead applies the ROR, the allegations supporting Count 2 (*see supra*, Part III.C) also support Count 1.

1. Plaintiffs Adequately Allege an Agreement Under the "Invitation and Acceptance" Analysis

For a Section 1 claim, an agreement can be shown where there is "[a]cceptance by competitors, without previous agreement, of an invitation to participate in a plan, the necessary

consequence of which, if carried out, is restraint of interstate commerce." *Interstate Cir.,* 306 U.S. at 227. The Court previously found that Plaintiffs had not sufficiently alleged that Datacomp invited the MHC Defendants to submit information or that the MHC Defendants accepted any such invitation. MTD Order at 11. The SAC cures these issues in several ways.

First, the SAC alleges that Datacomp sent questionnaires to MHC Defendants requesting competitively sensitive and forward-looking information, including "date of next rent increase," "amount of next rent increase," and the number of vacant manufactured home sites. SAC ¶ 109. Second, the SAC alleges that Datacomp marketed itself as the largest provider of "competitive market data" and "price information," (SAC ¶¶ 101-102; Figs. 5-6) and advertised that the Reports provided community-specific information such as occupancy rates, monthly rents, and the latest rent increase amount and date. SAC ¶¶ 107-112; Fig. 9. These allegations plausibly plead an invitation: Datacomp solicited competitively sensitive rent and occupancy information from MHC owners and in return, offered them access to comparable information from their competitors. By marketing the availability of this competitively sensitive information, information the MHC Defendants never would have had in a competitive market (SAC ¶ 122), Datacomp effectively promised to eliminate pricing uncertainty and allowed prices to be artificially inflated. *See Great Atl. & Pac. Tea Co., Inc., v. F.T.C.*, 440 U.S. 69, 80 (1979). Courts have credited this type of pitch as evidence of an invitation. *See e.g.*, *United States v. Apple, Inc.*, 791 F.3d 290, 316-17 (2d Cir. 2015); *cf. MultiPlan*, 789 F. Supp. 3d at 642.

The MHC Defendants accepted Datacomp's invitation by submitting their competitively sensitive information for inclusion in the Reports, making use of the data, and charging artificially inflated prices, all while knowing that their competitors were doing the same. SAC ¶¶ 125-133, 183. Contributing competitively sensitive pricing and occupancy information to Datacomp "is in

Defendant's economic self-interest if and only if Defendants know they are receiving in return the benefit of their competitors' data in pricing their own." *In re RealPage, Inc., Rental Software Antitrust Litig. (No. II)*, 709 F. Supp. 3d 478, 510 (M.D. Tenn. 2023); *see also infra* Part III.B.3.d. The MHC Defendants knew their competitors were contributing the same information to the Reports because Datacomp advertised its customer lists (which includes all of the MHC Defendants and Unnamed Co-Conspirators). SAC ¶ 126; Fig. 17. By submitting their data and buying the Reports, with the knowledge that their competitors were as well, the MHC Defendants "signaled a clear commitment" to the scheme. *Apple, Inc.*, 791 F.3d at 317.

2. Plaintiffs Plausibly Allege Defendants Engaged in Parallel Conduct

The Court held that "Plaintiffs have done just enough to sufficiently allege that Defendants' conduct was parallel based on rent price increases that are 'reasonably proximate in time and value.'" MTD Order at 16. Yet, Defendants argue that "Plaintiffs make no attempt to strengthen their allegations of parallel conduct[,]" (MTD at 10), even though Plaintiffs were not required to do so. As explained above, unless Defendants demonstrate that the Court committed a manifest error or that a change in the law occurred in the Seventh Circuit on this issue—which they did not do—they are precluded from relitigating this issue. *See supra*, Part III.A.

Rather than pointing to a change in Seventh Circuit precedent, Defendants primarily rely on an out-of-circuit case, *In re Concrete & Cement Additives Antitrust Litigation*, 2025 WL 1755193 (S.D.N.Y. June 25, 2025), to argue that Plaintiffs insufficiently alleged parallel conduct. MTD at 10-12. But that case is inapposite. There, the court found plaintiffs' conspiracy allegations lacking because they involved pricing across different product lines in different countries and were based upon "dissimilar" events. *Id*. at *13-14. Here, the price increases all relate to annual rent increases of MHLs in MHCs in the United States. *Compare* SAC ¶¶ 164-180; Figs. 23-37 *with Concrete*, 2025 WL 1755193, at *15. Additionally, parallel pricing was the only form of parallel

conduct alleged in *Concrete*. *Concrete*, 2025 WL 1755193 at *12. Whereas here, in addition to parallel price increases, Plaintiffs allege that Defendants adopted a common pricing strategy, namely, providing and receiving competitively sensitive information to and from Datacomp to coordinate MHL rent hikes. SAC ¶¶ 8, 121-122. In fact, MHC Defendants publicly touted that the Reports are "extremely helpful" for MHL rent increases, which further supports an inference of agreement. *Id.* ¶¶ 127-133. In short, Plaintiffs sufficiently alleged that Defendants' conduct was parallel, as the Court has already found.

Additionally, Defendants improperly cite material outside of the SAC, BLS inflation measures, to argue that some rent increases were below inflation. MTD at 12-13. Defendants' cited authority does not support this effort. MTD at 12, n. 6 (citing *Ennenga v. Starns*, 677 F.3d 766, 773 (7th Cir. 2012)). In fact, the *Ennenga* court held that judicial notice can only be taken of facts *not* in dispute. *Id.* at 773-74 ("A court may take judicial notice of facts that are (1) *not subject to reasonable dispute*") (emphasis added). Plaintiffs do not allege parallel conduct merely because rents exceeded inflation in every MHC or every year. Plaintiffs allege that Defendants increased the same type of price—annual MHL rent—during the same rent-setting cycles, after exchanging the same categories of competitor-specific rent, occupancy, and rent-increase information directly and through the Reports. SAC ¶¶ 106-138, 164-180; Figs. 23-37. Whether a particular rent increase was above or below a selected inflation metric is irrelevant to whether Defendants moved in parallel relative to one another or whether the challenged information exchange allowed them to raise rents ***above the competitive levels*** that would have prevailed absent the exchange. *See MultiPlan*, 789 F. Supp. 3d at 638 ("[D]efendants do not have [to use a pricing tool] in identical ways for their use to be considered parallel conduct.").

3. The SAC Sufficiently Alleges Plus Factors

In addition to parallel conduct, Plaintiffs allege facts showing additional circumstances suggesting concerted action ("plus factors"). *In re Broiler Chicken Antitrust Litig.*, 2025 WL 461407, at *11 (N.D. Ill. Feb. 11, 2025). These may include "a mixture of parallel behaviors, details of industry structure, and industry practices, that facilitate collusion." *In re Turkey Antitrust Litig.*, 642 F. Supp. 3d 711, 722 (N.D. Ill. 2022) (internal citation omitted). Importantly, plus factors must not be evaluated in isolation. *Broiler Chicken I*, 290 F. Supp. 3d at 797; *Kleen Prods., LLC v. Packaging Corp. of Am.*, 775 F. Supp. 2d 1071, 1078 (N.D. Ill. 2011). Rather, the Court must analyze alleged plus factors holistically and in relation to each other. *Cont'l Ore Co. v. Union Carbide & Carbon Corp.*, 370 U.S. 690, 699 (1962); *Standard Iron Works v. ArcelorMittal*, 639 F. Supp. 2d 877, 902 (N.D. Ill. 2009).

Plaintiffs adequately allege at least the following plus factors: (a) Defendants exchanged competitively sensitive information; (b) the structure of the MHL market was conducive to collusion; (c) Defendants had the opportunity to collude; and (d) Defendants' conduct was contrary to their self-interest.

a. Exchange of Pricing Information

It is well-settled that the exchange of pricing information is a plus factor. *Text Messaging*, 630 F.3d at 628 (exchange of pricing information "facilitates price fixing"); *Turkey*, 642 F. Supp. 3d at 726 (information exchange "about production output and competitive pricing is a plus factor"); *In re Loc. TV Advert. Antitrust Litig.*, 2020 WL 6557665, at *9 (N.D. Ill. Nov. 6, 2020) (same); *In re Pork Antitrust Litig.*, 781 F. Supp. 3d 758, 815 (D. Minn. 2025) (same). Plaintiffs allege the MHC Defendants' exchange of current, non-anonymized, community-specific, and forward-looking competitively sensitive information, including current and future pricing information, and occupancy information, directly and through Datacomp is a plus factor. SAC ¶

183. The Court already found that Plaintiffs' allegations "qualify as a plus factor because they facilitate the conspiracy at issue." MTD Order at 24. Defendants do not contend that the Court committed a manifest error or that a change in the law occurred in the Seventh Circuit. Thus, they are precluded from relitigating this issue under the law of the case doctrine. *See supra*, Part III.A.

Nonetheless, Plaintiffs added allegations that Defendants directly exchange competitive information, making this plus factor allegation even stronger. Specifically, Plaintiffs plead that:

> [MHC] Defendants and their agents directly communicated with each other within the same local market to obtain and exchange competitively sensitive information about lot rent pricing. These communications occurred regularly, including in advance of annual rent-increase cycles, and would include the exchange of current rent levels and occupancy rate information. By reducing uncertainty about rivals' pricing, these communications facilitated parallel rent price increases that would have been less likely under competitive conditions. Communications occurred in multiple markets, and within the Regional Markets… The [MHC] Defendants relied on these communications to calibrate and implement rent increases that track or match competitors' pricing rather than competing on price.

SAC ¶¶ 134-137. This new information was adduced through the cooperation with Murex. Defendants' assertion that information derived from Murex must be confined to markets in which Murex operates (MTD at 7) asks the Court to draw an inference against Plaintiffs, which is improper at this stage. *Cf. In re Packaged Ice Antitrust Litig.*, 723 F. Supp. 2d 987, 1011-12 (E.D. Mich. 2010) (rejecting attempt to confine civil antitrust claims to the geographic scope of related criminal proceedings and explaining civil antitrust litigation need not be "circumscribed or defined by the boundaries" of related plea agreements). Defendants' reliance on *In re Broiler Chicken Antitrust Litig.*, 2021 WL 2207142, at *1 (N.D. Ill. June 1, 2021) (MTD at 17) is similarly misplaced. In *Broiler*, the Court concluded that a new complaint filed against Rabobank, after years of litigation, failed to plausibly allege that the bank participated in a vast conspiracy to increase the price of chickens. *Id*. at *1-2. But plaintiffs there had received extensive discovery, including from Rabobank as a third-party. Case No. 1:16-cv-08637, Dkt. 4244, ¶ 575. Here,

discovery is stayed, and Plaintiffs' allegations that Defendants exchanged competitively sensitive information through direct communications bolster this plus factor.

b. The Structure of the MHL Market

Market structure is a recognized plus factor where a market is concentrated, has high barriers to entry, and contains conditions that make coordination easier to implement and sustain. *See Turkey*, 642 F. Supp. 3d at 727; *Loc. TV Advert.*, 2020 WL 6557665, at *10 (market structure supported inference of conspiracy where plaintiffs alleged "market concentration—with market shares as high as 100 percent in certain DMAs—and high barriers to enter the market"). Here, the SAC's market structure allegations support an inference of conspiracy.

The Court already found that Plaintiffs adequately alleged two structural features of the MHL market that facilitate coordination: high barriers to entry and the difficulty for MHL renters to switch. MTD Order at 25. Defendants do not identify any manifest error or intervening change in law warranting reconsideration of that ruling. *See supra*, Part III.A. Those same market features remain alleged in the SAC, including that manufactured homes are expensive and difficult to move, that relocation requires specialized hauling vehicles, escorts, permits, and substantial expense, and that high occupancy and low turnover limit residents' practical alternatives. *See* SAC ¶¶ 185, 188-190, 203-206.

The Court previously declined to treat market structure as a plus factor because the CAC did not allege "the specific (or even approximate) market share each MHC Defendant has." MTD Order at 25. The SAC addresses that concern. It alleges that Defendants and their Unnamed Co-Conspirators collectively hold shares exceeding 50% in at least the twenty-four Regional Markets, with shares exceeding 70% in several Regional Markets and reaching 100% in Alachua County. SAC ¶ 208; Fig. 38. The SAC then ties those shares to each Regional Market and identifies the relevant geography, lot counts, Defendants operating in each market, and collective shares. SAC

¶¶ 214-216, 220-316. Each Regional Market alleged corresponds to a geographic area covered by the Reports.

These same structural features also provide the motive to conspire that the Court found lacking as a plus factor. MTD Order at 30. The SAC adds that "the structure of the market, characterized by high concentration, high barriers to entry, and inelastic demand provides a motive to conspire and is a plus factor." SAC ¶ 185. Courts recognize that such market features can make a conspiracy to raise prices more plausible. *See In re Blood Reagents Antitrust Litig.*, 756 F. Supp. 2d 623, 631 (E.D. Pa. 2010) (finding certain alleged features of the market including high concentration and high barriers to entry "conducive to transforming . . . motive [for a conspiracy to raise prices] into action"); *In re Generic Pharm. Pricing Antitrust Litig.*, 338 F. Supp. 3d 404, 448 (E.D. Pa. 2018) (same). That is precisely what Plaintiffs allege here: that Defendants operate in concentrated Regional Markets where entry is difficult, residents cannot easily switch, demand is inelastic, and MHLs are sufficiently similar to facilitate coordination. SAC ¶¶ 185, 188-190, 203-208.

Defendants contend that Plaintiffs may not rely on collective shares, including shares of Unnamed Co-Conspirators to measure market concentration. MTD at 14-15. Not so. Count 1 challenges a price-fixing conspiracy, so the relevant structural question is whether the alleged participants in the challenged restraint *collectively* occupy a large enough portion of the market to make coordination plausible—not whether each Defendant independently possesses market power. *See Wilk v. Am. Med. Ass'n*, 895 F.2d 352, 360 (7th Cir. 1990) (market power assessed by "lumping together" members participating in the restraint). The SAC identifies the Unnamed Co-Conspirators as MHC owners and operators who participated in the same information exchange by providing and receiving competitively sensitive rent, occupancy, and rent-increase information

through Datacomp or otherwise. SAC ¶¶ 46, 106-122, 125, 208; Fig. 17. Combined with the already adequate allegations of high barriers to entry and high switching costs, these new concentration and motive allegations support treating market structure as a plus factor.

c. Opportunities to Collude

Defendants argue that the SAC adds nothing to the opportunities-to-collude allegations the Court previously found insufficient. MTD at 17. But the SAC adds allegations—based on Murex cooperation materials—that Datacomp used trade association and industry meetings to "sell the benefits and advantages of the JLT Market Reports directly to the" MHC Defendants and that the acquisition market for MHCs was "discussed at these events." SAC ¶ 186. These allegations matter because Defendants themselves touted the usefulness of the Reports for acquisition analysis (SAC ¶¶ 128-132), and Plaintiffs allege that consolidation through acquisitions facilitated the conspiracy. SAC ¶¶ 73-80. At minimum, these new allegations help "fill-out the picture" of the conspiracy. *See Tiz, Inc. v. Southern Glazer's Wine & Spirits, LLC*, 2024 WL 2785142, at *18 (N.D. Ill. May 30, 2024).

d. Conduct Contrary to Self-Interest

The Court already held that Plaintiffs adequately alleged conduct contrary to Defendants' self-interest as a plus factor. It found that "the MHC Defendants acted against their self-interest by sharing pricing information" with their competitors via the Reports because doing so would make economic sense only if Defendants expected to receive the benefit of their competitors' competitively sensitive information in return. MTD Order at 28-30 (citing *RealPage*, 709 F. Supp. 3d at 510). Defendants identify no manifest error or intervening change in law warranting reconsideration of that ruling. *See supra*, Part III.A. The SAC actually strengthens this plus factor by alleging that MHC Defendants and their agents directly communicated with competitors in

local markets to exchange rent pricing and occupancy information before annual rent increases. SAC ¶¶ 6, 134-138, 183.

Yet, Defendants rehash an argument that the Court already rejected—that the information in the Reports is "publicly available." MTD at 17-18. That argument fails for the reasons articulated by the Court. MTD Order at 21-23, 28. And Defendants' out-of-circuit authorities do nothing to change this result. For instance, the court in *In re Passenger Vehicle Replacement Tires Antitrust Litigation* rejected plaintiffs' information exchange allegations because the public price announcements in defendants' earnings reports relied on by plaintiffs described only "current market trends" and "general indications" of the defendants' pricing strategy and were merely "routine investor communications." 767 F. Supp. 3d 681, 723-27 (N.D. Ohio 2025). That is the opposite of the allegations here where the specific, latest rents and rent increases, future rent increases, and occupancy rates were exchanged and reported by each MHC. MTD Order at 22; SAC ¶¶ 4-5; 118-121.

4. Defendants' Alternative Explanations do not Make Plaintiffs' Conspiracy Allegations Implausible

"*Twombly* does not stand for the proposition that the mere existence of an alternative explanation for Defendants' conduct serves to destroy the plausibility of Plaintiffs' conspiracy claims." *Broiler Chicken I*, 290 F. Supp. 3d at 801. And courts in this district recognize that "[i]t is not necessary that the factual allegations tend to exclude the alternative explanation offered by defendants" as that "is the standard appropriate for a summary judgment motion." *In re Plasma-Derivative Protein Therapies Antitrust Litig.*, 764 F. Supp. 2d 991, 1002 (N.D. Ill. 2011). Thus, where "[b]oth Plaintiffs' allegation of a conspiracy, and Defendants' innocent explanations, could be described as plausible," by "asking the Court to choose its innocent explanations over Plaintiffs' claims," Defendants are also "asking the Court to undertake a weighing of evidence that is not

appropriate at the pleading stage." *Broiler Chicken I*, 290 F. Supp. 3d at 802. But in Defendants' view, Plaintiffs do not plausibly allege that a price fixing conspiracy increased MHL rents because the rent increases are explained by (i) "increased demand for MHL rentals, combined with the decreasing or consistent supply" and (ii) high switching costs. MTD at 19-20.

While increased demand and decreased supply may lead to elevated prices, they do not disprove that the conspiracy increased MHL rents. And Plaintiffs need not disprove at the pleading stage that supply and demand contributed to rent increases. Defendants' assertion that rent increases resulted from these market dynamics, rather than the price fixing regime they imposed, is contrary to the detailed factual allegations in the SAC, including the preliminary analysis from consulting experts (SAC ¶¶ 157-163; Figs. 18-22) and thus should be rejected at this stage. *Broiler Chicken I*, 290 F. Supp. 3d at 801.

Defendants' reliance on high switching costs as an alternative explanation is even less persuasive. High natural exit (or entry) barriers make an illicit agreement more plausible, not less. *In re Automotive Parts Antitrust Litig.*, 29 F. Supp. 3d 982, 996 (E.D. Mich. 2014) (finding the pleaded highly concentrated market with "high barriers to entry 'facilitate the formation and maintenance of a cartel'"); *see also* Phillip E. Areeda & Herbert Hovenkamp, *Antitrust Law: An Analysis of Antitrust Principles and Their Application* ¶ 1436b2 (4th ed. 2017) ("The effect of significant entry [or exit] barriers is to enable a . . . cartel or oligopoly persistently to maintain higher than competitive prices…"). Here, the SAC alleges that moving a manufactured home is costly and difficult (if not impossible), vacancy rates are low, and residents face limited alternatives. SAC ¶¶ 203-206. These conditions make the exchange of competitor rent, occupancy, and price increase information more fruitful, not less, because they enable Defendants to raise rents without fear of residents moving to competing communities operated by non-conspirators.

Moreover, whether high switching costs, the alleged conspiracy, or both contributed to elevated rents is a fact question that cannot be resolved on a Rule 12 motion. *Plasma-Derivative Protein Therapies*, 764 F. Supp. at 1002. In sum, Defendants' alternative explanations do not make the conspiracy allegations implausible.

C. Plaintiffs Plausibly Allege an Unlawful Information Exchange Claim

Count 2 alleges that Defendants violated Section 1 through an unlawful information exchange. SAC ¶¶ 344-349. "A standalone information exchange itself can constitute a § 1 violation, even without proof of an agreement to fix prices, if it tends to lead to anticompetitive effects." *In re Pork*, 781 F. Supp. 3d at 867 (subsequent history omitted). Defendants' exchange of non-public, firm-specific, current and forward-looking pricing and occupancy information constitutes a standalone violation of Section 1. SAC ¶¶ 106-122, 145- 148, 344-349. As this Court previously found (MTD Order at 33), standalone information exchange claims are typically analyzed under the ROR. Under the ROR, "the plaintiff carries the burden to show that there was an agreement or contract among the defendants that has an anticompetitive effect on a given market within a given geographical area." *Loc. TV Advert.*, 2020 WL 6557665, at *11; *see also In re Granulated Sugar Antitrust Litig.*, 2025 WL 3012238, at *11 (D. Minn. Oct. 15, 2025).

Defendants do not dispute that the SAC plausibly pleads an agreement among Defendants to exchange information. Indeed, Defendants' own statements and marketing material make clear they are exchanging information. SAC ¶¶ 125-133; *see also Todd v. Exxon Corp.*, 275 F.3d 191, 198 (2d Cir. 2001) ("the [Section 1] violation lies in the information exchange itself..."). Instead, Defendants argue that "the SAC does not (1) plead a plausible market definition; (2) sufficiently allege market power; or (3) plausibly allege anticompetitive effects." MTD at 20. On the contrary, the SAC adequately alleges these elements to satisfy *Twombly* pleading standards.

1. Plaintiffs Adequately Allege Cognizable Relevant Markets

"Plaintiffs' obligation to define a relevant market comprises both product and geographic components." *Delta Dental*, 484 F. Supp. 3d at 639. The SAC alleges that the relevant product market is the market for "manufactured home lots located in manufactured home communities." SAC ¶ 198. The SAC also alleges that there are, at a minimum, twenty-four relevant geographic markets (referred to in the SAC as the "Regional Markets"). SAC ¶¶ 211-316. Each Regional Market corresponds to the geographic areas covered by the corresponding Report (*e.g.* the Denver Regional Market corresponds to the geographic areas covered by the Denver-Aurora-Boulder Report). SAC ¶¶ 214-215, 224. Many Reports are further subdivided into smaller "areas" for competitive comparison, reflecting localized competitive conditions within the broader report geography. SAC ¶ 215. In the alternative to the broader Regional Markets, Plaintiffs allege that each individual "area" identified in the Reports could be its own relevant geographic market (these alternative geographic markets are referred to in the SAC as "Area Submarkets"). *Id.*

Defendants do not point to any deficiencies with Plaintiffs' alleged relevant product market, but they argue that the SAC's geographic markets add nothing substantive. MTD at 21-25. As explained in more detail below, they are wrong. As an initial matter, courts "hesitate to grant motions to dismiss for failure to plead" a relevant geographic market because the sufficiency of a plaintiff's proposed geographic market "***is a deeply fact-intensive inquiry***." *Alarm Detection Sys., Inc. v. Orland Fire Prot. Dist.*, 194 F. Supp. 3d 706, 721 (N.D. Ill. 2016) (emphasis added; internal citation and quotations omitted), *aff'd*, 929 F.3d 865 (7th Cir. 2019). Accordingly, a plaintiff need only allege "one plausible geographic market to survive a motion to dismiss" under Rule 12(b)(6). *Vasquez v. Indiana Univ. Health, Inc.*, 40 F.4th 582, 584 (7th Cir. 2022); *see also MultiPlan*, 789 F. Supp. 3d at 630, 633. As described below, Plaintiffs' SAC meets this low threshold.

a. The SAC Directly Addresses the Geographic Market-Definition Concerns Identified in the Court's Prior Order

The Court's prior order found that the previously alleged national market was implausible because MHL renters are not likely to move across the country in response to a rent increase. MTD Order at 36. Plaintiffs no longer plead a national geographic market. Instead, they allege twenty-four Regional Markets and a number of smaller Area Submarkets, in the alternative. SAC ¶¶ 211-316. The Court found the prior regional submarkets insufficient because, as then pleaded, they were too broad to square with Plaintiffs' allegations that renters' choices are constrained by commuting distance to work or school, proximity to family, and access to healthcare providers. MTD Order at 36-39. The SAC cures those specific pleading deficiencies.

First, the twenty-four specific Regional Markets and the alternative Area Submarkets pled in the SAC are not arbitrary. As set forth in the SAC, Datacomp uses these same bounded areas to identify competing MHCs and to report non-anonymized rents, rent increases, occupancy, services included in rent, and other competitive variables. SAC ¶¶ 214-216. The SAC further alleges that "Datacomp has a strong business incentive to define market boundaries that reflect meaningful competitive realities" because the value of its Reports depends on identifying communities that owners and operators view as meaningful competitive comparators. SAC ¶¶ 8, 216; Fig. 1.

Industry recognition supports plausibility at the pleading stage, as the relevant geographic market "must 'correspond to the ***commercial realities***' of the industry." *FTC v. Advoc. Health Care Network*, 841 F.3d 460, 468 (7th Cir. 2016) (emphasis added; quoting *Brown Shoe Co. v. United States*, 370 U.S. 294, 336 (1962)); *see also MultiPlan*, 789 F. Supp. 3d at 633 (practical indicia such as "industry . . . recognition" may support market definition). As Datacomp itself says, "JLT Market Reports are the ***industry standard*** for the manufactured housing industry." SAC ¶ 107; Fig. 9 (emphasis added). Additionally, an executive of Defendant Cal-Am said that "[Reports]

provide a comprehensive analysis of ***competing*** communities in those markets in which we operate." SAC ¶ 130 (emphasis added). Accordingly, the geographic boundaries Datacomp uses for its Reports, and thus the Regional Markets and Area Submarkets, "correspond to the commercial realities of the industry," (*Brown Shoe*, 370 U.S. at 336) and reflect how Defendants see the market. Defendants rely on two cases for the notion that industry-recognized regions do not shed light on the appropriate antitrust market (MTD at 24), but both are inapposite because the courts found insufficient evidence to support the relevant markets ***at summary judgment***. *See Berlyn, Inc. v. Gazette Newspapers, Inc.*, 223 F. Supp. 2d 718, 728 (D. Md. 2002) and *Depuy Inc. v. Zimmer Holdings, Inc.*, 343 F. Supp. 2d 675, 686 (N.D. Ill. 2004).

Next, the SAC corroborates each Regional Market with other objective geographic frameworks: CZs and CBSAs (terms defined, *supra*, Part I). The SAC alleges that these frameworks confirm that the geographic areas covered in the Reports accurately reflect real-world patterns of where people live, work, and attend school. SAC at ¶ 218. Relevant markets that reference such frameworks have been approved by courts in other cases. *See e.g.*, *United States v. Anthem, Inc.*, 236 F. Supp. 3d 171, 255 (D.D.C. 2017) ("The Court finds that plaintiffs' use of CBSAs to outline their thirty-five relevant geographic markets is 'economically significant' and corresponds to 'commercial realities.'" (quoting *Brown Shoe*, 370 U.S. at 336-37)); *see also Sentry Data Sys., Inc. v. CVS Health*, 379 F. Supp. 3d 1320, 1329 (S.D. Fla. 2019). Accordingly, such allegations add the precise type of practical-substitutability allegations this Court found missing from the CAC (MTD Order at 38-39).

Defendants' cited cases on these points are factually dissimilar. Two rejected single-brand *product* markets that excluded concededly available substitutes, and the third rejected a single-hospital market that ignored patients' pre-admission choice among hospitals. *See Int'l Equip.*

Trading, Ltd. v. AB SCIEX LLC, 2013 WL 4599903, at *3-4 (N.D. Ill. Aug. 29, 2013) (rejecting single-brand *product market* where complaint conceded that competing manufacturers' products were available substitutes); *Queen City Pizza, Inc. v. Domino's Pizza, Inc.*, 124 F.3d 430, 436-41 (3d Cir. 1997) (rejecting proposed *product market* of Domino's Pizza-only pizza ingredients); *Collins v. Associated Pathologists, Ltd.*, 676 F. Supp. 1388, 1404 (C.D. Ill. 1987) (rejecting single-hospital market because patients could choose among hospitals before admission). Here, Plaintiffs' alleged geographic markets are firmly rooted in the commercial realities of the industry and reference geographic frameworks (CZs and CBSAs) that corroborate real-world patterns of where residents live, work, and attend school.

Finally, the SAC alleges narrower Area Submarkets in the alternative to the broader Regional Markets. SAC ¶ 215. Rule 8 permits alternative pleading (Fed. R. Civ. P. 8(d)(2)-(3)), and courts in the Seventh Circuit permit alternative pleadings even if they are contradictory. *See Vasquez*, 40 F.4th at 587. For example, within the Phoenix Regional Market, which corresponds to the geographic area covered by the Phoenix, Arizona MSA JLT Market Report, Plaintiffs allege that there are, in the alternative, as many as nine Area Submarkets. SAC ¶ 220; Fig. 41. Defendants' criticism that the SAC does not explain why the Area Submarkets are "limited in a particular way" (MTD at 24) ignores that the SAC alleges that these submarkets are the smaller "areas" Datacomp itself uses within the Reports for competitive comparison. SAC ¶ 215. And contrary to Defendants' assertion that the SAC does not identify which MHCs are included in each Area Submarket (MTD at 24), the SAC provides maps of the Area Submarkets and lists the MHCs within them below those maps. *See e.g.*, SAC ¶ 220; Fig. 41.

b. A SSNIP Test is Not Required to Adequately Plead Product Markets

While Defendants do not contest that Plaintiffs adequately pled a relevant product market, they contend (without explanation) that Plaintiffs' "invocation" of the SSNIP (small but significant

non-transitory increase in price (SAC ¶ 200)) test is "meaningless." MTD at 24-25. But the motion to dismiss stage "is not the time to evaluate the merits of [Plaintiffs' relevant market] allegations." *Vasquez*, 40 F.4th at 586. Such analysis requires expert discovery. *Id.* Accordingly, Plaintiffs need not set forth a full SSNIP analysis. Instead, Plaintiffs need only allege "which products are similar enough (the product market) . . . to compete with one another." *Corzo v. Brown Univ.*, 2026 WL 91424, at *9 (N.D. Ill. Jan. 12, 2026).[5]

The SAC does just that. It alleges that the relevant product market is "manufactured home lots located in [MHCs]," (SAC ¶ 198) and explains why other housing or land options are not reasonable substitutes: land ownership is too expensive for many residents, zoning restrictions often limit where manufactured homes may be placed, and MHCs provide distinct benefits such as community amenities and age-restricted housing options. SAC ¶ 199.

2. Plaintiffs Plausibly Allege Anticompetitive Effects, Which Independently Satisfies the ROR Pleading Burden

Defendants contend that Plaintiffs fail to allege market power and anticompetitive effects. MTD at 25-29. That framing (a) misstates Plaintiffs' pleading burden and (b) ignores the SAC's allegations.

To establish anticompetitive effects, the plaintiff may rely on ***either*** direct evidence establishing "actual detrimental effects [on competition]," such as "reduced output, increased prices, or decreased quality," or indirect evidence of "market power plus some evidence" that the challenged restraint is likely to lead to anticompetitive effects. *Ohio v. Am. Express Co.*, 585 U.S. 529, 542 (2018) (alteration in original) (citations omitted); *see also Toys "R" Us, Inc. v. F.T.C.,* 221 F.3d 928, 937 (7th Cir. 2000); *Loc. TV Advert.*, 2020 WL 6557665, at *13.

[5] Even *Gamboa* cited by Defendants recognizes this: "Market definition does not necessarily require a SSNIP test at the pleading stage." *Gamboa v. Apple Inc.*, 808 F. Supp. 3d 951, 967 (N.D. Cal. 2025).

Here, Plaintiffs have adequately pled anticompetitive effects through direct evidence. Plaintiffs allege that the MHC Defendants increased prices for MHL rents through their illegal information exchange. SAC ¶¶ 195-196, 344-349. Accordingly, detailed market share allegations are unnecessary. *Toys "R" Us*, 221 F.3d at 937*; see also Loc. TV Advert.*, 2020 WL 6557665, at *13 ("Plaintiffs allege that Defendants' information exchange resulted in higher prices, which is an anticompetitive effect"). Even still, Plaintiffs have also alleged sufficient indirect evidence of anticompetitive effects through market share allegations.

a. Plaintiffs Allege Direct Evidence of Anticompetitive Effects

At the motion to dismiss stage, a court will find anticompetitive effects from an information exchange when the complaint plausibly alleges "a plausible causal relationship between the information exchange and the alleged changes in pricing and output." *Olean Wholesale Grocery Coop., Inc. v. Agri Stats, Inc.*, 2020 WL 6134982, at *7 (N.D. Ill. Oct. 19, 2020). The SAC does this adequately.

First, the SAC plausibly alleges that supracompetitive price increases flowed from Defendants' exchange of competitively sensitive information. As alleged, Defendants exchanged current, non-anonymized, community-specific, and forward-looking information about lot rents, occupancy, vacant lots, rent-increase timing, services included in rent, and future rent increases through the Reports. SAC ¶¶ 106-122, 134-138, 145-147; Figs. 8-14. The Reports identified individual communities by name, allowing competitors to determine precisely what rival communities charged, when those rivals planned to raise rents, and whether competitors had capacity to absorb residents who might move in response to rent increases. SAC ¶¶ 111-122.

The SAC further alleges that Defendants acknowledge that this information is used to price MHL rents. For instance, Datacomp marketed the Reports as allowing community owners to "stay competitive." SAC ¶ 8; Fig. 1. RHP's CEO described the Reports as "***extremely helpful for rent***

increases across our portfolio throughout the country." SAC ¶ 128 (emphasis added). Cal-Am's President/CEO stated that the Reports provided "a comprehensive analysis of competing communities in those markets in which we operate" and allowed a "quick determination of relevant market conditions." SAC ¶ 130. Kingsley's CFO emphasized that the Reports provided current information enabling Kingsley to determine how its communities "compare to the competition." SAC ¶ 131. These statements reveal that Defendants did not merely receive inert industry data; they used competitor-specific information for price increases.

Next, Plaintiffs plausibly allege that Defendants' information exchange caused increases in MHL rent prices, both nationally and regionally, and contemporaneously with the beginning of the Relevant Time Period. On the national level, Plaintiffs allege that (a) between 2019 and 2021, MHL rental prices increased at a rate of 9.1% per year (while inflation was only 3%) (SAC ¶¶ 9, 159, 201); (b) between 2019-2024, rents increased at a rate of 7.2% per year (while the average annual inflation rate was 3.8%) (SAC ¶¶ 9, 201); (c) MHC Defendants touted that lot rent increases outpaced inflation (SAC ¶ 160); and (d) MHL rent increases significantly outpaced rent increases for single-family detached homes starting in 2019 after several years of similar increases (SAC ¶¶ 161-162; Fig. 19). At the subnational level, Plaintiffs allege that (a) in three of the largest Metropolitan Statistical Areas ("MSAs") by MHL count, MHL rents increased significantly relative to their 2010 levels starting in 2018-2019 (SAC ¶ 163; Figs. 20-22); (b) in these same MSAs, MHC Defendants increased rents in the MHCs they own or operate (SAC ¶¶ 164-165; Figs. 23-25); (c) MHC Defendants increased rents in the MHCs where the named Plaintiffs reside, as well as in the nearby MHCs (SAC ¶ 166-178; Figs. 26-37); and (d) ten of the largest Regional Markets saw substantial average year-over-year percentage increases in MHL rents (half of the average increases were over 8%) (SAC ¶¶ 323-324; Fig. 65).

Defendants misconstrue the law, seemingly arguing that Plaintiffs may only adequately allege anticompetitive effects with a showing of high market shares. MTD at 25-28. However, such an "inquiry into market power, which is . . . a . . . surrogate for detrimental effects," (*F.T.C. v. Ind. Fed'n of Dentists*, 476 U.S. 447, 461 (1986) (internal quotation omitted)) is unnecessary where "adverse effects are clear." *Realcomp II, Ltd. v. F.T.C.,* 635 F.3d 815, 827 (6th Cir. 2011); *see also* Memorandum Order, *Commonwealth of Kentucky v. RealPage, Inc. et al*, No. 2:25-cv-00093 (E.D. Ky. Feb. 2, 2026) (upholding ROR claim "hing[ing] almost entirely on showing direct evidence of anticompetitive effects by Defendants"), ECF 129 at 20-23 (Ex. A attached).

As described above, Plaintiffs allege direct evidence of anticompetitive effects by alleging that Defendants' conduct caused MHL rental prices to climb sharply near the start of the Relevant Time Period. *See Granulated Sugar*, 2025 WL 3012238, at *13 (finding anticompetitive effects plausibly alleged where prices rose 69% during the alleged information exchange and diverged from historic trends). This evidence is *preferable* to allegations based on high market shares, as the latter is an indirect form of proof which serves only as a "surrogate" for direct evidence. *See Ind. Fed'n*, 476 U.S. at 461.

b. Defendants' Challenges to Plaintiffs' Allegations of Anticompetitive Effects are Baseless

Defendants' challenges to Plaintiffs' allegations of anticompetitive effects likewise fail. Defendants primarily argue that Plaintiffs have not connected the challenged information exchange to the alleged rent increases because Datacomp began publishing Reports before the Relevant Time Period. MTD at 28-29. Defendants also point to increasing demand, flat supply, consolidation, and resident switching costs as supposedly obvious alternative explanations for rising rents. MTD at 28-29. These arguments ask the Court to improperly draw inferences against Plaintiffs. *See Olean,* 2020 WL 6134982, at *7 ("Whether the alleged divergence was actually caused by some

exogenous phenomenon or was instead the result of the information exchange is a question of fact that is not appropriate for the Court to resolve at this juncture."); *see also Plasma-Derivative Protein Therapies*, 764 F. Supp. 2d at 1002.

The SAC does not allege merely that Reports existed before and after 2019. It alleges that, during the Relevant Time Period, Defendants exchanged current, non-anonymized, community-specific, and forward-looking rent and occupancy information through Reports; used those Reports for rent price increases; exchanged rent information directly with competitors in local markets; and then imposed sustained supracompetitive rent increases. SAC ¶¶ 106-138, 145-147, 159-180. Unlike the *Intel* case cited by Defendants, where the plaintiff "point[ed] to no instance in which it ha[d] actually paid higher royalties" due to the anticompetitive scheme, (*Intel Corp. v. Fortress Inv. Grp. LLC*, 2022 WL 16756365, at *2 (9th Cir. Nov. 8, 2022)), Plaintiffs here allege MHL rent increases caused by Defendants' conduct which were paid by Plaintiffs and members of the Class. SAC ¶¶ 10-12, 20-33, 166-180, 195-96; Figs. 23-37.

Indeed, several of Defendants' supposed alternative explanations support Plaintiffs' theory rather than defeat it. *See* MTD at 29. Industry consolidation, high switching costs, scarce vacant lots, and high occupancy make the exchange of competitor-specific rent and occupancy information more—not less—anticompetitive. *Cf. Olean,* 2020 WL 6134982, at *6. If a community owner knows that residents face substantial barriers to moving and that nearby competitors lack available lots, then the owner can raise rents with less fear of losing tenants. SAC ¶¶ 203-206. And if the owner also knows the current and future rents charged by specific nearby competitors, the timing and amount of their planned rent increases, and their occupancy rates, that information enables the owner to calibrate rent increases to track or match competitors rather than compete against them. SAC ¶¶ 111-122, 134-138; *see also Todd*, 275 F.3d at 211 ("[E]xchanges of

future price information are considered especially anticompetitive."). Thus, the market conditions Defendants invoke are not a reason to dismiss; they help explain why the information exchange plausibly harmed competition.

c. Plaintiffs Allege Indirect Evidence of Anticompetitive Effects

Though Plaintiffs' direct allegations of anticompetitive effects "obviate the need for an inquiry into market power," *Ind. Fed'n,* 476 U.S. at 461, Plaintiffs nonetheless allege that Defendants' collective market share shows market power. When a defendant affects the relevant market through an agreement with participants, the participants' collective market share demonstrates market power. *See supra*, Part III.B.3.b; *see also Spectators' Commc'n Network Inc. v. Colonial Country Club,* 253 F.3d 215, 225 (5th Cir. 2001) ("[T]he reason for looking at market power is to determine whether the combination or conspiracy, not each individual conspirator, has the power to hurt competition in the relevant market.").

The SAC alleges that the MHC Defendants and Unnamed Co-Conspirators collectively hold market shares exceeding 50% in at least the twenty-four Regional Markets. SAC ¶ 208; Fig. 38. Moreover, the SAC alleges that market shares exceed 70% in several Regional Markets (*id.*), including large markets like Denver, Austin, and Salt Lake City. SAC ¶¶ 226, 250, 254; Fig. 38. Defendants claim that the SAC did not explicitly tie these market share percentages to any relevant geographic markets. MTD at 26-27. Defendants misconstrue the SAC. They assert that Plaintiffs' market share allegations are "untethered" because Figure 38 reports shares for "JLT Market Report Areas," not for alleged relevant markets. MTD at 26-27. But the SAC expressly defines the relevant Regional Markets as the Datacomp/JLT market areas. SAC ¶¶ 214-216.

The SAC alleges that Defendants' scheme harmed competition "in, at a minimum, the Datacomp/JLT market areas listed below (the 'Regional Markets')," and explains that those Regional Markets are the "bounded market areas defined and used by Datacomp in its JLT Market

Reports." SAC ¶¶ 214-215. The SAC then provides market-specific allegations identifying the relevant geography, the number of lots, the Defendants operating in each market, and, critically, collective market shares (repeating the market shares from Figure 38, rounded to the nearest whole number). *See* SAC ¶¶ 220-316; Figs. 41-64. Thus, Figure 38's JLT Market Report Areas are not "random geographic groupings;" they *are* the pleaded Regional Markets.

Defendants' objection to Plaintiffs' inclusion of Unnamed Co-Conspirators in the market share totals (MTD at 26) is improper. The SAC identifies the Unnamed Co-Conspirators as MHC owners and operators who participated in the same information exchange, through Datacomp or otherwise, by providing and receiving competitively sensitive rent, occupancy, and rent-increase information. SAC ¶¶ 46, 106-122, 125-126; Fig. 17 (Datacomp client list which "includes all the [MHC] Defendants as well as several other Unnamed Co-Conspirators"). Plaintiffs need not identify every co-conspirator by name at the pleading stage. The market power inquiry asks what portion of the market participated in the challenged restraint, not merely what portion is owned by named defendants. *See Kraft Foods Glob., Inc. v. United Egg Producers, Inc.*, 2024 WL 4346418, at *26 (N.D. Ill. Sept. 30, 2024) (considering the share of all industry participants in the challenged program, rather than only named co-conspirators, because the inquiry must capture "what's really happening in the market"); *see also Sitts v. Dairy Farmers of Am., Inc.*, 417 F. Supp. 3d 433, 460-61, 477-78 (D. Vt. 2019) (aggregating market shares of named and unnamed co-conspirators when computing the conspiracy's collective market power). Defendants' reliance on *Mexican Government Bonds* is misplaced here because that case addressed whether group pleading adequately tied each named defendant to the alleged conspiracy, not whether unnamed co-conspirators may be included in a conspiracy's collective market share. *In re Mexican Gov't Bonds Antitrust Litig.*, 412 F. Supp. 3d 380, 389 (S.D.N.Y. 2019). By contrast, the SAC pleads facts tying

each Defendant to the challenged information exchange and identifies the unnamed co-conspirators: MHC owners and operators who participated in the same exchange of competitively sensitive information. SAC ¶¶ 34-46, 106-122, 125-38; Fig. 17.

Finally, Defendants' assertion that the market shares in the SAC are "inflated" (MTD at 27-28) raises a factual dispute, not a pleading defect. *Delta Dental*, 484 F. Supp. 3d at 641-42 (rejecting defendants' argument that plaintiffs "incorrectly" alleged market share; disagreement with plaintiffs' market-share calculation "is not a basis for dismissal"). The SAC plausibly relies on the Reports because Datacomp is alleged to be "the most comprehensive source" of MHC market data, and the Reports are alleged to be the "industry standard." SAC ¶¶ 101-107; Figs. 1, 5-6, 9, 16. Whether additional communities should be included in the denominator for market share analysis is an expert issue for discovery.

In sum, Plaintiffs allege both direct evidence of anticompetitive effects and indirect evidence of market power. Defendants' attempt to isolate market share from anticompetitive effects reverses the proper inquiry. Market share is only one way to estimate market power. Direct evidence that the challenged conduct actually produced supracompetitive prices and reduced price competition in the relevant market is the more probative showing of anticompetitive effects. Because the SAC alleges both, Count 2 should not be dismissed.

D. Plaintiffs State a Viable Unjust Enrichment Claim

The SAC's unjust enrichment claim is based on the same underlying conduct as Counts 1 and 2. Because Counts 1 and 2 should move forward, Count 3 should as well. *See* MTD Order at 41-42.

IV. CONCLUSION

For the foregoing reasons, Plaintiffs respectfully request that the Court deny Defendants' Joint Motion to Dismiss.

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Respectfully submitted,

By: */s/ Adam J. Levitt*

DiCELLO LEVITT LLP

Adam J. Levitt (Liaison Counsel)
Ten North Dearborn Street, Sixth Floor
Chicago, Illinois 60602
(312) 214-7900
alevitt@dicellolevitt.com

Gregory S. Asciolla (*pro hac vice*)
Geralyn J. Trujillo (*pro hac vice*)
Jonathan S. Crevier (*pro hac vice*)
Noah Cozad (*pro hac vice*)
485 Lexington Avenue, Suite 1001
New York, New York 10017
(646) 933-1000
gasciolla@dicellolevitt.com
gtrujillo@dicellolevitt.com
jcrevier@dicellolevitt.com
ncozad@dicellolevitt.com

HAUSFELD LLP

Reena Gambhir (*pro hac vice*)
Jose Roman Lavergne (*pro hac vice*)
1200 17th Street N.W.
Washington, DC 20036
(202) 540-7200
rgambhir@hausfeld.com
jlavergne@hausfeld.com

Scott Martin (*pro hac vice*)
Kyle Bates (*pro hac vice*)
Kartik S. Madiraju (*pro hac vice*)
33 Whitehall Street, 14th Floor
New York, New York 10004
(646) 357-1100
smartin@hausfeld.com
kbates@hausfeld.com
kmadiraju@hausfeld.com

Megan E. Jones (*pro hac vice*)
580 California Street, 12th Floor

San Francisco, California 94104
(415) 633-1908
mjones@hausfeld.com

Interim Co-Lead Class Counsel for the Proposed Class