

**STATE OF ILLINOIS
HUMAN RIGHTS COMMISSION**

IN THE MATTER OF THE REQUEST)	
FOR REVIEW BY:)	CHARGE NO.: 2011CH1614
)	HUD NO.: N/A
BENNY EBERHARDT and)	ALS NO.: 12-0309
MARTINIA EBERHARDT,)	
)	
Petitioner.)	

ORDER

This matter coming before the Commission by a panel of three, Commissioners Hamilton Chang, Steve Kim, and Robert A. Cantone presiding, upon the Request for Review (“Request”) of Benny Eberhardt and Martinia Eberhardt (“Petitioners”), of the Notice of Dismissal issued by the Illinois Department of Human Rights (“Respondent”)¹ of Charge No. 2011CH1614 and the Commission having reviewed all pleadings filed in accordance with 56 Ill. Admin. Code, Ch. XI, Subpt. D, § 5300.400, and the Commission being fully advised upon the premises;

NOW, THEREFORE, it is hereby **ORDERED** that the Respondent’s dismissal of Petitioner’s charge for **LACK OF SUBSTANTIAL EVIDENCE** is **SUSTAINED**.

DISCUSSION

On November 17, 2010, the Petitioners filed a charge of discrimination with the Respondent alleging that 607 W. Buckingham Condominium Association (“Association”) discriminated against them because of their race, and as retaliation for filing a 2007 racial discrimination charge, by refusing to repair flood damage, threatening them with a lawsuit for unpaid assessments, not allowing them to inspect financial records, and refusing to hold Association board meetings at a neutral site, in violation of Sections 3-102(B) and 6-101(A) of the Illinois Human Rights Act (“Act”).

On January 20, 2012, the Respondent dismissed the Petitioner’s charge in its entirety. The Petitioner filed a timely Request.

Section 3-102(B) prohibits altering the “terms, conditions, or privileges” of a real estate transaction based on racial discrimination. Petitioners must show that they were members of a protected class; the Association was aware of their membership; the Association subjected them to an adverse action; the Association did so because of Petitioners’ membership in a protected class; and the Association treated similarly situated condominium owners who were not members of that class more favorably under similar circumstances. As to the flood damage, potential lawsuit, and financial records, Petitioners have failed to provide evidence that any similarly-situated condominium owners were treated more favorably. As to the location of board meetings, Petitioners have not shown that this constitutes an adverse action.

¹ In a request for review proceeding, the Illinois Department of Human Rights is the “Respondent.” The party to the underlying charge requesting review of the Illinois Department of Human Rights’s action shall be referred to as the “Petitioner.”

Further, the Association articulated legitimate, non-discriminatory reasons for its actions: that Petitioners had never filed a formal claim for water damage to their basement (which Petitioners admit), and Petitioners were delinquent in paying their regular and special assessments. The Association consulted an attorney about Petitioners' delinquency, but did not file legal action against Petitioners. The Association provided Petitioners with the relevant financial records. Petitioners have not shown that these reasons were pretextual.

A *prima facie* case of retaliation requires evidence that the Petitioners engaged in a protected activity, that they suffered an adverse action, and that there is evidence of a causal connection between the protected activity and the adverse action. See Welch v. Hoeh, 314 Ill. App. 3d 1027,1035, 733 N.E.2d 410, 416 (3rd Dist. 2000). Even assuming Petitioners met the *prima facie* standard, the Association produced legitimate, nondiscriminatory reasons for its actions, and Petitioner has not proved that these reasons are a pretext for discrimination. Zaderaka v. Illinois Human Rights Comm'n, 131 Ill. 2d 172, 179 (1989).

Accordingly, the Petitioners have not presented any evidence to show that the Respondent's dismissal of the charge was not in accordance with the Act.

THEREFORE, IT IS HEREBY ORDERED THAT:

1. The dismissal of the Petitioners' charge is hereby **SUSTAINED**.
2. This is a final Order. A final Order may be appealed to the Appellate Court by filing a petition for review, naming the Illinois Human Rights Commission, the Illinois Department of Human Rights, and 607 W. Buckingham Place Condominium Association, as respondents, with the Clerk of the Appellate Court within 35 days after the date of service of this Order.

STATE OF ILLINOIS)
) **Entered this 10th day of October 2018.**
HUMAN RIGHTS COMMISSION)

Commissioner Robert A. Cantone

Commissioner Hamilton Chang

Commissioner Steve Kim