

**STATE OF ILLINOIS
HUMAN RIGHTS COMMISSION**

IN THE MATTER OF THE REQUEST)	
FOR REVIEW BY:)	CHARGE No.: 2014 CH 0807
)	HUD No.: 05-13-1478-8
Myron E. Davis,)	ALS No.: 14-0471
)	
Petitioner.)	

ORDER

This matter coming before the Commission by a panel of three, presiding upon the Matter of Petitioner Myron E. Davis' (Petitioner) Request for Review (Request) of the Notice of Dismissal issued by the Illinois Department of Human Rights (Respondent¹), of Charge 2014CH0807 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 in the premises;

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

DISCUSSION

On September 25, 2013, the Petitioner filed a charge of discrimination based on race and ancestry with the Department alleging that realtor Santiago Sanchez and Reiner Real Estate Inc., (hereinafter "Listing Agent" and "Realty Agency" respectively) violated Sections 804a and 804b of Title VIII of the Civil Rights Act of 1968 as amended by the Fair Housing Act of 1988 and Sections 3-102(A) and 3-102(B) of the Illinois Human Rights Act. 775 ILCS 5/1-101, *et.seq.* The Department dismissed the Petitioner's charge for lack of substantial evidence. The Petitioner filed a timely request.

The Commission concludes that the Respondent properly dismissed the Petitioner's charge for lack of substantial evidence. If no substantial evidence of discrimination exists after the Respondent's investigation of a charge, the charge must be dismissed. 775 ILCS 5/7A-102(D). Substantial evidence exists when the evidence is such that a reasonable mind would find the evidence sufficient to support a conclusion. In re Request for Review of John L. Schroeder, IHRC, Charge No. 1993CA 2747, 1995 WL 793258, (March 7, 1995).

¹ In a Request for Review Proceeding, the Illinois Department of Human Rights is the "Respondent." The party to the underlying charge who is requesting review of the Department's action shall be referred to as the "Petitioner."

The Petitioner and his real estate agent viewed a house that was listed as a “short sale” in Markham, Illinois, on December 20, 2012. That same day, the Petitioner made an offer to purchase the property at the listed asking price, \$62,000. The Petitioner provided a pre-approval letter from his lender with the offer. The offer was rejected on December 26, 2012. The Listing Agent suggested that another offer be submitted. He also requested additional documentation and indicated that the Petitioner would be required to arrange for a home inspection. The Petitioner’s realtor balked at having his client pay for an inspection since a contract had not been signed.

There were several emails and calls between the Listing Agent and the Petitioner’s realtor that reveal requests for documents by the listing agent and some push-back from the Petitioner’s realtor. It appears that through his realtor, the Petitioner provided the requested documentation, even though the agent questioned the bases for some of these requests.

Shortly after the rejection of the Petitioner’s offer, the purchase price was reduced. The Petitioner submitted an offer for the original, higher list price of \$62,000. By that time, another prospective buyer, wanted to make an offer and a “multiple offer” sheet was presented by the Realtors to the seller. The seller accepted a cash offer of \$55,000.

The Petitioner’s charge alleged that the Listing Agent and Realty Agency, together “Realtors”, refused to sell him real property because of his race, Black, and ancestry, USA, preferring instead to sell to a buyer who is Hispanic. (Counts A and C).

In order to establish a *prima facie* case for the refusal to sell real estate based on race and ancestry, the Petitioner must show that 1) he is a member of a protected group; 2) he applied for and was qualified to purchase the housing; 3) he was denied the opportunity; and 4) after the opportunity was denied, the opportunity was offered to others not in the protected group. Turner v. Human Rights Comm’n, 177 Ill. App. 3d 476, 487, 532 N.E.2d 392, 398 (1st Dist. (1988)). The seller must then state a reason for refusing to sell. After stating the reason, the complaining party must show the reason is a mere pretext, either by direct evidence that a discriminatory reason more likely motivated respondent or by indirect evidence that the respondent’s explanation is unworthy of belief. Turner at 488.

At the outset, it must be noted that the Realtors are not the sellers. The Petitioner’s charge should have named the seller, for ultimately it was her decision as to whether to accept his offer. Even assuming the Realtors were the correct party and that he established a *prima facie* case, he failed to establish any connection between his protected class and the seller’s acceptance of the other offer.

Although not advertised as a cash sale, the cash offer was the better offer for this seller because there was no contingency. The Petitioner here was unable to establish that the seller's explanation is unworthy of belief or that it was based on a discriminatory motive. Indeed, the seller articulated that she had previously accepted an offer that required an inspection and that it had fallen through because the house had failed the inspection.

The Petitioner further alleged that the Realtors subjected him to discriminatory terms, conditions, privileges, or services and facilities because of his race and ancestry. (Counts B and D). He points to a delay in his being able to view the property and requests for what he characterizes as duplicative paperwork together as evidence of the Realtors' discrimination. He failed to establish however, any evidence of discriminatory animus. The record is devoid of any statements, comments, or conduct that would suggest that the Realtors discriminated against him during his attempt to purchase the property.

Accordingly, the Petitioner has 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 Petitioner's 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, Santiago Sanchez, and Reiner Real Estate Inc. as respondents, with the Clerk of the Appellate Court within 35 days after the date of service of this Order.

STATE OF ILLINOIS

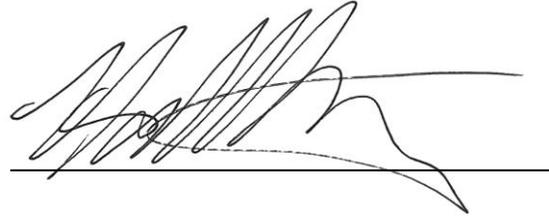
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Entered this 7th day of November 2018

HUMAN RIGHTS COMMISSION

Commissioner Robert A. Cantone

Commissioner Hamilton Chang



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Commissioner Steve Kim



A handwritten signature in black ink, appearing to read 'Steve Kim', written over a horizontal line.