

**STATE OF ILLINOIS  
HUMAN RIGHTS COMMISSION**

IN THE MATTER OF THE REQUEST	)	
FOR REVIEW BY:	)	CHARGE NO.: <b>2015CH0314</b>
	)	HUD NO.: <b>05-14-1358-8</b>
<b>John Lugo</b>	)	ALS NO.: <b>15-0065</b>
	)	
Petitioner	)	

**ORDER**

This matter coming before the Commission by a panel of three, Chair Rose Mary Bombela-Tobias and Commissioners Patricia Bakalis Yadgir and Duke Alden presiding, upon John Lugo’s (“Petitioner”) Request for Review (“Request”) of the Notice of Dismissal issued by the Illinois Department of Human Rights (“Respondent”)<sup>1</sup> of Charge No. 2015CH0314 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, **WHEREFORE**, it is hereby **ORDERED** that the Respondent’s dismissal of the Petitioner’s charge for **LACK OF SUBSTANTIAL EVIDENCE** is **SUSTAINED**.

**DISCUSSION**

On August 7, 2014 Petitioner filed an unperfected charge of discrimination with Respondent perfected on August 18, 2014, alleging that Allen Snyder (“Snyder”) refused to sell him real estate property on or about June 11, 2014, because of his national origin or ancestry, Hispanic, in violation of Section 3-102(A) of the Illinois Human Rights Act (“Act”).

On November 18, 2014, the Respondent dismissed the Petitioner’s charge in its entirety. The Petitioner filed a timely Request on February 19, 2015.

The Commission concludes that the Respondent properly dismissed the Petitioner’s charge of 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. 1993CA2747, 1995 WL 793258, \*2 (March 7, 1995).

The record shows that Fannie Mae was the owner of the condominium located at 11915 Lawndale #2C3, Alsip, IL (“property”) which was in foreclosure. Fannie Mae had an agreement with Snyder, Broker/Owner of REMAX Partners to list and market units when they become available for

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<sup>1</sup> 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.”

sale. Fannie Mae offered Snyder the opportunity to list and market the property. The listing price was \$24,800.00 with a listing expiration date of July 25, 2014. Petitioner submitted a cash offer of

\$23,300.00 through Homepath by his realtor. Petitioner signed the contract and paid \$1000 for the earnest money. On June 6, 2014, Snyder received the following 3 offers via Homepath: Robert G. Becker ("Becker") (non-Hispanic, \$26,500.00; Petitioner, \$23,300.00 and Patrick Szupernak ("Szupernak") (non-Hispanic). Snyder submitted all three offers to Fannie Mae. On June 9, 2014, Fannie Mae accepted Becker's offer which was the best offer of all three. Per their real estate contract, the purchase price was \$26,600.00. Becker executed the agreement on June 12, 2014. Snyder never met Petitioner, Becker or Szupernak and was unaware of their race, national origin, or ancestry.

To establish a *prima facie case* for refusal to sell real estate based on national origin or ancestry, Petitioner must show that: 1) he is a member of the protected class; 2) Snyder was aware of his protected class; 3) Petitioner was qualified ready, willing and able to buy consistent with Snyder's terms and conditions; 4) Snyder refused to sell and the property remained available, or Snyder sold the property to a similar or lesser qualified person from a comparable class of persons. See, *Hsu v. HRC*, 180 Ill.App.3d 949 (1<sup>st</sup> Dist. 1989).

Housing discrimination cases have been analyzed using the three-pronged approach commonly reserved for employment discrimination cases. See *McDonnell-Douglas Corp. v. Green*, 411 U.S. 792 (1973) and *Texas Department of Community Affairs v. Burdine*, 450 U.S. 248 (1981). Once the Petitioner has established his *prima facie case*, then Snyder can then rebut the *prima facie case* by articulating a legitimate, non-discriminatory reason for refusing to sell the property to Petitioner. See *Turner v. Illinois Human Rights Commission* (1<sup>st</sup> Dist. 1988), 177 Ill.App.3d 476, 485, 126 Ill.Dec. 707, 712, 532 N.E.2d 392, 397, citing *Hamilton v. Svatik* (7th Cir.1985), 779 F.2d 383. After articulation of such reason, Petitioner must then show Snyder's reason for refusal to sell the property was a mere pretext for unlawful national origin or ancestry discrimination, 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 v. Illinois Human Rights Commission* (1<sup>st</sup> Dist. 1988), 177 Ill. App.3d 476, 488, 126 Ill.Dec. 707, 714, 532 N.E.2d 392, 399, citing *Texas Department of Community Affairs v. Burdine* (1981), 450 U.S. 248, 101 S.Ct. 1089, 67 L.Ed.2d 207.

Petitioner is unable to satisfy the second and fourth prongs of his *prima facie case*. Petitioner believed Snyder was aware of his national origin or ancestry because his last name would identify him as Hispanic. However, Snyder had never met with any of the potential buyers. Snyder tendered the offers to Fannie Mae and was unaware of their race, national origin or ancestry as it was Fannie Mae who made the final decision regarding the sale of the property, not Snyder. In this case, Fannie Mae simply selected the best offer which was unrelated to national origin or ancestry. Petitioner cannot point to any statement or conduct, directly or indirectly, which would be demonstrative that Snyder

harbored a discriminatory animus towards him based on his national origin or ancestry. Thus, Snyder articulated a legitimate nondiscriminatory reason for refusal to sell the property to Petitioner and was not a pretext. As to the fourth prong, there is also no proof that Snyder sold the property to a lesser qualified non-Hispanic buyer or accepted Becker's offer due to his national origin or ancestry.

By analogy to the employment discrimination cases, in the absence of any evidence that the business consideration relied upon by Snyder is a pretext for discrimination, it is improper to substitute judgment for the business judgment of the employer. See *Berry and State of IL, Dept. of Mental Health and Developmental Disabilities*, IHRC, ALS no. S-1946, Charge No. 1994SA0240 (December 10, 1997). Additionally, Snyder is entitled to make business decisions based on its reasonable belief surrounding the situation. "Respondent may take its action for good reason, bad reason, reason based upon erroneous facts, or for no reason at all, as long as its action is not for a discriminatory reason... The correctness of the reason is not important as there was good faith belief by Respondent in its decision..." See *Carlin v. Edsal Manufacturing Co.*, 1996 WL 652580, Charge No. 1992CN3428 (Ill.HRC, May 6, 1996). Thus, there is no substantial evidence to support Petitioner's position that Snyder refused to sell the property to him because of his national origin or ancestry.

In his Request for Review, there is no additional evidence provided by Petitioner to the contrary. Petitioner alleges for the first time that he was subjected to discriminatory conditions, privileges, or services and facilities because of his national origin or ancestry in that he had to pay back assessment and fines to buy the property while Becker did not. Since these issues were not included in Petitioner's discrimination charge, these allegations are outside the scope of his Request for Review. The Commission does not have jurisdiction to review new allegations or charges of discrimination [raised for the first time during request for review proceedings.] See 775ILCS 5/8-103.

Accordingly, the Petitioner has not presented substantial evidence to show that the Respondent's dismissal of the charge was not in accordance with the Act. Petitioner's Request is unpersuasive.

**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, and Allen Snyder 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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**HUMAN RIGHTS COMMISSION** )

**Entered this 17<sup>th</sup> day of December 2018.**

Chair Rose Mary Bombela-Tobias

Commissioner Patricia Bakalis Yadgir

Commissioner Duke Alden