

**STATE OF ILLINOIS  
HUMAN RIGHTS COMMISSION**

IN THE MATTER OF THE REQUEST	)	
FOR REVIEW BY:	)	CHARGE NO.: <b>2011CH0737</b>
	)	HUD NO.: <b>05-10-1766-8</b>
<b>BARBARA MEREDITH,</b>	)	ALS NO.: <b>11-0830</b>
	)	
Petitioners.	)	

**ORDER**

This matter coming before the Commission by a panel of three, Commissioners Nabi R. Fakroddin, Merri Dee<sup>1</sup>, and Lauren Beth Gash<sup>2</sup> presiding, upon Barbara Meredith's ("Petitioner") Request for Review ("Request") of the Notice of Dismissal issued by the Department of Human Rights ("Respondent")<sup>3</sup> of Charge No. 2011CH0737; and the Commission having reviewed *de novo* the Respondent's investigation file, including the Investigation Report and the Petitioner's Request, and the Respondent's response to the Petitioner's Request; and the Commission being fully advised upon the premises;

NOW, THEREFORE, it is hereby **ORDERED** that the Respondent's dismissal of the Petitioner's charge is **SUSTAINED** on the following ground:

**LACK OF SUBSTANTIAL EVIDENCE**

In support of which determination the Commission states the following findings of fact and reasons:

**A. PROCEDURAL HISTORY**

1. On September 13, 2010, the Petitioner filed a charge of discrimination with the Respondent. The Petitioner alleged Federal Square/Dearborn Townhome Association ("Association") and Legum & Morgan Midwest, LLC ("Management") subjected her to discriminatory terms, conditions, privileges, or services and facilities because of her race, Black, in violation of Section 3-102(B) of the Illinois Human Rights Act ("Act")
2. In Counts A and B, the Petitioner alleged that on or about August 25, 2010, the Association and Management subjected her to discriminatory terms, conditions, privileges, or services and facilities because of her race in that Association and Management used the Cook County Sheriff's Department to evict her from her townhome for not paying back assessment charges. The Petitioner further alleged that that she requested additional time to pay the past due assessment charges and her request was denied. Further, the Petitioner alleged that a white staff person refused to allow her to re-enter her

<sup>1</sup> This Order is in accordance with a vote cast by Commissioner Dee prior to the expiration of her term.

<sup>2</sup> This Order is in accordance with a vote cast by Commissioner Gash prior to the expiration of her term.

<sup>3</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 Department's action shall be referred to as the "Petitioner."

home to obtain personal items and valuables and instructed a locksmith to change the locks on her townhouse.

3. On September 8, 2011, the Respondent dismissed the Petitioner's charge for Lack of Substantial Evidence.
4. On October 31, 2011, the Petitioner filed a timely Request. On January 27, 2012, the Respondent filed its Response to the Petitioner's Request.

## **B. FACTUAL HISTORY, ALLEGATIONS, & ARGUMENTS**

1. The Petitioner was the owner of a townhouse at 1200 S. Federal, Unit C, Chicago, Illinois.
2. The Association is an Illinois not-for-profit corporation which is comprised of 117 townhome owners located on a real estate commonly known as 1200-1300 South Federal Street, Chicago, Illinois. Management is a Virginia limited liability company which manages the property for the Association.
3. The Association's Rules and Regulations state. "Your monthly assessment is due by the 15th of each month. You can contact your property manager to arrange for automatic debits/payments. For those paying manually, the check is to be made out to the Federal Square Town home Association and remitted to Vanguard Community Management in the envelop provided. All payments received after the 15th will be assessed a \$25.00 late fee. If any overdue payment is not paid in full before the 15th of the month in which the payment became due, a notice of default will be given to the delinquent unit owner. If any payment is not paid in full before the 15th of the month following the month in which the payment became due, the matter will be turned over to the Association's legal counsel, who will proceed to take appropriate legal action against the delinquent unit owner. All reasonable Attorney's fees incurred in connection with the collection or attempting to collect any amount due shall be charged to and paid by the delinquent unit owner."
4. The Association's Policy states. "Any assessment which is not paid when due shall be deemed delinquent. If an assessment is not paid within ten (10) days after the delinquency date, such assessment shall bear interest at the rate provided in Section 10(a) from the delinquency date and the Board may impose a late fee as provided in Section 10(a). In the event of the failure of any Townhome Owner to pay any assessment, maintenance charge, interest charge, late fee or other fees or costs of collection, when due, the amount thereof shall constitute a lien on the Townhome Owner. In the event such Townhome Owner fails to pay such assessment within thirty (30) days after the notice from the Board of such default, the Board may accelerate the maturity of the remainder of the installments of assessments due for such Townhome of such Townhome Owner for the balance of the calendar year or the following six month period and may enforce collection thereof. The Board shall, in the name of or on behalf of the Association, have all rights and remedies to enforce

*In the Matter of the Request for Review by: Barbara Meredith*

such collections as shall from time to time be permitted by law, including bringing an action at law or in equity against such Townhome Owner and foreclosing the aforesaid lien. All expenses of the Association in connection with such action or proceedings, whether or not suit shall be instituted, including attorneys' fees and court costs and other fees and expenses shall be charged and assessed against such Townhome Owner (and shall constitute a personal liability of such Townhome Owner) and shall be added to and deemed a part of his assessments and the Association shall have a lien for all of the same upon the Townhome of such Townhome Owner."

5. At the time of the alleged civil rights violation, the Petitioner's monthly assessment payment was \$250.00. That from January 2009, through February 2010, the Petitioner had financial difficulties and was unable to pay her monthly assessments. Moreover, the Petitioner's assessment checks for the months of March and April 2009, were returned to the Association by the Petitioner's bank due to insufficient funds in Petitioner's checking account.
6. From January 2009, through February 2010, the Petitioner owed the Association approximately \$3,000.00 based on the non-payment of her assessments, attorneys' fees, and other collection fees. the Petitioner alleged that in or about September or October 2009, she contacted her bank with whom she had entered into a forbearance agreement and was told that the bank would pay her mortgage and real estate taxes, however, the Petitioner would be responsible for her monthly assessments. Thus, the Petitioner knew that she was responsible for paying her monthly assessments.
7. On December 4, 2009, the Association sent the Petitioner a demand letter for possession letter wherein the Association informed the Petitioner that she was in default of her assessments from February 1, 2009, to December 1, 2009, for the total amount of \$3,469.71 which included assessment late fees, returned check fees and attorney's fees.
8. On January the Association filed a complaint to recover monies owed for non- payment of her assessments, attorney's fees, late fees, and costs.
9. On January 27, 2010, the Association filed a Condominium Claim for Lien against the Petitioner with the Cook County Circuit Court, alleging that the Petitioner owed the Association \$3,020.00, plus attorneys' fees, costs and interest.
10. On March 4, 2010, the Association sought and was granted an order of possession by the Circuit Court of Cook County because the Petitioner failed to pay her assessments, fees, and costs. Further, on March 4, 2010, the Petitioner and the Association entered into an agreed Order of Possession wherein the Petitioner would pay \$3,845.00 in unpaid assessments, \$1,526.75, for legal fees, and \$444.71 in costs by June 2, 2010 and the Association would stay the proceedings until that time.
11. On June 2, 2010, the Petitioner failed to make the payments to the Association. On August 25, 2010, the Cook County Sheriff's Department enforced the Association's Order of Possession against the Petitioner by evicting the Petitioner from her townhome. The

Association then proceeded to change the locks to the Petitioner's townhome. On September 10, 2010, the Petitioner paid her arrearages attorneys' fees, and other costs and the Association returned the Petitioner's townhome keys to her.

12. The following non-black townhome owners, Everett Darby and Gina A. Towns-Spencer ("Darby and Spencer"), John Stanton ("Stanton") ("Stanton"), Aul Tam and Kathy S. Tam ("Tam") and Joseph Stinich ("Stinich") were all treated the same as the Petitioner under similar circumstances
13. In her request the Petitioner that the Association violated her due process rights with a wrongful eviction. The Petitioner further argued that White townhome owners were treated more favorably under similar circumstances.
14. In its response, the Respondent asks the Commission to sustain its dismissal of the Petitioner's charge for Lack of Substantial Evidence. The Respondent argued that the Petitioner failed to establish a *prima facie* case of discrimination.

### **C. DISCUSSION & DETERMINATION**

The Commission concludes that the Respondent properly dismissed all counts of 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. See 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. See *In re Request for Review of John L. Schroeder*, IHRC, Charge No. 1993CA2747, 1995 WL 793258, \*2 (March 7, 1995).

In the Petitioner's matter the Commission finds that the evidence was insufficient to establish a *prima facie* case of housing discrimination. Generally to establish a *prima facie* case of housing discrimination, the evidence must show: (1) that the Petitioner a member of a protected class; (2) the Association was aware of the Petitioner's protected class; (3) the Association took an adverse action against the Petitioner because of her protected class; and (4) the Association treated a similarly situated townhome owner outside the Petitioner's protected class more favorably under similar circumstances. See *Turner v. Human Rights Commission*, 177 Ill.App.3d 476, 488, 532 N.E.2d 392, 399 (1st Dist. 1988). In the Complaint's case the fourth elements were not established.

The Commission further finds that the Association articulated a non-discriminatory business reason for their actions and there was no evidence of pretext. The Association stated that the Petitioner was evicted because she fell behind on her assessments and it followed the proper steps to take possession of the Petitioner's townhome. In her Request, the Petitioner offered no evidence of pretext. In the absence of any evidence that the business consideration relied upon by the Association is a pretext for discrimination, it is improper to substitute judgment for the business judgment of the Association. See *Berry and State of Illinois, Department of Mental Health and Developmental Disabilities*, IHRC, ALS No. S-9146 (December 10, 1997).

**D. CONCLUSION**

Accordingly, it is the Commission's decision that the Petitioner has not presented any evidence to show that the Respondent's dismissal of the Charge was not in accordance with the Act. The Petitioners' Request is not persuasive.

**THEREFORE, IT IS HEREBY ORDERED THAT:**

The dismissal of Petitioner's charge is hereby **SUSTAINED**.

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, Federal Square/Dearborn Townhome Association, and Legum & Morgan Midwest, LLC as Respondents, with the Clerk of the Appellate Court within 35 days after the date of service of this order.

STATE OF ILLINOIS                    )  
  )  
HUMAN RIGHTS COMMISSION        )

**Entered this 3<sup>rd</sup> day of December 2018.**

Commissioner Nabi R. Fakroddin

Commissioner Merri Dee

Commissioner Lauren Beth Gash