

STATE OF INDIANA  
CIVIL RIGHTS COMMISSION

DOCKET NO. HOha10030139  
HUD NO. 05-10-0862-8

JAMAL SMITH, in his official capacity as EXECUTIVE  
DIRECTOR, INDIANA CIVIL RIGHTS COMMISSION;

FILE DATED

Complainant,

v.

AUG 27 2010

TIM ZENDER, PARTNER; and ZENDER FAMILY LIMITED  
PARTNERSHIP;

Respondents.

**FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER**

On July 30, 2010, Robert D. Lange, Administrative Law Judge ("ALJ") for the Indiana Civil Rights Commission ("ICRC"), entered his Proposed Findings Of Fact, Conclusions Of Law, And Order ("the proposed decision").

No objections have been filed to the ICRC's adoption of the proposed decision.

Having carefully considered the foregoing and being duly advised in the premises, the ICRC hereby adopts as its own the findings of fact, conclusions of law, and order proposed by the ALJ in the proposed decision, a copy of which is attached hereto and incorporated herein by reference.

**INDIANA CIVIL RIGHTS COMMISSION**

  
COMMISSIONER

  
COMMISSIONER

  
COMMISSIONER

  
COMMISSIONER

Dated: 27 August 2010

To be served by first class mail on the following parties and attorneys of record:

Chris Kirschner  
c/o Jake Hale  
1521 South Alabama Street  
Indianapolis, IN 46225

Tim Zender, Limited Partner  
Zender Family Limited Partnership  
1321 North Meridian Street, Suite 211  
Indianapolis, IN 46202

Zender Family Limited Partnership  
c/o Tim Zender, Limited Partner  
1321 North Meridian Street, Suite 211  
Indianapolis, IN 46202

DUE DOYLE FANNING, LLP  
BY: Danford R. Due, Esq.  
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Partnership  
900 Circle Tower Building  
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Indianapolis, IN 46204

BOSE McKINNEY & EVANS LLP  
BY: David L. Swider, Esq. and Emily L. Yates, Esq.  
Attorneys for Respondents Tim Zender, Limited Partner and Zender Family Limited  
Partnership  
55 Monument Circle  
Indianapolis, IN 46204

and to be personally served on the following:

Frederick S. Bremer, Esq.; Staff Attorney  
Indiana Civil Rights Commission  
Indiana Government Center North  
100 North Senate Avenue, Room N103  
Indianapolis, IN 46204-2255

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JAMAL SMITH, in his official capacity as EXECUTIVE  
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Complainant,

v.

TIM ZENDER, PARTNER; and ZENDER FAMILY LIMITED  
PARTNERSHIP;

FILE DATED

JUL 30 2010

Respondents.

Indiana State Civil Rights Commission

**PROPOSED FINDINGS OF FACT, CONCLUSIONS OF LAW,  
AND ORDER**

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On July 19, 2010, Respondents – Tim Zender, Partner and Zender Family Limited Partnership (collectively “Zender”), filed their Notice Of Election (“NOTICE”).

Having carefully considered the foregoing and being duly advised in the premises, the undersigned Administrative Law Judge (“ALJ”) for the Indiana Civil Rights Commission (“ICRC”) proposes that the ICRC enter the following findings of fact, conclusions of law, and order.

**FINDINGS OF FACT**

1. On June 30, 2010, the Director of the ICRC issued his NOTICE OF FINDING AND ISSUANCE OF CHARGE (“NOTICE AND CHARGE”). The NOTICE AND CHARGE found reasonable cause to believe that the Zender had committed a violation of the Indiana Fair Housing Act, IC 22-9.5 (“the IFHA”) by refusing to rent residential real estate to Complainant Chris Kirschner (“Kirschner”) because of disability as had been alleged in

the complaint Kirschner had filed with the ICRC on March 29, 2010. See HOUSING DISCRIMINATION COMPLAINT (March 29, 2010) ("COMPLAINT").

2. Zender has denied the allegations of unlawful discrimination. ANSWER (April 16, 2010).
3. The NOTICE was filed within 20 days of his receipt of the reasonable cause finding.
4. Any Conclusion Of Law that should have been deemed a Finding Of Fact is hereby adopted as such.

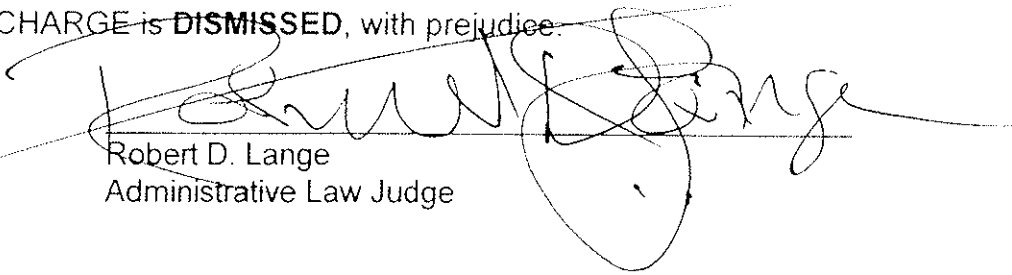
### **CONCLUSIONS OF LAW**

1. Under the IFHA, a complainant, a respondent, or an aggrieved person may elect to have the claims asserted in a reasonable cause finding decided in a civil action. IC 22-9.5-6-12(a).
- ~~2. Such an election must be made within 20 days after receipt by the electing party of the reasonable cause finding. IC 22-9.5-6-12(a).~~
3. The election in the NOTICE was made in a timely manner.
4. Housing Rule 7.9(a) of the ICRC provides, in material part, as follows:  
(If ... the respondent ... makes a timely election to have the claims asserted in the charge asserted in a civil action under IC 22-9.5-6-12, the administrative law judge shall dismiss the proceeding..  
910 IAC 2-7-9(a).
5. This complaint must be dismissed under 910 IAC 2-7-9(a).
6. Administrative review of this proposed decision may be obtained by the filing of a writing identifying with reasonable particularity each basis of each objection within 15 days after service of this proposed decision. IC 4-21.5-3-29(d).
7. Any Finding Of Fact that should have been deemed a Conclusion Of Law is hereby adopted as such.

## ORDER

1. Kirschner's COMPLAINT is **DISMISSED**, with prejudice.
2. The NOTICE AND CHARGE is **DISMISSED**, with prejudice.

Dated: 30 July 2010



Robert D. Lange  
Administrative Law Judge

To be served by first class mail this 30<sup>th</sup> day of June, 2010 on the following parties and attorneys of record:

Chris Kirschner  
c/o Jake Hale  
1521 South Alabama Street  
Indianapolis, IN 46225

Tim Zender, Limited Partner  
Zender Family Limited Partnership  
1321 North Meridian Street, Suite 211  
Indianapolis, IN 46202

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c/o Tim Zender, Limited Partner  
1321 North Meridian Street, Suite 211  
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BOSE McKINNEY & EVANS LLP  
BY: David L. Swider, Esq. and Emily L. Yates, Esq.  
Attorneys for Respondents Tim Zender, Limited Partner and Zender Family Limited  
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and to be personally served this 30<sup>th</sup> day of June, 2010 on the following:

Jamal Smith, Executive Director  
Indiana Civil Rights Commission  
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100 North Senate Avenue, Room N103  
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Frederick S. Bremer, Esq.; Staff Attorney  
Indiana Civil Rights Commission  
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