

STATE OF INDIANA
CIVIL RIGHTS COMMISSION

DOCKET NO. HOr05090511
HUD NO. 05-05-1650-8

PHILLIP J.E. JOHNSON, and FLORA
JOHNSON;

Complainants,

FILE DATED

JUL 21 2006

vs.

SHORDON ESTATES COMMUNITY
ASSOCIATION, INC.;

Indiana State Civil Rights Commission

Respondent.

FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER


On February 16, 2005, 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: 21 July 2006

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

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and to be personally served on the following:

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c/o The Honorable Gregory Kellam Scott, Director
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vs.

SHORDON ESTATES COMMUNITY
ASSOCIATION, INC.;

Respondent.

FILE DATED

MAY 26 2006

Indiana State Civil Rights Commission

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

On May 18, 2006, Complainants, Phillip J.E. Johnson and Flora Johnson ("the Johnsons"), filed their Motion To Dismiss, a motion to which Respondent – Shordon Estates Community Association, Inc. ("SECA") - has not responded.

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. The Johnsons' complaint, as amended, alleges that SECA discriminated against them because of race in violation of the Indiana Fair Housing Act, IC 22-9.5 ("the IFHA"). COMPLAINT OF DISCRIMINATION (September 28, 2005), AMENDMENT TO COMPLAINT OF DISCRIMINATION (February 24, 2006).

2. SECA denied the Johnsons' claims of unlawful discrimination. ANSWER AND AFFIRMATIVE DEFENSES (October 31, 2005).
3. On February 22, 2006, the Director of the ICRC issued his NOTICE OF FINDING, finding reasonable cause to find that a violation of the IFHA had occurred.
5. Respondents have filed a notice of election to have this matter heard in court. MOTION, ¶1. A civil action has been filed in Allen County. MOTION, ¶2.
6. Any Conclusion Of Law that should have been deemed a Finding Of Fact is hereby adopted as such.

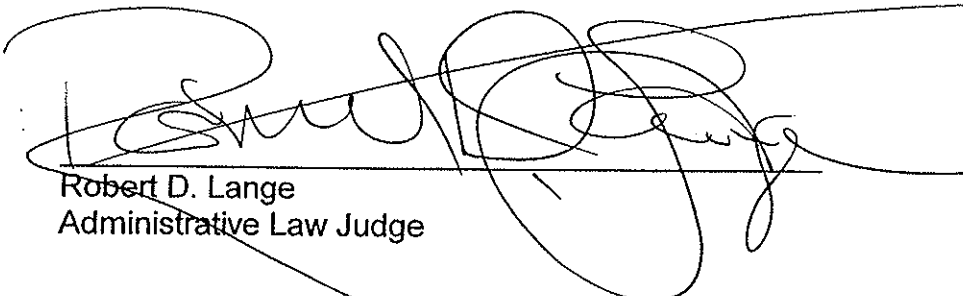
CONCLUSIONS OF LAW

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(b).
3. The election in the NOTICE was filed 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 specifying with reasonable particularity each basis for 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. The Johnsons' Motion To Dismiss is **GRANTED**.
2. The Johnsons' complaint, as amended, is **DISMISSED**, with prejudice.

Dated: 26 May 2006



Robert D. Lange
Administrative Law Judge

To be served by first class mail this 26th day of May, 2006 on the following parties and attorneys of record:

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and to be personally served this 26th day of May, 2006 on the following:

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