



FILED:  
May 18, 2023

STATE OF INDIANA  
OFFICE OF ADMINISTRATIVE LAW PROCEEDINGS

Gregory L. Wilson, Sr., in his official capacity  
as Executive Director of the Indiana Civil  
Rights Commission and Teresa Sparrow,  
Complainants,  
V.  
Advantix Property Management,  
Respondent.

Administrative Cause No.: ICRC-2304-001137

Underlying Agency Action No.:

HOha23010064

05-23-8025-8

*Subject to the Ultimate Authority of the Indiana Civil Rights Commission*

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

*Pursuant to IC 4-21.5 this Recommended Order is not final and shall be presented to the  
ultimate authority for issuance of a final order.*

**JURISDICTION**

The Commission of the Indiana Civil Rights Commission ("ICRC") has subject matter jurisdiction over housing and real estate discrimination complaints based on disability that are filed under the Indiana Fair Housing Act ("IFHA") and the Indiana Civil Rights Law ("ICRL"). IND. CODE § 22-9-1-2; IND. CODE § 22-9-1-6; IND. CODE § 22-9.5-4-1; IND. CODE § 22-9.5-5. When a finding of cause is made under the IFHA and ICRL, pursuant to the Commission's June 19, 2020, Finding of Necessity, the Office of Administrative Law Proceedings ("OALP") shall appoint an Administrative Law Judge ("ALJ") to preside over the matter and to conduct a hearing. IND. CODE § 22-9-1-6; IND. CODE § 22-9.5-6-14; IND. CODE § 4-15-10.5-12; IND. CODE § 4-15-10.5-13.

**ISSUE**

Is Respondent's Notice of Election ("Notice") successful in moving this matter out of the administrative forum?

**FINDINGS OF FACT**

1. On April 26, 2023, the ICRC, after conducting a neutral investigation, made a reasonable cause and probable cause finding on Teresa Sparrow's January 27, 2023, complaint that alleged Respondent Advantix Property Management ("Respondent") violated the Indiana Fair Housing Act ("IFHA") and the Indiana Civil Rights Law ("ICRL") by discriminating against

Complainant on the basis of her disability by unreasonably denying Complainant's request for a reasonable accommodation.

2. Respondent received the April 26, 2023, Notice of Finding and Issuance of Charge on May 3, 2023.
3. The Notice was filed on May 17, 2023, by Respondent.
4. The Notice was served on the following: Teresa Sparrow (aggrieved person), the ICRC Staff Attorney of Record, the ICRC Docket Clerk, and the undersigned ALJ.
5. By the date the Notice was filed, a hearing had not yet begun in this matter.
6. Any Conclusion of Law that should have been deemed a Finding of Fact is hereby adopted as such.

#### CONCLUSIONS OF LAW

##### *Election under the Indiana Fair Housing Act*

1. "A complainant, a respondent, or an aggrieved person on whose behalf the complaint was filed may elect to have the claims asserted in a finding of reasonable cause decided in a civil action..." IND. CODE § 22-9.5-6-12. According to the Notice of Finding and Issuance of Charge, "reasonable cause" was found; therefore, an opportunity to elect out of the administrative forum existed under the IFHA with respect to the "reasonable cause" claim.
2. "The notice of the election must be filed with the docket clerk of the ICRC and serviced on the director, the respondent, and the aggrieved persons on whose behalf the complaint was filed." 910 IAC 2-6-6(h)(2). The Notice was appropriately served.
3. If a complete and timely election is made, then "...the administrative law judge shall dismiss the administrative proceeding." 910 IAC 2-7-9(a).
4. An election by a Respondent must be made under the IFHA within "...twenty (20) days after the date of receipt by the electing person..." IND. CODE § 22-9.5-6-12(b). Respondent's deadline for filing the Notice was May 23, 2023. The Notice was timely filed.
5. Accordingly, Respondent's IFHA Notice is effective such that the ICRC shall dismiss the IFHA claim pending in the administrative forum.

##### *Election under the Indiana Civil Rights Law*

6. Indiana Code 22-9-1-16 allows parties to "...elect to have the claims that are the basis for a finding of probable cause decided in a civil action..." IND. CODE § 22-9-1-16(a). According to the Notice of Finding and Issuance of Charge, "probable cause" was found; therefore, an opportunity to elect out of the administrative forum existed under the ICRL with respect to the "probable cause" claim.

7. In order to make such an election, "...both the respondent and the complainant must agree in writing to have the claims decided in a court of law." IND. CODE § 22-9-1-16(a); 910 IAC 1-3-6. The Parties are not in agreement as to the election.
8. The election must be made on the form provided to the Parties by the ICRC and must be served on all Parties. IND. CODE § 22-9-1-16(a); 910 IAC 1-5-1(b). The Notice was not made on ICRC's form.
9. An election is considered untimely if the election is made after a hearing on the merits of the complaint has begun. IND. CODE § 22-9-1-16(b). The Notice was timely filed.
10. "If all parties have filed a timely election to proceed in circuit or superior court, the commission shall dismiss the case, without prejudice. Such dismissal shall be sufficient to exhaust all administrative remedies in the case." 910 IAC 1-3-6.
11. Accordingly, the Notice is not effective and the ICRC shall not dismiss the ICRL claim pending in the administrative forum.
12. Any Finding of Fact that should have been deemed a Conclusion of Law is hereby adopted as such, and this Order's Statement of Jurisdiction is incorporated into these Conclusions of Law.

#### DECISION

1. The Notice is GRANTED in part and DENIED in part.
2. The Notice is not effective in moving the Complaint of Discrimination under the ICRL out of the administrative forum. The deadlines set in the May 18, 2023 Initial Prehearing Conference Order apply to the ICRL claim.
3. The Complaint of Discrimination under the IFHA against Respondent should be DISMISSED, with prejudice. 910 IAC 2-7-9(a).

This order becomes the final order disposing of the proceedings immediately upon affirmation under Indiana Code 4-21.5-3-29. IND. CODE § 4-21.5-3-27(a).

#### ADMINISTRATIVE REVIEW

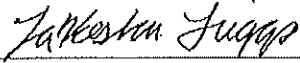
Administrative review of this Recommended Order may be obtained by Parties not in default by the filing of a writing identifying with reasonable particularity each basis of each objection within fifteen (15) days after service of this decision. IND. CODE § 4-21.5-3-29(d). Subject to Indiana Code 4-21.5-3-1, the filing of a document in proceedings before the Indiana Civil Rights Commission can be completed by mail, personal service, fax, or electronic mail to:

Docket Clerk  
c/o Indiana Civil Rights Commission  
100 North Senate Avenue, N300  
Indianapolis, IN 46204  
Fax: 317-232-6580

Email: [docketclerk@icrc.in.gov](mailto:docketclerk@icrc.in.gov)

A party shall serve copies of any filed item on all parties. IND. CODE § 4-21.5-3-17(c).

SO ORDERED: May 18, 2023



Hon. LaKesha Triggs, Administrative Law Judge  
Indiana Office of Administrative Law Proceedings  
100 North Senate Ave., Room N802  
Indianapolis, IN 46204  
(317) 234-6689

**Distribution List:**

*The following distribution list includes the names and mailing addresses of all known Parties and other persons to whom notice is being given. IC 4-21.5-3-18.*

Gregory L. Wilson, Sr.: 100 N. Senate, Suite 300, Indianapolis, IN 46204

Harlan Vondersaar\*: 100 N. Senate, Suite 300, Indianapolis, IN 46204

Teresa Sparrow: 215 College Avenue, Unit #005, Corydon, IN 47117

Advantix Property Management: 500 SE 10th Street, Evansville, IN 47710 9214 8901 0661 5400 0186 7712 57

Jeffrey Wilhite\*: 716 Adams Street Suite G, Carmel, IN 46032 9214 8901 0661 5400 0186 7714 00

Docket Clerk: Indiana Civil Rights Commission 100 North Senate Ave., Room N300 Indianapolis, IN 46204, [docketclerk@icrc.in.gov](mailto:docketclerk@icrc.in.gov)

*\*served in care of appearing attorney through ALP system at the email address on file with the Indiana Roll of Attorneys -- all other service by mail.*

---

ULTIMATE AUTHORITY'S FINAL ORDER

---

The below information is for the Ultimate Authority's use only. Circle, check, or fill in the blanks below. A Final Order has not been issued until all of the below information is filled out and re-served on the Parties.

Timely objections were/were not filed to the above Recommended Order. Timely briefs on objections (if any) were/were not filed. An oral argument on objections (if any) was/was not held.

On June 16, 2023, the Indiana Civil Rights Commission decided, by the majority vote of 6 out of the 6 Commissioners present to:

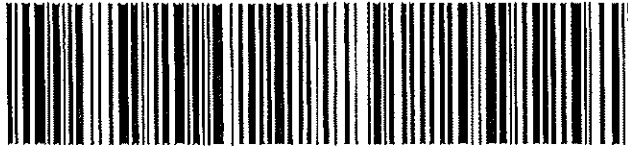
1. Affirm the above Recommended Order
2. Remand the above Recommended Order as further detailed in ICRC Attachment A.
3. Affirm the above Recommended Order with modifications as further detailed in ICRC Attachment A.

SO ORDERED this 16th day of June, 2023.

Chair: Adrienne L. Stolt; x Robert J. Clark

Unless the ICRC remanded this matter to the ALJ, then THIS IS A FINAL ORDER. A Party to a dispute filed under IC 22-9 and/or IC 22-9.5 may, not more than thirty (30) days after the date of receipt of the Commission's final appealable order, appeal to the court of appeals under the same terms, conditions, and standards that govern appeals in ordinary civil actions. IC 22-9-8-1; IC 22-9.5-11-1.

MICHAEL C. LOSTUTTER  
INDIANA CIVIL RIGHTS COMMISSIO  
100 N SENATE AVE RM N300  
INDIANAPOLIS, IN 46204-2200



9214 8901 0661 5400 0186 7714 00

RETURN RECEIPT (ELECTRONIC)

HOha23010064  
ADVANTIX PROPERTY MANAGEMENT  
500 SE 10TH ST  
EVANSVILLE, IN 47713-1584

.....  
CUT / FOLD HERE

Zone 2

.....  
6X9 ENVELOPE  
CUT / FOLD HERE

.....  
CUT / FOLD HERE

MICHAEL C. LOSTUTTER  
INDIANA CIVIL RIGHTS COMMISSIO  
100 N SENATE AVE RM N300  
INDIANAPOLIS, IN 46204-2208



9214 8901 0661 5400 0186 7712 57

RETURN RECEIPT (ELECTRONIC)

HOha23010064

TERESA SPARROW  
215 COLLEGE AVE APT 5  
CORYDON, IN 47112-1352

.....  
CUT / FOLD HERE

Zone 2

.....  
6"X9" ENVELOPE  
CUT / FOLD HERE

.....  
CUT / FOLD HERE