

**STATE OF INDIANA
INDIANA CIVIL RIGHTS COMMISSION**

GREGORY L. WILSON, SR., in his official
capacity as EXECUTIVE DIRECTOR of the
INDIANA CIVIL RIGHTS COMMISSION,

Complainant,

vs.

GM REGIONAL DEVELOPMENT, LLC.
Respondent.

ICRC NO.: HOfs18100589

HUD No.: 05-18-3432-8

DATE FILED

APR 23 2019

ICRC
COMMISSION

FINAL ORDER

On March 28, 2019, Hon. Caroline A. Stephens Ryker, Administrative Law Judge ("ALJ") for the Indiana Civil Rights Commission ("ICRC") issued her Initial Findings of Fact, Conclusions of Law, and Order ("Order"). The parties had opportunity to object to the Order; neither party objected. With no objection or intent to review on record, the Commission shall affirm the Order. IC 4-21.5-3-29(c). After consideration of the record in this matter and the Order,

THE COMMISSION HEREBY ORDERS:

1. The findings of fact and conclusions of law as stated in the Order, a copy of which is attached hereto, are incorporated herein by reference. IC 4-21.5-3-28(g)(2)
2. The Order is AFFIRMED under IC 4-21.5-3-29 and hereby becomes the Final Order disposing of the proceedings. IC 4-21.5-3-27(a)

Either party to a dispute filed under IC 22-9 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.

ORDERED by the Commission the majority vote of 5 Commissioners on April 22nd, 2019

Adrienne L. Slash, Adrienne Slash, Chair

Certificate of Service

Served this 23 day of Apri by United States Mail on the following:

Sydney Bailey
2111 Yorktowne Drive
Valparaiso, IN 46383

GM Regional Development, LLC
1151 Park Avenue, Suite 1008
Valparaiso, IN 46385

Teresa A. Massa
1158 West Lincoln Way, Suite 2
Valparaiso, IN 46385
Telephone: (219) 465-1766
tam@tmassalaw.com

and personally served on:

Fred S. Bremer, Esq.; ICRC Staff Attorney
Indiana Civil Rights Commission
Indiana Government Center North
100 North Senate Avenue, Room N300
Indianapolis, IN 46204-2255
Telephone: (317)232-2634
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Greg Wilson, Executive Director
Indiana Civil Rights Commission
Indiana Government Center North
100 North Senate Avenue, Room N300
Indianapolis, IN 46204-2255



Docket Clerk,
Anehit Eromosele

STATE OF INDIANA
INDIANA CIVIL RIGHTS COMMISSION

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MAR 28 2019

OFFICE OF THE
ADMINISTRATIVE JUDGE

INITIAL FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER

On March 19, 2019, Respondent GM Regional Development, LLC, by counsel, filed with the Indiana Civil Rights Commission (“Commission”) a “Notice of Election” pursuant to the Indiana Fair Housing Act (“IFHA”), Ind. Code § 22-9.5-6-12, (“IFHA Election”). Complainant, Director Gregory L. Wilson, Sr., has not filed a response. Having carefully considered the foregoing and being duly advised in the premises, the undersigned Administrative Law Judge for the Indiana Civil Rights Commission issues the following initial findings of fact, conclusions of law, and order:

FINDINGS OF FACT

1. Sydney Bailey (“Aggrieved Party”) filed a Complaint of Discrimination with the ICRC on October 26, 2018, naming the Respondent and alleging unlawful housing discrimination on the basis of familial status
2. On February 27, 2019, the Indiana Civil Rights Commission issued – and on February 28, 2019 served – a Notice of Finding and Issuance of Charge, finding “reasonable cause” and “probable cause” to believe a discriminatory practice occurred.
3. Respondent received the Notice of Finding and Issuance of Charge on March 8, 2019.
4. On March 19, 2019, approximately twenty (20) days after the date the Notice of Election and Charge was signed, Respondent filed its notice of election, by counsel, on which Respondent copied the Aggrieved Party, the ICRC’s Director, the Docket Clerk, Respondent, and the assigned ICRC Staff Attorney.

51 Any Conclusion of Law that should have been deemed a Finding of Fact is hereby adopted as such.

CONCLUSIONS OF LAW

1. Article 2 of Title 910 of the Indiana Administrative Code "...provides the ICRC's interpretation of the coverage and application of IC 22-9.5..." and contains guidance on making an election under the Indiana Fair Housing Act. 910 IAC 2-1-1; 910 IAC 2-6-6(h).
2. "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 on a claim brought under the Indiana Fair Housing Act.
3. "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).
4. "If the complainant, the respondent, or the aggrieved person on whose behalf a complaint was filed makes a timely election to have the claims asserted in the charge decided in a civil action under IC 22-9.5-6-12, the administrative law judge shall dismiss the administrative proceeding." 910 IAC 2-7-9(a).
5. An election 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). If the electing person is the ICRC Director, then an election under the IFHA must be made within "twenty (20) days after the date the finding of reasonable cause was issued." *Id.*
6. Respondent's IFHA Election was timely filed and effective such that the Commission shall dismiss the administrative proceeding.
7. Although no certificate of service was provided, the cover letter provided with Respondent's Notice of Election indicates that a copy of the Notice was sent to all required parties. Complainant has not alleged that service was deficient.
8. Although the Notice of Finding contains a finding of "probable cause" made under the Indiana Civil Rights Law, the Indiana Civil Rights Law's provisions concerning elections are not applicable. While the Indiana Civil Rights Law protects housing as "real estate," the Indiana

Civil Rights Law does not cover the protected category of "familial status." IC 22-9-1-2.¹ The Aggrieved Party's complaint only alleges housing discrimination on the basis of familial status, and although the Notice of Finding additionally mentions race-based discrimination, a finding was only made as to familial status. Accordingly, the Indiana Civil Rights law is not applicable.

9. Administrative review of this initial decision may be obtained by filing objections with the Commission that state with reasonable particularity each basis for each objection within 15 days after service of this initial decision. Ind. Code § 4-21.5-3-29(d). Filings can be made with the Docket Clerk of the Indiana Civil Rights Commission by email, fax, or by mail at the following:

Docket Clerk
c/o Indiana Civil Rights Commission
100 North Senate Avenue, N300
Indianapolis, IN 46204
Fax: 317-232-6580
Email: aneromosele@icrc.in.gov

10. Any Finding of Fact that should have been deemed a Conclusion of Law is hereby adopted as such.

ORDER

1. The administrative proceedings on ICRC NO. HOfs8100589 are **DISMISSED**, with prejudice. 910 IAC 2-7-9(a).
2. All proceedings scheduled by the Administrative Law Judge are hereby **VACATED**.
3. This order becomes a final order disposing of the proceedings immediately upon affirmation by the Commission. Ind. Code § 4-21.5-3-29.

Dated this 27th of March, 2019



Hon. Caroline A. Stephens Ryker
Administrative Law Judge
Indiana Civil Rights Commission
100 North Senate Avenue, Room N300
Indianapolis, IN 46204-2255
Anehitā Eromosele, *Docket Clerk*
317/234-6358

¹ The Indiana Civil Rights Law protects "...education, employment, access to public conveniences and accommodations, and acquisition through purchase or rental of real property, including but not limited to housing..." with respect to "...race, religion, color, sex, disability, national origin, or ancestry..." Ind. Code § 22-9-1-2(a).

Certificate of Service

Served this 28 day of March in 2019 by United States Mail on the following:

Sydney Bailey
2111 Yorktowne Drive
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GM Regional Development, LLC
1151 Park Avenue, Suite 1008
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Docket Clerk,
Anechita Eromosele