

**Division of
Human Rights**



NEW YORK STATE
DIVISION OF HUMAN RIGHTS

NEW YORK STATE DIVISION OF HUMAN RIGHTS on the Complaint of ROBERT PARKER, Complainant, v. BOARD OF MANAGERS SOUTH SHORE VILLAS AT WEST BABYLON CONDOMINIUM ASSOCIATION, VMD DEVELOPMENT CORP, KELLY DELLAFRANCA, SOUTH SHORE VILLAS CONDOMINIUMS AT WEST BABYLON, LLC, Respondents.
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Federal Charge No. 02-19-3749-8

DETERMINATION AND
ORDER AFTER
INVESTIGATION

Case No.
10203786

On 9/9/2019, Robert Parker filed a verified complaint with the New York State Division of Human Rights ("Division") charging the above-named Respondents with an unlawful discriminatory practice relating to housing because of familial status, race/color, and national origin in violation of N.Y. Exec. Law, art. 15 (Human Rights Law).

After investigation, and following opportunity for review of related information and evidence by the named parties, the Division has determined that there is NO PROBABLE CAUSE to believe that the Respondents have engaged in or are engaging in the unlawful discriminatory practice complained of. This determination is based on the following:

The record does not contain sufficient evidence to believe that Respondents engaged in unlawful discriminatory acts against Complainant due to his familial status, race/color and national origin.

Complainant, who is White, is filing on behalf of his minor son, who is Hispanic, of Dominican national origin. Complainant resides with his wife and minor son at 32 Della Drive West Babylon, NY 11704. Complainant alleged that Respondents harassed him by sending him two (2) letters asking him to refrain from bringing his son outside to play. Complainant alleged that this is discriminatory because he is the only person who received a letter from Respondents

asking to cease this conduct. He believes Respondents only addressed him because his child is Hispanic, of Dominican descent.

South Shore Villas Condominiums is the name of the subject property. Respondent Kelly Dellatranca (aka Kelly Doyle) is the Managing Agent, and Respondent VMD Development Corp is the Management Company for the subject property. Respondent South Shore Villas Condominiums at West Babylon, LLC is the Owner of the subject property. Respondent Board of Managers South Shore Villas at West Babylon Condominium Association is the Board for South Shore Villas Condominiums. Complainant is the unit owner of 32 Della Drive West Babylon, NY 11704 located within South Shore Villas Condominiums. Respondents deny all allegations of discrimination.

The investigation did not reveal evidence that Respondents harassed or interfered with Complainant's housing rights because of Complainant's or his son's protected classes. Instead the investigation revealed that Respondents uniformly enforced their by-laws regardless of anyone's protected classes. The record indicates that after Respondents received a complaint in April 2019 from a unit owner stating: "...with the warm weather here, rude neighbors are out... the kids are playing ball. This is not good for the cars in the parking lot. Parents gather in front of my condo and chat loudly. I can't even open my windows, and even with my windows shut, I can hear them. Today the bikes are left around. This is a danger, especially to my 82 year old mother". This noise complaint did not single out Complainant's child, but three (3) families that gathered outside as identified in the April 2019 complaint. The investigation revealed that after Respondents received this noise complaint, Respondents called the families whose children were identified as playing on common property near the unit owner's home and the subject property's parking lot, namely, Complainant and two (2) other families. The two (2) families contacted aside from Complainant are White.

The investigation revealed that Respondents enforce their by-laws uniformly regardless of anyone's protected class membership. Respondents assert their legitimate business reasons in enforcing Section 1(b) of the by-laws is to ensure other unit owners are able to use and enjoy their property and avoid incurring any liability. No evidence collected during the investigation suggested that the common property is for children, or anyone, to play on. Furthermore, the investigation revealed that in the last eight (8) years, Respondents issued written warnings to unit owners, including owners who are White and do not reside with minor children, when they did not comply with verbal warnings. Additionally, when Complainant had a complaint against another resident, it was handled similarly to the way Respondents treated Complainant when a resident complained about Complainant's child playing on common property. On 2/15/2013, Respondents sent a letter to Complainant's downstairs neighbor in response to Complainant's grievance about his downstairs neighbor's "noise level". Respondents enforced their by-laws and sent the letter, dated 2/15/2013, so to ensure the "noise level" Complainant protested about was not a nuisance or disturbance. The evidence does not support that Respondents harassed Complainant because of his familial status, his child's race/color or national origin.

All witnesses interviewed by the Division stated that they have neither experienced nor seen Respondents exhibit discriminatory conduct. After interviewing several residents of the subject property, additional witnesses corroborated Respondents' position that Respondents do

not discriminate, but rather seek to enforce the bylaws consistently throughout all units, regardless of anyone's protected classes. The investigation supports Respondents' assertion that they uniformly enforced the by-laws. The investigation does not support that Respondents were singling out Complainant, but instead were responding to a unit owner's complaint. There is no indication that the verbal or written warnings were given as a result of Complainant's or his son's protected classes. The investigation does not support that Respondents discriminated against Complainant because of his familial status, his child's race/color or national origin.

The record does not support a finding of Probable Cause in this matter.

The complaint is therefore ordered dismissed and the file is closed.

PLEASE TAKE NOTICE that any party to this proceeding may appeal this Determination to the New York State Supreme Court in the County wherein the alleged unlawful discriminatory practice took place by filing directly with such court a Notice of Petition and Petition within sixty (60) days after service of this Determination. A copy of this Notice and Petition must also be served on all parties including General Counsel, State Division of Human Rights, One Fordham Plaza, 4th Floor, Bronx, New York 10458. DO NOT FILE THE ORIGINAL NOTICE AND PETITION WITH THE STATE DIVISION OF HUMAN RIGHTS.

Dated: 02/07/22
Bronx, New York

STATE DIVISION OF HUMAN RIGHTS

By:

William LaMoi
Director
William LaMoi