



STATE OF NEW JERSEY
OFFICE OF THE ATTORNEY GENERAL
DEPARTMENT OF LAW & PUBLIC SAFETY
DIVISION ON CIVIL RIGHTS
DCR DOCKET NO.: HF10RO-06275
HUD NO.: 02-08-0149-8

MARCUS RIGGINS, BRENDA RIGGINS,
and J. FRANK VESPA-PAPALEO,
DIRECTOR, NEW JERSEY DIVISION ON
CIVIL RIGHTS

Complainants,

v.

EDWIN BAKER and DORIS BAKER

Respondents,

FINDING OF PROBABLE CAUSE

Consistent with a Verified Complaint filed on October 22, 2007, and Amendment to the Verified Complaint, the above-named Respondents have been charged with unlawful housing discrimination within the meaning of the New Jersey Law Against Discrimination (N.J.S.A. 10:5-1, et seq.) and specifically within the meaning of N.J.S.A. 10:5-12 (g) and N.J.A.C. 13:9-1.1 (a) because of race.

J. Frank Vespa-Papaleo (Director) is the Director of the Division on Civil Rights and, in the public interest, has intervened as a Complainant in this matter pursuant to N.J.A.C. 13:4-2.2 (e).

SUMMARY OF COMPLAINT

Complainants alleged that Respondents unlawfully discriminated against them when they refused to sell to them a property because of their race (Black). Complainants alleged that on October 1, 2007, during a closing on the subject property, Respondent Edwin Baker informed them, "*I'm not going to sell my farm to Black people.*" Complainants allege that Respondent uttered, "*I can't do this to my neighbors, they're Colored.*"

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SUMMARY OF RESPONSE

Respondents denied discriminating against Complainants for any unlawful reason, including their race. Respondents admitted that they left the settlement table and had a reluctance to settle. Respondents asserted that they ultimately sold the property to Complainants.

BACKGROUND

The subject property owned by Respondents Edwin and Doris Baker, is a 21 acre farm with a farmhouse and barns, located at 865 Hogbin Road, Millville, New Jersey, Cumberland County. The property was ultimately sold to the Complainants on November 29, 2007.

SUMMARY OF INVESTIGATION

This investigation established sufficient evidence to support a reasonable suspicion that Respondents' engaged in unlawful housing discrimination because of race. Witness accounts disclosed that Respondent Edwin Baker informed Complainants and those present during a scheduled closing, that he did not want to sell the subject property to Complainants because of their race.

The investigation disclosed that a Contract for Sale was executed on July 28, 2007 and July 30, 2007, by both parties. A closing date scheduled for August 31, 2007 was rescheduled for October 1, 2007. Respondents never personally met the Complainants until the date of settlement and were not aware of their race. There was no dispute that on October 1, 2007, Complainants and Respondents were present at the Laurel Lake office of Era DePalma Realty for a settlement on the subject property.

In a written statement and during an interview with the Division's Investigator, Complainants' agent, Christine Latham, an employee of Era DePalma Realty, described that on the day of settlement buyers Mr. & Mrs. Riggins and sellers Mr. & Mrs. Baker, and she walked up the stairs to the conference room. Mr. Baker walked up the stairs slowly, stopped and said, "*I can't do this.*" She replied, "Do what?" He responded, "*You didn't tell me, she didn't tell me.*" She responded "*Tell you what?*" He said "*They're colored.*" Ms. Latham contends she told Mr. Baker to go back down stairs and talk to his agent. Ms. Latham further noted that Respondent Doris Baker informed Complainants and her that, "*He (Edwin Baker) won't sell to Black people.*" Mr. & Mrs. Baker left the settlement meeting and refused to sign any documents.

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In a written statement and during an interview with the Investigator, Respondents' agent, Debra Miller, who was also an employee of Era DePalma Realty, stated that Edwin Baker said he could sell to whomever and would not sign the paperwork. Ms. Miller further maintained that Mr. Baker pointed to her and said, "You should have told me they were colored." Ms. Miller stated that Mr. & Mrs. Baker abruptly left the premises and no settlement took place at this time.

In a written statement and during an interview with the Investigator, Steven Herron of Cumberland Title Company, stated that he was present at the closing. Mr. Herron stated that Respondent Edwin Baker informed him that he did not want to sell to the Complainants because they were Black. Mr. Herron further stated that Edwin Baker said to him "It's my house I can do what I want."

As described above, Edwin Baker was in violation of N.J.A.C. 13:9-1.1 (a), which stated in part as follows:

*(a) It shall be a violation of the Law Against Discrimination, N.J.S.A. 10:5-1 et seq., for any **person** (Emphasis added), including any newspaper or publication published or circulated within the State, to make, print, publish, circulate, issue, display, post, **utter** or disseminate or to cause to be made, printed, published, circulated, issued, displayed, posted, **uttered** or disseminated any notice, listing, **statement**, sign or advertisement regarding the sale, lease, sub-lease, rental, or assignment of any real property, **which expresses, overtly or subtly, directly or indirectly, any preference, limitation, specification, or discrimination as to race, creed, color, national origin, ancestry, marital status, domestic partnership status, sex, nationality, disability, affectional or sexual orientation, source of lawful income used for rental or mortgage payments or familial status, as such terms maybe defined in the Law Against Discrimination, N.J.S.A. 10:5-1 et seq. (Emphasis added).***

During the pendency of the investigation, the property was subsequently sold to Complainants and closed on November 29, 2007, However, Complainant Brenda Riggins asserted that before the incident she was excited at the thought of fulfilling her goal of purchasing the farm. Ms. Riggins explained that after the incident she felt humiliated, hurt and upset, by the discriminatory conduct exhibited by Respondents at the October 2007 closing, including the derogatory racial remarks and prejudice displayed by Edwin Baker.

ANALYSIS

At the conclusion of the investigation, the Division is required to make a determination whether "probable cause" exists to credit a complainant's allegation of discrimination. Probable cause has been described under the New Jersey Law Against

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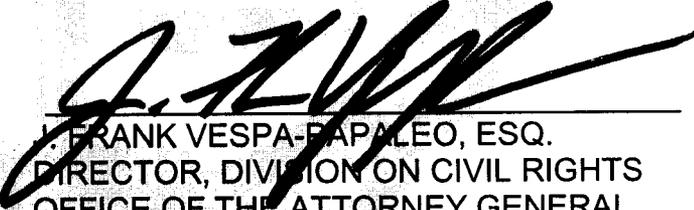
Discrimination (LAD) as a reasonable ground for suspicion supported by facts and circumstances strong enough to warrant a cautious person to believe that the law was violated and that the matter should proceed to hearing. Frank v. Ivy Club, 228 N.J. Super. 40, 56 (App. Div.1988), rev'd on other grounds, 120 N.J. 73 (1990), cert. den., 111 S.Ct. 799. A finding of probable cause is not an adjudication on the merits but, rather, an "initial culling-out process" whereby the Division makes a preliminary determination of whether further Division action is warranted. Sprague v. Glassboro State College, 161 N.J. Super. 218, 226 (App. Div.1978). See also Frank v. Ivy Club, supra, 228 N.J. Super. at 56. In making this decision, the Division must consider whether, after applying the applicable legal standard, sufficient evidence exists to support a colorable claim of discrimination under the LAD.

In this case, the investigation established sufficient evidence to support a reasonable suspicion that Mr. Baker engaged in unlawful housing discrimination when he uttered statements to Complainant and sales agents, which expressed directly and overtly, a preference, limitation or discrimination that the property was not available to a particular group of persons because of their race.

FINDING OF PROBABLE CAUSE:

It is, therefore, determined and found that Probable Cause exists to credit the allegations of the complaint for expressing to a prospective buyer a discriminatory preference for sale.

1/31/08
DATE



J. FRANK VESPA-PAPALEO, ESQ.
DIRECTOR, DIVISION ON CIVIL RIGHTS
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MARCUS RIGGINS AND)
BRENDA RIGGINS)
Complainant,)
-vs-)
EDWIN BAKER AND DORIS)
BAKER)
Respondents,)

RECEIVED AND RECORDED
DATE
DEPARTMENT OF LAW & PUBLIC SAFETY
DIVISION ON CIVIL RIGHTS
By
AMENDMENT TO VERIFIED COMPLAINT

I, J. Frank Vespa-Papaleo, Esq., as the Director of the New Jersey Division on Civil Rights, hereby intervene as a Complainant in the above referenced matter pursuant to N.J.A.C. 13:4-2.2 (e) and hereby amend the caption and charge of the Verified Complaint, received and filed on October 22, 2007, to read as follows:

MARCUS RIGGINS, BRENDA RIGGINS)
AND J. FRANK VESPA-PAPALEO,)
DIRECTOR)
Complainants,)
-vs-)
EDWIN BAKER AND DORIS BAKER)
Respondents,)

3. The above named Respondents have been charged with unlawful housing discrimination within the meaning of the New Jersey Law Against Discrimination (N.J.S.A. 10:5-1 et seq.) and specifically within the meaning N.J.S.A. 10:5-12 (g) and N.J.A.C. 13:9-1.1 (a) of said law because race.

