

STATE OF NEW JERSEY
OFFICE OF THE ATTORNEY GENERAL
DEPARTMENT OF LAW PUBLIC SAFETY
DIVISION ON CIVIL RIGHTS
DOCKET NO. HV04CT-65792

Fatima Farghaly,)
)
 Complainant,)
)
 v.)
)
 Othilia and William Greda,)
)
 Respondents.)

Administrative Action

FINDING OF PROBABLE CAUSE

On February 23, 2016, Union County resident Fatima Farghaly filed a verified complaint with the New Jersey Division on Civil Rights (DCR) alleging that Othilia and William Greda (Respondents) refused to rent an apartment to her because she is Muslim, in violation of the New Jersey Law Against Discrimination (LAD), N.J.S.A. 10:5-1 to -49. The DCR investigation found as follows.

Respondents posted an advertisement for a one-bedroom apartment for \$920/month in a building that they own at 715 Garden St., Elizabeth NJ 07202. The advertisement noted in part that the superintendent resided “on site,” and that interested applicants should call “Bill” at 908-285-xxxx.

On February 22, 2016, Complainant called the number listed in the advertisement and spoke with Respondent William Greda.¹ The parties scheduled an appointment to view the apartment the next morning.

On February 23, 2016, Complainant, accompanied by a family friend, Deyab Elashkar, arrived the apartment complex. Complainant was wearing a head scarf. She told DCR, “I am Muslim, and I dress conservatively and cover my hair with a scarf.” She alleges that after Greda saw her in person, he asked, “Are you Muslim?” She alleges that when she replied

¹ William Greda will be referred to herein as “Greda.”

affirmatively, he stated, "I don't rent to Muslims," and began walking away. She said that she turned on her cell phone's video recorder and asked him to repeat his statement. She said that he would not respond and continued to walk away from her.

Elashkar gave a similar version of events. He stated that as they were following Greda toward the available unit, Greda turned around and asked, "Are you a Muslim?" Elashkar stated that when Complainant replied affirmatively, Greda said, "I don't rent to Muslims." Elashkar said that he said, "Seriously? Okay, I'm going to call the cops." He said that Greda replied, "Okay, call the cops." Elashkar said that he called the police but hung up because Greda had a "frightening look on his face." He said that moments later, he received a call from the police station asking why he dialed 911. He said that he replied, "I'm in a building and the person doesn't want to rent to an apartment to my friend because of her religion." He said that when the police asked if everyone was okay, he replied, "Yes, everything is okay, and we are taking him to court for discrimination."²

On March 16, 2016, a female DCR investigator posing as a prospective tenant called Greda and asked if a one-bedroom apartment was available. He said yes and agreed to show her a unit that afternoon. The investigator (who has dark brown hair) donned a headscarf fashioned in the same manner as Complainant's and, accompanied by a male investigator (who has short black hair and a beard), met with Greda. The DCR investigators stated that Greda showed them the vacant apartment but suggested that she should consider living somewhere else. Both had the clear impression that Greda was trying to discourage the investigator from living there.

The female investigator—who was purposely dressed in manner to appear Muslim—reported that Greda had a rental application in his hand but refused to give it to her and told her that the apartment "is not good for you." She stated that when she asked for clarification, he

² After leaving the apartment building, Complainant and Elashkar formally reported the matter to the police. Complainant also posted the video recording on Facebook and contacted a local television news station about the incident.

said that it was not a good apartment for women because it can flood when it rains, as it did during Super Storm Sandy, and that a “woman has to lift.”

The male investigator confirmed that Greda held a rental application in his hand and declined to give it to the female investigator upon request. He confirmed that Greda said that the unit “would not be good” for her because when it flooded, such as during Super Storm Sandy, tenants “lift their things up on bricks.” Greda said, “They are all guys. You wouldn’t be able to do that because you’re a woman.”

Later that day, another female DCR investigator posing as a prospective tenant, called Greda and asked if the apartment was still available. He stated that it was. She and another DCR investigator visited the same unit. They did not dress in a manner that would suggest that they were Muslim. Greda showed them the apartment. He mentioned that the unit had some damage from Super Storm Sandy but did not suggest that she should consider living elsewhere.

Respondents denied the allegations of discrimination in their entirety. They said that the apartment building has seventeen units and that during the relevant time, five units were vacant. See Respondents’ Answer to the Verified Complaint, p. 3, Apr. 18, 2016.

They stated that at no time did Greda use the word, “Muslim.” Instead, they stated that he merely explained that Complainant “had too many occupants for a one bedroom apartment.”

Id. at p. 4. In particular, Respondents wrote:

On or about February 23, 2016, complainant met with respondent William Greda at the apartment house and brought with her an unknown male. When respondent William Greda inquired as to whether any other person or persons would occupy the one bedroom apartment, he was advised by complainant that it would be occupied by her, her two children, her husband or male companion, and her mother-in-law, and Mr. Greda advised that the apartment was too small for five people being only one bedroom, and that he would not rent that apartment to her because she had too many occupants for a one bedroom apartment. The male individual who accompanied complainant started punching Mr. Greda, and said, “I’ll kill you.”

[Ibid.]

In a subsequent interview, Greda told DCR that Complainant's male companion was approximately 5' 7", 170 to 180 pounds, had a dark complexion, and "looked like a criminal." He said that the man threw six to eight punches at Greda, and said, "You're dead," and "I will kill you." Greda said that he was terrified and frozen with fear. He stated that after the male left the building, Complainant turned on her video recorder and said, "Bill doesn't want to rent because I'm Muslim." Greda said that he called the police who arrived five to ten minutes later. He stated that because he did not know the male companion's name, he was not able to file a police report.

Respondents' attorney told DCR that he visited the Elizabeth Police Department but was "unable to obtain any record for a call for assistance from Mr. Greda on February 23, 2016." See Letter from Raymond S. Londa, Esq. to DCR, Jul 1, 2016. The attorney noted that the police report memorializing Complainant's complaint refers to "Fatima Farghaly and her husband." Ibid.

Respondents argue that the notion that Greda refuses to rent to Muslims is belied by the fact that they have had Muslim residents in the past (whom they did not identify) and at least one current Muslim tenant, Ahmed E****. When DCR asked Greda for contact information for Ahmed E., he replied that Ahmed E. is out of the country for an extended period of time visiting his mother.

DCR asked Respondents to produce all rental applications for the apartment complex after March 1, 2015. Respondents produced two: Sean C**** and Omar S****. Sean C. is listed as current tenant. DCR was unable to speak with Omar S., who, according to a family member is serving overseas in the military. The family member stated that Omar is Peruvian and Puerto Rican, and not Muslim.

Complainant denied telling Greda that she wanted to live in the apartment with her husband, children, and mother-in-law. She claims that she is single with no children or mother-in-law. She denied that Elashkar punched and threatened to kill Greda.

Analysis

The LAD makes it illegal for “any person, including but not limited to, any owner, lessee, sublessee, assignee or managing agent . . . or other person having the right of ownership or possession of or the right to sell, rent, lease, assign, or sublease any real property or part or portion thereof,” to refuse to rent property to an otherwise qualified applicant based on the prospective tenant’s religious affiliation. See N.J.S.A. 10:5-12(g)(1) (prohibiting housing discrimination based on “creed.”).

In this case, the parties gave conflicting accounts of what occurred on February 23, 2016. Complainant claims that Greda seemed willing to rent an apartment to her until he saw her face-to-face and discovered that she was Muslim. Her version of events is supported by Elashkar.

Respondents do not dispute that Greda refused to rent an apartment to Complainant after meeting her in person. However, they claim that Greda’s decision was based solely on Complainant’s pronouncement that she intended to live in the apartment with her husband, two children, and mother-in-law. The DCR investigation found no persuasive evidence from which to conclude that she made any such pronouncement.

To ascertain if either party’s version of events could be corroborated, DCR sent two sets of investigators to the apartment complex posing as prospective tenants on the same day. The first set of investigators, by design, appeared to be Muslims. If upon meeting them face-to-face, Greda had expressed any interest in renting an apartment to the undercover investigator, then it would have called Complainant’s allegations sharply into question. But that did not occur. Instead, Greda told the investigator who was donning a Muslim-style headscarf that she should not rent the unit. The fact that Greda’s apparent preference was to leave the unit vacant rather than rent it to the female DCR investigator dressed in Muslim attire, supports the version of events given by Complainant and her eye-witness, Elashkar.

Greda stated that he did not think the DCR investigator (dressed in a headscarf) should rent the unit because she is female. However, he knew that she was female when he spoke with her on the telephone to discuss its availability and schedule the meeting. Moreover, when a second female investigator (not dressed in a headscarf) looked at the same unit that same day, Greda did not suggest to her that she should not take the apartment because of her gender.³

Respondents argue that they currently rent a unit to a Muslim tenant, Ahmed E. DCR could not verify that Ahmed E. is Muslim or speak with him about his housing circumstances and relationship with Greda. But even assuming for the sake of argument that he is Muslim, and that he is Respondents' tenant, it would not outweigh the evidence provided by Complainant, her eyewitness Elashkar, and the two sets of DCR investigators.

DCR further notes that on the video recording made by Complainant, Greda is seen descending the stairs wearing a hat and holding a cup of coffee. There is no obvious evidence that he had just been physically attacked by Elashkar who, according to Greda, threw six to eight punches at him. And apparently there is no record of Greda contacting the police to report the assault, as he claims.

At the conclusion of an investigation, the DCR Director is required to determine whether "probable cause exists to credit the allegations of the verified complaint." N.J.A.C. 13:4-10.2. For purposes of that determination, "probable cause" is defined as a "reasonable ground for suspicion supported by facts and circumstances strong enough in themselves to warrant a cautious person to believe" that the LAD was violated. Ibid.

A finding of probable cause is not an adjudication on the merits, but merely an initial "culling-out process" whereby the Director makes a threshold determination of "whether the matter should be brought to a halt or proceed to the next step on the road to an adjudication on

³ If Greda was genuinely motivated by the investigator's gender—rather than her apparent religious beliefs—it would still implicate the LAD, which prohibits housing discrimination based on "sex." N.J.S.A. 10:5-12g.

the merits.” 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 (1991). Thus, the “quantum of evidence required to establish probable cause is less than that required by a complainant in order to prevail on the merits.” Ibid.

Here, the Director is satisfied at this preliminary stage of the process that the circumstances of this case support a “reasonable ground of suspicion . . . to warrant a cautious person in the belief” that probable cause exists to support the allegations of housing discrimination based on creed. N.J.A.C. 13:4-10.2.

DATE: 8-22-16



Craig Sashihara, Director
NJ DIVISION ON CIVIL RIGHTS