STATE OF ILLINOIS
HUMAN RIGHTS COMMISSION

IN THE MATTER OF THE REQUEST:	)	
FOR REVIEW BY:	)	CHARGE NO.: 2008CH3022
	)	EEOC NO.: N/A
ASLAM SHAHID,	)	HUD NO.: 05-08-0894-8
	)	ALS NO.: 08-0460
Complainant.	)	

ORDER

This matter coming before the Commission by a panel of three, Commissioners Sakhawat Hussain, M.D., Spencer Leak, Sr., and Rozanne Ronen presiding, upon Complainant's Request for Review ("Request") of the Notice of Dismissal ("Notice") issued by the Department of Human Rights ("Department") of Charge No. 2008CH3022, Aslam Shahid, Complainant, and Orland Golfview Condominium Association, Respondent; and the Commission having reviewed *de novo* the Department's investigation file, including the Investigation Report ("Report") and the Complainant's Request and supporting materials, and the Department's response to the Complainant's Request, and the Complainant's Reply to the Department's response, and the Commission being fully advised of the premises;

NOW, THEREFORE, it is hereby **ORDERED** that the Department's dismissal of the Complainant's charge is **SUSTAINED** on the following ground:

LACK OF SUBSTANTIAL EVIDENCE

In support of which determination the Commission states the following findings of fact and reasons:

1. On April 21, 2008, the Complainant, who is of South Asian descent, filed a charge of discrimination with the Department, alleging that the Respondent discriminated against him and his African American tenants on the basis of race and national origin, in violation of § 3-102(B) of the Illinois Human Rights Act ("Act"). On September 26, 2008, the Department dismissed the Complainant's charge for lack of substantial evidence of discrimination. On October 30, 2008, the Complainant filed a timely request for review.

2. The Department's investigation revealed that the Complainant purchased a condominium unit from the Respondent on August 16, 2005. The Department's investigation showed that at the time of purchase, a 1988 amendment to the Respondent's Declaration and By-Laws was in effect. The 1988 amendment limited leasing of a unit by a non-owner or a non-family member of an owner to one year; the owner could apply to the Respondent in writing for permission to extend the lease for an additional six months. Under the 1988 amendment, no lease could exceed 18 months. The investigation also showed that the 1988 amendment provided that the unit owner could exercise his right to lease his unit only once during his ownership of the unit. The Department's investigation revealed that this 1988 amendment was recorded with the Cook County Recorder of Deeds.

3. The Department's investigation also showed that in June 2007, the Respondent amended its Declaration and By-Laws again to further restrict leasing. The 2007 amendment contained a "grandfather clause" that allowed leases that were then properly in effect to continue until the first of the following occurred: (a) the current lease expired; (b) the occupants vacated the unit; (c) the unit became owner-occupied, or (d) the unit was sold or its title was changed.

4. Through its investigation, the Department learned that the Complainant leased his unit to an African American family in January 2006, with the lease set to expire in January 2007. At some time, the lease was extended for an additional year to January 2008. The investigation also showed that in January 2008, the Complainant renewed his tenants' lease until January 2009. In February 2008, the Respondent issued the Complainant a Notice of Violation for renewing the lease and violating the Respondent's Declaration and By-Laws.

5. The Complainant contends that the Respondent is selectively applying the 2007 amendment against the Complainant and his tenants, whom the Complainant alleges are the only non-Caucasians residing at the condominium. The Complainant argues that he, as a landlord subject to the 2007 amendment, is being treated differently from pet-owning unit owners subject to a new amendment limiting pet ownership. The Complainant also alleges that the Department overlooked evidence of discriminatory treatment against both the Complainant and his tenants, including evidence that the Respondent silently endorsed discriminatory remarks made at a board meeting, evidence that the Respondent failed to respond to the Complainant's tenants requests to affix their name to the doorbell, and evidence that the Respondent improperly passed the 2007 amendment.

6. The Commission's review of the investigation file leads it to conclude that the Department properly dismissed the Complainant's charge because the evidence does not show that the Respondent altered the terms, conditions, or privileges of the Complainant's real estate transaction because of the race of either the Complainant or his tenants. The investigation file shows that the 1988 amendment was in effect at the time of the Complainant's purchase of the unit. Although there is ambiguity regarding whether the Complainant was provided a copy of the 1988 amendment at the time of purchase, the record shows that the 1988 amendment was recorded with the Cook County Recorder of Deeds. Even if the Respondent had never passed the 2007

amendment, the investigation file shows that the Complainant violated the 1988 amendment when the Complainant leased his unit beyond July 2007. Further, the investigation file shows that the restrictions against leasing apply to all unit owners. There is no evidence that a similarly situated non-Asian or non-African American unit owner was permitted to lease his or her unit in violation of the Respondent's leasing restrictions.

8. The Commission's review of the investigation file also found no evidence that the Complainant and his tenants were the victims of disparate impact discrimination because there is no evidence that a racially neutral policy or practice had a significantly discriminatory impact. The only evidence that the Complainant presented was his own experience with the Respondent's policy. No evidence was presented that the Respondent's leasing policy had a disparate impact on Asian unit owners or African American tenants. Evidence consisting solely of the Complainant's own experience with the Respondent's policy cannot support a finding of significant discriminatory impact. Ray and River Bend Community Unit School Dist. No 2, 45 Ill. HRC Rep. 257 (1988). Further, the Commission finds no merit to the Complainant's contention that pet owning unit owners were treated more favorably than the Complainant. Pet owners and landlords are not protected classes under the Act.

9. The Complainant raises additional arguments in his Request that are not supported by the investigation file. The Complainant's contentions that discriminatory statements were made against the Complainant and his tenants and that the Complainant's tenants were racially harassed are not supported by any evidence connecting such statements to the Respondent. Additionally, the Complainant's allegations that the Respondent treated his tenants differently than the other occupants of the condominium are not supported by any evidence.

10. Finally, the Complainant's argument that the 2007 amendment was improperly passed because the Respondent did not obtain the correct number of signatures is outside the purview of the Act. Thus, neither the Department nor the Commission has statutory authority to investigate or review the procedures used in passing the 2007 amendment.

11. Accordingly, it is the Commission's decision that the Complainant has not presented any evidence to show that the Department's dismissal of his charge was not in accordance with the Act. The Complainant's Request is not persuasive.

THEREFORE, IT IS HEREBY ORDERED THAT:

The dismissal of the Complainant's charge is hereby **SUSTAINED.**

This is a final Order. A final Order may be appealed to the Appellate Court by filing a petition for review, naming the Illinois Human Rights Commission, the Illinois Department of Human Rights, and Orland Golfview Condominium Association. as

appellees, with the Clerk of the Appellate Court within 35 days after the date of service of this order.

STATE OF ILLINOIS	)	
	)	Entered this 28th day of January 2009.
HUMAN RIGHTS COMMISSION	)	

Commissioner Sakhawat Hussain

Commissioner Spencer Leak, Sr.

Commissioner Rozanne Ronen