STATE OF ILLINOIS
HUMAN RIGHTS COMMISSION

IN THE MATTER OF THE REQUEST	)	
FOR REVIEW BY:	)	CHARGE NO.: 2009CH1178
	)	HUD NO.: 05-09-0058-8
ROBERT CARRASCO,	)	ALS NO.: 09-0236
LORENA CARRASCO	)	
Complainants.	)	
	)	

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 the Complainant's Request for Review ("Request") of the Notice of Dismissal issued by the Department of Human Rights ("Department") of Charge No. 2009CH1178, Robert Carrasco and Lorena Carrasco, Complainants, and David Diaz and Norma Diaz, Respondents; and the Commission having reviewed *de novo* the Department's investigation file, including the Investigation Report and the Complainant's Request and supporting materials, and the Department's response to the Complainant's Request; and the Commission being fully advised upon 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 October 16, 2008, the Complainants filed an unperfected charge of discrimination with the Department, perfected on November 14, 2008, in which they alleged that the Respondents altered the terms, conditions, and privileges of their real estate transaction because of the Complainants' son's disability (Autism), in violation of Section 3-102.1(B) of the Illinois Human Rights Act (the "Act"). The Department dismissed the charge on April 10, 2009, after finding that there was no substantial evidence of discrimination. The Complainants thereafter filed a timely Request on May 11, 2009.

2. The undisputed evidence in the investigation file shows that David Diaz ("Respondent #1") and Norma Diaz ("Respondent #2") are the record owners in joint tenancy of a six-unit apartment building (the "Subject Property"). In November 2006, Robert Carrasco ("Complainant #1") and Lorena Carrasco

("Complainant #2"), along with their two children, moved into the Subject Property as tenants. They occupied a second-floor, two-bedroom apartment on a month-to-month tenancy. They did not have a written lease. At the time that the Complainants moved into the apartment, Respondent #1 was aware that one of the Complainants' children was Autistic.

3. On January 31, 2008, Respondent #1 gave the Complainants a 30-day Notice of Termination of Tenancy (the "Notice"). The Notice informed the Complainants that their tenancy at the Subject Property would be terminated effective February 29, 2008. In their charge of discrimination, the Complainants contended that the Respondents terminated their tenancy because of their child's disability. The Respondents contended that the Complainants' tenancy was terminated due to an increasing number of noise complaints that Respondent #1 had been receiving from his other tenants, specifically about Complainant #1.

4. During the course of the Department's investigation, the Department's investigators interviewed various of the Respondents' tenants and former tenants who had lived at the Subject Property during the same time period as the Complainants. The tenants and former tenants confirmed that they had complained to Respondent #1 numerous times about Complainant #1's behavior. In particular, former tenant Jorge Hernandez and his family, and tenants Bernardo and Maria Haydee Lopez, who each had occupied the apartment below the Complainants, stated that they had repeatedly complained to Respondent # 1 about loud noises and disturbances caused by Complainant #1. Hernandez complained to Respondent #1 about Complainant #1's behavior at least six times between December 2007 and July 2008. Finally, tenants Jesus and Alma Sacche, who lived in the apartment beneath the Lopez family, also complained to Respondent #1 about Complainant #1's excessive noise.

5. In their Request, the Complainants state that they believe that the investigation favored the Respondents, and that they had provided all evidence requested of them. The Complainants attached no additional evidence to their Request. In its Response, the Department argues that the evidence demonstrates that the Respondents' actions were motivated by their reasonable belief that Complainant #1 was disturbing other tenants in their building, and that the Complainant failed to present substantial evidence of discrimination.

6. The Commission's review of the Department's investigation file leads it to conclude that the Department properly dismissed the Complainants' charge of discrimination for lack of substantial evidence. The Complainants have not presented any substantial evidence that the Respondents were motivated by their child's disability. On the other hand, the evidence overwhelmingly shows that in the months leading up to the Complainants' eviction, Respondent #1 had been receiving numerous complaints from his other tenants about Complainant #1's disruptive conduct.

7. The undisputed evidence also shows that Respondent #1 was aware of the child's disability when the Respondents agreed to lease the Complainants the apartment. The Complainants have put forth no evidence to show that the

Respondents, who leased the apartment to the Complainants with full knowledge that the Complainants' disabled child would also be living in the apartment, later terminated the Complainants' tenancy because of animus against this same child. Rather, the overwhelming totality of the evidence shows that during the Complainants' tenancy, Respondent #1 had received numerous complaints about Complainant #1's disruptive behavior; that Complainant #1 had rejected Respondent #1's attempts to resolve the complaints against him, and that the Complainants' tenancy was terminated because Respondent #1 was repeatedly told by his other tenants that Complainant #1 was a disruptive neighbor.

8. Accordingly, it is the Commission's decision that the Complainants have not presented any evidence to show that the Department's dismissal of their charge was not in accordance with the Act. The Complainants' Request is not persuasive.

THEREFORE, IT IS HEREBY ORDERED THAT:

The dismissal of Complainants' 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 the Respondents David Diaz and Norma Diaz, as appellees, with the Clerk of the Appellate Court within 35 days after the date of service of this order.

STATE OF ILLINOIS)
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HUMAN RIGHTS COMMISSION)

Entered this 22nd day of July 2009.

Commissioner Sakhawat Hussain, M.D.

Commissioner Spencer Leak, Sr.

Commissioner Rozanne Ronen