

**STATE OF ILLINOIS  
HUMAN RIGHTS COMMISSION**

IN THE MATTER OF THE REQUEST )	
FOR REVIEW BY: )	CHARGE NO.: 2009CH1921
BARBARA PRYJDA )	HUD NO.: 05-09-0391-8
)	ALS NO.: 09-0572
Petitioner. )	

**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 Barbara Pryjda (“Petitioner”) Request for Review (“Request”) of the Notice of Dismissal issued by the Department of Human Rights (“Respondent”)<sup>1</sup> of Charge No. 2009CH1921; and the Commission having reviewed all pleadings filed in accordance with 56 Ill. Admin. Code, Ch. XI, Subpt. D, § 5300.400, and the Commission being fully advised upon the premises;

NOW, THEREFORE, it is hereby **ORDERED** that the Respondent’s dismissal of the Petitioner’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. The Petitioner filed an unperfected charge of discrimination with the Respondent on December 18, 2008, perfected on February 20, 2009. The Petitioner alleged in her charge that the Landings Homeowners Association (“Association”) failed to make a reasonable accommodation for her physical disability, described by the Petitioner in the charge as “spinal problems,” in violation of Section 3-102.1(C)(2) of the Illinois Human Rights Act (the “Act”). On September 10, 2009, the Respondent dismissed the Petitioner’s charge for Lack of Substantial Evidence. On October, 14, 2009, the Petitioner filed a timely Request. On November 4, 2009, the Respondent filed its timely Response. On November 19, 2009, the Petitioner filed a timely Reply to the Response.
2. The Petitioner resides in a condominium unit on premises (“Subject Premises”) managed by the Association. The Association assigned the Petitioner a deeded parking space on the Subject Premises.
3. In 2007, located in front of the Subject Premises were designated “handicap” parking spaces for guests only.

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<sup>1</sup> In a Request for Review Proceeding, the Illinois Department of Human Rights is the “Respondent.” The party to the underlying charge who is requesting review of the Department’s action shall be referred to as the “Petitioner.”

4. Beginning in July 2007, the Petitioner verbally requested the Association accommodate her disability by designating one of the guest “handicap” parking spaces for her own use. The Association denied this and subsequent requests. In July 2007, the Association fined the Petitioner for parking in one of the guest “handicap” parking spaces.
5. On September 19, 2008, the Petitioner sent the Association a written request for an accommodation for her physical disability. The Petitioner requested the Association provide her with a “handicap” parking spot in front of the Subject Premises as an accommodation for her disability. The Petitioner also referenced an earlier request to the Association to remove the “Guest Only” signs from those same parking spots. The Petitioner stated she needed this accommodation because she ... “often [had] difficulty walking.” The Petitioner also stated in her letter that she had a “Disability Parking Placard” issued to her by the Illinois Secretary of State.
6. The Petitioner repeated her request for this accommodation in November 2008 and December 2008, and states her requests were denied by the Association.
7. By June of 2009, the Association had removed the “Guest Only” signs from the parking spaces in front of the Subject Premises.
8. In her charge of discrimination, the Petitioner has alleged the Association violated Section 3-102.1(C)(2) of the Act, which provides in relevant part:

*...It is a civil rights violation...to refuse to make reasonable accommodations in rules, policies, practices, or services, when such accommodations may be necessary to afford such person equal opportunity to use and enjoy a dwelling.*

See 775 ILCS 5/3-102.1(C)(2) (West 2010).

9. After the Petitioner filed this instant charge, the Respondent attempted to settle the matter between the Petitioner and the Association. A proposed settlement agreement of May 2009 was rejected by the Petitioner because it did not include in its terms the provision of a dedicated “handicap” parking space for the Petitioner in front of the Subject Premises.
10. Approximately one month later, in June 2009, a second proposed settlement agreement was presented to the Petitioner. This second proposed settlement included a term that would have provided the Petitioner with a designated “handicap” parking spot in front of the Subject Premises, with the understanding this parking spot was being provided as an accommodation for the Petitioner’s physical disability. However, the Petitioner rejected this second proposed

settlement because it did not include a letter of apology from the Association as one of its terms. Thereafter, no additional settlement offers were extended to the Petitioner.

11. In September 2009, the Respondent dismissed the Petitioner's charge for lack of substantial evidence. The Respondent determined that the Association had provided the Petitioner with her requested accommodation, which was that the "Guest Only" signs had been removed from the parking spots in front of the Subject Premises. The Respondent determined the Petitioner's request for an additional designated "handicap" parking spot in front of the Subject Premises was neither reasonable nor necessary to afford her equal use and enjoyment of the Subject Premises.
12. In her Request, the Petitioner argues that the Respondent mischaracterized the requested accommodation. The Petitioner asserts that at all times, she requested the Association accommodate her disability by providing her with a permanent designated "handicap" parking spot for her use in front of the Subject Premises. The Petitioner states that she rejected the second settlement offer because she believed a third settlement offer would be forthcoming, and had she known otherwise, she would have signed the second settlement offer. In addition, the Petitioner argues that the terms of the second settlement offer contradict the Respondent's determination that the Petitioner had only requested the Association remove the "Guest Only" signs from the parking spaces in front of the Subject Premises.
13. In its Response, the Respondent requests that the Commission sustain the dismissal of the Petitioner's charge for lack of substantial evidence. The Respondent argues that on the occasions the Petitioner had requested the Association accommodate her physical disability, the Petitioner never specified the exact nature of her disability nor did the Petitioner specify why her deeded parking spot was inadequate. The Respondent argues the Petitioner submitted no medical documentation to substantiate her claim that her physical disability caused her deeded parking to be inadequate. Finally, the Respondent argues that even if the Association did not accommodate the Petitioner's disability in the precise manner she sought, the evidence shows the Association did make a reasonable modification to its practices in order to accommodate the Petitioner's disability.
14. In support of her Reply, the Petitioner submits a letter from her physician which describes the exact nature of her disability, which the Petitioner states is one of "mobility impairment." In a letter dated November 13, 2009, the physician states the Petitioner has sciatica with pain and lower extremity weakness, causing her to suffer frequent falls. Further the Petitioner states her physical disability is aggravated by "reverse parking," i.e., backing into a parking spot, because she has to turn around in order to safely back into her deeded parking space.<sup>2</sup>

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<sup>2</sup> According to Andrea Juracek, Director of Fair Housing of the Interfaith Housing Center of the Northern Suburbs, whom the Petitioner apparently contacted for assistance in this matter, Ms. Juracek went out to view the Petitioner's deeded parking space at the Subject Premises on October 13, 2009. Ms. Juracek concluded the safest and most viable way for the Petitioner to park in her deeded

## **Conclusion**

The Commission concludes that the Respondent properly dismissed the Petitioner's charge for lack of substantial evidence. If no substantial evidence of discrimination exists after the Respondent's investigation of a charge, the charge must be dismissed. See 775 ILCS 5/7A-102(D). Substantial evidence exists when the evidence is such that a reasonable mind would find the evidence sufficient to support a conclusion. See In re Request for Review of John L. Schroeder, IHRC, Charge No. 1993CA2747, \* 2 ( March 7, 1995)(1995 WL 793258).

At issue is whether or not there is substantial evidence the Association refused to alter its practices to reasonably accommodate the Petitioner's disability, in violation of § 3-102.1(C)(2) of the Act. The Commission finds there is no substantial evidence the Association refused to alter its practices to accommodate the Petitioner's disability in violation of Section 3-102.1(C)(2) of the Act.

At the outset, the Commission agrees that the Petitioner requested that the Association both provide her with a designated "handicap" parking spot in front of the Subject Premises and that the Association also remove the "Guest Only" signs from those same parking spots as an accommodation for her disability.

The Commission further finds that between December 2008 and June 2009, the Association did in fact grant the Petitioner's requested accommodation in part: The Association modified its policies by removing the "Guest Only" signs from the parking spaces in front of the Subject Premises. This modification permitted the Petitioner to park in any of the spaces in front of the Subject Premises without being fined.

Thereafter, in approximately June of 2009, the Association offered to further modify its policies by providing the Petitioner with an additional designated "handicap" parking spot in front of the Subject Premises. However, the Petitioner admittedly rejected the Association's offer because it did not come with an apology.

Although the Respondent did not cite to § 7B-103(D)(2) of the Act, a complainant's charge may also be dismissed if the complainant refuses to accept a reasonable settlement that would eliminate the effects of the alleged discrimination:

*The Department may dismiss a charge if it is satisfied that...the respondent offers and the aggrieved party declines to accept terms of settlement which the Department finds*

*are sufficient to eliminate the effects of the civil rights violation charged and prevent its repetition.*

See 775 ILCS 5/7B-103(D)(2) (West 2010).

In this case, the Petitioner was offered a reasonable settlement that would have completely eliminated the effects of the alleged civil rights violation. Nonetheless, the Petitioner chose to reject that settlement. The Commission finds that based on § 7B-103(D)(2) of the Act, the Petitioner's charge was also subject to dismissal based on her refusal to accept a reasonable settlement offer that would have completely eliminated the effects of the alleged discrimination.

Therefore, in light of the evidence that the Association attempted to provide the Petitioner with the exact accommodation the Petitioner alleges she was entitled to, the Petitioner cannot now complain that the Association failed to reasonably accommodate her disability.

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

**THEREFORE, IT IS HEREBY ORDERED THAT:**

The dismissal of Petitioner'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 Landings Homeowners Association, as Respondents, with the Clerk of the Appellate Court within 35 days after the date of service of this order.

**STATE OF ILLINOIS**

**HUMAN RIGHTS COMMISSION**

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**Entered this 28<sup>th</sup> day of April 2010.**

Commissioner Sakhawat Hussain, M.D.

Commissioner Spencer Leak, Sr.

Commissioner Rozanne Ronen