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Law Reporter

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BALANCING THE SCALES
OF JUSTICE

~ ENDOWED BY SIDNEY GILREATH ~

form cap was a less restrictive means of furthering the state's interest, the court concluded.

Plaintiff's Counsel

Kathleen M. Trafford, Columbus, Ohio

Constance M. Greaney, Columbus, Ohio

Plaintiff has standing to sue under human rights act even though not intended target of alleged discrimination.

Executive Sandwich Shoppe, Inc. v. Carr Realty Corp., 749 A.2d 724 (D.C. 2000).

The D.C. Court of Appeals held that a party had standing to file suit under the District of Columbia Human Rights Act (DCHRA), D.C. Code §§ 1-2501 to 1-2557, even though it was not the intended target of the alleged discrimination.

Here, Executive Sandwich Shoppe (ESS) and Carr Realty entered into a lease. Before the end of the lease's term, ESS was put on the market. Two potential assignees, both of Korean descent, were rejected by Carr Realty for different reasons. ESS ceased paying rent and went out of business. ESS filed suit against Carr Realty, alleging, among other claims, that defendant wrongfully rejected the assignees' offers for discriminatory reasons, in violation of the DCHRA. The trial court granted defendant's motion to dismiss, finding that plaintiff lacked standing under the act to sue because it was not the actual target of defendant's alleged discrimination.

Reversing, the appellate court noted that the act makes it unlawful to refuse or require different terms for any transaction in real property on the basis of, among other things, race, national origin, or personal appearance. The act also recognizes a private cause of action by any person claiming to be aggrieved by an unlawful discriminatory practice. Clearly, the statute does not limit the availability of an action to only those persons who are targets of discrimination, the court said. Rather, the broad grant of standing in the act extends to *any person* claiming a grievance due to an unlawful discriminatory practice. Limiting standing under the act to only direct targets of discrimination would remove the flexibility of the act as a means of eliminating discrimination and hinder efforts to effect the act's broad purpose, the court found.

Moreover, the court said the act is a remedial civil rights statute that must be "generously construed." The court explained that if it accepted defendant's argument that only the intended targets of discrimination have standing,

under Article III, the court noted. This case is similar to *Trafficante v. Metropolitan Life Ins. Co.*, 93 S. Ct. 364 (1972), in which the U.S. Supreme Court held that standing under the Fair Housing Act was as broad as that permitted under Article III. In *Trafficante*, the Court held that plaintiffs had alleged sufficient injury in fact—loss of important benefits from interracial associations—even though they were not the targets of allegedly discriminatory housing practices. Here, plaintiff has alleged a more tangible and quantifiable pecuniary loss as a result of defendant's alleged discrimination. Thus, plaintiff has standing to sue under the DCHRA, the court concluded.

Accordingly, the court remanded.

Plaintiff's Counsel

William S. Burroughs Jr., Arlington, Va.

Rejection of condo application: Fair Housing Act violation: Discrimination: Emotional distress: Settlement.

Shaw v. Lake Park Condominium I, Inc., Fla., Miami-Dade County Cir. Ct., No. 99-04156 CA09, June 13, 2000.

Shaw, 92, and her granddaughter, 24—both African American—entered into a contract to purchase a condominium in a residential complex. After a meeting with the approval committee, the Shaws were rejected. As a result, they suffered physical and emotional distress, mental anguish, and a deprivation of social, professional, and economic benefits arising from living in an integrated community.

The Shaws sued the complex, alleging, among other claims, that it violated the Fair Housing Act of 1968 (FHA), 42 U.S.C. § 3604, in that it intentionally rejected plaintiffs' application based on their race. Additionally, plaintiffs claimed defendant violated the Civil Rights Act of 1866, 42 U.S.C. § 1982, by depriving plaintiffs of their right to own and hold residential property based on their race or color.

Defendant argued that the grandmother allegedly told the approval committee that she did not plan to live in the condominium with her granddaughter. This intent, defendant argued, would violate its right to restrict residency to older persons, in accordance with the FHA.

The parties settled for \$200,000.

Plaintiffs' expert was Joe Feagin, sociology, Gainesville, Fla.

Plaintiffs' Counsel

*Jeffrey D. Rubinstein, Miami, Fla.

Documents in *Shaw v. Lake Park Condominium I, Inc.*, are available through the Court Documents section in the back of this issue, courtesy of Mr. Rubinstein.