

**STATE OF INDIANA  
INDIANA CIVIL RIGHTS COMMISSION**

GREGORY L. WILSON, SR., in his official  
capacity as EXECUTIVE DIRECTOR of the  
INDIANA CIVIL RIGHTS COMMISSION,

Complainant,

vs.

DRUMMOND MANAGEMENT, LLC,  
Respondents.

ICRC NO.: Hofs18090558

HUD No.: 05-18-2996-8

DATE FILED

**SEP 23 2019**

ICRC  
COMMISSION

**FINAL ORDER**

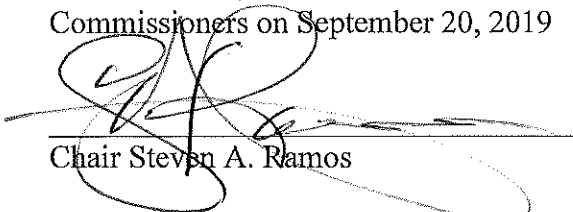
On August 1, 2019, Hon. Caroline A. Stephens Ryker, Administrative Law Judge ("ALJ") for the Indiana Civil Rights Commission ("ICRC") issued her Initial Findings of Fact, Conclusions of Law, and Order ("Order"). Neither Complainant nor Respondent has objected to the Order. With no objection or intent to review on record, the Commission shall affirm the Order. IC 4-21.5-3-29(c). After consideration of the record in this matter and the Order,

**THE COMMISSION HEREBY ORDERS:**

1. The dispositive findings of fact and conclusions of law as stated in the Order, a copy of which is attached hereto, are incorporated herein by reference. IC 4-21.5-3-28(g)(2).
2. The Order is AFFIRMED under IC 4-21.5-3-29 and hereby becomes the Final Order disposing of the proceedings. IC 4-21.5-3-27(a).

Either party to a dispute filed under IC 22-9.5 may, not more than thirty (30) days after the date of receipt of the Commission's final appealable order, appeal to the court of appeals under the same terms, conditions, and standards that govern appeals in ordinary civil actions. IC 22-9.5-11-1.

ORDERED by the Commission the majority vote of 5  
Commissioners on September 20, 2019

  
Chair Steven A. Ramos

Certificate of Service

Served this 23 day of September in 2019 by United States Mail on the following:

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Gregory L. Wilson, Sr., Executive Director  
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Docket Clerk, Anehit Eromosele

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DATE FILED

AUG 01 2019

OFFICE OF THE  
ADMINISTRATIVE JUDGE

**INITIAL FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER  
ON NOTICE OF ELECTION; AND ORDER ON MOTION TO AMEND  
NOTICE OF FINDING AND ISSUANCE OF CHARGE**

On July 18, 2019, Complainant, by counsel, filed Complainant's Motion to Amend Notice of Finding and Issuance of Charge ("Motion to Amend") with the undersigned Administrative Law Judge ("ALJ") for the Indiana Civil Rights Commission ("ICRC"), which Respondent Hallmark Rentals and Management, Inc. ("Hallmark") opposed in Respondent Hallmark's July 25, 2019 Response in Opposition to Motion to Amend Notice of Finding and Issuance of Charge ("Motion in Opposition"). On July 23, 2019, Respondents Drummond Management, LLC ("Drummond LLC") and Dallas Drummond ("Drummond"), by counsel, filed a Notice of Election pursuant to the Indiana Fair Housing Act ("IFHA"), Ind. Code § 22-9.5-6-12, ("IFHA Election"). Having carefully considered the foregoing and being duly advised in the premises, the undersigned ALJ for the ICRC hereby issues the following initial findings of fact, conclusions of law, and order:

**FINDINGS OF FACT**

1. Matthew Russell ("Aggrieved Party") filed a Complaint of Discrimination with the ICRC on October 15, 2018 in which he alleged that Respondents Hallmark, Drummond LLC, and Drummond engaged in unlawful housing discrimination against him on the basis of familial status.
2. On June 28, 2019, the ICRC issued – and on July 2, 2019 served through the United States mail– a Notice of Finding and Issuance of Charge ("Charge") in which the ICRC found "reasonable cause" to believe a discriminatory practice occurred.

3. ICRC Staff Attorney Jordan D. Burton entered his appearance for Complainant on July 5, 2019.
4. Respondent Drummond LLC received the Charge on July 5, 2019, and counsel for Respondent Drummond LLC and Respondent Drummond received the Charge on July 8, 2019.
5. Within twenty (20) days after receiving the Charge, Respondent Drummond LLC and Respondent Drummond filed their July 23, 2019 Notice of Election, which was served on the Aggrieved Party, Respondent Hallmark, the Docket Clerk, the Office of Hearings and Appeals, and the assigned ICRC Staff Attorney.
6. The June 28, 2019 Charge did not make a determination of cause or no cause with respect to Respondent Hallmark. However, Respondent Hallmark was served with the Charge and received it on July 8, 2019.
7. On July 18, 2019, Complainant filed Complainant's Motion to Amend.
8. To date, Respondents Hallmark, Drummond LLC, and Drummond have not filed an answer to the Charge.
9. Any Conclusion of Law that should have been deemed a Finding of Fact is hereby adopted as such.

### CONCLUSIONS OF LAW

#### Motion to Amend

1. The Indiana Administrative Code allows a Charge issued under the IFHA to be amended 1) at the discretion of the presiding ALJ under necessary conditions and 2) as a matter of right prior to the filing of an answer by a Respondent. 910 IAC 2-7-4(h).
2. Respondent Hallmark, Respondent Drummond LLC, and Respondent Drummond have not filed an answer to the Charge, and accordingly, Complainant "...may amend its charge once, as a matter of right..." until an answer has been filed. 910 IAC 2-7-4(h)(1).
3. Provided the matter continues in the administrative forum, Respondents' answers are due "[w]ithin the thirty (30) days after the service of the charge..." 910 IAC 2-7-4(f). The Charge was served through the United States mail on July 2, 2019. "If a notice is served through the United States mail, three (3) days must be added to a period that commences upon service of that notice." IC 4-21.5-3-2(e). Accordingly, the deadline for filing an answer to the Charge in the administrative forum is August 4, 2019.

4. Complainant may amend the Charge as a matter of right before an answer has been filed by a Respondent or if no answer is filed, by the August 4, 2019 deadline for filing an answer in the administrative forum.

#### Notice of Election

5. Article 2 of Title 910 of the Indiana Administrative Code "...provides the ICRC's interpretation of the coverage and application of IC 22-9.5..." and contains guidance on making an election under the IFHA. 910 IAC 2-1-1; 910 IAC 2-6-6(h).
6. "A complainant, a respondent, or an aggrieved person on whose behalf the complaint was filed may elect to have the claims asserted in a finding of reasonable cause decided in a civil action. . ." IC 22-9.5-6-12. According to the June 28, 2019 Charge, "reasonable cause" was found; therefore, an opportunity to elect out of the administrative forum existed on the claim brought under the IFHA.
7. A notice of election is timely if filed within twenty (20) days of the date that the electing person received the Charge. IC 22-9.5-6-12(b).
8. Additionally, "[t]he notice of the election must be filed with the docket clerk of the ICRC and serviced on the director, the respondent, and the aggrieved persons on whose behalf the complaint was filed." 910 IAC 2-6-6(h)(2).
9. "If the complainant, the respondent, or the aggrieved person on whose behalf a complaint was filed makes a timely election to have the claims asserted in the charge decided in a civil action under IC 22-9.5-6-12, the administrative law judge shall dismiss the administrative proceeding." 910 IAC 2-7-9(a).
10. Respondent Drummond LLC's and Respondent Drummond's Notice of Election was timely filed, and it was served on the Docket Clerk, Respondent Hallmark, and the Aggrieved Person. Although the ICRC Director was not named on the certificate of service, the ICRC Director's Attorney of record, ICRC Staff Attorney Jordan D. Burton, was served, which the Commission has previously deemed sufficient for meeting the IFHA's election requirements. *ICRC v. Furbee*, HOha17121436 (ICRC 2018), *see also* IC 4-21.5-3-1(e) ("Service shall be made on a person or on the person's counsel or other authorized representative of record in the proceeding.")

11. As such, Respondent Drummond LLC's and Respondent Drummond's Notice of Election is effective under the IFHA such that the Commission shall dismiss the administrative proceeding.
12. Administrative review of this initial decision may be obtained by filing objections with the Commission that state with reasonable particularity each basis for each objection within 15 days after service of this initial decision. IC 4-21.5-3-29(d). Filings can be made with the Docket Clerk of the Indiana Civil Rights Commission by email, fax, or by mail at the following:

**Docket Clerk**  
**c/o Indiana Civil Rights Commission**  
**100 North Senate Avenue, N300**  
**Indianapolis, IN 46204**  
**Fax: 317-232-6580**  
**Email: [aneromosele@icrc.in.gov](mailto:aneromosele@icrc.in.gov)**

13. Any Finding of Fact that should have been deemed a Conclusion of Law is hereby adopted as such.

**ORDER**

1. Complainant's Motion to Amend Notice of Finding and Issuance of Charge is **GRANTED**. Complainant may file an amended Charge before an answer to the charge has been filed by a Respondent or if no answer is filed, by August 4, 2019.
2. Respondent Drummond Management, LLC's and Respondent Dallas Drummond's Notice of Election is **GRANTED**, and the administrative proceedings on ICRC NO. Hofs18090558 are **DISMISSED**, with prejudice. 910 IAC 2-7-9(a). This order becomes a final order disposing of the proceedings immediately upon affirmation by the Commission. IC 4-21.5-3-29.
3. The Initial Prehearing Conference scheduled by the ALJ is hereby **VACATED**.

Dated this 1<sup>st</sup> of August, 2019



\_\_\_\_\_  
Hon. Caroline A. Stephens Ryker  
Administrative Law Judge  
Indiana Civil Rights Commission  
100 North Senate Avenue, Room N300  
Indianapolis, IN 46204-2255  
*Anehitia Eromosele, Docket Clerk*  
317/234-6358

Certificate of Service

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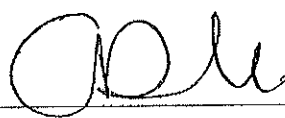
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