JAN: 28 2014

INDIANA STATE
CIVIL RIGHTS COMMISSION

STATE OF INDIANA INDIANA CIVIL RIGHTS COMMISSION

JAMAL L. SMITH, in his official capacity as EXECUTIVE DIRECTOR of the) Docket No.: HOha13071317
INDIANA CIVIL RIGHTS COMMISSION,	HUD No.: 05-13-1129-8
Complainant,) }
VS.))
DAN ESTES and ACTION PROPERTIES,)
Respondent.	

FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER

On December 20, 2013, Noell F. Allen Administrative Law Judge ("ALJ") for the Indiana Civil Rights Commission ("ICRC") entered her Proposed Findings of Fact, Conclusions of Law, And Order ("the proposed decision").

No objections have been filed to the ICRC's adoption of the proposed decision.

Having carefully considered the foregoing and being duly advised in the premises, the ICRC hereby adopts as its own the findings of fact, conclusions of law, and order proposed by the ALJ in the proposed decision, a copy of which is attached hereto and incorporated herein by reference.

INDIANA CIVIL RIGHTS COMMISSION

COMMISSIONER

COMMISSIONER'

COMMISSIONER

COMMISSIONER

Dated this 24th day of January, 2014

To be served by Certified Mail upon the following parties:

Shalanda Jackson 222 S 33rd St South Bend, IN 46615

Dan Estes Action Properties 2917 Mishawaka Act South Bend, IN 46615

and to be personally served on the following attorney on record:

Frederick S. Bremer, Esq. Staff Counsel Indiana Government Center North Indiana Civil Rights Commission 100 N. Senate Avenue, Room N103 Indianapolis, IN 46204

DEC 20 2013

INDIANA STATE
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Docket No.: HOha13071317
HUD No.: 05-13-1129-8

PROPOSED FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER

On November 18, 2013, Respondent, Dan Estes and Action Properties ("Respondent"), filed its Notice of Election ("NOTICE").

Having carefully considered the foregoing and being duly advised in the premises, the undersigned Administrative Law Judge ("ALJ") for the Indiana Civil Rights Commission ("ICRC") proposes that the ICRC enter the following findings of fact, conclusions of law, and order.

FINDINGS OF FACT

- 1. Shalanda Jackson filed the Complaint of Discrimination on July 12, 2013 naming the Respondent alleging unlawful discrimination because of disability in violation of the Indiana Fair Housing Act, IC 22-9.5 ("the IFHA"). COMPLAINT OF DISCRIMINATION (July 12, 2013).
- 2. On October 28, 2013, the ICRC's Executive Director, Akia Haynes, issued her NOTICE OF FINDING AND ISSUANCE OF CHARGE, finding reasonable cause to believe a violation of the IFHA had occurred. NOTICE OF FINDING AND ISSUANCE OF CHARGE (October 28, 2013).
- 3. Respondent filed the NOTICE within twenty (20) days of receipt of the Notice of Finding.

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

CONCLUSIONS OF LAW

- 1. Under the IFHA, a complainant, a respondent, or an aggrieved person may elect to have the claims asserted in a reasonable cause finding decided in a civil action. IC 22-9.5-6-12(a).
- 2. Such an election must be made within twenty (20) days after receipt by the electing party of the reasonable cause finding. IC 22-9.5-6-12(a).
- 3. The election in the NOTICE was made in a timely manner.
- 4. Housing Rule 7.9(a) of the ICRC provides, in material part, as follows:
 - If ... the respondent ... makes a timely election to have the claims asserted in the charge asserted in a civil action under IC 22-9.5-6-12, the administrative law judge shall dismiss the proceeding. 910 IAC 2-7-9(a).
- 5. This complaint must be dismissed under 910 IAC 2-7-9(a).
- 6. Administrative review of this proposed decision may be obtained by the filing of a writing identifying with reasonable particularity each basis of each objection within fifteen (15) days after service of this proposed decision. IC 4-21.5-3-29(d).
- 7. Any Finding of Fact that should have been deemed a Conclusion of Law is hereby adopted as such.

ORDER

1. The Complaint of Discrimination is **DISMISSED**, with prejudice.

Dated this 20th day of December, 2013

Hon. Noell F. Allen

Administrative Law Judge

Indiana Civil Rights Commission

To be served by first class mail upon the following parties:

Shalanda Jackson 222 S 33rd St South Bend, IN 46615

Dan Estes Action Properties 2917 Mishawaka Act South Bend, IN 46615

and to be personally served on the following attorney on record:

Frederick S. Bremer, Esq. Staff Counsel Indiana Government Center North Indiana Civil Rights Commission 100 N. Senate Avenue, Room N103 Indianapolis, IN 46204