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5-18-2012

Yu Fang Ma & Shenji Liu, Petitioner Vs. Charles Weathers, Respondent.

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**BEFORE THE TENNESSEE
HUMAN RIGHTS COMMISSION**

IN THE MATTER OF:

**Yu Fang Ma & Shenji Liu,
Petitioner,**

Vs.

**Charles Weathers,
Respondent.**

DOCKET NO: 34.00-116100A

INITIAL ORDER

This matter was heard on May 18, 2012 before Steve R. Darnell, Administrative Law Judge, assigned by the Secretary of State, Administrative Procedures Division, and sitting for the Tennessee Human Rights Commission (Commission). The Commission was represented by attorney Rachel Appelt, and Respondent was present and not represented by counsel. Respondent is a retired attorney who surrendered his Tennessee license approximately six years ago.

ISSUES FOR DETERMINATION

1. Did Respondent violate the Tennessee Human Rights Act by refusing to rent his apartment to applicants of Chinese descent?
2. Should Respondent's conduct subject him to penalties under the Tennessee Human Rights Act?

SUMMARY OF DETERMINATION

It is **DETERMINED** that Respondent did violate the Tennessee Human Rights Act as set forth below. He is ordered to pay a civil penalty of \$1,000 to the Commission, attend training and pay the cost of this cause. He is further ordered to pay Yu Fang Ma the sum of \$1,500 and

Shenji Liu the sum of \$750 in damages. This determination is based upon the following Findings of Fact and Conclusions of Law.

FINDINGS OF FACT

1. Ms. Ma and Mr. Liu are both originally from China. Ms. Ma is currently a resident of Nashville, Tennessee. Mr. Liu is a resident of Augusta, Georgia.
2. In October 2010, Ms. Ma and Mr. Liu were co-workers at Meharry Medical College and both lived in Nashville.
3. Ms. Ma was seeking a new place for herself and her family to live. She had just accepted a job with Vanderbilt University, and desired an apartment within walking distance to Vanderbilt's campus.
4. Neither Ms. Ma nor her husband had a driver's license. Ms. Ma wanted her daughter to attend Eakin Elementary, a public school near Vanderbilt. She became interested in an apartment located at 3304 Acklen Avenue, in Nashville that was advertised on www.Craigslist.com. From the advertisement the apartment appeared to meet her requirements.
5. The Acklen apartment was owned and managed by Respondent.
6. Ms. Ma asked Mr. Liu to make a phone call and inquire about renting the apartment on her behalf because her ability to speak English was limited.
7. On October 19, 2010, acting on Ms. Ma's behalf, Mr. Liu called Respondent about the apartment.
8. During this phone conversation, Respondent detected a Chinese name and asked Mr. Liu if he was Chinese. After Mr. Liu answered in the affirmative, Respondent

- explained that he would not rent the apartment to Mr. Liu because of the Chinese cooking method of stir fry.
9. The stir frying cooking method causes a release of cooking oil into the environment which eventually accumulates on the cabinets, ceiling, flooring, and other surfaces of the living area. Some landlords prohibit the use of stir frying in their rentals.
 10. Respondent had incurred property damage in the past from cleaning up after Chinese tenants who stir-fried in their apartments, and left the apartments messy when they moved out. He did not wish to suffer that kind of property damage again.
 11. Mr. Liu and Ms. Ma were insulted by Respondent's refusal to rent to Chinese people. Mr. Liu called Respondent a second time and advised Respondent that it was illegal to deny rental of his apartment to people of Chinese descent. Again, Respondent told Mr. Liu that he was not prejudiced toward people of Chinese descent, but a past Chinese tenant who cooked using a stir fry method had cause great damage to his apartment.
 12. Respondent would not give Mr. Liu his name. Mr. Liu called Respondent a third time and advised Respondent that he would file a complaint concerning his actions. A complaint was initially filed by Mr. Liu and Ms. Ma with a federal government agency, but the matter was eventually referred to the Commission.
 13. Ms. Ma obtained housing farther away from Vanderbilt in Brentwood, Tennessee. No proof was introduced of monetary damages suffered by Mr. Liu or Ms. Ma. There was no proof Ms. Ma sought and could not find similar housing closer to Vanderbilt.

14. Respondent does not have a bias toward people of Chinese descent. He has had many tenants of Chinese descent and a past girl friend of Chinese descent who cohabitated with him.
15. Respondent has amended his form lease to prohibit all tenants from cooking using the stir frying method.
16. Respondent did not ask all potential tenants if they would be stir frying, but singled Mr. Liu and Ms. Ma out because he detected that Mr. Liu was of Chinese descent.
17. Ms. Ma is entitled to general damages for her embarrassment in the amount of \$1,500. Mr. Liu is entitled to general damages for his embarrassment in the amount of \$750.

CONCLUSIONS OF LAW

1. The Commission has the burden to introduce evidence that would by a preponderance of the evidence prove the issues should be resolved in Petitioner's favor. Rule 1360-4-1-.02.
2. TENN. CODE ANN. §4-21-601(a)(1) and (5) provides as follows:
 - (a) It is a discriminatory practice for any person because of race, color, creed, religion, sex, disability, familial status or national origin to:
 - (1) Refuse to sell or rent after the making of a bona fide offer, or to refuse to negotiate for the sale or rental of, or otherwise make unavailable or deny, real property or a housing accommodation to a person;
 - (5) Make, print, publish, circulate, post or mail or cause to be made, printed, published, circulated, posted or mailed a notice, statement, advertisement or sign, or use a form of application for the purchase, rental or lease of real property or a housing accommodation, or make a record of inquiry in connection with the prospective purchase, rental or lease of real property or a housing accommodation, that indicates, directly or indirectly, a limitation, specification or discrimination as to race, color, creed, religion, sex, disability, familial status or national origin or an intent to make such a limitation, specification or discrimination.

THEREFORE, it is **ORDERED** as follows:

1. Respondent is hereby assessed a Civil Penalty in the amount of One Thousand Dollars (\$1,000.00) for violating the Tennessee Human Rights Act, pursuant to TENN. CODE ANN. §4-21-306(a)(9)(A)(i).
2. Respondent shall pay compensatory damages in the amount of One Thousand Five Hundred Dollars (\$1,500.00) to Ms. Ma and Seven Hundred Fifty Dollars (\$750.00) to Mr. Liu, pursuant to TENN. CODE ANN. §4-21-306(a)(7).
3. Pursuant to TENN. CODE ANN. §4-21-306(a)(8), Respondent shall complete the following:
 - a. Pay the costs of this action not to exceed \$2,000. These costs will be established by an Affidavit of Costs prepared and filed by Counsel for the Commission.
 - b. Attend the 2013 Fair Housing Matters Conference at his own expense, which will be held in the Nashville area in April of 2012. Respondent shall submit proof of attendance to the Tennessee Human Rights Commission, 710 James Robertson Parkway, Suite 100, Nashville, Tennessee 37243, with attention to the Legal Department.

This Order entered and effective this 30 day of May, 2012

Steve R. Darnell
Administrative Law Judge

Filed in the Administrative Procedures Division, Office of the Secretary of State, this 30
day of May, 2012

Handwritten signature of Thomas G. Stovall in cursive script.

Thomas G. Stovall, Director
Administrative Procedures Division