

**NEW YORK STATE  
DIVISION OF HUMAN RIGHTS**

**NEW YORK STATE DIVISION  
OF HUMAN RIGHTS**

on the Complaint of

**DONALD J. CORRALES, JR., DONALD J.  
CORRALES, SR.,**

Complainants,

v.

**MAINE TRAILER PARK,**

Respondent.

**NOTICE AND  
FINAL ORDER**

Case No. 10116983

**PLEASE TAKE NOTICE** that the attached is a true copy of the Recommended Findings of Fact, Opinion and Decision, and Order (“Recommended Order”), issued on July 28, 2008, by Edward Luban, an Administrative Law Judge of the New York State Division of Human Rights (“Division”). An opportunity was given to all parties to object to the Recommended Order, and all Objections received have been reviewed.

**PLEASE BE ADVISED THAT, UPON REVIEW, THE RECOMMENDED ORDER IS HEREBY ADOPTED AND ISSUED BY THE HONORABLE GALEN D. KIRKLAND, COMMISSIONER, AS THE FINAL ORDER OF THE NEW YORK STATE DIVISION OF HUMAN RIGHTS (“ORDER”).** In accordance with the Division's Rules of Practice, a copy of this Order has been filed in the offices maintained by the Division at One Fordham Plaza, 4th Floor, Bronx, New York 10458. The Order may be inspected by any member of the public during the regular office hours of the Division.

**PLEASE TAKE FURTHER NOTICE** that any party to this proceeding may appeal this Order to the Supreme Court in the County wherein the unlawful discriminatory practice that is

the subject of the Order occurred, or wherein any person required in the Order to cease and desist from an unlawful discriminatory practice, or to take other affirmative action, resides or transacts business, by filing with such Supreme Court of the State a Petition and Notice of Petition, within sixty (60) days after service of this Order. A copy of the Petition and Notice of Petition must also be served on all parties, including the General Counsel, New York State Division of Human Rights, One Fordham Plaza, 4th Floor, Bronx, New York 10458. Please do not file the original Notice or Petition with the Division.

**ADOPTED, ISSUED, AND ORDERED.**

DATED: **SEP - 9 2008**  
Bronx, New York

  
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GALEN D. KIRKLAND  
COMMISSIONER

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**DONALD J. CORRALES, JR., DONALD J.  
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**RECOMMENDED FINDINGS OF  
FACT, OPINION AND DECISION,  
AND ORDER**

Case No. **10116983**

**SUMMARY**

Complainants alleged that Respondent discriminated against them on the basis of disability by evicting them from a mobile home park. Complainants failed to sustain their burden of proof, and the complaint should be dismissed.

**PROCEEDINGS IN THE CASE**

On March 26, 2007, Complainant Donald Corrales, Jr. filed a verified complaint with the New York State Division of Human Rights ("Division"), charging Respondent with unlawful discriminatory practices relating to housing in violation of N.Y. Exec. Law, art. 15 ("Human Rights Law").

On October 10, 2007, the Division amended the complaint and named Donald Corrales, Sr. as a Complainant.

After investigation, the Division found that it had jurisdiction over the complaint and that probable cause existed to believe that Respondent had engaged in unlawful discriminatory practices. The Division thereupon referred the case to public hearing.

After due notice, the case came on for hearing before Edward Luban, an Administrative Law Judge ("ALJ") of the Division. A public hearing session was held on May 28, 2008.

Complainants and Respondent appeared at the public hearing. The Division was represented by Anton Antomattei, Esq. Respondent was represented by Michael H. Sussman, Esq.

At the public hearing, the complaint was amended to reflect Respondent's legal name, Nanticoke Creek, LLC.

Both sides filed proposed findings of fact and conclusions of law after the conclusion of the public hearing.

#### **FINDINGS OF FACT**

1. Complainants Donald J. Corrales, Sr. and Donald J. Corrales, Jr. are father and son (Tr. 16, 203)
2. Complainant Corrales, Jr. was diagnosed with HIV in 1990. (Tr. 72) He also has hepatitis C. (Tr. 209). These illnesses have caused lesions on his brain, pneumonia, mood swings, and memory problems. (Tr. 157, 209)
3. Respondent is a mobile home park ("Nanticoke") located in Endicott, New York. (Tr. 234) Respondent's legal name is Nanticoke Creek LLC. (Tr. 5)
4. In 2001, Delia Brennan, Complainant Corrales, Jr.'s mother-in-law, purchased a trailer in the Mt. Orange Mobile Home Park ("Mt. Orange") in Slate Hill, New York. (Tr. 71, 158,

266) Brennan lived in New York City. (Tr. 266) Her daughter, Zina LaRocca, later known as Zina Corrales, moved into the trailer. (Tr. 266-67)

5. Geoffrey Boynton was the owner of Mt. Orange. (Tr. 16, 71, 265)

6. Complainant Corrales Jr. lived in Brennan's trailer in Mt. Orange with LaRocca and their two children. (Tr. 16, 153-54)

7. From time to time, Brennan paid rent directly to Boynton for Complainant Corrales Jr. and his wife. (Tr. 24, 71, 267)

8. In the summer of 2004, Complainant Corrales, Sr. moved into Brennan's trailer in Mt. Orange with Complainant Corrales, Jr. and his family. (Tr. 15-16, 72, 81, 154)

9. In 2004, Complainant Corrales, Jr. and LaRocca fell approximately six months behind in their rent. (Tr. 194-95, 268)

10. Brennan discussed the rent arrears with Boynton. (Tr. 268) She told Boynton that Complainant Corrales, Jr. and her daughter were having trouble. Boynton said the situation could not go on indefinitely. (Tr. 268)

11. Neither Complainant Corrales, Sr. nor LaRocca was present for or heard the conversation between Brennan and Boynton. (Tr. 74, 158)

12. In another conversation with Boynton, Brennan indicated that Complainant Corrales, Jr. was sick. (Tr. 269) Brennan did not tell Boynton what the sickness was and Boynton did not ask her. (Tr. 269) Brennan did not mention HIV or AIDS in any conversation with Boynton. (Tr. 268)

13. Although Complainant Corrales, Jr.'s rent was in arrears, Boynton took no steps to evict him or his family from Mt. Orange. (Tr. 75, 78, 196, 270-71) Eventually, Boynton received a check for back rent from the Department of Social Services. (Tr. 270)

14. In December 2004, Dennis Petersen moved to Mt. Orange. (Tr. 223-24) Petersen became friendly with Complainant Corrales, Sr. (Tr. 20-21, 82, 197, 224-25)

15. Petersen and Complainant Corrales, Sr. confided in each other about family issues. (Tr. 100, 225-26). Complainant Corrales, Sr. expressed concern that his grandchildren were not getting sufficient guidance or attention from their parents. (Tr. 226-27, 231) Complainant Corrales, Sr. also described financial problems between himself and Complainant Corrales, Jr. (Tr. 228, 253)

16. Complainant Corrales, Sr. told Petersen that Complainant Corrales, Jr. had shingles and that it was very painful. (Tr. 232) Complainant Corrales, Sr. did not mention AIDS or any other medical condition. (Tr. 232, 255)

17. In 2005, Boynton received complaints about Complainant Corrales, Jr. from two other residents of Mt. Orange. Tammy Miland complained about Complainant Corrales, Jr.'s "basic argumentative nature." (Tr. 280). Ira McDonald said there were constant arguments at Complainants' trailer. (Tr. 281).

18. Boynton did not discuss these complaints with Complainants. (Tr. 282) He did not take steps to evict them either. (Tr. 288) He was in the process of selling Mt. Orange and was not motivated to start eviction proceedings. (Tr. 288-89)

19. Between February and June 2006, Child Protective Services ("CPS") investigated Complainant Corrales, Jr. and his wife at Mt. Orange. (Tr. 142, 164-65). Based on CPS notes she saw, LaRocca believed that the sources of the complaints against her were tied to Petersen, Petersen's daughter, and Complainant Corrales, Sr. (Tr. 165-67, 192-94, 200)

20. After a hearing, the CPS charges were determined to be unfounded. (Tr. 171, 216-19)

21. In May 2006, Boynton acquired Nanticoke. (Tr. 32, 234). He asked Petersen to become the park manager. (Tr. 32, 234) Petersen accepted the offer and moved to Nanticoke on May 1, 2006. (Tr. 234)

22. In May 2006, Complainant Corrales, Sr. and Complainant Corrales, Jr. had an argument about money. (Tr. 154, 197, 214) As a result, they did not speak to each other for four or five months. (Tr. 197, 215)

23. Because of the argument with his son, Complainant Corrales, Sr. moved out of Mt. Orange. (Tr. 196-97) For several months, he stayed with Petersen in his trailer in Nanticoke. (Tr. 19, 30-31, 83, 89, 97, 237).

24. In or about August 2006, Complainant Corrales, Sr. moved into a trailer he purchased in Nanticoke. (Tr. 34, 92-93, 239-40). He did not have a lease but was a month to month tenant. (Tr. 55, 110, 277) He paid \$250.00 per month in rent for the lot. (Tr. 95; Complainants' Exh. 6)

25. In December 2006, around Christmas, Complainant Corrales, Sr.'s two grandchildren came to live with him. (Tr. 101)

26. Petersen told Complainant Corrales, Sr. that the children could stay with him but that Complainant Corrales, Jr. and his wife could not move in. (Tr. 241-42, 244) Petersen had twice witnessed arguments between Complainants in Mt. Orange. (Tr. 243, 253) From his conversations with Complainant Corrales, Sr., he believed that the disagreements were severe, that Complainant Corrales, Jr. had stolen money from Complainant Corrales, Sr., and that Complainant Corrales, Jr. and his wife were abusive to their children. (Tr. 253) Petersen wanted to maintain tranquility and did not want screaming and yelling in the park. (Tr. 242, 251)

27. Peterson discussed the matter with Boynton, who said Complainant Corrales, Jr. and his wife were not to move into Nanticoke. (Tr. 272, 274). Boynton believed Complainant Corrales,

Jr. "was a very volatile and verbally violent guy" when he lived in Mt. Orange. (Tr. 272-73) Boynton's decision was based on the complaints he had received in Mt. Orange and on what Petersen had told him. (Tr. 290-91).

28. In January 2007, Complainant Corrales, Jr. and his wife left Mt. Orange and moved to Complainant Corrales, Sr.'s trailer in Nanticoke. (Tr. 37-38, 103, 156) They intended to stay temporarily until they found their own place to live. (Tr. 105-06, 188-89, 190-91, 219)

29. On January 31, 2007, Respondent notified Complainant Corrales, Sr. that it would terminate his tenancy as of March 1, 2007. (Tr. 40; Complainants' Exh. 3) The notice said, "YOUR LOT IS BEING RE-CALLED AND YOUR MONTH TO MONTH TENANCY IS BEING TERMINATED." (Complainant's Exh. 3)

30. Boynton subsequently commenced a holdover eviction proceeding to recover possession of the lot. (Tr. 44; Complainants' Exh. 2) Boynton received a judgment in his favor, but the eviction was stayed until June 12, 2007. (Tr. 44-45, 49-50, 116-18; Complainants' Exh. 4)

31. At the time they decided to begin eviction proceedings, neither Boynton nor Petersen was aware of Complainant Corrales, Jr.'s medical condition. (Tr. 242, 245, 272)

32. On April 1, 2007, Complainant Corrales, Jr. and his family left Complainant Corrales, Sr.'s trailer and moved into an apartment in Vestal, New York. (Tr. 178; Complainants' Exh. 9)

33. After Complainant Corrales, Jr. moved out, Complainant Corrales, Sr. asked Petersen if he could stay in the park. (Tr. 54) Petersen reconsidered, but he decided to go ahead with the eviction. (Tr. 246) He did not want to risk Complainant Corrales, Jr. returning to the park and then having to go through the eviction process again. (Tr. 246)

34. On June 18, 2007, Complainant Corrales, Sr. moved out of Nanticoke. (Tr. 58, 123)

## OPINION AND DECISION

It is an unlawful discriminatory practice for the owner of a housing accommodation to deny housing to or to discriminate against any person on the basis of disability. N.Y. Exec. Law, art. 15 (“Human Rights Law”) §§296 (5)(a)(1)(2). Complainants alleged that Respondent discriminated against them on the basis of disability when it evicted them from Nanticoke. To establish this claim, Complainants must show that they are members of a protected class, that they were qualified to rent the premises, that they were asked to vacate the premises, and that this occurred in circumstances giving rise to an inference of discrimination. *Dunleavy v. Hilton Hall Apartments Co., LLC*, 14 A.D.3d 479, 480 (2d Dept. 2005).

Complainants established the first three elements of their claim. Complainant Corrales, Jr.’s illness is a disability within the meaning of the Human Rights Law. Complainant Corrales, Sr. was a tenant in Nanticoke. Complainant Corrales, Jr. was entitled to occupy Complainant Corrales, Sr.’s trailer as a member of his immediate family. *See* Real Property Law §§233 s., 235-f. Finally, Respondent served Complainants with a notice to terminate their tenancy and brought an eviction proceeding against them.

However, Complainants failed to establish that they were evicted in circumstances giving rise to an inference of discrimination. Complainants alleged that they were evicted because Complainant Corrales, Jr. has HIV/AIDS. Complainants did not prove that Respondent even knew about Complainant Corrales, Jr.’s medical condition. Complainant Corrales, Sr. and LaRocca testified that Brennan told Boynton that Complainant Corrales, Jr. had HIV. I do not find their testimony persuasive. Neither Complainant Corrales, Sr. nor LaRocca participated in or heard Brennan’s conversation with Boynton, and they did not provide sufficient details about

the conversation to make their accounts credible. Brennan herself did not testify. I credit the testimony of Boynton, the only witness with first-hand knowledge of the conversation, that Brennan did not tell him about Complainant Corrales, Jr.'s medical condition. The record contains no other evidence that Boynton, Petersen, or any other representative of Respondent was aware that Complainant Corrales, Jr. had HIV. In addition, as both Complainant Corrales, Sr. and LaRocca acknowledged, their rent was substantially in arrears at the time Boynton supposedly learned about Complainant Corrales Jr.'s illness. Yet despite the arrearage, and despite Boynton's supposed knowledge of Complainant Corrales, Jr.'s medical condition, Boynton did not try to evict Complainants from Mt. Orange.

Without evidence that Respondent knew about Complainant Corrales, Jr.'s medical condition, there is no basis to infer that Complainants' eviction was based on disability discrimination. Complainants failed to meet their burden of establishing a prima facie case of unlawful discrimination. Therefore, the complaint must be dismissed.

ORDER

On the basis of the foregoing Findings of Fact, Opinion and Decision, and pursuant to the provisions of the Human Rights Law and the Division's Rules of Practice, it is hereby

ORDERED, that the complaint is amended to delete Maine Trailer Park as respondent and substitute Nanticoke Creek LLC, and it is further

ORDERED, that the complaint be and the same hereby is dismissed.

DATED: July 28, 2008  
Syracuse, New York

A handwritten signature in black ink, appearing to read 'Edward Luban', with a long horizontal flourish extending to the right.

Edward Luban  
Administrative Law Judge