

**STATE OF NEW YORK  
STATE DIVISION OF HUMAN RIGHTS**

**STATE DIVISION OF HUMAN RIGHTS  
On The Complaint Of**

**DENISE DAVIS,**

Complainant,

-against-

**CITY OF PEEKSKILL HOUSING  
AUTHORITY,**

Respondent.

**NOTICE OF ORDER  
AFTER HEARING**

**CASE No:  
10104214**

PLEASE TAKE NOTICE that the within is a true copy of an Order issued herein by the Hon. Edward A. Friedland, Executive Deputy Commissioner of the State Division of Human Rights, after a hearing held before Administrative Law Judge Robert J. Tuosto. 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, Bronx, New York 10458. The Order may be inspected by any member of the public during the regular office hours of the Division.

PLEASE ALSO TAKE NOTICE that any party to this proceeding may appeal this Order to the Supreme Court in the County wherein the unlawful discriminatory practice which 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 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 days after service of this Order. The Petition and Notice of Petition must also be served on all parties, including the Division of Human Rights.

DATED: **MAR 14 2007**  
BRONX, NEW YORK

STATE DIVISION OF HUMAN RIGHTS

A handwritten signature in black ink, appearing to read "Edward A. Friedland", written over a horizontal line.

EDWARD A. FRIEDLAND  
Executive Deputy Commissioner

To:

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Hon. Andrew Cuomo  
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New York, New York 10271  
Attention Civil Rights Bureau

**STATE OF NEW YORK  
STATE DIVISION OF HUMAN RIGHTS**

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Respondent.

Complainant alleged that Respondent discriminated against her in relationship to her housing because of an alleged disability. Complainant requested dismissal of her complaint because the matter was reactivated by the United States Department of Housing and Urban Development ("HUD"). Accordingly, this complaint is dismissed for administrative convenience.

**PROCEEDINGS IN THE CASE**

On February 23, 2005, Complainant filed a verified complaint with the State Division of Human Rights ("Division") charging Respondent with an unlawful discriminatory practice relating to housing in violation of the Human Rights Law of State of New York.

On August 16, 2005, after investigation the Division found that it had jurisdiction over the complaint, and that probable cause existed to believe that Respondent had engaged in an unlawful discriminatory practice. Thereafter, the Division referred the case to Public Hearing.

After Due notice, the case came on for hearing on October 20, 2005, before Patricia L. Moro, an Administrative Law Judge ("ALJ") of the Division.

Complainant and Respondent appeared at the hearing. The complaint was represented by the Division through Arlyne Zwyer, of Counsel. Respondent was represented by the law firm of Lewis, Brisbois, Bisgaard & Smith, L.L.P., by Lewis F. Eckert, of Counsel.

On May 23, 2006, ALJ Moro recused herself from the instant case.

On June 12, 2006, pursuant to §465.12(d)(2) of the Division's Rules of Practice, this matter was reassigned to ALJ Robert J. Tuosto. At that time new Public Hearing dates were scheduled for October 3 and 6, 2006.

On July 5, 2006, Respondent filed a Motion for Summary Judgment. (ALJ's Exhibit 1).

On August 10, 2006, the Division filed opposition papers to the summary judgment motion. (ALJ's Exhibit 2).

On August 14, 2006, Respondent filed a Reply Affirmation. (ALJ's Exhibit 3).

On September 11, 2006, ALJ Tuosto reserved decision on Respondent's motion and advised the parties that the instant matter would proceed to Public Hearing on October 3 and 6, 2006.

On September 15, 2006, Respondent filed an interlocutory appeal of the decision to reserve on its motion. (ALJ's Exhibit 4)

On September 19, 2006, former Commissioner Donaldson issued a decision advising Respondent that the Division's rules did not provide for such an appeal, and that the request was denied. (ALJ's Exhibit 5).

On September 26, 2006, the Division filed a Motion to Dismiss for Administrative Convenience ("ACD"). (ALJ's Exhibit 6). In support of the motion, Zwyer stated that the complaint was being reactivated to HUD for processing, and that processing the complaint would not advance the State's Human Rights goals.

Neither Complainant nor Respondent filed opposition papers in response to the ACD motion.

Dated January 16, 2007, ALJ Tuosto issued a Recommended Findings of Fact, Opinion, Decision and Order ("Recommended Order") for the Commissioner's consideration. No Objections to the Recommended Order were filed with the Commissioner's Order Preparation Unit.

The Division's Rules of Practice govern the issue of administrative convenience dismissals. Specifically, the grounds for dismissal of a complaint for administrative convenience include the following:

- (i) the complainant's objections to a proposed conciliation agreement are without substance;
- (ii) the complainant is unavailable or unwilling to participate in conciliation or investigation, or to attend a hearing;
- (iii) relief is precluded by the respondent's absence or other special circumstances;
- (iv) holding a hearing will not benefit the complainant;
- (v) processing the complaint will not advance the State's human rights goals; or
- (vi) the complainant has initiated or wants to initiate an action or proceeding in another forum based on the same grievance, where the administrative convenience dismissal would not contravene the election of remedies provisions contained in § 297.9 or § 300 of the Law.

9 NYCRR § 465.5 (e) (2)

Complainant seeks an administrative convenience dismissal on the ground that the complaint is being reactivated to HUD for processing. Retaining the complaint would not advance the State's human rights goals. Therefore, the Division's motion is hereby granted. Accordingly, the instant complaint is dismissed for administrative convenience.

*See Eastman Chem. Prod., Inc. v. State Div. of Human Rights*, 162 A.D.2d 157, 556

N.Y.S.2d 571 (1<sup>st</sup> Dept. 1990). On the basis of the foregoing, the Division dismisses this

matter for administrative convenience as the complaint is being reactivated to HUD for processing.

**ORDER**

Based on the foregoing, and pursuant to the provisions of the Human Rights Law, and the Rules of Practice of the Division, it is

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

DATED: **MAR 14 2007**  
BRONX, NEW YORK

STATE DIVISION OF HUMAN RIGHTS

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EDWARD A. FRIEDLAND  
Executive Deputy Commissioner