

NEW YORK STATE
DIVISION OF HUMAN RIGHTS

NEW YORK STATE DIVISION
OF HUMAN RIGHTS

on the Complaint of

CHRISTOPHER J. JENRETTE,

Complainant,

v.

NOMA REALTY, LLC.,

Respondent.

NOTICE AND
FINAL ORDER

Case No. 10103468

PLEASE TAKE NOTICE that the attached is a true copy of the Recommended Order of Dismissal for Administrative Convenience ("Recommended Order"), issued on December 8, 2008, by Robert J. Tuosto, 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: **JAN 22 2009**
Bronx, New York



GALEN D. KIRKLAND
COMMISSIONER

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NOMA REALTY, LLC.,

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**RECOMMENDED ORDER
OF DISMISSAL FOR
ADMINISTRATIVE
CONVENIENCE**

Case No. 10103468

PROCEEDINGS IN THE CASE

On January 6, 2005, Complainant 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").

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.

The case was assigned to Migdalia Pares, an Administrative Law Judge ("ALJ") of the Division. The Division was represented by Robert Alan Meisels, Esq. Respondent was represented by Susanna Rodriguez, who appeared 'pro se'.

A public hearing was held on July 25, 2007. Mr. Meisels and Ms. Rodriguez both appeared at the public hearing. Complainant did not appear at the public hearing.

Subsequent to the public hearing this case was reassigned to ALJ Robert J. Tuosto.

FINDINGS OF FACT

1. Complainant had been previously served with an amended Notice of Hearing informing him of the preliminary conference date of November 17, 2005. Complainant failed to appear at that time. (ALJ Exhs. 7, 20)

2. On July 2, 2007 the Division, through Mr. Meisels, informed ALJ Pares of the attempts made to contact Complainant in the interim including sending him a "35 day letter" advising Complainant that he should contact the Division within 35 days if he intended to continue to pursue his claim. Said letter was sent by certified mail, return receipt requested. Complainant signed for said letter. Prior to this the Division conducted a search through the U.S. Postal Service confirming that the address for Complainant was the one at which he lives; this was the address to which the 35 day letter was sent. Finally, Mr. Meisels also sent a letter to Complainant, via both first class and certified mail, informing him that he was his Division attorney and requesting the he call Mr. Meisels. The certified mail letter was returned "unclaimed" but the first class letter was not. (ALJ Exh. 22)

3. On July 3, 2007 Complainant was properly served, by regular and certified mail, with an amended Notice of Hearing informing him of the public hearing dates of July 25-26, 2007. On May 1, 2007 Complainant had also been sent a letter from the Division's Calendar Unit informing him of the aforementioned public hearing dates. Complainant subsequently failed to appear. (ALJ Exhs. 2, 4, 10, 11, 12, 13, 16, 17, 21)

4. To date, there has been no response from Complainant.

OPINION AND DECISION

The Division's Rules of Practice allow for dismissal of a complaint for administrative

convenience on the grounds that “complainant is unavailable or unwilling . . . to attend a hearing.” 9 N.Y.C.R.R. § 465.5 (e)(2)(ii).

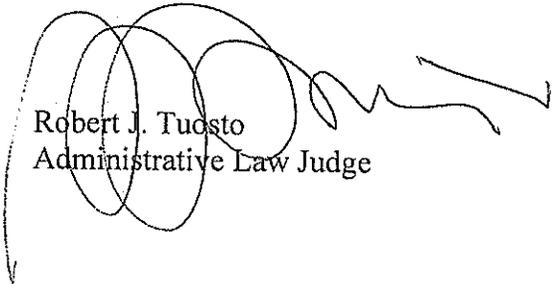
Complainant was properly noticed as to the public hearing, and had previously been sent a 35 day letter. Complainant has yet to communicate with the Division after the letter was sent, nor did he appear at either the prior preliminary conference or the subsequent public hearing. This non-response is deemed as Complainant’s unwillingness to participate in the hearing process. Accordingly, the complaint is 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 case be dismissed for administrative convenience.

DATED: December 8, 2008
Bronx, New York


Robert J. Tuosto
Administrative Law Judge