



**Division of
Human Rights**

NEW YORK STATE
DIVISION OF HUMAN RIGHTS

NEW YORK STATE DIVISION OF
HUMAN RIGHTS on the Complaint of

LATOYA FINNEY,

Complainant,

v.

MAXWELL-KATES, INC., RENEE JENNINGS,
MICHAEL KRAMER, ESQ., STUART ORENSTEIN,
MAX FREEMAN, THE BOARD OF MANAGERS OF
AURUM CONDOMINIUM,

Respondents.

DETERMINATION AND
ORDER AFTER
INVESTIGATION

Case No.
10215537

Federal Charge No. 02-22-0611-8

On 2/9/2022, LaToya Finney filed a complaint with the New York State Division of Human Rights ("Division") charging the above-named Respondents with an unlawful discriminatory practice relating to housing because of race/color, opposed discrimination/retaliation in violation of N.Y. Exec. Law, art. 15 (Human Rights Law).

After investigation and following opportunity for review of related information and evidence by the named parties, the Division has determined that there is **NO PROBABLE CAUSE** to believe that the respondents have engaged in or are engaging in the unlawful discriminatory practice complained of. This determination is based on the following:

A no probable cause determination is warranted in this matter. The investigation did not support Complainant's allegations that Respondents discriminated against her because she is Black or that Respondents retaliated against her because she had previously filed a discrimination complaint with the New York City Commission on Human Rights ("NYCCHR").

Complainant, a Black woman, alleges that she was harassed and denied equal terms, conditions, and privileges when Respondents placed a lien on her unit in June 2021. The subject property is a multi-unit condominium building located at 171 West 131 Street, New York, NY 10027 ("subject property"). The subject property is also known as The Aurum Condominium ("Condominium").

Respondent Board of Managers of Aurum Condominium ("Board") serves the unit owners of the subject property and governs its affairs. Respondent Renee Jennings is the President of the Board. Respondent Maxwell-Kates, Inc. was the property manager of the subject property, and Respondent Stuart Orenstein is Respondent Maxwell-Kates, Inc.'s managing agent for the subject property (collectively, "Respondents"). Respondents deny all allegations in the Complaint.

Respondents Michael Kramer, Esq. and "Max Freeman" did not respond to this complaint. Upon further investigation, Michael Kramer, Esq. is an attorney in New York, and the individual listed to accept service on behalf of Respondent Maxwell-Kates, Inc. with the New York Department of State. "Max Freedman" is the Chief Executive Officer of Respondent Maxwell-Kates, Inc. The Division finds that these Respondents are not relevant to the instant complaint.

NYCCHR dismissed Complainant's housing discrimination complaint (Complaint No. M-H-R-20-86320) for administrative cause in May 2021. Complainant alleges Respondents then retaliated and discriminated against her due to her previous complaint and based on her race/color when they placed a property lien for unpaid common charges on her unit on June 30, 2021. Complainant alleges that only her unit had a lien issued against it in retaliation for filing a discrimination complaint with NYCCHR. Respondents maintain the decision to file a lien against a unit owner is mandatory, as per the Condominium's by-laws. To support their position, Respondents produced the by-laws for the subject property, as well as memorandums and correspondence sent to unit owners at the subject property. Respondents assert the Condominium's management company at the time issued a memorandum summarizing the updated fine list and collection procedure for arrears in February 2021. According to Respondents, this memorandum was meant to serve as a reminder of an existing policy at the Condominium, allowing the Board to take legal action against any unit owner who fails to pay common charges within sixty (60) days of the date the charges are due.

During its investigation, the Division found that on April 20, 2021, Respondents sent a legal notice to Complainant and the owner of another unit at the subject property, notifying these owners that a property lien would be pursued if payment or a repayment proposal was not submitted by May 6, 2021. Complainant contacted Respondents via email on April 21, 2021, informing them she refused to pay her common charge balance because she alleged a discrepancy concerning the late charges, interest charges, and 21.8% common charge increase that took effect in April 2020. Respondents maintain they did not receive payment or a request for a payment plan from Complainant, and thus, lien proceedings were initiated against her unit on May 6, 2021. On June 30, 2021, the same day a lien was filed against Complainant's unit, a property lien was filed against another unit. The owner of this unit identifies as a white male. The Division reviewed the billing ledger for that owner, which showed he had not paid common charges since on or about January 27, 2021. Like Complainant who hadn't paid the common charges since March 2, 2021, the unit owner hadn't paid common charges in at least sixty (60) days, resulting in Respondents placing a lien on his property on June 30, 2021, in accordance with the Condominium's by-laws.

Complainant also maintains she refused to pay the common charges because she disputed

the late charges, alleging that they were evidence of Respondents' retaliation and fraud. Specifically, Complainant disputed the late charges, interest charges, and common charge increase that took effect in April 2020. In May 2021, Complainant was billed for the legal fees associated with obtaining the lien on her unit due to non-payment for sixty (60) days. Notably, Complainant's email correspondence beginning in July 2021 with Respondents' counsel disputing the charges occurred after the lien had already been issued against Complainant's unit on June 30, 2021. Respondents issued a memorandum to all residents, including Complainant, on June 25, 2021, waiving interest and late fees to allow residents to pay their balance in full. In October 2021, Respondents' counsel communicated via email to Complainant that she was responsible for all costs and fees necessary to collect unpaid charges and enforce the property lien, in accordance with the Condominium's by-laws.

Complainant alleged she was targeted by Respondents because of her race as a Black woman and discriminatorily charged late fees, interest fees, and legal fees. However, an inspection of Respondents' billing ledgers showed that multiple owners were charged legal fees associated with Respondents issuing liens against their units. Notably, the investigation revealed that a white male owner also received the legal notice in April 2021, and ultimately, had a lien and legal fees placed on his unit on June 30, 2021, the same day as Complainant. The Division interviewed other residents at the subject property, including a Black male owner, who confirmed that he also received a notice from Respondents about his arrears in April 2021 and incurred legal fees associated with lien pursuance. Furthermore, the Division interviewed other owners and staff who all indicated the root of their issues at the subject property were due to alleged discriminatory and discourteous acts by the former superintendent, Adem Lino. Lino is not a Respondent in the instant complaint, and he was eventually terminated from his position at the subject property.

The investigation showed that Respondents did not engage in race-based discrimination against Complainant. Respondents placed liens on the units of Black and non-Black owners alike and waived the late and interest charges for all owners in July 2021, when it was also done for Complainant. The Division determined that Respondents followed the procedures required by the Condominium's governing documents, by-laws, and rules and regulations, whereas unpaid common charges are concerned. Respondents provided Complainant with notice of their attempt to collect and the potential consequence of executing a lien against the owner's unit. The investigation showed Respondents' practices were not exclusive to Complainant, as a result of her previously filing a discrimination complaint at NYCCHR or identifying as a Black person, or to Black people overall at the subject property. Further, Complainant disputed additional fees and interest, which Respondents ultimately removed, although they assert that they had no obligation to do so. The evidence also shows that Respondents have applied these policies with the same level of strictness to other residents not in Complainant's protected class.

Based on the forgoing, the investigation failed to uncover sufficient evidence to show that Respondents engaged in unlawful discrimination or retaliation against Complainant. The record does not support a finding of probable cause. For the above reasons, the housing discrimination complaint should be dismissed.

The complaint is therefore ordered dismissed and the file is closed.

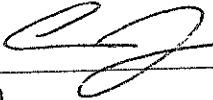
PLEASE TAKE NOTICE that any party to this proceeding may appeal this Determination to the New York State Supreme Court in the County wherein the alleged unlawful discriminatory practice took place by filing directly with such court a Notice of Petition and Petition within sixty (60) days after service of this Determination. A copy of this Notice and Petition must also be served on all parties including General Counsel, State Division of Human Rights, One Fordham Plaza, 4th Floor, Bronx, New York 10458. DO NOT FILE THE ORIGINAL NOTICE AND PETITION WITH THE STATE DIVISION OF HUMAN RIGHTS.

PLEASE TAKE FURTHER NOTICE that in the alternative to the right to appeal noticed above, in cases alleging housing discrimination only, a person whose complaint has been dismissed by the New York State Division of Human Rights after investigation for lack of jurisdiction or lack of probable cause may file the same cause of action in a court of appropriate jurisdiction pursuant to this section, unless appeal to the New York State Supreme Court as stated above has been sought.

Dated: January 27, 2023
Bronx, New York

STATE DIVISION OF HUMAN RIGHTS

By:



Chelsea L. John
Director of Housing Investigations