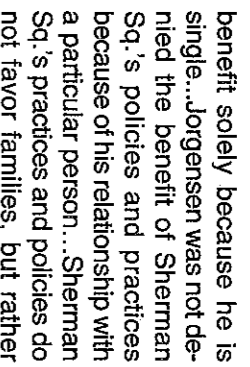
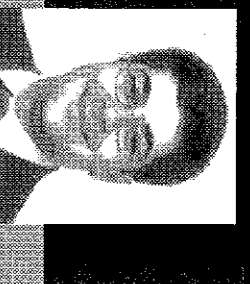


Court Permits Discrimination Claim Against Co-op to Proceed

COUNSEL'S CORNER.

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WHITE PLAINS - Justice Goodman of the Supreme Court in New York County recently denied a motion to dismiss brought by the Defendant Sherman Square Realty Corp., a cooperative corporation, and permitted a lawsuit brought by an applicant to the cooperative to proceed based on a claim of discrimination.

The applicants, Latoni and Jorgensen, applied to purchase the shares and apartment lease to a cooperative apartment. They were not married but were living together and intending to reside together in the cooperative apartment.

The cooperative, after review of the application, advised the applicants that Latoni would be permitted to become a shareholder and lessee but that Jorgensen would not be permitted to become a shareholder or lessee. The basis for this decision was that while Latoni did qualify financially, Jorgensen did not meet the financial qualifications. Latoni and Jorgensen sued the cooperative.

approve each individual only if he or she independently meets the financial criteria of the cooperative.

In distinction, the cooperative treated married couples as a single financial unit and permitted ownership of the unit by both if either one was qualified or both financially qualified together, regardless of whether one party did not meet the financial criteria.

The Court, in permitting the Plaintiff's case to proceed, reviewed the relevant statutory framework, including the New York State Human Rights Law. The New York State Human Rights Law precludes discrimination on the basis of marital status in the sale, rental, or lease of housing accommodations.

Examples

In the matter of Manhattan Pizza Hut v. New York State Human Rights Appeal Bd. (51 NY2d 506), the court upheld the termination of an employee because she was the spouse of her supervisor.

The Court distinguished between the term marital status, which precludes discrimination, and marital relationship. The Court found in Manhattan Pizza Hut that the employer had fired the employee based on her marital relationship, which was precluded by its policy against having a spouse as a supervisor.

The Court found that it was permissible to fire a person based on the marital relationship but not the marital status.

ship but not the marital status. The Court held that employee was fired not because she was married, versus single, but because she was married to her supervisor.

"The final ramifications and conclusions to be drawn will occur after the final resolution of the case, but, for now, a cooperative should be encouraged to be very cautious before it implements and / or continues any policies which would provide for different treatment between married and unmarried persons."

Another Process

The court in Latoni also analyzed Hudson View Properties v. Weiss, 59 NY2d 733, in which it was held that the eviction of a single female was permissible.

The court, in that case, found that the eviction was because the person evicted was not a family member as required by the lease, not because she was not married to the Tenant.

In that case, therefore, the court held that the eviction based on familial status, or lack thereof, was permitted and not precluded by the prohibition against discrimination based on marital status. That is, it was not prohibited discrimination because, even though had she been married she would not have been evicted, she was not evicted because she was not married but rather because she was unrelated to the named tenant.

Similarly, the court in Latoni reviewed Levin v. Yeshiva University, 96 NY2d 484. In that case, the court held that the University "validly limited occupancy to only those in a legal, family relationship with the tenant." The court in Levin held that the policy of the University provided preferential treatment to families not discrimination based on marital status. That is, a single person was permitted to reside in the housing as was a married person.

In view of these precedents, the court actually dismissed the claims by Latoni. However, the court permitted the claim of Jorgensen to proceed. The court held that:

"Jorgensen would have been financially qualified had defendants applied the same policies and practices to him as it applies to married individuals. Jorgensen loses a substantial

benefit solely because he is single...Jorgensen was not denied the benefit of Sherman Sq.'s policies and practices because of his relationship with a particular person... Sherman Sq.'s practices and policies do not favor families, but rather favor married persons."

Key Observations
Judge Goodman observed that "In our contemporary social environment, it might be natural to conclude that policies and practices treating married couples differently from others, while reflected in many forms of federal, state and local laws (such as taxes, inheritances and others), are not only antiquated, but are discriminatory." It is this observation which is perhaps most telling and provides some insight into the Judge's analysis which distinguished the three cases in the cooperative's favor and allowed the matter to proceed.

The final ramifications and conclusions to be drawn will occur after the final resolution of the case but for now a cooperative should be encouraged to be very cautious before it implements and/or continues any policies which would provide for different treatment between married and unmarried persons.

Editor's Note: The authors are attorneys with Finger and Finger, A Professional Corporation. The firm is based in White Plains and is chief counsel to the Building and Realty Institute of Westchester and the Mid-Hudson Region (BRI).

THE HANLEY REPORT
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AFRMONK - Diversified is the best word to describe the reports featured in the latest issue of IMPACT.

A wide and varied selection of stories affecting the various sectors of the local building, realty and construction industry highlight our latest edition.

Our lead story on page one features a report on the recent decision of the Westchester County Rent Guidelines Board. The board recently ended close to three months of waiting for local realty industry members by issuing its lease renewal guidelines for apartment buildings and complexes affected by the Emergency Tenant Protection Act (ETPA).

The realty industry's reaction to the guidelines of 4.75 percent for a one-year lease and 6.5 percent for a two-year lease is fully described in the story. The comprehensive efforts of the Apartment Owners Advisory Council (AOAC) of the Building and Realty Institute (BRI) in representing the realty industry are also reported on.

Another page one story features a report on the Nov. 7 General Membership Meeting of the Cooperative and Condominium Advisory Council (CCAC) of the BRI. With the recent streak of hurricanes fresh in their minds, board members of the CCAC recently decided

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