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Re: Olivia Shelltrack and Fondray Loving, Sr., v.
Debra Irvin, Cliff Curtis, Alden Williams, Art Meiroto, and
Norma Mitchell

Dear Mr. Stock,

I am writing to you on behalf of Olivia Shelltrack and Fondray Loving, Sr., to formally lodge complaints with the Black Jack human rights commission against Debra Irvin, Cliff Curtis, Alden Williams, Art Meiroto, and Norma Mitchell. These complaints are filed pursuant to § 9.5-29 of the City Ordinances and allege that Irvin, Curtis, Williams, Meiroto, and Mitchell have violated § 9.5-21 of the City Ordinances.

At the outset, let me explain why this complaint is being set to you. Section 9.5-29 provides, "Any persons who claim to have been injured or who will be injured by a discriminatory housing practice may file a complaint *with the human rights commission.*" Despite our best efforts, we have been unable to locate or verify the existence of any human rights commission for the City of Black Jack. Indeed, the only guidance that has been provided by City Hall on how one might go about filing a complaint with the human rights commission is to write a letter to the mayor. When we previously directed correspondence to Mayor Norman McCourt, you requested—in your April 3, 2006 letter to me—that we direct any future correspondence or other materials related to this case to you. If filing this complaint with you does not suffice, then please direct us as to whom and where this complaint should be directed.

Ms. Shelltrack and Mr. Loving complain that Debra Irvin violated § 9.5-21 when she denied their application for an occupancy permit for 12475

Parkwood Lane on or about January 25, 2006 based on their marital status. Further, Irvin, along with Cliff Curtis, Alden Williams, Art Meiroto, and Norma Mitchell violated § 9.5-21 again on or about February 16, 2006, when Curtis, Williams, Meiroto, and Mitchell denied a variance from an occupancy permit on the basis of Ms. Shelltrack and Mr. Loving's marital status at the urging and request of Irvin.

Section 9.5-21 sets forth the substance of Black Jack's fair housing code. The complained of activities violated § 9.5-21 in a number of ways:

1. "It shall be unlawful for any owner, real estate broker, salesperson, or lending institution, either by themselves or through their officers, employees, agents or sales representatives[,] or *for any other person ... to ... make unavailable or deny a dwelling to any person because of ... marital status[.]*" § 9.5-21(1)(emphasis added). By denying an occupancy permit and a variance, Irvin, Curtis, Williams, Meiroto, and Mitchell acted to make the dwelling at 12475 Parkwood Lane unavailable to complainants and to deny them the dwelling. The statements made both on January 25, 2006 and at the February 16, 2006 meeting of the Board of Adjustment make clear that the actions were taken because of the complainants' marital status.

2. "It shall be unlawful for any owner, real estate broker, salesperson, or lending institution, either by themselves or through their officers, employees, agents or sales representatives[,] or *for any other person ... [t]o discriminate against any person in the terms, conditions, or privileges of sale or rental of a dwelling, or in the provision of services or facilities in connection therewith because of ... marital status[.]*" § 9.5-21(2)(emphasis added). The issuance of an occupancy permit is a provision of a service in connection with the sale or rental of a dwelling. Complainants went to Irvin, Curtis, Williams, Meiroto, and Mitchell to seek performance of the service. Their refusal to provide this service was a result of discrimination on the basis of complainants' marital status.

3. In the course of the February 16, 2006 meeting of the Board of Adjustment, Irvin, Curtis, Williams, Meiroto, and Mitchell made statements indicating that a preference, limitation, and discrimination in the sale or rental of property based on marital status had been and would continue to be imposed within the City of Black Jack. Further, the statements indicated that it was well-known by rental and real estate agents that the preference, limitation, and discrimination on the basis of marital status would be imposed and it was the responsibility of real estate agents, rental agents, as well as prospective renters and buyers to be aware of Irvin, Curtis, Williams, Meiroto, and Mitchell's known intention to consider marital status in determining whether to issue an occupancy permit. "It shall be unlawful for any owner, real estate broker, salesperson, or lending institution, either by themselves or through their officers, employees, agents or sales representatives[,] or *for any other person ... [t]o make ... any ... statement ... with respect to the sale or rental of a dwelling that indicates any preference, limitation or discrimination based on ... marital status, or an intention to make any such preference, limitation, or discrimination[.]*" § 9.5-21(3)(emphasis added).

In addition to the foregoing, Irvin violated §9.5-21(3) on or about April 25, 2006, when she published a statement on the Internet:

“This article is not about getting married, it is about the definition of family. How are they related? Shelltrack & Loving are not related, they do not meet the definition of family. The relationship is defined by marriage, blood or adopted; these two are not married, not related by blood and are not adopted by the same parents. This is the issue.

Posted By Debra Irvin, Housing Director, City of Black Jack : 1:23 PM ET”

(<http://www.cnn.com/CNN/Programs/anderson.cooper.360/blog/2006/04/move-or-get-married.html> (last visited May 31, 2006)).

Irvin’s published statement indicates “with respect to the sale or rental of a dwelling ... [a] preference, limitation[,] or discrimination based on ... marital status, or an intention to make any such preference, limitation, or discrimination[.]” Accordingly, Irvin’s statement violates §9.5-21(3).

We look forward to the City establishing its human rights commission to fully investigate these complaints. If we may provide assistance in the course of the commission’s investigation, then please do not hesitate to contact me at (314) 361-3635.

Sincerely,

Anthony E. Rothert
Legal Director