



Impacts on Homeowner Associations

Homeowner Sues Association for Discrimination



BY JOEL M. KRIGER, ESQ.

Cheng Hoa Baker is a female of Chinese ancestry who was born in Cambodia and later immigrated to the United States in 1981. She met her husband in 1981 and moved into the Waterford Square Condominiums in 1984. Her husband died in 1993 at which time the couple owned five units in Waterford Square. The couple resided in two of the units and leased out the other three. At the time of her husband's death Ms. Baker had four dogs in each of their two units and also fed stray cats that often showed up in the parking lot.

Within months of her husband's death, the Association began notifying Baker of complaints from other residents concerning noise and odors caused by the dogs kept in her two units. During the next several years, from 1994 through 1999, the Association periodically notified Ms. Baker of complaints based on noise and odors caused by the dogs, trash in her unit patios and noise caused by one of her tenants. In addition to these violations numerous other minor violations were noted.

In 1999 most of the units in the Association were owned by a single investor. A prospective buyer wanted to purchase the entire Association if

100% of the units could be acquired. This could only occur if all owners agreed to sell their units. Baker refused. The animosity between the Association and Baker increased, and punitive actions were taken against her as a result of her refusal to sell. The Association threatened to cut off

case Baker was required to establish that the Association harassed Baker because of her race, national origin, and/or sex.

The case was tried in front of a judge without a jury. After Baker put on her case the Court ruled in the Association's favor. The Court held

that Baker failed to prove the Association discriminated against her based on her race, national origin and/or sex. Although the evidence showed that the Association initially undertook efforts to enforce its rules after her husband's death, Baker failed to prove that the Association created a hostile environment that was based on her race, national origin or sex.

The evidence showed that the Association received numerous complaints, over a long period of time, about the noise and odors caused by Baker's dogs and other violations. The Court found the Association honestly believed that her conduct violated the Association's governing documents and assessed fines on that basis and not based upon her race, national origin and/or sex. The Court did not entirely rule out the possibility that the Association's conduct was unlawful in some other respects, but since their conduct was not discriminatory in nature, Baker's claim under the Fair Housing Act failed. ■

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her utilities and imposed other serious sanctions. Baker sued in Texas State Court and got a restraining order.

In a second lawsuit, *Baker v. Waterford Square*, filed in United States District Court 2002, WL 1461735 (N.D.Tex.), Baker sued under the Fair Housing Act on the basis of discrimination. Under the Fair Housing Act it is unlawful to discriminate against any person in the terms, conditions or privileges of sale or renting of a dwelling or in the provision of services or facilities because of race, color, religion, sex, familial status or national origin. In order to prove her

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