

**STATE OF INDIANA  
CIVIL RIGHTS COMMISSION**

**DOCKET NO. HOha06060206  
HUD NO. 05-05-130-5-8**

**NANCY GARNER,**  
Complainant,

**VS.**

**JEFFERSONVILLE HOUSING  
AUTHORITY; and PHILIP  
BATES, EXECUTIVE  
DIRECTOR;**

NOV 17

Respondents.

**FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER**

On October 13, 2006, Robert D. Lange, Administrative Law Judge ("ALJ") for the Indiana Civil Rights Commission ("ICRC"), entered his Proposed Findings Of Fact, Conclusions Of Law, And Order ("the proposed decision").

No objections have been filed to the ICRC's adoption of the proposed decision.

Having carefully considered the foregoing and being duly advised in the premises, the ICRC hereby adopts as its own the findings of fact, conclusions of law, and order proposed by the ALJ in the proposed decision, a copy of which is attached hereto and incorporated herein by reference.

**INDIANA CIVIL RIGHTS COMMISSION**

  
COMMISSIONER

  
COMMISSIONER

  
COMMISSIONER

  
COMMISSIONER

Dated: 17 November 2006

To be served by first class mail on the following parties and attorneys of record:

Nancy Garner  
408 West Market Street Apt. 4  
Jeffersonville, IN 47130

Jeffersonville Housing Authority  
Philip Bates, Executive Director  
206 Eastern Boulevard  
Jeffersonville, IN 47130

LOCKE REYNOLDS LLP

BY: Marsha Volk Bugalla, Esq.; John M. Chavis, Esq.; and Thomas E. Wheeler, II, Esq.  
Attorneys for Respondents Jeffersonville Housing Authority and Philip Bates, Executive  
Director

201 North Illinois Street, Suite 1000  
P.O. Box 44961  
Indianapolis, IN 46244-0961

and to be personally served on the following attorney of record::

Joshua S. Brewster, Esq.; Staff Attorney  
Indiana Civil Rights Commission  
Attorney for Complainant Nancy Garner  
Indiana Government Center North  
100 North Senate Avenue, Room N103  
Indianapolis, IN 46204-2255

**NANCY GARNER,**  
Complainant,

vs.

**JEFFERSONVILLE HOUSING  
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BATES, EXECUTIVE  
DIRECTOR;**

Respondents.

FILED

OCT 13 2006

Indiana State Civil Rights Commission

**PROPOSED FINDINGS OF FACT, CONCLUSIONS OF LAW,  
AND ORDER**

On October 5, 2006, Respondents – Jeffersonville Housing Authority and Philip Bates, Executive Director – filed their Notice Of Election (“NOTICE”), a Notice to which Complainant, Nancy Garner (“Garner”), has not responded.

Having carefully considered the foregoing and being duly advised in the premises the undersigned Administrative Law Judge (“ALJ”) for the Indiana Civil Rights Commission (“ICRC”) proposes that the ICRC enter the following findings of fact, conclusions of law, and order.

**FINDINGS OF FACT**

1. Garner filed this complaint on June 7, 2006<sup>4</sup> alleging that R discriminated against her by failing to make a requested accommodation for her disability in violation of the

Indiana Fair Housing Act ("the IFHA"). HOUSING DISCRIMINATION COMPLAINT (April 6, 2004).

2. Respondents deny that they committed unlawful discrimination. ANSWER (June 26, 2006).
3. On September 15, 2006, the Deputy Director of the ICRC issued her NOTICE OF FINDING, finding reasonable cause to believe that a violation of the IFHA had occurred. NOTICE OF FINDING (September 15, 2006).
4. On October 5, 2006 Respondents filed an election to have this matter heard in court. NOTICE OF ELECTION (October 5, 2006).
5. Any Conclusion Of Law that should have been deemed a Finding Of Fact is hereby adopted as such.

### **CONCLUSIONS OF LAW**

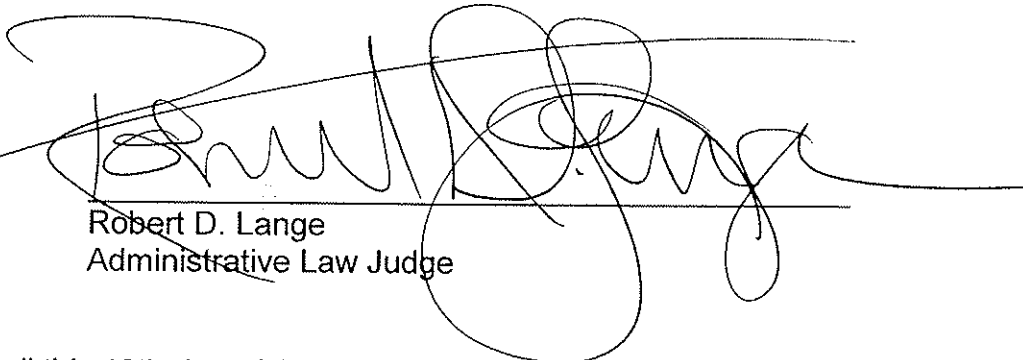
1. Under the IFHA, a complainant, a respondent, or an aggrieved person may elect to have the claims asserted in a reasonable cause finding decided in a civil action. IC 22-9.5-6-12(a).
2. Such an election must be made within 20 days after receipt by the electing party of the reasonable cause finding. IC 22-9.5-6-12(b).
3. The election in the NOTICE was apparently filed in a timely manner.
4. Housing Rule 7.9(a) of the ICRC provides, in material part, as follows:  
If the ... respondent ... makes a timely election to have the claims asserted in the charge asserted in a civil action under IC 22-9.5-6-12, the administrative law judge shall dismiss the proceeding.  
910 IAC 2-7-9(a).
5. This complaint must be dismissed under 910 IAC 2-7-9(a).
6. Administrative review of this proposed decision may be obtained by the filing of a writing specifying with reasonable particularity each basis for each objection within 15 days after service of this proposed decision. IC 4-21.5-3-29(d).

7. Any Finding Of Fact that should have been deemed a Conclusion Of Law is hereby adopted as such.

## ORDER

1. Garner's complaint is **DISMISSED**, with prejudice.

Dated: 13 October 2006



Robert D. Lange  
Administrative Law Judge

To be served by first class mail this 13th day of October, 2006 on the following parties and attorneys of record:

Nancy Garner  
408 West Market Street Apt. 4  
Jeffersonville, IN 47130

Jeffersonville Housing Authority  
Philip Bates, Executive Director  
206 Eastern Boulevard  
Jeffersonville, IN 47130

LOCKE REYNOLDS LLP  
BY: Marsha Volk Bugalla, Esq.; John M. Chavis, Esq.; and Thomas E. Wheeler, II, Esq.  
Attorneys for Respondents Jeffersonville Housing Authority and Philip Bates, Executive  
Director  
201 North Illinois Street, Suite 1000  
P.O. Box 44961  
Indianapolis, IN 46244-0961

and to be personally served this 13<sup>th</sup> day of October, 2006 on the following:

Joshua S. Brewster, Esq.; Staff Attorney  
Indiana Civil Rights Commission  
Attorney for Complainant Nancy Garner  
Indiana Government Center North  
100 North Senate Avenue, Room N103  
Indianapolis, IN 46204-2255

Indiana Civil Rights Commission  
c/o The Honorable Gregory Kellam Scott, Esq.; Director  
Indiana Government Center North  
100 North Senate Avenue, Room N103  
Indianapolis, IN 46204-2255