



FILED:  
May 10, 2022

STATE OF INDIANA  
OFFICE OF ADMINISTRATIVE LAW PROCEEDINGS

<p><b>Gregory L. Wilson, Sr., in his official capacity as Executive Director of the Indiana Civil Rights Commission,</b></p> <p>Complainant,</p> <p>V.</p> <p><b>Maco Management Company, Inc. and Rainbow End of Edinburgh, L.P.,</b></p> <p>Respondents.</p>	<p>Administrative Cause No.: ICRC-2203-000545</p> <p>Underlying Agency Action No.:</p> <p>HOha21110459</p> <p>05-22-4289-8</p>
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*Subject to the Ultimate Authority of the Indiana Civil Rights Commission*

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

*Pursuant to IC 4-21.5 this Recommended Order is not final and shall be presented to the  
ultimate authority for issuance of a final order.*

**JURISDICTION**

The Commission of the Indiana Civil Rights Commission ("ICRC") has subject matter jurisdiction over housing discrimination complaints based on race and disability that are filed under the Indiana Fair Housing Act ("IFHA"). IND. CODE § 22-9-1-2; IND. CODE § 22-9-1-6; IND. CODE § 22-9.5-4-1; IND. CODE § 22-9.5-5. When a finding of cause is made under the IFHA, pursuant to the Commission's June 19, 2020 Finding of Necessity, the Office of Administrative Law Proceedings ("OALP") shall appoint an Administrative Law Judge ("ALJ") to preside over the matter and to conduct a hearing. IND. CODE § 22-9-1-6; IND. CODE § 4-15-10.5-12; IND. CODE § 4-15-10.5-13.

**ISSUE**

Is the Notice of Election ("Notice") successful in moving the Indiana Fair Housing Act claim out of the administrative forum?

**FINDINGS OF FACT**

1. On March 29, 2022, the ICRC made a reasonable cause and probable cause finding on Edwood Bigot's November 7, 2021 complaint that alleged Respondents violated the Indiana Fair Housing Act ("IFHA") and the Indiana Civil Rights Law ("ICRL") by discriminating against him in the protected area of housing and real estate on the basis of race and disability.
2. The ICRC Director signed the Notice of Finding and Issuance of Charge on March 29, 2022.

3. Respondents received the Notice of Finding and Issuance of Charge on March 30, 2022.
4. On April 25, 2022, Complainant Wilson, Complainant Bigot, and Respondents filed an election concerning the Indiana Civil Rights Law claim, which the undersigned ALJ granted on May 4, 2022.
5. On March 30, 2022, Respondents filed Respondents' Notice of Election, which, due to a processing error, was not forwarded to the undersigned ALJ prior to her ruling on the Parties' notice of election under the Indiana Civil Rights Law. The Parties notified the undersigned ALJ of the processing error on May 9, 2022 in their Joint Request for Amended Order.
6. The Notice was served on Respondents, the aggrieved person, the docket clerk, an ICRC Staff Attorney, and the Office of Administrative Law Proceedings.
7. Any Conclusion of Law that should have been deemed a Finding of Fact is hereby adopted as such.

#### **CONCLUSIONS OF LAW**

1. An OALP ALJ does not have the authority to modify a recommended order that is pending with the ultimate authority. IND. CODE § 4-15-10.5-12; IND. CODE § 4-21.5-3-29. However, the undersigned ALJ may rule on the Notice before her on the Indiana Fair Housing Act claim pending in the administrative forum.
2. "A complainant, a respondent, or an aggrieved person on whose behalf the complaint was filed may elect to have the claims asserted in a finding of reasonable cause decided in a civil action. . ." IND. CODE § 22-9.5-6-12. According to the Notice of Finding and Issuance of Charge, "reasonable cause" was found; therefore, an opportunity to elect out of the administrative forum existed under the IFHA with respect to the "reasonable cause" claim.
3. "The notice of the election must be filed with the docket clerk of the ICRC and serviced on the director, the respondent, and the aggrieved persons on whose behalf the complaint was filed." 910 IAC 2-6-6(h)(2). The Notice was appropriately served.
4. If a complete and timely election is made, then "...the administrative law judge shall dismiss the administrative proceeding." 910 IAC 2-7-9(a).
5. An election by a Respondent must be made under the IFHA within "...twenty (20) days after the date of receipt by the electing person..." IND. CODE § 22-9.5-6-12(b). The Notice was timely filed.
6. Accordingly, Respondent's IFHA Notice is effective such that the ICRC shall dismiss the IFHA claim pending in the administrative forum.
7. Any Finding of Fact that should have been deemed a Conclusion of Law is hereby adopted as such, and this Order's Statement of Jurisdiction is incorporated into these Conclusions of Law.



## DECISION

1. The Notice is GRANTED. All previously scheduled events and deadlines are VACATED.
2. The Complaint of Discrimination and Charge under the IFHA is DISMISSED, with prejudice.  
910 IAC 2-7-9(a).

This order becomes the final order disposing of the proceedings immediately upon affirmation under Indiana Code 4-21.5-3-29. IND. CODE § 4-21.5-3-27(a).

SO ORDERED: May 10, 2022



Hon. Caroline A. Stephens Ryker, Administrative Law Judge  
Indiana Office of Administrative Law Proceedings  
100 North Senate Ave., Room N802  
Indianapolis, IN 46204  
(317) 234-6689

### Distribution List:

*The following distribution list includes the names and mailing addresses of all known Parties and other persons to whom notice is being given. IND. CODE § 4-21.5-3-18. A Party who fails to attend or participate in a prehearing conference, hearing, or other later stage of the proceeding may be held in default or have a proceeding dismissed. IND. CODE § 4-21.5-3-18(d)(8).*

Edwood Bigot: PO Box 314, Edinburgh, IN 46124

Rainbow End of Edinburgh, LP\*: C/O John Martin, Registered Agent, 7939 East Oak Street  
Evansville, IN 47715

Maco Management Co., Inc.\*: C/O Corporation Service Company, Registered Agent, 135 North  
Pennsylvania Street, Suite 1610, Indianapolis, IN 46204

Jeffrey Wilhite\*: 716-G Adams St., Carmel IN 46032

Zachary Griffin & Gregory L. Wilson, Sr.\*: 100 North Senate Ave., Room N300, Indianapolis, IN  
46204; 317-232-2628

Chair Slash of the Indiana Civil Rights Commission – ultimate authority and served at  
[docketclerk@icrc.in.gov](mailto:docketclerk@icrc.in.gov)

*\*served in care of appearing attorney through ALP system at the email address on file with the Indiana  
Roll of Attorneys – all other service by mail.*

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**APPEAL RIGHTS AND ULTIMATE AUTHORITY REVIEW**

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You are hereby notified of your right to administrative review. If a Party to this action wishes to have the ultimate authority administratively review this Recommended Order, the Party requesting review must not be in default and must file written objections that:

- 1) Identify the basis of the objection with reasonable particularity; and,
- 2) Are filed with the Docket Clerk of the Indiana Civil Rights Commission on or before the 15<sup>th</sup> day after the date this order was issued by mail or in person at 100 North Senate Ave., Room N300, Indianapolis, IN 46204, by email at [docketclerk@icrc.in.gov](mailto:docketclerk@icrc.in.gov), or by fax at (317) 232-6580.

A Party shall serve copies of any filed item on all Parties. Questions can be directed to (317) 232-2600.

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**ULTIMATE AUTHORITY**

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*The below information is for the Ultimate Authority's use only. This Order is not Final until completed by the Ultimate Authority. Circle, check, or fill in the blanks below.*

Timely objections were/were not filed to the above Recommended Order. Timely briefs on objections (if any) were/were not filed. An oral argument on objections (if any) was/was not held.

On May 20, 2022, the Indiana Civil Rights Commission decided, by the majority vote of 6 out of the 6 Commissioners present to:

1. Affirm the above Recommended Order
2. Remand the above Recommended Order as further detailed in ICRC Attachment A.
3. Modify the above Recommended Order as further detailed in ICRC Attachment A.

SO ORDERED this 20th day of May, 2022.

Chair Adrienne L. Slack : X Adrianne Slack

Unless the ICRC remanded this matter to the ALJ, then **THIS IS A FINAL ORDER**. A Party to a dispute filed under IC 22-9 and/or IC 22-9.5 may, not more than thirty (30) days after the date of receipt of the Commission's final appealable order, appeal to the court of appeals under the same terms, conditions, and standards that govern appeals in ordinary civil actions. IC 22-9-8-1; IC 22-9.5-11-1.