

COMMONWEALTH OF PENNSYLVANIA
GOVERNOR'S OFFICE
PENNSYLVANIA HUMAN RELATIONS COMMISSION

JACQUELINE M. COLE,
Complainant

v.

TENNIS PARK CONDOMINIUM,
Respondent

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PHRC CASE NO. 201601983

RECOMMENDATION OF MOTIONS EXAMINER

AND NOW, this 28th day of February, 2017, upon consideration of the *Respondent's Motion to Dismiss Complainant's Complaint*, it is hereby

R E C O M M E N D E D

to the full Pennsylvania Human Relations Commission, pursuant to 16 Pa. Code §42.131(c)(1), that *Respondent's Motion to Dismiss Complainant's Complaint* be granted. Although afforded an opportunity to file responses to the Respondent's Motion, neither the Complainant nor the PHRC Harrisburg regional office filed a response to the Respondent's Motion.

Generally, the Respondent asserts that the Complainant's complaint was not timely filed. More specifically, the Respondent submits that the Complainant, a unit owner in the Respondent Condominium, was notified on April 27, 2015, that the Respondent Association Board was charging the Complainant a special assessment fee of \$1,000.00 for damages to the Respondent common area, which damages occurred in March 2014 and

which damages were caused by the Complainant's tenant.

The Respondent observes that the Complainant's PHRC Complaint was not filed until November 28, 2016, more than a year and a half after the alleged act of harm. Pursuant to Section 9(h) of the PHRA, to be timely, a PHRA claim must be filed within 180 days of the alleged act of discrimination.

A review of the Complainant's Amended Complaint reveals that the Complainant alleged that on September 21, 2016, the Respondent charged the Complainant a special assessment fee.

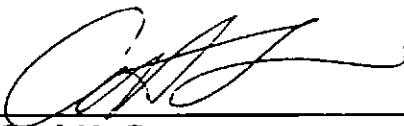
In the Respondent's Motion, the Respondent fully documents that September 21, 2016 was the date the Complainant paid the assessment fee. The date the Complainant was first notified that she was being held responsible for the March 2014 damages to the common area was on April 4, 2014. The Respondent's Motion then documents that on April 8, 2015, the Complainant was notified that she was being afforded the opportunity to object to the assessment and be heard at an Association due process hearing to be held on April 20, 2015. The Respondent submits that there was a hearing on April 20, 2015 and that after the hearing the Respondent Association Board voted to uphold the assessment fee of \$1,000.00. Subsequently, the Respondent Association Board's decision was communicated to the Complainant by letter dated April 27, 2015. The Respondent submits that the assessment then went unpaid until September 21, 2016, at which time the Complainant sold her Condominium unit.

Here, the Complainant's PHRC Complaint points to the effects of an alleged act of discrimination that occurred more than a year and a half before the Complainant's PHRC Complaint was filed. Fundamentally, the 180 day filing period begins on the date an alleged action occurs, not on the

date when the effects of the action are felt. *Delaware State College v. Ricks*, 449 U.S. 250 (1980).

Because the Complainant failed to file her PHRA claim within 180 days of the alleged act of harm, and has failed to sufficiently assert equitable reasons to toll the 180 day filing period, it is recommended that the present complaint be deemed untimely filed and, accordingly, dismissed.

PENNSYLVANIA HUMAN RELATIONS COMMISSION

By: 

Carl H. Summerson
Motions Examiner

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JACQUELINE M. COLE,
Complainant

v.

TENNIS PARK CONDOMINIUM,
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PHRC CASE NO. 201601983

ORDER

AND NOW, this 27th day of March, 2017, upon consideration of the Recommendation of the Motions Examiner in the above captioned case, it is hereby,

ORDERED

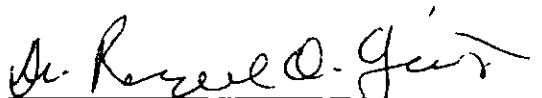
that the aforementioned Recommendation be and is hereby approved by the full Pennsylvania Human Relations Commission. Accordingly, since the Complainant failed to file her PHRA claim in a timely manner, this case is dismissed.

PENNSYLVANIA HUMAN RELATIONS COMMISSION

By: _____


M. Joel Bolstein, Esquire
Acting Chairman

Attest


Dr. Raquel O. Yiengst
Vice Chairperson