

**STATE OF CONNECTICUT
COMMISSION ON HUMAN RIGHTS AND OPPORTUNITIES
OFFICE OF PUBLIC HEARINGS**

**Commission on Human Rights and Opportunities, *ex rel.*
Liaquat Ali,
Complainant** : **CHRO CASE Nos. 0750131;
0750132**
: **Federal No. 01-07-0381-8**

v.

**The City of Bridgeport and
Planning and Zoning Commission
of the City of Bridgeport,
Respondents** : **November 14, 2007**

RULING
RE: Respondents' Motion to Dismiss

Preliminary Statement

On August 28, 2007, the respondents filed a motion to dismiss the complaint as to the respondent City of Bridgeport on the grounds that the commission on human rights and opportunities (CHRO) lacks subject matter jurisdiction because the "City of Bridgeport has no authority to direct either the actions of the zoning commission or the enforcement officer who acts on behalf of the commission." More specifically, the respondents argued that the City of Bridgeport does not have the authority to amend or prevent the enforcement of "zoning regulation 4-2-2". The respondents also argued that the complaint should be dismissed because it fails to state a claim for relief that the City of Bridgeport could provide.

On September 19, 2007, the CHRO filed an objection to the motion to dismiss. The CHRO argued that the City of Bridgeport should remain a respondent in this matter because the complaint alleges violations of the fair housing laws and is not a complaint

concerning the appeal of a zoning regulation. For the reasons stated herein, the motion to dismiss is hereby Denied.

Procedural History

On March 28, 2007, the complainant filed a housing discrimination complaint against the respondents alleging that on or about January 16, 2007 and continuing to date the respondents discriminated against the complainant when the respondents issued him a summons and complaint for failure to comply with the respondents' zoning regulations which require "persons living in a single family home to be related by blood, marriage or adoption." He alleged that compliance with this regulation causes him to obtain tenants on the bases of age, marital status, sexual orientation and physical and mental disabilities. In addition, it would cause him to evict his present tenants because they are young students not related by blood, marriage or adoption. The complainant alleged that the respondents' actions violated General Statutes § 46a-64c (a) et seq. and § 46a-81e and, Title VIII of the Civil Rights Act of 1968 as amended by the Fair Housing Amendments Act of 1988 as enforced through General Statutes § 46a-58 (a).

DISCUSSION AND CONCLUSION

"The standards for deciding a motion to dismiss on subject matter jurisdiction grounds are well established. A motion to dismiss . . . properly attacks the jurisdiction of the court, essentially asserting that the plaintiff cannot as a matter of law and fact state a cause of action that should be heard by the court . . . A motion to dismiss tests, *inter alia*, whether, on the face of the record, the court is without jurisdiction. When a ... court decides a jurisdictional question raised by a pretrial motion to dismiss, it must consider

the allegations of the complaint in their most favorable light . . . [A] court must take the facts to be those alleged in the complaint, including those facts necessarily implied from the allegations, construing them in a manner most favorable to the pleader. Where a decision as to whether a court has subject matter jurisdiction is required, every presumption favoring jurisdiction should be indulged.” (Internal quotation marks omitted; citations omitted.) *Landry v. Zborowski*, Superior Court, judicial district of Tolland, Docket No. TTD CV 07 6000211S, (2007 WL 2570398, 1) (Vacchelli, J.).

In *Thomas v. West Haven*, 249 Conn. 385, 413-14 (1999) (where landowners established a prima facie case of equal protection violation against the city and the city zoning and planning commission based on the commission’s alleged selective treatment of landowners), the court held that the inference can be drawn that the city zoning and planning commission acted as a policy maker for the city with regard to denying the plaintiffs’ zone change application. Here, in construing the facts as alleged in the complaint in a manner most favorable to the complainant, it can be inferred that the planning and zoning commission is an “authorized decisionmaker” for the City of Bridgeport and acted as a policy maker for the City of Bridgeport when it enforced its zoning regulations. Therefore, the City of Bridgeport remains as a party-respondent in this matter.

It is so ORDERED.

Dated at Hartford, this _____ day of November 2007.

Donna Maria Wilkerson
Presiding Human Rights Referee

Attorney Melanie J. Howlett
Attorney Michelle Dumas Keuler
Liaquat Ali