

COMMONWEALTH OF PENNSYLVANIA

GOVERNOR'S OFFICE

PENNSYLVANIA HUMAN RELATIONS COMMISSION

JACQUELINE A. SMITH	:	DOCKET NO. H-2492
	:	
	:	
VS.	:	
	:	
	:	
MS. BERNADETTE C. BAER,	:	
INDIVIDUALLY	:	
MS. NEDIMYER, AGENT AND	:	
INDIVIDUALLY	:	

 CONSENT ORDER AND DECREE

WHEREAS, a complaint was filed against Ms. Bernadette C. Baer, of 112 East Sixth Avenue, Altoona, Pennsylvania and Ms. Nedimyer, of 112 East Sixth Avenue, Altoona, Pennsylvania (hereinafter called the Respondents) on June 3, 1975 by Jacqueline A. Smith, of 1515 Twelfth Street, Altoona, Pennsylvania (hereinafter called the Complainant) alleging that on or about March 5, 1975 the Respondents violated Section 5 (h) (1) of the Pennsylvania Human Relations Act, Act of October 27, 1955, P.L. 744, as amended, (43 P.S. Sec. 951 et seq.) in connection with commercial housing accommodations located at 701 East Walton Avenue, Altoona, Pennsylvania; and

WHEREAS, Staff determined that Ms. Bernadette C. Baer and Ms. Nedimyer (Bernadette Nedimyer) were one and the same person, that person being the legal owner of 701 East Walton Avenue, Altoona, Pennsylvania, and for the purposes of this Consent Order and Decree, the term "Respondents" shall

include Ms. Bernadette C. Baer also known as Bernadette Nedimyer; and

WHEREAS, Edwin J. Baer, by his signature herein, affirms that he was and is an agent of Respondent Bernadette C. Baer also known as Bernadette Nedimyer, and moreover was acting as an agent for said Respondent as regards the subject matter of this complaint before the Pennsylvania Human Relations Commission, (hereinafter called the Commission). THEREFORE, for the purposes of this Order the aforementioned Edwin J. Baer agrees that the term "Respondents" hereinafter shall include himself and hereby agrees to be legally bound by this Order; and

WHEREAS, for the purposes of avoiding further litigation before the Commission, the Respondents do hereby agree to a waiver of their right to a public hearing under Section 9 of the Pennsylvania Human Relations Act, as amended, (hereinafter called the Act) and to the entry of the following Consent Order and Decree which shall have the full force and effect of a Commission order following a Public Hearing:

NOW THEREFORE, this 27th day of June , 1976, the Respondents and the Commission agree to the following:

ORDER AND DECREE

1. The Respondents and their agents and employees will fully comply with the Pennsylvania Human Relations Act, as amended, and henceforth shall not directly or indirectly refuse to sell, rent, lease and shall not in any other way discriminate because of race, color, religious creed, national

origin, ancestry, sex or the presence of a guide dog due to the blindness of the user, handicap or disability, in the terms, conditions or privileges of the sale, rental or lease of any and all commercial housing accommodations which the Respondents own, operate or for which they act as agents, manager or broker, or in the furnishing of advantages, privileges, facilities or services in connection therewith.

2. The Respondents and their agents and employees shall take the following affirmative actions which, in the judgment of the Commission, will effectuate the purposes of this chapter:

a. Offer full, equal and non-discriminatory assistance without regard to race, color, religious creed, nationality, ancestry, sex or because of the presence of a guide dog due to the blindness of the user, handicap and disability, to all responsible persons who come to the Respondents seeking assistance in obtaining housing accommodations.

b. The Respondents will immediately issue written instructions citing 2(a) of this Order to all employees and agents and direct them to abide by this Order.

c. The Respondents will furnish the Commission with a copy of said instructions within ten (10) days of the effective date of this Order and Decree.

d. Post the Fair Housing Practices Notice citing the provisions of the Pennsylvania Human Relations Act relating to housing in a conspicuous

and well-lighted place in their normal place of business where both present and prospective customers and clients will normally see it and be able to read it.

e. The Respondents shall for a period of one (1) year from the effective date of the Order send to the Commission copies of notification within 48 hours after they receive notification of the availability for sale, rental or lease of any and all commercial housing accommodations or other real property which the Respondents own, operate or for which they act as an agent, manager or broker or in any manner furnish facilities or services in connection therewith. Such notification shall contain the exact location, the date of availability, and the terms of sale, rental or lease including but not limited to cost and size of unit.

f. The Respondents shall for a period of one (1) year from the effective date of this Order maintain a registry of the names, addresses and phone numbers of all individuals who are seeking, applying for, inquiring about or requesting information concerning the availability of units at any and all commercial housing accommodations or other real property which the Respondents own, operate or for which they act as an agent, manager or broker, or in any manner furnish facilities or services in connection therewith.

and well-lighted place in their normal place of business where both present and prospective customers and clients will normally see it and be able to read it.

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f. The Respondents shall for a period of one (1) year from the effective date of this Order maintain a registry of the names, addresses and phone numbers of all individuals who are seeking, applying for, inquiring about or requesting information concerning the availability of units at any and all commercial housing accommodations or other real property which the Respondents own, operate or for which they act as an agent, manager or broker, or in any manner furnish facilities or services in connection therewith.

g. The Respondents shall from the effective date of the Order prepare and post in a conspicuous place, a unified listing of all available units for sale, rental, or lease of any and all commercial housing accommodations or other real property which the Respondents own, operate or for which they act as an agent, manager or broker or in any manner furnish facilities or services in connection therewith. All persons seeking information regarding units shall be referred to this unified list. Any information given by the Respondents, their agents or employees regarding units not on the list shall be construed as a violation of this Order and shall be cause for the Commission to seek a fine or imprisonment or both.

h. The Respondents shall from the effective date of this Order effectuate the following Affirmative Tenant Referral System, in that the Respondents shall:

1. Permit all Black applicants to make application whether a vacancy exists or not.
2. Notify the Black applicant that he/she/they is (are) to be processed under the terms of a Tenant Referral System agreement.
3. Process the Black application for any existing vacancy of the type of unit sought by the Black applicant.

4. Notify the Black applicant of his/her/their acceptance or rejection within 7 working days of the date of application.
5. Notify both the Commission and the Black applicant of the reason for rejection.
6. Notify Black applicants who have been accepted that they have been placed on an "Affirmative Action Waiting List."
7. Notify the applicant that he/she/they will be offered the next vacancy in the type unit sought, provided the Respondents do not have at least one (1) unit occupied by a Black family or individual.
8. Implement the "Affirmative Action Waiting List" as follows:
 - a. Upon being given notice of vacancy, the Respondents or their agents or employees will check the Affirmative Action Waiting List and process any Black applicants there for the vacancy.
 - b. If there are no Black applicants on the Affirmative Action Waiting List he/she/they shall notify the Commission of the available unit,

size, rental cost, date of availability.

- c. Following notice to the Commission, the apartment shall be offered only to a Black family or individual applying or who may be referred by the Commission for one half of the notice period or for two weeks which ever is longer.
 - d. After one half of the notice period, or two weeks which ever is longer, if a Black tenant or acceptable Black applicant is not available, the Respondents may rent the apartment to any person as long as all applicants are considered in a non-discriminatory fashion.
 - e. Any Black family or individual whose application is rejected at any time must be furnished the reason for rejection in writing, a copy of which will be furnished to the Commission.
9. Agree that any lease executed in a contravention of this Order shall be voidable and may be set aside at the discretion of the Commission.
10. Upon reaching a minimum of one (1) unit occupied by a Black family or individual,

the Respondents may petition the Commission for review and termination of Section 2 (h) of this Order (the Affirmative Tenant Referral System).

11. Submit quarterly reports listing:
 - a. Name and race of all Black applicants.
 - b. Name and race of all Black tenants.
 - c. Report of all notices sent to rejected applicants.
12. Not retaliate against Black tenants by reducing privileges, advantages, facilities, services or by any other discriminatory action.
13. Investigate promptly all complaints by Black applicants or Black tenants of discourteous, rude or discriminatory behavior by Respondents, employees or agents or any other person acting on behalf of the Respondent (whether compensated or not) and take necessary disciplinary action where warranted.

i. The Respondents shall from the effective date of this Order include in all advertising for commercial housing accommodations or other real property which the Respondents own, operate or for which they act as an agent, manager or broker or in any manner furnish facilities or services in connection therewith the words "Equal Opportunity Housing."

The Respondents may in addition use the Equal Opportunity Logotype.

3. It is understood by both parties to this Order that any infraction of this Order by an employee of the Respondents constitutes an infraction by the Respondents of record.

4. The Respondents shall, within ten (10) days of the effective date of this Order, pay to the Complainant, in the form of a certified check, cashier's check or money order payable to the order of Jacqueline A. Smith and submitted to the Commission's Harrisburg Regional Office, in the amount of Nine hundred forty two dollars, (\$942.00) an amount representing the expenses incurred by the Complainant as a result of the alleged act of discrimination. The status of the relationship between the Complainant and the Respondent (s) shall, from the effective date of this Order, be subject to and defined by Exhibit "A" which is attached hereto and incorporated as an integral part of this Order.

5. It is understood by both parties to this Order that any wilful infraction of this Order may result in a fine or imprisonment or both as specified in Section 11, Penalties, of the Act.

6. It is understood by both parties to this Order that any subsequent violation of Section 5 of the Pennsylvania Human Relations Act, as amended or other comparable statutes within the State of Pennsylvania shall entitle the Pennsylvania Human Relations Commission to demand enforcement of item 5 above.

7. If any clause, sentence, paragraph or part of this Consent Order and Decree or the application thereof to any person or circumstance, shall for any reason be adjudged by a court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder of this Order nor the application of such clause, sentence, paragraph or part to other persons or circumstances but shall be confined in its operation to the clause, sentence, paragraph or part thereof and to the person or circumstances directly involved in the controversy in which such judgment shall have been rendered. It is hereby declared to be the Commission's intent that this Order would have been adopted had such provisions not been included or such persons or circumstances been expressly excluded from their coverage.

8. It is further agreed and understood by both parties to this Order that its execution and content may be publicized at the discretion of the Commission in accordance in Section 9 of the Act.

9. The Commission and the Respondents enter into this agreement with the intent to be legally bound thereby and acknowledge that this agreement shall not be final and binding until executed by the Respondents and approved by the Commission and executed by the Chairperson of the Commission, and thereafter shall be binding upon and inure to the benefit of the parties hereto, their and each of their respective heirs,

legal representatives, successors and assigns.

BY THE RESPONDENTS:

June 27, 1976

Effective date of this Order

Bernadette C. Baer
BERNADETTE C. BAER, Individually

Also known as

Bernadette Nedimyer
BERNADETTE NEDIMYER, Individually

Edwin J. Baer
EDWIN J. BAER, Individually and
Agent for Bernadette C. Baer
a/k/a Bernadette Nedimyer

BY THE COMMISSION:

Homer C. Floyd
HOMER C. FLOYD, Executive Director
Pennsylvania Human Relations Commission

Joseph X. Yaffe
JOSEPH X. YAFFE, Chairperson
Pennsylvania Human Relations Commission

ATTEST:

Elizabeth M. Scott
ELIZABETH M. SCOTT, Secretary
Pennsylvania Human Relations Commission

EXHIBIT "A"

COMMONWEALTH OF PENNSYLVANIA

GOVERNOR'S OFFICE

PENNSYLVANIA HUMAN RELATIONS COMMISSION

<u>JACQUELINE A. SMITH</u>	:	DOCKET NO. H-2492
Complainant	:	
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vs.	:	
	:	
BERNADETTE C. BAER,	:	
INDIVIDUALLY	:	
MS. NEDIMYER, AGENT	:	
AND INDIVIDUALLY	:	
Respondent(s)	:	

GENERAL RELEASE

KNOW ALL PERSONS BY THESE PRESENTS, that I Jacqueline A. Smith, for and in consideration of the sum of Nine hundred forty two dollars (\$942.00), and upon the condition that the Respondents fully comply with all of the terms and conditions set forth in the Consent Order and Decree herein (of which this is a part thereof), do hereby remise, release and forever discharge Bernadette C. Baer aka. Bernadette Nedimyer, and Edwin J. Baer their successors and assigns of and from all manner of actions and causes of actions, suits, claims and demands whatsoever in law or equity that I now have or ever had, or which my heirs, executors, administrators, successors or assigns now or shall have, arising from or relating to matters or circumstances for or by any reason of any cause, manner or thing whatsoever alleged in my complaint filed with the Pennsylvania Human Relations Commission captioned and docketed as above.

IN WITNESS WHEREOF, I have executed the foregoing
this 26th day of March, 1976.


Complainant

COMMONWEALTH OF PENNSYLVANIA) SS
COUNTY OF Blair)

On the 26th day of March, 1976,
before me, the subscriber, a Notary Public in and for the
Commonwealth of Pennsylvania, personally appeared the above
named Reginald A. Smith known to me to be the person
whose name is subscribed to the foregoing release to be a free
act and deed.

WITNESS my hand and notarial seal the day and year
aforesaid.

MARJORIE L. REID, Notary Public
Allens, Blair Co., Pa.
My Commission Expires April 16, 1979

NOTARY PUBLIC

C O M M O N W E A L T H O F P E N N S Y L V A N I A

GOVERNOR'S OFFICE

PENNSYLVANIA HUMAN RELATIONS COMMISSION

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INDIVIDUALLY : :
MS. NEDIMYER, AGENT : :
AND INDIVIDUALLY : :

FINAL ORDER AND DECREE


AND NOW, this 27th day of June
19 76, upon consideration of the Consent Order and Decree sub-
mitted in the above captioned case it is hereby ORDERED AND
DECREED that said Consent Order and Decree be entered in the
official record of the Pennsylvania Human Relations Commission
as a Final Order, to be given the same force and effect as if
entered after a public hearing.

BY



JOSEPH X. YAFFE, CHAIRPERSON
PENNSYLVANIA HUMAN RELATIONS COMMISSION

ATTEST



ELIZABETH M. SCOTT, SECRETARY
PENNSYLVANIA HUMAN RELATIONS COMMISSION