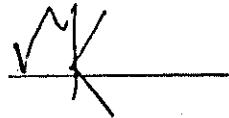


SUBJECT: Supreme Court Opinion in Midland Heights Homes vs. Pennsylvania Human Relations Commission, Docket No. H-1377

TO: All Commissioners

FROM: Marc Kranson, Assistant General Counsel
Thru: George Simmons



Please note that in a memo dated June 20, 1978 on the above-referenced matter that the wrong Opinion was attached. Herein is the correct Opinion.

cc: George Simmons
Homer Floyd
Eusebio Inoncencio
All Attorneys
Lester Mitchell
Frank Davis
Jo-Ann Bykofsky

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JUL 11 1978
ROBERT S. MIRIN


PA. HUMAN RELATIONS
COMMISSION
HEADQUARTERS

JUL 11 6 52 AM '78

June 20, 1978

SUBJECT: Supreme Court Opinion in Midland Heights Homes vs. Pennsylvania Human Relations Commission, Docket No. H-1377

TO: All Commissioners

FROM: Marc Kranson, Assistant General Counsel 
Thru: George Simmons, Regional Director

In an opinion filed June 5, 1978 the Supreme Court of Pennsylvania per curiam affirmed the order of the Commonwealth Court in the above-captioned matter. On March 18 1970, Christine Slappy filed a complaint with the Commission alleging that Midland Heights Homes refused to rent to her an apartment because of her race which is Black, and that Midland Heights Homes limited her choice of apartments by dividing the housing units in its development into Black and White sections. On April 26, 1973 a hearing was conducted before a panel of Commissioners with the following results: Midland Heights Homes was found to have violated §5(h)(1) of the ACT by refusing to permit the Complainant to rent a dwelling outside the Black section of the development, and was directed to cease its unlawful discriminatory practices. The undertaking of certain specific affirmative action similar to that in Sneare vs. Pennsylvania Human Rleations Commission was also ordered. Midland Heights appealed the final order of the Commission and the Commonwealth Court held that there was substantial evidence to support the finding of the Commission. Also, the Court upheld the Final Order of the Commission but held that the Commission did not have the authority to award monetary damages for "out of pocket losses" sustained by the Complainant. The matter came before the Supreme Court on the appeal of Midland Heights Homes and the petition for allowance of appeal filed by the Commission from the order of the Commonwealth Court holding that the Commission had no authority to award monetary damages.

In its opinion, the Supreme Court held that the Commission's Findings of Fact and Conclusions of Law were supported by the substantial evidence. Secondly, the Court held that the Final Order did not violate the due process rights of Midland Heights Homes. Thirdly, the Court held that a Final Order requiring the Respondent to maintain records showing the racial identification of applicants for housing as part of a plan to remedy unlawful discriminatory practices did not violate §5(h)(6) of the Pennsylvania Human Relations Act. Fourthly, the Court held

All Commissioners

Page 2

June 20, 1978

that the Final Order including the transfer of tenants at the cost of Respondent and certain affirmative action provisions was within the broad remedial powers of the Commission. The significance of the Court's opinion emanates from its affirmance of the Commonwealth Court decision holding that the Commission does not have the authority to order a Respondent who has unlawfully discriminated against a Complainant to compensate that Complainant for actual pecuniary losses. As in the Zamantakis case, Mr. Justice Manderino filed a concurring and dissenting opinion, and Mr. Justice Roberts and Mr. Justice Nix filed dissenting opinions.

cc: George Simmons
Homer Floyd
Eusebio Inoncencio
All Attorneys
Lester Mitchell
Frank Davis
Jo-Ann Bykofsky

IN THE SUPREME COURT OF PENNSYLVANIA
WESTERN DISTRICT

MIDLAND HEIGHTS HOMES, INC.	:	No. 138-139 March Term, 1977
	:	
v.	:	
	:	
COMMONWEALTH OF PENNSYLVANIA, PENNSYLVANIA HUMAN RELATIONS COMMISSION	:	Appeal from the Order of the Commonwealth Court filed March 7, 1975, at No. 545 C. D. 1974, modifying the Order of the Pennsylvania Human Relations Commission dated January 28, 1974 at Docket No. H-1377.
Appeal of MIDLAND HEIGHTS HOMES, INC. at No. 138; Appeal of COMMONWEALTH OF PENNSYLVANIA, PENNSYLVANIA HUMAN RELATIONS COMMISSION at No. 139	:	

OPINION OF THE COURT

A FILED: JUN 5 1978

PER CURIAM:

Order affirmed.

Mr. Justice Manderino filed a concurring and dissenting opinion.

Mr. Justice Roberts filed a dissenting opinion in which Mr. Justice Nix
joined.

I must once again dissent, however, from the Court's holding that the Human Relations Commission has no statutory authority to award compensatory damages to persons genuinely injured by unlawful discrimination. See my dissenting opinion in Pennsylvania Human Relations Commission v. Straw, ___ Pa. ___, ___ A.2d ___ (1978) (J-23 of 1978, filed ___), (Manderino, J., dissenting).

[J-28]

IN THE SUPREME COURT OF PENNSYLVANIA
WESTERN DISTRICT

MIDLAND HEIGHTS HOMES, INC.	:	No. 138-139 March Term, 1977
v.	:	
COMMONWEALTH OF PENNSYLVANIA, PENNSYLVANIA HUMAN RELATIONS COMMISSION	:	Appeal from the Order of the Commonwealth Court filed March 7, 1975, at No. 545 C. D. 1974, modifying the Order of the Pennsylvania Human Relations Commission dated January 28, 1974 at Docket No. H-1377.
Appeal of MIDLAND HEIGHTS HOMES, INC., at No. 138; Appeal of COMMONWEALTH OF PENNSYLVANIA, PENNSYLVANIA HUMAN RELATIONS COMMISSION at No. 139	:	

CONCURRING AND DISSENTING OPINION

JUSTICE MANDERINO

FILED: JUN 5 1978

I agree with the Court that the Human Relations Commission did not exceed its statutory authority in ordering respondent, among other things, to maintain records of applicants by race and draft standards by which to review applicants for acceptance or rejection. I also agree with the Court that the record contains sufficient evidence from which to conclude respondent had engaged in unlawful discriminatory practices.

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JUL 11 1978
PT. S. MIRIN

IN THE SUPREME COURT OF PENNSYLVANIA
Western District

MIDLAND HEIGHTS HOMES, INC.	:	
	:	Nos. 138-139 March Term, 1977
v.	:	
COMMONWEALTH OF PENNSYLVANIA, PENNSYLVANIA HUMAN RELATIONS COMMISSION	:	Appeal from the Order of the Commonwealth Court filed March 7, 1975, at No. 545 C.D. 19
Appeal of MIDLAND HEIGHTS HOMES, INC. at No. 133; Appeal of COMMONWEALTH OF PENNSYLVANIA, PENNSYLVANIA HUMAN RELATIONS COMMISSION at No. 139	:	modifying the Order of the Pennsylvania Human Relations Commission dated January 28, 1974 at Docket No. H-1377.

DISSENTING OPINION

ROBERTS, J.

FILED: JUN 5 1978

For the reasons set forth in the Opinion of the Court in Pennsylvania Human Relations Comm'n v. Alto-Reste Park Cemetery Ass'n, 453 Pa. 124, 306 A.2d 881 (1973), and in my dissenting opinions in Pennsylvania Human Relations Comm'n v. Zamantakis, ___ Pa. ___, ___ A.2d ___ (J.23, 1978, filed May 8, 1978)(Roberts, J., joined by Nix, J., dissenting), and Pennsylvania Human Relations Comm'n v. St. Joe Minerals Corp., ___ Pa. ___, 382 A.2d 731 (1978)(Roberts, J., joined by Nix, J., dissenting) I dissent from that portion of today's opinion holding that the PHRC is without statutory authority to award compensatory damages to victims of discrimination. Accordingly, I would reverse the order of the Commonwealth Court in part and reinstate the order of the PHRC.

Because, however, the majority affirms the order of the Commonwealth Court modifying the award of damages, the Court should remand the proceedings to the PHRC to allow it to enter an appropriate remedial order in light of today's decision.

Mr. Justice Nix joins in this dissenting opinion.