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Baltimore Federal Court Reaffirms Tester Standing To Sue Over Lot Sale

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In a race discrimination suit scheduled for trial in November, the federal district court for Maryland rearmend the standing of testers and a private fair housing organization to sue under the Fair Housing Act of 1968. The standing of two of the plaintiffs in that case, the black tester and Baltimore Neighborhoods, Inc. (BNI), had been challenged by the defendants, Stephen Homes, Inc. and its sales agent, Sheila Ort, in a motion for summary judgment.

Judge John R Hargrove denied the motion, citing previous decisions by three other federal circuits, all of which had sustained the standing of both testers and private fair housing organizations.

The lawsuit originated over a year ago with a complaint filed with BNI by Jonathan Pumphrey, a young, black, professional man who wanted to purchase a lot on which to construct a home at Stephen Homes' Greenridge II development in Harford County, Maryland. When he inquired, Pumphrey was told by Ort that no lots were available that met his specifications.

Asked White Friend to Test

Suspecting discrimination, Pumphrey asked a white friend to inquire about similar lots. His friend was told that such lots were available.

Pumphrey then filed a complaint with BNI whose black and white testers had experiences similar to those Pumphrey and his friend had had.

The black tester was told nothing was available and directed to another Stephen Homes development. The white tester was given an abundance of information about available lots.

In its motion for summary judgment, Stephen Homes argued that neither BNI nor Pumphrey had standing to sue under the Fair Housing Act. Judge Hargrove held that the black tester was injured and therefore had standing even though his sole purpose in inquiring about the availability of lots at Greenridge B had been to help establish the defendants' discriminatory practices and to challenge their legality.

Fair Housing Group Has Standing

The judge held that BNI's standing to sue was based on its allegation that the defendant's actions had impaired its ability to eliminate housing discrimination and on its having established that the interests it seeks to protect are germane to its organizational purpose of enforcing the fair housing laws and promoting equal housing opportunity.

