City of Chicago
COMMISSION ON HUMAN RELATIONS
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IN THE MATTER OF:

Thomasina Hawkins
Complainant,
v.

Village Green Holdings Co., LLC
Respondent.

Case No.: 14-H-35

Date of Ruling: July 12, 2018

FINAL RULING ON LIABILITY AND RELIEF

I. INTRODUCTION

Complainant Thomasina Hawkins ("Complainant" or "Ms. Hawkins") filed a complaint with the Commission on Human Relations ("Commission" or "CCHR") against Respondent Village Green Holdings Co., LLC ("Respondent" or "Village Green"). Ms. Hawkins alleged that Respondent denied her the opportunity to rent an apartment due to her source of income in violation of Chapter 5-8-030 of the Chicago Fair Housing Ordinance ("CFHO"). Respondent, in its Verified Response, denied that it failed to rent an apartment to Ms. Hawkins due to her source of income. Ms. Hawkins subsequently filed an amended complaint, clarifying allegations raised in the original complaint, to which Respondent denied any violation of the CFHO.

The Commission found substantial evidence that a violation of the CFHO occurred and ordered mediation, which was unsuccessful. The case was subsequently assigned to a Hearing Officer and set for an administrative hearing. The administrative hearing in this matter was held on September 25, 2017. Both Complainant and Respondent were represented by counsel.

At the close of Complainant's case, Respondent moved for a direct decision, which was denied. [Tr., p. 118-20].[1] After hearing witnesses, considering exhibits, and reviewing the transcript, the Hearing Officer issued his Recommended Decision on Liability and Relief on May 9, 2018. No objections were filed.

[1] The following abbreviations will be used throughout this Recommended Decision: Tr. means the transcript. Stip. Ex. means Stipulated Exhibit.

II. FINDINGS OF FACT[2]

1. Complainant Thomasina Hawkins is a Section 8 Voucher holder, who enrolled in the Chicago Housing Authority Mobility Program in 2013. [Tr. at p. 36:13-24 and Resp. Proposed Statement of Facts at p. 2].

2. The Mobility Program provides individuals with the option of receiving assistance from the Chicago Housing Authority ("CHA") to move into an "opportunity area," which is an area that is not a "poverty" neighborhood. [Tr. at p. 36:22-p. 37:4].

3. When Ms. Hawkins signed up for the Mobility Program, the CHA paid rent vouchers at 300% of Chicago's fair market rent rather than at the typical 100% rate for non-opportunity area rentals. [Tr. at p. 8:12-5]. After August 2014, the maximum rent paid by the CHA for opportunity area rentals was 150% of fair market value. [Tr. at p. 8:8-15].

4. At the time of the incidents described in her complaint, Ms. Hawkins was looking to move into an apartment in the downtown area of Chicago, having previously tried to rent an apartment in Hyde Park. [Tr. at p. 37:12-p. 38:3].

5. In late December 2013 through January 5, 2014, Ms. Hawkins sought to rent a two bedroom apartment (Unit 1902) in the Bernadine located at 747 N. Wabash in Chicago, which she knew was in an opportunity area. [3] [Tr. at p. 38:9-p. 39:15; p. 67:13-p. 69:2; Resp. Proposed Statement of Facts at p. 2; Stip. Ex. 1, 2 and 4].

6. Village Green Holdings LLC is the property manager of 747 N. Wabash in Chicago, also referred to during the administrative hearing as the Bernadine. [Stip. Ex. 1; Stip. Ex. 4 at p. 1].

7. In either her first or her second visit, Ms. Hawkins spoke to Village Green employee, Margo Lewis, and was shown two units, a one bedroom and a two bedroom (Unit 1902). [4] [Stip. Ex. 4:Tr. at p. 42:22-p. 44:16 and p. 67:13-p. 69:2].

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[2] In her Post-Hearing Memorandum, Complainant did not submit any proposed Findings of Fact. Respondent did submit a proposed Statement of Facts which is referenced as "Resp. Proposed Statement of Facts."

[3] The record in this case has numerous inconsistencies and also lacks complete information. The Hearing Officer did not credit Ms. Hawkins' testimony because it was so inconsistent with what was stated in her complaints. In at least one instance, the trigger for inaccurate testimony was Complainant's counsel. For example at the beginning of the hearing, Ms. Hawkins' attorney asked her, "In **June** (emphasis added) of 2014, did you apply for a unit at the building commonly known as the Bernadine, and the answer was, "Yes." [Tr. at p. 38:9-12]. The major inconsistencies will be addressed throughout this decision.

[4] In the hearing, Complainant did not call Ms. Lewis by her last name but her full name as referenced in Respondent's Pre-Hearing Memorandum. Ms. Hawkins testified that she went to the Bernadine on three occasions in late December 2013 and early January 2014, but could not recall the exact dates. [Tr. at p. 67:13-20].

8. At the time of their meeting, Ms. Hawkins informed Ms. Lewis that she had a Section 8 voucher for a two bedroom, two bathroom apartment.[5] [Stip. Ex. 4; Tr. at p. 40:20-p. 42:4; 67:13-p. 73:14].

9. After Ms. Lewis showed Ms. Hawkins a one bedroom apartment, which did not have a window in the bedroom, she said to Ms. Hawkins that the CHA would probably not approve that unit. [Tr. at p. 42:20-p. 43:2; p. 43:19-p. 44:3]. Ms. Lewis then showed Ms. Hawkins a two bedroom unit, which rented for $2,860 per month.[6] [Tr. at p. 39:1-11].

10. Ms. Hawkins testified that during the visit to the Bernadine, Ms. Lewis said that she lived in Hyde Park in a condominium and that her building takes vouchers. [Tr. at p. 44:17-p.45:2; p.73:10-23].

11. On her last visit to the Bernadine, Ms. Hawkins filled out an application for the two bedroom unit and left the required fees; however, her application was not complete. [Tr. at p. 46:24-p. 47:2; p. 76:23-p. 77:4].

12. Ms. Hawkins gave several reasons for her incomplete application, including that Ms. Lewis needed information regarding the amount of money Ms. Hawkins' son, who has a disability, received monthly. Also, according to Ms. Hawkins, there were some issues regarding how to apply the amount of the voucher that Ms. Hawkins would have to use to pay her rent.[7] [Tr. at p. 82:11-24].

13. Ms. Hawkins also testified that Ms. Lewis said then that she was not sure whether the Bernadine would accept the Section 8 voucher. [Tr. at p. 85:6-p. 86:3; p. 91:5-12]. The Hearing Officer did not credit this testimony.

14. Next, Ms. Hawkins testified that she then left the Bernadine to go to the CHA Mobility Program office. According to Ms. Hawkins, she indented to let the CHA know that she was trying to rent a unit at the Bernadine. She was then planning to obtain proof of her son's disability income to submit to the Bernadine. [Tr. at p.76:23-p.77:23].

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[5] While Ms. Hawkins apparently never showed the employees of the Bernadine a document from the CHA showing the amount of rent she was approved for, she told them that she was approved for up to $3,100 for a two bedroom apartment. [Tr. at p. 67:2-5].

[6] Ms. Hawkins testified that on that day, Ms. Lewis made comments that were negative about Section 8 regarding the Bernadine. [Tr. at p. 77:24-p. 78:23; p. 96:19-p. 97:1] However, Ms. Hawkins also testified that on that visit, Ms. Lewis said nothing about the Bernadine not accepting Section 8 vouchers. [Tr. at p. 46:14-17; p.75:7-11]. Given the inconsistent testimony, no finding is made that Ms. Lewis made negative comments about whether Section 8 vouchers would be accepted at the Bernadine.

[7] The Hearing Officer did not credit this testimony because Ms. Hawkins testified as stated above, but then could not coherently explain why she could not complete the portion of the application regarding her income when that income appeared to be only her Section 8 voucher amount, and she had been able to complete other rental applications. [Tr. at p. 76:24-p. 77:23; p. 78:24-p. 83:8; p. 98:4-15].

15. Ms. Hawkins further testified that while she was at the CHA Mobility Program office, Rebecca Latham, the property manager at the Bernadine called her.[8] Ms. Hawkins testified that during that alleged telephone call, Ms. Latham informed her that the Bernadine did not accept her "form of payment." Ms. Hawkins testified that at that point, she ended her attempt to rent an apartment at the Bernadine. [Tr. at p. 46:24-p. 47:11; p. 76:23-p. 77:23; p. 78:24-p. 79:10; p. 82:4-p.83:23; p. 86:6-p.87:9; p.91:5-17; p. 93:1-7]. The Hearing Officer did not credit this testimony.

16. According to Ms. Hawkins, at the time that she was attempting to rent a two bedroom apartment at the Bernadine, she was under pressure to effectuate such a rental because the CHA only gave her a certain amount of time to rent a unit under the Section 8 Mobility Program. [Tr. at. p. 46:6-12].

17. Jessica Mallon, who is the Fair Housing Director for the CHA, testified at the hearing in this matter. Ms. Mallon oversees compliance for the CHA's housing voucher and public housing programs. As part of her job responsibilities, she communicates with the Chicago Commission on Human Relations regarding Section 8/source of income housing discrimination complaints. [Tr. at p. 6:10-p. 11:6].

18. As Ms. Mallon testified, when the Commission is investigating a source of income housing discrimination complaint involving a Section 8 voucher, it completes a form outlining the unit and its specifics and sends it to her at the CHA. She then provides that information to the CHA's contractor, which checks comparable units. That information is sent back to Ms. Mallon who reviews it and forwards it to the Commission as part of its investigation. [Tr. at p. 7:10-p. 8:7; p. 9:15-p. 10:10].

19. In situations when a final application for a unit is not completed but a source of income discrimination claim is made, the CHA can still provide information about the unit, its rent, utilities paid, and any special unit amenities. In that situation, the CHA's contractor will then make a determination about what rent the CHA would have authorized by comparing the unit and its rent with other comparable units. [Tr. at p. 11:1-p. 12:4].

20. In this case, the CHA determined that the most it would have paid for rent for Unit1902 at the Bernadine was $2,284 per month based on three comparable units for which the monthly rent was $1,303, $2,750 and $2,800 [Tr. at p. 13:16-p. 16:L4; Stip. Ex. 1]. This was less than the rent amount of $2,860 that Ms. Lewis had informed Ms. Hawkins that the Bernadine was charging for that unit. As a result, Ms. Hawkins' Voucher could not have been used to rent the unit in question at the Bernadine.

21. At the hearing in this matter, Respondent did not offer any testimony or put on any witnesses.

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[8] Ms. Hawkins did not testify that Rebecca's last name is Latham or that she was the property manager at the Bernadine, but that information was contained in Respondent's Pre-Hearing Memorandum at p. 1-2. See also Resp. Proposed Statement of Facts at p. 2.

III. CONCLUSIONS OF LAW

1. Section 5-08-030 of the Chicago Fair Housing Ordinance provides in relevant part as follows:

> It shall be an unfair housing practice and unlawful for any owner, lessee, sublessee, assignee, managing agent, or other person, firm or corporation having the right to sell, rent, lease, or sublease any housing accommodation, within the City of Chicago, or any agent of any of these, or any real estate broker licensed as such:
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> > C. To refuse to sell, lease or rent any real estate for residential purposes within the City of Chicago because of the race, color, sex, age, religion, disability, national origin, ancestry, sexual orientation, marital status, parental status, military discharge status or source of income of the proposed buyer or renter.

2. The Commission has consistently held that refusing to rent an apartment on the basis that the prospective tenant will be paying rent in part through the Section 8 program violates the Ordinance's prohibition against discrimination on the basis of source of income. CCHR Regs. 420.130 and 420.105; *Hutchinson v. Iftekaruddin*, CCHR No. 09-H-21 (Feb. 17, 2010); *Diaz v. Wykurz et al.*, CCHR No. 07-H-28 (Dec. 16, 2009); *Torres v. Gonzales*, CCHR No. 01-H-46 (Jan. 18, 2006); *Sullivan-Lackey v. Godinez*, 99-H-89 (July 18, 2001) aff'd *Godinez v. Sullivan-Lackey*, 352 Ill.App.3d 87, 91-3, 815 N.E.2d 822, 827-9 (1st Dist. 2004) (specifically affirming that Section 8 vouchers are covered as a source of income under the CFHO); *Jones v. Shaheed*, CCHR No. 00-H-82 (Mar. 17, 2004); *Godard v. McConnell*, CCHR No. 97-H-64 (Jan. 17, 2001); *King v. Houston & Taylor*, CCHR No. 92-H-162 (Mar. 16, 1994).

3. A complainant seeking to prove a claim of disparate treatment in housing based on source of income through direct evidence need not engage in the shifting burden analysis contained in *McDonnell Douglas v. Green*, 411 U.S. 792 (1973). Instead, the complainant may show direct evidence of discriminatory intent by introducing credible evidence that shows the discriminatory intent and that this unlawful intent resulted in an actionable claim. *Shipp v. Wagner*, CCHR No. 12-H-19 (July 16, 2014); *Rankin v. 6954 N. Sheridan Inc., et al.*, CCHR No. 08-H-49 (Aug. 18, 2010); *Hutchinson v. Iftekaruddin*, CCHR No. 09-H-21, at 6 (Feb. 17, 2010); *Diaz v. Wykurz et al.*, CCHR No. 07-H-28, at 5 (Dec. 16, 2009); *Jones v. Shaheed*, CCHR No. 00-H-82, at 8 (Mar. 17, 2004); *Pudelek & Weinmann v. Bridgeview Garden Condo. Assoc. et al*, CCHR No. 99-H-39/52 (Apr. 18, 2001); *King v. Houston & Taylor*, CCHR No. 92-H-162, at 11-2 (Mar. 16, 1994); *Collins & Ali v. Magdenowski*, CCHR No. 91-FHO-70-5655, at 20-1, 23-4 (Sept. 16, 1992).

4. To prove a violation under the direct method of proof, a Complainant need not show that she was financially eligible to rent the apartment, although such a financial inability could affect the amount of damages. *Shipp v. Wagner et* al., CCHR No. 12-H-19 (July 16, 2014); *Rankin v 6954 N Sheridan Inc., et al*, CCHR No. 08-H-49, at 6-8 (Aug. 18, 2010); *Hutchinson v. Iftekaruddin*, CCHR No. 09-H-21, at 5-7 (Feb. 17, 2010) (Direct evidence of a violation of the CFHO exists where there is a showing that the respondent directly stated or otherwise indicated

that he did not offer housing to the complainant because of her Section 8 status.); *Torres v. Gonzales,* CCHR No. 01-H-46 (Jan.18, 2006); *Diaz v. Wykurz et al.*, CCHR No. 07-H-28, at 5 (Dec. 16, 2009). Such direct evidence of discriminatory acts or statements are actionable violations of CFHO protection against source of income discrimination even when the complainant cannot prove that she would have been approved to rent the apartment by the agency making determinations about whether the apartment and its rent were suitable and met the financial requirements. See *Shipp v. Wagner et al., supra.*

5. Direct evidence of discriminatory acts or statements can be established when the actor or speaker uses code words to attempt to mask discriminatory comments or actions. *Buckner v. Verbon*, CCHR No. 94-H-82 (May 21, 1997) (Respondent's statements that he was seeking "good tenants," which are common code words for nonminority tenants, provided direct evidence of Respondent's intentional racial discrimination against Complainant.); *Akangbe v. 1428 W. Fargo Condominium Association*, CCHR No. 91-FHO-7-5595, at 7(Mar. 25, 1992) (The Commission found that statements such as, "I feel very strongly that to sell to the present occupants would without question decrease the value of our property and jeopardize my investment," were code words which are frequently used to mask discriminatory intent, particularly when such a statement is unsupported by any objective evidence.); *Mhany Management, Inc. v. County of Nassau*, 819 F.3d 581, 609-11 (2nd Cir. 2016) and *Avenue 6E Investments, LLC v. City of Yuma, Ariz.*, 818 F.3d 493, 505-06 (9th Cir. 2016).

6. In assessing the credibility of a witness, the Commission considers a number of factors including: (a) the witness' demeanor; (b) the clarity, certainty, and plausibility of the testimony; (c) whether the testimony has been impeached or contradicted by other testimony or documentary evidence; (d) whether the testimony has been corroborated by other testimony and documentary evidence; and (e) the witness' interest or disinterest in the outcome of the proceedings. *Gardner v. Ojo*, CCHR No. 10-H-50, at 6 (Dec. 19, 2012); see *Hodges v. Hua & Chao,* CCHR No. 06-H-11, at 4 (May 21, 2008).

7. Since the Hearing Officer has concluded that critical portions of Complainant's testimony are not credible and there is no other evidence that supports her claim, she has failed to prove a violation of CFHO Section 5-08-030 and its supporting Rules and Regulations.

8. To establish a *prima facie* case for intentional housing discrimination under the indirect method, Complainant must establish: (1) she is a member of a protected class covered by the Ordinance; (2) Respondent was aware that Complainant was a member of the protected class; (3) Complainant was ready and able to rent the property at issue; and (4) Complainant was not allowed to rent the property. *Pierce v. New Jerusalem Christian Development Corp.*, CCHR No. 07-H-12/13, at 5 (Feb. 16, 2011). If a complainant establishes a *prima facie* case, the burden shifts to Respondent to articulate a legitimate, nondiscriminatory reason for the refusal to rent. *Hutchison v. Iftekaruddin*, CCHR No. 09-H-21, at 6 (Feb. 17, 2010). If the respondent satisfies this burden, a complainant may still prevail if she shows that the articulated reason is a pretext for discrimination. *Gardner v. Ojo, supra*, at 10.

9. Complainant failed to prove a *prima facie* case of source of income housing discrimination because she did not show that the CHA would have approved her to rent Unit 1902 at the Bernadine for a rent of $2,860 per month. In fact, Complainant's own witnesses clearly showed that the CHA **would not** have approved her to rent the unit in question.

10. The Commission has held that "[w]hen a complainant does not complete the application process to rent an apartment because a respondent has made it clear that it will not rent to the complainant because of a protected status, the completion of the process is excused as a futile gesture." *Rankin v. 6954 N. Sheridan Inc.*, CCHR No. 08-H-49, at 7-8 (Aug. 18, 2010)(citing cases). To rely on the futile gesture doctrine, Complainant must show: (a) that she is a member of a protected class who was a bona fide renter of the property and financially able to rent the apartment at the time it was available; (b) that Respondent discriminated against people with her source of income; (c) that she was reliably informed of this policy of discrimination and would have taken steps to rent the apartment but for the discrimination; and (d) that Respondent's employees would have discriminated against Complainant had she applied for the property. *Jones v. Shaheed, supra,* at 14-16; *Pudelek and Weinmann v. Bridgeview Garden Condominium Association et al.*, CCHR No. 99-H-39/53, at 20-21 (Apr. 18, 2001).

11. Complainant failed establish a *prima facie* case under the futile gesture doctrine because even if Complainant's testimony was credible as to Ms. Latham telling Complainant that her "form of payment" was not accepted at the Bernadine and a finding was made that such a statement constitutes code words to mask discrimination, Complainant failed to prove that she was "financially able to rent the apartment at the time it was available."

IV. DISCUSSION

In her original complaint, Complainant alleged that she was denied an opportunity to rent a specific two bedroom unit at 747 N. Wabash in Chicago in early January 2014, in what the CHA considered an opportunity area, meaning a more affluent neighborhood than many poor Chicagoans can reside. The original complaint, which named Village Green Holdings LLC as Respondent, stated:

> 1. On or about January 5, 2014, the Complainant, who had a Section 8 voucher, attempted to apply for unit #1902 at The Bernadin building located at 747 N. Wabash Chicago, IL, which is owned and managed or operated by the Respondent.
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> 2. The unit was renting for $2,860 under a special rental incentive that the Complainant was told about by a leasing agent named Margo.
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> 3. The Complainant gave Margo checks for the $50 application fee and $300 administrative fee and told Margo she would be using a Section 8 voucher.
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> 4. Margo proceeded to ask her manager Rebecca about the Section 8 voucher and Rebecca told Margo that we don't accept that form of payment.
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> 5. It is illegal under the Chicago Fair Housing Ordinance to deny someone housing because of their protected class status.

Stip. Ex. 2.

Several months after submitting this complaint, Complainant filed an amended complaint, stating that the alleged discrimination occurred on or about January 10, 2014. The amended complaint stated:

> The Complainant seeks to amplify the source of income discrimination allegations. The Respondent's agent, Margo Lewis, attempted to illegally steer the Complainant to the Algonquin Apartments located in Hyde park during the Complainant's visit to the subject property. Ms. Lewis stated, You should apply at the Algonquin in Hyde Park because I know they take Section 8 because I used to live there. This is a violation of CCHR Reg. 420.110(d).

Stip. Ex. 3.

Complainant argues that she should prevail on (1) the typical indirect method of proving source of income discrimination; (2) under the futile gesture theory, contending that a *prima facie* case had been proved; and (3) on a steering theory. Respondent argues that Complainant did not satisfy any of the elements required to prove a *prima facie* case under the indirect evidence method of proving a refusal to rent due to source of income discrimination. Additionally, Complainant failed to present any evidence to support her steering claim.

Complainant cannot prevail using either the typical indirect method of proving source of income discrimination or under the futile gesture theory because both of these methods of proof require Complainant to prove by a preponderance of the evidence that she was financially able to rent Unit 1902. There is no evidence to show that the CHA would have approved the monthly rent of $2,860 for Unit 1902. In fact, based on the undisputed testimony offered by Complainant, her Housing Choice Voucher could not have been used to rent the unit in question.

Complainant argues that the evidence regarding the amount the CHA would approve could not be obtained because the rental application was not completed. Additionally, the CHA's change in August 2014 from paying rent vouchers at 300% of fair market rent to 150% of fair market rent for rental units in opportunity areas made it impossible to show the rent amount that the CHA would have paid for Unit 1902. Further, Complainant argues that the CCHR failed to obtain this information during its investigation of this issue in this case. Complainant contends that the result creates "an ambiguity in whether Complainant was ready and able to rent the unit should be treated as an after acquired piece of evidence, affecting damages but not liability."[9]

The Commission finds that all of these arguments have no merit. Complainant's witness, CHA Fair Housing Director Jessica Mallon, testified that even if a final application is not completed the CHA could make a determination regarding the amount of rent it would have authorized for a particular unit. Additionally, according to Ms. Mallon, the fair market percentage in effect at the time Complainant attempted to rent the apartment would have been used in making the determination on the authorized rent amount.

Most importantly, Ms. Mallon testified that the CHA would not have approved more than $2,284 for the unit in the Bernadine. Complainant's argument that there were problems with CCHR's investigation as it concerns the amount of rent that the CHA would have approved for

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[9] A finding of ambiguity on an element of proof would not help Complainant because she has the burden of proof on each of these elements in order to require the case to go forward. *Thomas v. Prudential Biros Real Estate*, CCHR No. 97-H-59/60, at 8 (Feb. 18, 2004).

the rental of Unit 1902 potentially could have some basis, but could have been resolved by Complainant seeking additional testimony from Ms. Mallon and calling a witness from CHA's contractor, CVR, who makes comparables to determine the rental amount that would have been approved by the CHA.

Complainant did call Christine Klepper from Housing Choice Partners, an agency that does counseling work for the CHA's Mobility Program to assist families who want to move into opportunity areas. Complainant subpoenaed Ms. Klepper to bring documents from the Mobility Program that showed what Section 8 vouchers the CHA had approved for zip code 60611, where the Bernadine is located, from 2012 to the date of the hearing. Ms. Klepper may have had documents which contained that information but she erred in bringing only current information. Complainant did not move to continue the hearing to allow Ms. Klepper to return with documents that contained information that could have determined whether the CHA had approved opportunity vouchers in zip code 60611 when it was paying up to 300% of fair market rent.

Given all of this, Complainant failed to establish a *prima facie case* for housing discrimination under the indirect method and she has likewise failed to prove that she is entitled to rely on the futile gesture doctrine.

Regarding Complainant's claim that Margo Lewis engaged in steering practices by referring her to the Algonquin building in Hyde Park, the Commission does not credit Complainant's testimony. Complainant did not reference the incident in her original complaint and, when it was added in the amended complaint, Complainant stated under oath that the statement by Ms. Lewis occurred on or about January 10, 2014. However, according to Complainant's testimony at the hearing, this alleged statement by Ms. Lewis occurred earlier than the date stated in the amended complaint. More importantly, even if this testimony was credited, according to Complainant, after Ms. Lewis made the statement about the Algonquin, Complainant did not entertain it and Ms. Lewis continued to show Complainant another unit at the Bernadine. For all these reasons, the Commission cannot credit Ms. Hawkins' testimony as being sufficient to prove a CFHO steering claim.

Finally, although Complainant did not argue that she should prevail on the direct method of proof, the Hearing Officer determined that Complainant is also unable to establish a *prima facie* case of source of income housing discrimination through direct evidence. Complainant alleges that Rebecca Latham told her that the Bernadine would not accept "her form of payment." The use of code words such as, we do not accept your form of payment, *could* be a means of proving this discriminatory conduct. Additionally, to succeed on such a claim, a complainant need not prove she was financially able to rent the apartment at issue.

However, given the credibility issues with Complainant's testimony regarding the incidents that form the basis of her complaint, Complainant is unable to prevail on her claim for housing discrimination using direct evidence because her testimony was not credible. These credibility issues (some of which have already been discussed) are as follows:

1) Complainant's testimony is extremely inconsistent as to whether Margo Lewis made any negative comments about Section 8 or whether the Bernadine would accept Section 8 on the visit when Ms. Lewis showed her two units at the Bernadine;

2) the factual difference between what Complainant alleged in her sworn initial complaint and what she testified to at the hearing about how she was informed that the Bernadine would not take Section 8 vouchers is significant;[10]
3) Complainant testified inconsistently as to whether Ms. Latham's call to her was made after the visit to the Bernadine when she saw the two units or after the visit when she submitted her application; and
4) In response to what she understood "form or payment" to mean Complainant stated, "I asked her what does she consider my form of payment, she said check, money order and credit, credit and debit card. When Complainant was later asked about her understanding of the statement, "they don't take your form of payment," Complainant testified, "I asked what is your form of payment. She just said my form of payment, which is the voucher."

Given these issues, Complainant's testimony is not sufficiently credible. Her testimony throughout the hearing was uncertain, often lacked clarity, and it was self-impeached. Moreover, Complainant was inconsistent as to whether she understood Respondent's alleged use of "code words" to be discriminatory. Finally, Complainant's testimony was self-serving and not corroborated by other evidence.

Therefore, the Hearing Officer determined that Complainant's testimony on these crucial issues concerning whether the claim of direct evidence of discrimination has been proven by a preponderance of the evidence is not credible.

As provided in §2-120-510(I) of the Chicago Municipal Code, the Commission must and does adopt the findings of fact recommended by a hearing officer if they are not contrary to the evidence presented at the hearing. The hearing officer's findings in this case are consistent with the evidence and well-supported in the hearing record. Determining credibility of witnesses and the reliability of their testimony and related evidence is a key function of hearing officers, who have the opportunity to observe the demeanor of those who testify. *Poole v. Perry & Assoc.*, CCHR No. 02-E-161 (Feb. 15, 2006). The Hearing Officer carefully explained the reasons for his credibility determinations and the Commission does not find them to be against the weight of the evidence.

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[10] In her complaint, Ms. Hawkins stated that "The Complainant gave Margo checks for the $50 application fee and $300 administrative fee and told Margo that she would be using a Section 8 voucher and Margo proceeded to ask her manager Rebecca about the Section 8 voucher and Rebecca told Margo that we don't accept that form of payment." [Stip. Ex. 2]. However, at the hearing, Ms. Hawkins testified that after she submitted her application to Ms. Lewis, Ms. Lewis indicated that she was not sure whether the Bernadine would accept Section 8 vouchers. Ms. Hawkins left the Bernadine to go to the CHA's Mobility Program office and then to get documentation about her son's disability income. Ms. Hawkins testified that while at the Mobility Program office, Rebecca Latham, the Bernadine's property manager, called her and told her that the Bernadine would not accept Section 8. At the hearing when asked about the statements in her Complaint, Ms. Hawkins said that "was someone else's different story." [Tr. at p. 51:18-p. 52:17].

V. CONCLUSION

Accordingly, the Commission adopts the recommendation of the Hearing Officer and finds in favor of Respondent Village Green Holdings Co., LLC and against Complainant Thomasina Hawkins on Complainant's source of income discrimination claim. Therefore, this Complaint is DISMISSED.

CHICAGO COMMISSION ON HUMAN RELATIONS

By: Mona Noriega, Chair and Commissioner
Entered: July 12, 2018