

STATE OF INDIANA  
CIVIL RIGHTS COMMISSION

DOCKET NO. HOra09050139  
HUD NO. 05-091090-8

JAMAL L. SMITH, in his official capacity as  
EXECUTIVE DIRECTOR of the INDIANA CIVIL  
RIGHTS COMMISSION;

Complainant,

v.

LANDMARK APARTMENTS, and LANDMARK  
BOULDERS INDIANAPOLIS, LP;

Respondents.

FILE DATED

MAR 25 2011

Indiana State Civil Rights Commission

### FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER

On January 6, 2011, Robert D. Lange, Administrative Law Judge ("ALJ") for the Indiana Civil Rights Commission ("ICRC") entered his Proposed Findings Of Fact, Conclusions Of Law, And Order ("the proposed decision"). On January 13, 2011, Complainant, Edward Penn ("Penn"), *pro se*, filed Edward Penn's Objections To Proposed Findings Of Fact, Conclusions Of Law, And Order ("Objections").

David C. Carter, Vice-Chairperson, presided over oral argument on Penn's Objections on March 25, 2011. Other Commissioners present were Barry Baynard, Tehiji Crenshaw, John E. Garcia and Steven A. Ramos. Commissioners absent were Alpha Blackburn (the Chairperson) and Charles D. Gidney. Penn was present. Respondents – Landmark Apartments and Landmark Boulders Indianapolis LP ("Landmark") – were represented by counsel, Michael Rabinowitch, Esq. of the Indianapolis firm of WOODEN & McLAUGHLIN, LLP. Also present on behalf of Landmark were Alex Stokely, Vice President and Tom Mariani, General Counsel. Arguments were heard, questions were asked by members of the ICRC, and the cause was taken under advisement.

Having carefully considered the foregoing and being duly advised in the premises, the ICRC finds and rules as follows.

1. A party objecting to an ALJ's proposed decision has the burden of demonstrating an error in the proposed decision that affects the outcome.
2. Penn has not met that burden.

**IT IS, THEREFORE, ORDERED**

1. Edward Penn's Objections To Proposed Findings Of Fact, Conclusions Of Law, And Order are **OVERRULED**.
2. The ICRC hereby adopts as its own the findings of fact, conclusions of law and order proposed by the ALJ in the proposed decision, a copy of which is attached hereto and incorporated herein by reference.

**INDIANA CIVIL RIGHTS COMMISSION**



\_\_\_\_\_  
**COMMISSIONER**



\_\_\_\_\_  
**COMMISSIONER**



\_\_\_\_\_  
**COMMISSIONER**



\_\_\_\_\_  
**COMMISSIONER**

Dated: 25 March 2011

To be served by first class mail on the following parties and attorneys of record:

Edward Penn  
7416 Harcourt Road  
Indianapolis, IN 46260

Landmark Apartments  
c/o Sandy Smith, Manager  
7653 Woodmore Trace  
Indianapolis, IN 46260

Landmark Boulders Indianapolis, Ltd, LP  
c/o Chief Executive Officer  
3755 East 82<sup>nd</sup> Street  
Indianapolis, IN 46240

WOODEN & McLAUGHLIN LLP  
BY: Michael Rabinowitch, Esq.  
Attorneys for Respondents  
211 North Pennsylvania  
One Indiana Square, Suite 1800  
Indianapolis, IN 46204-4208

and to be personally served on the following attorney of record:

Michael C. Healy, Esq.; Staff Counsel  
Indiana Civil Rights Commission  
Indiana Government Center North  
100 North Senate Avenue, Room N103  
Indianapolis, IN 46204-2255