

## HAWAI'I CIVIL RIGHTS COMMISSION

STATE OF HAWAII

Electronically Filed  
Hawai'i Civil Rights Commission  
Dkt. No. 24-002-H-D-F-S  
10:08 am, Aug 11 2025

MARCUS L. KAWATACHI,  
Executive Director, on behalf of the  
complaint filed by RALNA K.L.  
SHELDON,

Complainant,

VS.

FIONA MASAOY,

Respondent.

DOCKET NO.: 24-002-H-D-F-S

FINAL DECISION AND ORDER;  
EXHIBIT A

## FINAL DECISION AND ORDER

## I. INTRODUCTION

This case involves a claim of familial status discrimination in a real estate transaction arising under Hawai‘i Revised Statutes (HRS) Chapter 515. Surrounding the case are emotionally charged matters that reveal the complexities of human relationships: filial responsibility for a parent with a disability, allegations of domestic violence during pregnancy, and housing instability with a newborn during a global pandemic.<sup>1</sup> However, the legal issue presented during the contested case hearing was straightforward: whether statements made by the Respondent indicated

1 Complainant filed a complaint with the Hawai'i Civil Rights Commission alleging unlawful discriminatory practices in housing based on sex, disability, and familial status. The Commission recognizes that under a disparate impact analysis, a claim of discrimination based on sex can arise from adverse action against a survivor of domestic violence because domestic violence disproportionately impacts women. In the instant case, however, the Executive Director pursued only the claim of familial status discrimination during the contested case hearing.

I hereby certify that this is a true and correct copy of the original on file at the HAWAII CIVIL RIGHTS COMMISSION.

**Chief Counsel, Hawai'i Civil Rights Commission**

a preference or intent to discriminate based on Complainant's familial status in violation of the state's fair housing laws.

The contested case hearing was held before Hearings Examiner, Judge Michael K. Tanigawa, on April 28, 2025.<sup>2</sup> Hearings Examiner Tanigawa filed his Findings of Fact, Conclusions of Law and Recommended Order on May 30, 2025, which is hereby referenced and incorporated in this Final Decision and Order and attached as Exhibit A.

The Executive Director did not file written exceptions to the Hearings Examiner's proposed decision and Respondent did not file any written statement in support of the Hearings Examiner's proposed decision. Neither party requested oral argument before the Commission and none was held. This is the Commission's Final Decision and Order in this matter.

## II. FINDINGS OF FACT

The Commission adopts and incorporates by reference the section entitled, "Findings of Fact" as set forth in the Hearings Examiner's proposed decision. Should any of the findings be later deemed conclusions of law, they are hereby so construed.

The Commission further adopts the following Finding of Fact based on exhibits and the witness testimony at the evidentiary hearing:

15. During Complainant's tenancy on the subject property, Respondent Masaoy made statements that she had intended to rent the subject property to a small family.

On direct examination by the Executive Director, represented by Enforcement Attorney Eric Pililaau, the following questions were asked and answered:

**Pililaau:** Okay. And to the best of your recollection, Ralna, right now, what exactly were those statements that Ms. Masaoy --

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<sup>2</sup> The record shows the contested case hearing took place via hybrid videoconference on April 28, 2025. The caption to the Hearings Examiner's Findings of Fact and Conclusion of Law incorrectly identifies April 15, 2025—the date of the pre-hearing conference—as the date of contested case hearing.

**Ralna:** Uh --

**Pililaau:** -- and Mr. Gerwig made on the property that day?

**Ralna:** -- a lot of things about how it was made -- the house was made for a family of three, or just a small family. They weren't trying to have more than that there. It -- it's h- -- was stated many times about a small family, a small family. Um, that they weren't really looking to rent to more than Anthony, and my son, and me, like, our small family. A lot of statements about a small family. Um, there wasn't much --

**Pililaau:** Okay.

**Ralna:** -- expectations about me having another child, but, I mean -- but there was so much about having a small family in there. And I know my parents weren't expected either, but --

**Masaoy:** Can I object?

**Tanigawa:** Not yet.

**Masaoy:** Not yet? Okay.

**Ralna:** Um --

**Tanigawa:** I'm sorry. Are you finished, ma'am?

**Ralna:** Yeah. I'm done. It's okay. Thank you.

TR at 60-61.

Respondent Masaoy also testified that she made statements regarding a small family relating to the subject property:

**Pililaau:** And you chose to use the size of Ralna Sheldon's family to get them out of that property, didn't you?

**Masaoy:** No, that is incorrect. Again, I'm gonna state very clearly to the Court, since you keep referring to a small family, for the record, my reference to a small family was strictly about the contractual parties, two adults, one child, and a child expected. It was never a statement of personal values or preferences. My concern was solely about accurately, uh, identifying who was under the agreement.

TR at 140.

### III. CONCLUSIONS OF LAW

The Commission adopts and incorporates by reference the section entitled, "Conclusions of Law", as set forth in the Hearings Examiner's proposed decision. The findings of a hearings examiner will not be disturbed unless it is clearly erroneous. *See William D. Hoshijo, Executive*

*Director, on behalf of the Complaint filed by Tereza Kristall and Sir Joshua James Kristall-Wagner v. Garden Island Realty LLC, et al*, Dkt. No. 22-001-H-D-RET, Final Decision and Order, dated April 24, 2023, at 12 (citing *Kerr v. Silva*, 129 Hawai‘i 268, 297 P.3d 1124 (App. 2013)). Further, it is the province of a hearings examiner to assess the credibility of witnesses and to reconcile conflicting evidence. *Id.*

The record shows there was conflicting testimony and evidence: Complainant testified that Respondent made a facially discriminatory statement during a phone call, in which Respondent told Complainant that the property was not meant for so many kids. TR at 73. Respondent denied making this statement. ED Exhibit 20. Complainant’s mother, who allegedly was present during this phone call, testified she did not hear Respondent make this statement. TR at 115. The Hearings Examiner found that Complainant was not credible in her testimony regarding this specific statement. *See FOF/COL* at 4. The Commission will not disturb this finding.

However, the analysis does not end there. The record shows that it is undisputed by both Complainant Sheldon and Respondent Masaoy that Respondent Masaoy also made statements that she wanted a small family for the subject property. *See supra*. The Executive Director argued that these statements regarding a small family demonstrates Respondent’s discriminatory animus against renting her property to a family of four with two minor children. TR at 15-16, 153.

While facially discriminatory statements in connection with real estate transactions are prohibited, facially neutral remarks may also run afoul of the state’s fair housing laws when considering the context and totality of circumstances. HRS § 515-16(7) and Hawai‘i Administrative Rules (HAR) § 12-46-311(c), prohibit statements that “indicate[], directly or indirectly, an intent to make a limitation, specification, or discrimination because of a person’s protected basis” (emphasis added). The Commission has previously ruled that the standard for

analysis is whether an ordinary listener would find that Respondent's statements indicate a preference, limitation, or intent to discriminate against a complainant's protected class. *See William D. Hoshijo, Executive Director, on behalf of the Complaint filed by Kiona Boyd v. Jeffrey Primack*, Dkt. No. 18-001-H-S, Hearings Examiner's Amended Findings of Fact and Conclusions of Law and Recommended Order, dated August 16, 2018, at 17 (adopted by the Commission in its Final Decision and Order, dated November 30, 2018). Where there is an indirect statement made in connection to a real estate transaction that may indicate a discriminatory intent, the ordinary listener is neither the most suspicious nor the most insensitive individual. *See Soules v. U.S. Dept. of Hous. and Urb. Dev.*, 967 F.2d 817, 824 (2d Cir. 1992) (citing *Ragin v. New York Times Co.*, 923 F.2d 995, 1002 (2d Cir.)).<sup>3</sup>

In ambiguous statement cases, context matters. A landlord who makes a statement that he dislikes renting to tenants with dogs, that alone, might not violate the state's fair housing laws. However, if a landlord made that same statement immediately after a prospective tenant disclosed that she has a dog that is her assistance animal because of her disability, then the context would cause an ordinary listener to find that the landlord's statement indicates an intent to discriminate based on the prospective tenant's protected class.

Similarly, if an owner makes a statement that she prefers a small family for her property, without more, such statement may not be unlawful. The question here is whether an ordinary listener would find that Respondent Masaoy's statements relating to a small family indicated her intent to discriminate against Complainant because of Complainant's familial status. Under HAR § 12-46-302, familial status is defined as:

The presence of children under eighteen years old in a family, including, but not

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<sup>3</sup> While federal case law is not precedential for the Commission, the Commission may consider federal courts' interpretation of the substantially equivalent federal fair housing act as persuasive guidance on interpreting our state's fair housing laws.

limited to, a person having custody and domiciled with a minor child or children; a person domiciled with a minor child or children who has written or unwritten permission from the legal parent, such as a hanai relationship; a person who is pregnant; or any person who is in the process of securing legal custody of a minor child or children.

Hawai‘i law prohibiting discrimination in a real estate transaction on the basis of familial status prohibits adverse action because a family is expecting a child, or currently has a minor child or children (including hānai children). It does not prohibit a landlord from taking adverse action against a tenant for allowing family members over the age of majority to live on the property without prior approval, if required by the lease agreement.

Here, looking to the context in which the statements were made, it is undisputed by the parties that Respondent agreed to rent the subject property to Complainant and Bell, despite already having one minor child, noting that the property was meant for a small family. *FOF/COL* at 3. It is undisputed that, prior to signing the rental agreement, it was apparent that Complainant Sheldon was pregnant and that Respondent knew Complainant was expecting another child.

On direct examination by the Executive Director, the following questions were asked and answered:

**Pililaau:** Okay. Was -- Ms. Masaoy, was she aware, at the time that you signed the lease and when you moved in, was she aware that you were pregnant?

**Ralna:** That would be correct, as she mentioned previously.

**Pililaau:** Okay.

**Ralna:** She was aware.

**Tanigawa:** I’m sorry. Uh, I didn’t get that answer.

**Ralna:** That would be correct. She was aware I was pregnant. As she mentioned previously, she was very aware. I was big. I’m sorry, Your Honor.

TR at 29.

On cross examination, Complainant Sheldon again testified that Respondent Masaoy knew Complainant was expecting another child:

**Masaoy:** [...] Ralna, you stated that -- numerous times, that -- well, first of all,

when you signed the lease, when we did a walkthrough, who was there during the walkthrough?

**Ralna:** I think we went over this. You were there, Steve –

**Masaoy:** I’m asking again.

**Ralna:** -- was there. Anthony –

**Masaoy:** Okay.

**Ralna:** -- was there, I was there.

**Masaoy:** And how pregnant were you?

**Ralna:** I was four to five months pregnant. I was big.

**Masaoy:** So we were all aware you were having another child.

**Ralna:** Yes. I think we stated this.

TR at 86.

It is also undisputed that Complainant informed Respondent that Complainant’s parents—individuals over the age of 18 not on the original lease—moved onto the subject property in July of 2020. *Id.* Finally, it is undisputed that on or about October 28, 2020, Respondent called Complainant after Complainant’s parents had been living on the property for a few months, alleging that Complainant was in breach of the lease, again referencing the property was meant for a small family. *Id.* at 4. TR at 68-69.

While the record shows that Complainant and her family signed a lease addendum that required moving out of the property only two months after the birth of her second child, *FOF/COL* at 5, the totality of circumstances must be considered. Based on the context, an ordinary listener would not find that Respondent’s “small family” statements expressed an unlawful intent to discriminate against Complainant because of her familial status. Rather, an ordinary listener would find that the statements made by Respondent demonstrated Respondent’s belief that the unapproved adults living on the property, Complainant’s parents, constituted a breach of the lease agreement and motivated Respondent’s action in response to the alleged breach.

#### IV. ORDER

The Commission adopts and affirms the Hearings Examiner’s Recommended Order with

the exception of issuing a press release on the outcome of this case, which is hereby stricken, and finds that Respondent Masaoy did not violate HRS Chapter 515, HAR § 12-46-311.

The complaint is hereby dismissed.

DATED: Honolulu, Hawai‘i, August 11, 2025.

HAWAI‘I CIVIL RIGHTS COMMISSION



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Alphonso Braggs, Chair

*Jon Matsuoka*

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Jon Matsuoka, Commissioner



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Raymond Nichols, Commissioner

(RECUSED)

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Arsima Muller, Commissioner

**Appeal Rights: Under H.R.S. § 368-16(a), complainant(s) and respondent(s) have the right of appeal from the Final Decision and Order of the Commission by filing an appeal with the circuit court within thirty (30) days of service of the Final Decision and Order of the Commission.**

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*MARCUS KAWATACHI, as Executive Director of the Hawai‘i Civil Rights Commission, on behalf of the Complaint filed by Ralna K.L. Sheldon vs. Fiona Masaoy; Docket No. 24-002-H-D-F-S; FINAL DECISION AND ORDER*



HAWAI'I CIVIL RIGHTS COMMISSION  
STATE OF HAWAI'I

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MARCUS L. KAWATACHI,  
Executive Director, on behalf of the complaint  
filed by RALNA K.L. SHELDON,  
  
Complainant,  
  
vs.  
  
FIONA MASAOY,  
  
Respondent.

DOCKET NO.: 24-002-H-D-F-S

HEARINGS EXAMINER'S FINDINGS OF  
FACT, CONCLUSIONS OF LAW AND  
RECOMMENDED ORDER

Hearings Examiner: Michael K. Tanigawa  
Date of Hearing: Tuesday, April 15, 2025

HEARING EXAMINER'S FINDINGS OF FACT, CONCLUSIONS OF LAW,  
DECISION, AND RECOMMENDED ORDER

I. PROCEDURAL HISTORY

This case before the Hawai'i Civil Rights Commission ("HCRC" or "State") was initiated on June 1, 2021 by the filing of a complaint by Complainant RALNA K.L. SHELDON ("Complainant" or "Sheldon") and subsequently amended on June 23, 2022, alleging that Respondent FIONA MASAOY ("Respondent" or "Masaoy") committed unlawful discriminatory practices against Complainant. The HCRC took jurisdiction pursuant to Hawai'i Revised Statutes (HRS) §§ 515, 368-3, and 368-13. The Executive Director of the HCRC is represented by Eric Pililaau, Joey Badua, Catherine Lowenberg, and April Wilson-South.

The HCRC, through its Enforcement Section, conducted an investigation pursuant to extensions of time granted by the HCRC. On September 20, 2022, the Executive Director issued a Notice of Finding of Reasonable Cause. Exhibit 4.

The property at issue is a house located at 91-1989 Luahoana Street, Ewa Beach, Hawai'i 96706 ("Property" or "House").

On March 25, 2025, Respondent, acting pro se, filed a Motion to Dismiss Complaint. On March 28, 2025, Respondent filed Respondent's Motion for Leave to File Motion to Dismiss Out of Time. The Motion to Dismiss Complaint and Respondent's Motion for Leave File Motion to Dismiss Out of Time were denied by Hearings Examiner, the Honorable Michael K. Tanigawa (Ret.) ("Judge Tanigawa").

An evidentiary hearing was held on April 28, 2025, before Judge Tanigawa. The Executive Director of the HCRC, on behalf of the complaint filed by Sheldon, was represented by Eric Pililaau. Respondent, having been apprised of her right to have counsel represent her, appeared without counsel.

At the conclusion of the evidentiary hearing, Judge Tanigawa held that the Executive Director had failed to meet his burden of proof.

## II. FINDINGS OF FACT

Based on the materials received into evidence and the testimony presented at the evidentiary hearing, the following findings of fact are made:

1. Commencing May 15, 2020, Anthony Keith Bell ("Bell") and Sheldon entered into a Rental Agreement for the Property ("Lease") as tenants with Respondent as the landlord. Bell and Sheldon signed the Lease as tenants. Transcript of Evidentiary Hearing (TR) at 2; Exhibit 18.

2. In the Lease under the heading Standard Terms and subheading Tenant's Responsibilities, subparagraph 11 states: "No Subleasing or Additional TENANTS. No additional TENANTS, subleasing or assignment of this Rental Agreement will be allowed without the prior written consent of LANDLORD. Guests may not stay longer than fourteen (14) days without written approval of LANDLORD."
3. The term of the lease was from May 15, 2020 to June 1, 2021. TR at 27.
4. Prior to moving in, Sheldon did an inspection of the Property with Respondent and Steve Gerwig, a representative of Respondent. TR at 23, 129.
5. At the commencement of the Lease, Respondent was aware that Sheldon moved into the Property with her two-year-old son, Jace Bell, and that Sheldon was pregnant. TR at 28-29, 126. Jace Bell is not identified as a tenant in the Lease.
6. Sheldon gave birth on September 9, 2020. TR at 29.
7. Sheldon notified Respondent that Sheldon's mother and father would be moving into the Property. On July 10, 2020, Sheldon sent a text to Respondent stating that due to an "emergency event", Sheldon's mother and father moved in with Sheldon and needed to be added to the Lease. Sheldon went on to state that her mother is disabled, and that Sheldon is her mother's "sole caretaker." TR at 31-34, 38; Exhibit 6.<sup>1</sup>
8. Sheldon also informed Respondent that Bell might withdraw from the Lease. In a series of text messages, Sheldon informed Respondent that Bell might seek the return of the security deposit due to relationship issues, but that Sheldon and Sheldon's parents would be able to pay the security deposit and rent. TR 40, 45; Exhibit 7.

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<sup>1</sup> The Transcript shows Mr. Pililaau incorrectly identifying the date of the communication as July 10, 2022. That error is corrected by Mr. Pililaau subsequently and Exhibit 6 is identified in the list of exhibits as having been sent July 10, 2020. In light of the termination of the Lease on June 1, 2021, it is apparent that the reference to 2022 was an error.

9. Having leased the Property to two adults as tenants, Respondent was faced with the prospect of having four adults on the Property. Respondent took Sheldon's request to add Sheldon's parents to the Lease and remove Bell under consideration beginning in July of 2020. Respondent determined that the credit score of the parents did not meet Respondent's requirements and therefore, Respondent would not remove Bell from the Lease. TR at 130-133, 136.
10. Respondent decided to reject Sheldon's requests. On October 28, 2020, Bell received a telephone call from Respondent informing Bell that Sheldon and Bell were in breach of the Lease. TR at 134. Sheldon and Sheldon's mother, Billie Sheldon ("Billie"), listened in on the phone call. TR at 69, 112-113. Sheldon testified that in reference to the occupancy of the Property, Respondent said during the phone call: "It will – not made to have that many kids, that many people in there." TR at 71. However, during the testimony of Billie, counsel for the Executive Director asked: "Ralna claimed that during this phone call, Ms. Masaoy stated that she did not agree to have so many kids on the property. Do you remember Ms. Masaoy making that or similar statements during that phone call?" Billie responded: "No." TR at 115. Billie went on to testify that "It just came across as like she was irritated with somebody, and not because of anything like that." TR at 115. Sheldon's testimony in this regard was not credible.
11. Respondent never consented in writing to Sheldon's parents residing at the Property.
12. Respondent believed that Sheldon's parents living at the Property without Respondent's written consent was a breach of the Lease. In an email by Respondent to a HCRC Investigator in response to questions by the investigator, Respondent

stated: “House was rented [sic] plaintiff and Anthony [B]ell. 2 adults, 1 child, and baby on the way. Anyone else is [sic] that household was breaking the lease.”

Exhibit 12.

13. Respondent sent a representative to meet with Sheldon and offer the option of ending the Lease and Sheldon and the other occupants moving out and the deposit returned to them or have Sheldon’s parents move out. TR at 138-139.

14. Sheldon and Bell agreed to and did move out in November even though Sheldon would have preferred to stay at the Property until the Lease terminated on June 1, 2021. TR at 80; Exhibit 18.

## II. CONCLUSIONS OF LAW AND DECISION

Based on the foregoing findings of fact, the pleadings in this case, and the applicable law, Judge Tanigawa makes the following conclusions of law:

1. The HCRC has jurisdiction over complaints of unlawful discriminatory practices in real estate transactions.
2. The Notice of Finding of Reasonable Cause to Believe that an Unlawful Discriminatory Practice has been Committed found that such cause existed as to a violation of HRS § 515-3(1) and Hawai‘i Administrative Rules (HAR) § 12-46-311(c) “by subjecting Complainant to discriminatory statements that indicated a preference or limitation, or an intent to discriminate, based on Complainant’s familial status.” Exhibit 4 at page 5.
3. This was the sole basis for the complaint at the time of the evidentiary hearing. TR at 155.

4. “‘Familial status’ means the status of: a parent having legal custody of and domiciled with a minor child or children, a person who is domiciled with a minor child or children and who has written or unwritten permission from the legal parent, a person who is pregnant, or any person who is in the process of securing legal custody of a minor child or children.” HAR § 515-2.
5. Sheldon breached the Lease by allowing Sheldon’s parents to reside at the Property for more than 14 days without written consent of the Respondent.
6. Respondent’s decision to terminate the Lease based upon Sheldon’s breach was not based on familial status, but instead on the presence of additional adults living on the Property.
7. Testimony that Respondent made statements that were facially discriminatory with respect to familial status are not credible.
8. The Executive Director has the burden of proving allegations of discrimination by a preponderance of the evidence. HAR § 12-46-36(b).
9. The Executive Director has failed to prove by a preponderance of the evidence that Respondent violated HRS § 515-3(1) and HAR § 12-46-311(c) and subjected the Complainant “to discriminatory statements that indicated a preference or limitation, or an intent to discriminate, based on Complainant’s familial status.” Exhibit 4 at page 5.

### III. RECOMMENDED ORDER

Based on the foregoing findings of fact and conclusions of law, I recommend that the Commission find and conclude that:

1. The Charge of Real Property Transaction Discrimination as amended is dismissed.

2. HCRC shall issue a press release regarding the results in this matter.
3. HCRC shall post the decision on their website.

Dated: Honolulu, Hawai‘i, May 30, 2025.

HAWAI‘I CIVIL RIGHTS COMMISSION

*/s/Michael K. Tanigawa*

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Michael K. Tanigawa, Hearings Examiner

Copies sent to:

Enforcement Attorney, Eric Pililaau  
Respondent Fiona Masaoy

Docket no: 24-002-H-D-F-S

Hearing Examiner’s Findings of Fact, Conclusions of Law, Decision, and Recommended  
Order