

Headstrong HOA Board Member Puts Himself in Harm's Way Over Fair Housing Issues

20 Jul 2017

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In a recent case decided by the D.C. Court of Appeals, the court heard a matter involving the intersection between community association governance and fair housing law. In this case, Wilfred Welsh, a board member of the Chaplin Woods Homeowners Association (the HOA), sued fellow HOA members Beverly McNeil and Alvin Elliott (the McNeils), claiming that the McNeils violated the HOA's bylaws by renting out their townhouse for use as a residence by a group of recovering alcoholics and substance abusers. The terms of the rental agreement did not meet certain requirements of the HOA's bylaws, primarily because the lease did not name the persons who would occupy the premises. Mr. Welsh initially sued the McNeils in Superior Court for leasing in violation of the bylaws and without the approval of the HOA's board of directors. In response, the McNeils brought counterclaims under the Federal Fair Housing Act and the District of Columbia Human Rights Act (the Acts), claiming that Welsh violated the Acts by opposing their request for a reasonable accommodation. Most importantly, Mr. Welsh continued to pursue his claim even though the HOA's board of directors ultimately voted to approve the McNeils rental agreement and the President of the HOA notified the McNeils of such approval in writing.

The court found that board approval effectively waived the HOA's claim against the McNeils for leasing the townhouse in violation of the bylaws, a waiver that bound the entire Association, including Mr. Welsh. The court ruled that the McNeils, as landlords, have standing to pursue claims under the Acts against Mr. Welsh, as an individual attempting to prevent them from renting property to tenants with disabilities. The court found that, even if Mr. Welsh lacked the independent ability to grant or deny a reasonable accommodation request, and even though the HOA board ultimately consented to the lease, Mr. Welsh's allegedly discriminatory actions to personally enforce the HOA's bylaws could be a violation of the Acts. The court remanded the case for further proceedings. The *Welsh* case highlights the need for community association board members to act thoughtfully and collectively when addressing requests for reasonable accommodations.

Wilfred Welsh v. Beverly McNeil and Alvin Elliott, D.C.C.A. Nos. 15-CV-524 and 15-CV-559 (Decided on June 29, 2017).