

10-7-08

COMMONWEALTH OF PENNSYLVANIA
PENNSYLVANIA HUMAN RELATIONS COMMISSION

ROMANI ABNEY,	:	
	:	
Complainant	:	
	:	
v.	:	
	:	Docket No. 200401198
PHILADELPHIA HOUSING	:	
AUTHORITY,	:	
	:	
Respondent	:	

FINDING OF PROBABLE CAUSE

Summary of Complaint:

The Complainant alleges that the Respondent discriminated against her because of her sex, female, and race, African American, by continually failing to promote Complainant to a position of Project Engineer and with respect to the terms, conditions, and privileges of her employment by subjecting her to incidents of harassment by her direct supervisor and failing to adequately and promptly remediate a hostile work environment which led to her constructive discharge in violation of Section 5 of the Pennsylvania Human Relations Act, 43 P.S. 955.

Summary of Response:

"[P]HA vehemently denies that it has ever discriminated against Ms. Abney in any way." Specifically, in reference to the Complainant's failure to promote claim that they "...ultimately selected the most qualified individual for the opening" and "[N]o evidence suggests that PHA acted for other than completely legitimate business reasons."

FINDINGS OF FACT IN SUPPORT OF PROBABLE CAUSE

Whereas the facts of the investigation have disclosed the following:

1. Romani Abney (hereinafter "Complainant") is a member of a protected class, sex, female, and race, African American, within the meaning of the Pennsylvania Human Relations Act.
2. Philadelphia Housing Authority (hereinafter "Respondent") at all times relevant to the case at hand, employed four or more persons within the Commonwealth.
3. Respondent maintains an office at 12 South 23rd Street, Philadelphia, PA 19103.
4. On or about June 2, 1997, Respondent hired Complainant as a Graduate Architect. Graduate Architect duties include reviewing specifications, contract drawings, cost estimating, inspections, reviewing monthly invoices, attending construction meetings, and interfacing with contractor, residents and government and city agencies.
5. On or about 1992, Complainant received a B.S. in Architecture from Temple University. Further, Complainant completed two years of classes in Architectural Drafting and AutoCAD at Community College and in 2001 received a B.A. in Architecture from Drexel University.
6. From April 1999 to the present, Complainant held an Associate membership in the American Institute of Architects.
7. Throughout her employment Complainant continually attended continuing education trainings, including but not limited to: Engineers Club of Philadelphia Continuing Education Units - Construction Project Management (1998), Home and Building Inspection (1998) and Americans with Disabilities Act (2000); University City Science trainings - Lead Inspector training for

certification under USEPA 40 C.F.R. 745 (2000) and Asbestos Building Inspector training for accreditation under TSCA Title II (2000); and R.S. Means Certificate of Training - Repair and Remodeling Estimating Seminar (2000).

8. Despite the Complainant's education, training, professional memberships and excellent evaluations Respondent continually failed to promote the Complainant to an open Project Engineer position.

9. Respondent's job description for Project Engineer states, the ideal candidate will possess a B.S. with major course work in Architecture, Engineering, or Construction Management; four years of construction project management experience; knowledge of construction plans, specification, federal, state and local building codes, excellent communication skills; and proficient computer skills.

10. A Project Engineer earns approximately \$10,000 - \$14,000 higher than a Graduate Architect.

11. It is Respondent's "policy to take into consideration internal transfers, promotions, or applications from residents before recruiting candidates outside the Authority."

12. On or about October 1999, Complainant applied and was rejected for the open Project Engineer position at Raymond Rosen. A Caucasian male co-worker was promoted to the open Project Engineer position.

13. On or about October 31, 1999, Complainant sent a letter to Clarence Mosley (African-American male), Assistant General Manager of the Development Department, alleging that she was not promoted to the open Project Engineer position "due to discrimination." The letter was copied to Respondent employees: Panchwagh, J. Lomardo, C. Sistrunk and D. Morris.

14. Following receipt of the letter, Clarence Mosley (African-American male), Assistant General

Manager of the Development Department, Complainant's direct supervisor, told the Complainant that her male co-worker was promoted because "he is doing work equal to the Project Engineers" and that she did not have the sufficient years of service.

15. However, Robert Coccadrillo (Caucasian male) was hired as a Project Engineer without possessing the required B.S. degree. Further, Brain Ward (Caucasian male) was hired as a Project Engineer immediately after graduating with a B.S. degree but without the required four years of experience.

16. Dale Morris, Complainant's Field Supervisor at the Raymond Rosen Housing Project confirmed:

- a. Complainant applied and was rejected from the position;
- b. Compliant was qualified and should have been promoted;
- c. Respondent informed him after he resigned that the Complainant would take over the Project Engineer responsibilities at Raymond Rosen.

17. Subsequent to her rejection from the open Project Engineer position, Complainant received a B.A. in Architecture from Drexel University. Complainant also attended the following trainings: Engineers Club of Philadelphia Continuing Education Units - Americans with Disabilities Act (2000); University City Science trainings - Lead Inspector training for certification under USEPA 40 C.F.R. 745 (2000) and Asbestos Building Inspector training for accreditation under TSCA Title II (2000); and R.S. Means Certificate of Training - Repair and Remodeling Estimating Seminar (2000).

18. On or about January 18, 2003, Complainant applied for an open Project Engineer position.

19. Despite the Complainant's education, training, professional memberships and excellent evaluations Respondent failed to promote the Complainant to an open Project Engineer position. Further, Respondent did not interview or respond at

all to her application for the open Project Engineer position.

20. On or about May 29, 2003, Complainant in response to the Respondent's failure to acknowledge her application for the open Project Engineer position submitted a formal written Complaint to Stacey Thomas in Respondent's Human Resource office, alleging that she has been denied promotional opportunities and access to training due to unlawful discrimination.

21. On or about June 18, 2003, Respondent notified the Complainant that she has not been discriminated against in any way, reiterated Respondent's job posting policies and that they had no record of her being denied training.

22. On or about July 7, 2003, Complainant submitted a written complaint to Respondent's EEO Officer Rosanna Grdinich reiterating her belief that she was discriminated on the basis of her race, age and gender and asked if her complaint was being investigated.

23. Rosanna Grdinich, EEO Officer, failed to respond to Complainant's written complaint.

24. On or about July 17, 2003, Complainant emailed Respondent's EEO Officer Rosanna Grdinich concerning the status of her complaint.

25. Respondent's EEO Officer Rosanna Grdinich responded that the investigation is "on going."

26. To this date, Respondent has failed to meaningfully investigate Complainant's allegation found in her May 29, 2003, complaint that she was denied promotional opportunities due to sex, age and gender discrimination.

27. On or about October 9, 2003, Complainant applied for an open Project Engineer position.

28. Subsequently, Complainant was interviewed for the open position by Cat Nguyen (Asian-American male), General Manager of the Development and

Construction Department; Clarence Mosley (African-American male), Assistant General Manager of the Development Department; and Robert Kosinuk (Caucasian male), Employment Administrator from the Human Resources Department.

29. Clarence Mosley (African-American male), Assistant General Manager of the Development Department is the same individual who previously failed to promote the Complainant to an open Project Engineer position and failed to address her complaint that she was denied the promotion due to discrimination.

30. On or about January 15, 2004, Danny Jain, (East-Indian male), an applicant outside of the Philadelphia Housing Authority was hired for the open Project Engineer Position.

31. Respondent alleges, even though they scored an identical "Rating Consensus Score," Mr. Jain was hired because he has a Master's degree and a "broader level of experience" than Complainant.

32. On or about April 13, 2004, approximately three months after Mr. Jain was hired for the open Project Engineer position and repeated inquires from the Complainant concerning the status of her application, Robert Kosinuk (Caucasian male), Employment Administrator from the Human Resources Department notified the Complainant that she was rejected from the open Project Engineer position.

33. On or about June 23, 2004, Gregory Hampson (Caucasian male) was promoted to Assistant General Manager of the Development Department.

34. On or about August 5, 2004, Complainant filed a complaint at Docket No. 200401198.

35. On or about October 10, 2004, Complainant applied for an open Project Engineer position. At the time of her application the annual salary for a Project Engineer was \$57,125.55.

36. On or about November 1, 2004, Complainant was interviewed for the open position by Cat Nguyen

(Asian-American male), General Manager of the Development and Construction Department; Clarence Mosley (African-American male), Assistant General Manager of the Development Department; Gregory Hampson (Caucasian male), General Manager of the Development Department.

37. On or about November 8, 2004, Complainant filed a internal complaint with Respondent's Human Resource Department alleging that she was being harassed by her direct supervisor Gregory Hampson (Caucasian male), General Manager of the Development Department.

38. Cat Nguyen (Asian-American male), General Manager of the Development and Construction Department; Clarence Mosley (African-American male), Assistant General Manager of the Development Department; Gregory Hampson (Caucasian male), General Manager of the Development Department rated the Complainant as 38 out of 100 on the "Rating Consensus Score." Complainant in her previous interview scored substantially higher on the "Rating Consensus Score."

39. On or about November 8, 2004, Respondent filed a verified Answer with the Commission.

40. On or about January 5, 2005, Carlton Clark (African-American male), an applicant outside of the Philadelphia Housing Authority was hired for the open Project Engineer Position.

41. On or about January 31, 2005, Complainant filed another internal complaint with Respondent's Human Resource Department alleging that she was being harassed by her direct supervisor Gregory Hampson (Caucasian male), General Manager of the Development Department.

42. Respondent, through their counsel allege that an outside investigation was conducted by outside counsel which determined that her claims "did not have merit." Further, Respondent failed to provide the Commission with the investigative notes because they are "protected by attorney-client privilege."

43. From January 20, 2005, through February, 28, 2005, Complainant took FMLA work related stress leave per her Doctor's orders.

44. On or about March 1, 2005, Gregory Hampson (Caucasian male), General Manager of the Development Department suspended the Complainant without pay from March 1, 2005 through March 7, 2005, for "poor work performance" and because her "behavior was unacceptable."

45. On or about April 5, 2005, Gregory Hampson (Caucasian male), General Manager of the Development Department reprimanded her for "dereliction of duties" and "poor workmanship."

46. On or about May 19, 2005, Dr. Wayne V. Arnold recommended that the Complainant "remove herself for future health concerns from this particular job scenario entirely."

47. On or about May 27, 2005, Complainant was constructively discharged.

48. During Complainant's tenure with Respondent there were five Project Engineers: four male and one female. The female Project Engineer was promoted subsequent to the Complainant filing a complaint against the Respondent for their discriminatory practices.

WHEREFORE, probable cause exists to credit the allegations that the Respondent discriminated against her because of her sex, female, and race, African American, by continually failing to promote Complainant to a position of Project Engineer and with respect to the terms, conditions, and privileges of her employment by subjecting her to incidents of harassment by her direct supervisor and failing to adequately and promptly remediate a hostile work environment which led to her constructive discharge in violation of Section 5 of the Pennsylvania Human Relations Act, 43 P.S. 955.