



# Maine Human Rights Commission

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## INVESTIGATOR'S REPORT

MHRC No. H13-0585

HUD No. 01-14-0037-8

**Date Issued: December 20, 2013**

████████████████████

v.

████████████████████

### **I. Complainant's Complaint:**

Complainant Janalee L. ██████ alleged that her neighbor, Respondent ██████ subjected her to a hostile housing environment that involved sexual harassment and retaliation for rejecting and complaining about his sexual advances.

### **II. Respondent's Answer:**

Mr. ██████ denied sexually harassing Ms. ██████ and stated that the problems between them started when his son bought a computer screen from Ms. ██████

### **III. Jurisdictional Data:**

- 1) Dates of alleged discrimination: January 2012 to September 29, 2013 (ongoing).
- 2) Date complaint filed with the Maine Human Rights Commission: October 7, 2013.
- 3) Respondent is subject to the Maine Human Rights Act ("MHRA") and the federal Fair Housing Act as well as state and federal housing regulations.
- 4) Respondent is not represented by counsel. Complainant is not represented by counsel.
- 5) Investigative methods used: A thorough review of the written materials provided by the parties. This preliminary investigation is believed to be sufficient to enable the Commissioners to make a finding of "reasonable grounds" or "no reasonable grounds" in this case.

### **IV. Development of Facts:**

- 1) The parties and issues in this case are as follows:

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- a) Ms. [REDACTED] is female. She and Mr. [REDACTED] who is male, rented separate apartments on the first floor of a three story apartment building in Norway, Maine.
  - b) The issues in this case are sexual harassment, harassment based on sex, and retaliation for rejecting and complaining about sexual advances.
- 2) The Complainant provided the following:
- a) Ms. [REDACTED] moved into the building in August 2012.
  - b) Between August and December 2012, Ms. [REDACTED] heard Mr. [REDACTED] sexually harass other female tenants. See paragraph 2(l) below.
  - c) In December 2012, Mr. [REDACTED] told Ms. [REDACTED] that he fantasizes about her every night when he goes to bed. He suggested that she do the same thing with him.
  - d) On two or three occasions in January and February 2013, Mr. [REDACTED] made sexual advances to Ms. [REDACTED] asking if she would go in his bedroom and "take care" of him because he was so horny.
  - e) In February 2013, Mr. [REDACTED] told Ms. [REDACTED] that he could put some drug on the tip of his penis and that they could have a good time having sex because he could "last longer."
  - f) In April 2013, Ms. [REDACTED] went to the Legion Hall to play bingo. Mr. [REDACTED] sat next to her and asked her for help with his cards. When bingo was over, Ms. [REDACTED] went back home to her apartment to take a shower. She heard a knock on the door and it was Mr. [REDACTED] who asked if he could help her take a shower. Ms. [REDACTED] told him no. When Ms. [REDACTED] finished her shower, she heard another knock on the door and Mr. [REDACTED] asked her to come over. Ms. [REDACTED] told him no, she was going to bed. The next day, Mr. [REDACTED] was sitting outside and he asked her about the shower and said, "I thought you said to take you as you are."
  - g) After that, there were several times when Ms. [REDACTED] turned on the shower, she could hear Mr. [REDACTED] on the other side of the wall in his apartment, masturbating loudly and saying things like, "Oh yes, ahhh, it's calling my name." Ms. [REDACTED] began taking sponge baths instead to avoid hearing this.
  - h) Ms. [REDACTED] said "no" every time Mr. [REDACTED] made sexual advances and requests for several favors. Whenever Ms. [REDACTED] told him "no," he yelled at her and called her an offensive name for a woman (f\*\*king b\*tch, skank, whore, c\*nt, etc.).
  - i) On April 23, 2013, Ms. [REDACTED] reported to the Norway Police Department that she was being sexually harassed by Mr. [REDACTED]. After Ms. [REDACTED] reported the harassment and other disturbances to the police, Mr. [REDACTED] called her a "c\*nt", shouted and screamed things like "you'll get yours," and threatened to shoot her.
  - j) The police issued warnings to Mr. [REDACTED] and arrested him for disorderly conduct for his mistreatment of Ms. [REDACTED] most recently on September 29, 2013. See paragraph 7(n) below.

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- k) Ms. [REDACTED] obtained an order for protection from harassment against Mr. [REDACTED] but the harassment continued after the order was issued.
  - l) Ms. [REDACTED] heard Mr. [REDACTED] sexually harass other female tenants in the building.
    - 1) Ms. [REDACTED] heard Mr. [REDACTED] call MF (female tenant on the third floor) a c\*nt, whore and slut. Mr. [REDACTED] would yell to her or at her at all hours of the day and night for not doing sexual favors for him. She heard Mr. [REDACTED] offer MF money in exchange for sexual services.
    - 2) Ms. [REDACTED] heard Mr. [REDACTED] call AA-2 (female tenant on the second floor) a fat f\*cking b\*tch, c\*nt, and whore.
    - 3) Ms. [REDACTED] heard Mr. [REDACTED] ask AA-3 (female tenant on the third floor) if she could get her pants any tighter, and if she would shake her "ass."
- 3) Respondent provided the following:
- a) Mr. [REDACTED] lived in the apartment building for nine years and never had a problem until 2013 when Ms. [REDACTED] moved in.
  - b) Mr. [REDACTED] has never sexually harassed anyone.
  - c) Mr. [REDACTED] is 53 years old and has diabetes and a crippled leg. He always tries to treat people the way he wants to be treated.
  - d) The problem with Ms. [REDACTED] started when Mr. [REDACTED] son bought a computer screen from her. When his son came to pick up the screen, Ms. [REDACTED] jacked up the price. His son refused to pay what she was asking.<sup>1</sup> After that, Ms. [REDACTED] called the police with different complaints. He had to pay \$300 in fines caused by Ms. [REDACTED]
  - e) Mr. [REDACTED] feels that if anyone has been harassed, it is him.
  - f) Mr. [REDACTED] thinks that Ms. [REDACTED] must have some type of mental problem because all of her complaints are sexually oriented. Sex is the last thing on his mind.
- 4) Co-Tenant SB provided the following:
- a) Co-Tenant SB is female. She lived in the same building as Mr. [REDACTED] and Ms. [REDACTED]
  - b) Co-Tenant SB never had a problem with Mr. [REDACTED]
- 5) Co-Tenant AA-3 provided the following:

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<sup>1</sup> (Ms. [REDACTED] She sold a computer screen to Mr. [REDACTED]'s son in February 2013. The son refused to pay her in full. She shrugged it off. Her complaint against Mr. [REDACTED] has nothing to do with the sale of the screen.

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- a) Co-Tenant AA-3 is female. She lived in the same building as Mr. [REDACTED] and Ms. [REDACTED]
  - b) Mr. [REDACTED] was polite in the morning when he was sober. He would say "hi" or "you look pretty." Mr. [REDACTED] was rude and obnoxious when he was drunk, which was most afternoons and evenings. He would say things like "sexy," and "there are things I can do for you," and "will you sit on my face." This would happen whenever she saw him outside, for example, when she came home from work.
  - c) Mr. [REDACTED] made sexual comments to her more often in the summer, when he spent time outside, and less often in the winter when he stayed indoors. In the summer, he made sexual comments to her about three times a week.
- 6) Friend TG provided the following: Her son told her about visiting Ms. [REDACTED] apartment. When her son used Ms. [REDACTED] bathroom, he could hear Mr. [REDACTED] masturbating and groaning and calling Ms. [REDACTED] name. Her son said it was gross. Her son told her that when he left Ms. [REDACTED] apartment, Mr. [REDACTED] while standing in his doorway, called Ms. [REDACTED] a "c\*nt" and "whore." This happened in the fall of 2013.
- 7) Documents submitted revealed the following:
- a) (Police Report - April 23, 2013) Ms. [REDACTED] reported to the Norway Police Department that she was being sexually harassed by Mr. [REDACTED]. Ms. [REDACTED] told the officer that she did not want to press charges or stir up trouble; she just wanted it on record.<sup>2</sup>
  - b) (Police Report - April 28, 2013) At about 11:50 PM, Ms. [REDACTED] called to report very loud music from Mr. [REDACTED] apartment. An officer asked Mr. [REDACTED] to turn the music down. He said he would. Mr. [REDACTED] was very intoxicated. The officer waited a minute to make sure Mr. [REDACTED] turned the music down. He did, but then the officer heard him start shouting and screaming at Ms. [REDACTED] calling her a c\*nt and threatening "You'll get yours!" because she called the police. The officer knocked and warned Mr. [REDACTED] to stop screaming and swearing or he would be arrested for disorderly conduct. Mr. [REDACTED] said he was going to bed. About 30 minutes later, [REDACTED] reported that Mr. [REDACTED] was screaming at her, calling her a cunt, and threatening to shoot her. When an officer arrived and spoke to Mr. [REDACTED] through the door, Mr. [REDACTED] called the officer an "asshole" and yelled that the officer should "suck his dick." The officer ordered Mr. [REDACTED] to open the door and arrested him for disorderly and criminal threatening.
  - c) (Bail Bond - April 29, 2013) Mr. [REDACTED] was charged with criminal threatening class C and disorderly conduct. Conditions of release included not using any alcoholic beverages, not having any direct or indirect contact with Ms. [REDACTED] specifically stating that Mr. [REDACTED] "may reside in above apartment but not make noises hearable in hall or victim's apartment."
  - d) (Police Report - May 6, 2013) Ms. [REDACTED] called to complain that Mr. [REDACTED] recently started sitting on her side of the front porch and was preventing her from collecting her mail.

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<sup>2</sup> Ms. [REDACTED] provided few details to the police at that time. She gave a more detailed account of the harassment to the police on May 30, 2013.



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- e) (Voluntary Statement - May 10, 2013) Ms. [REDACTED] reported to the police that at about 8:27 AM, she was leaving her apartment. Mr. [REDACTED] was just closing his apartment door. He looked and said, "blah blah blah you fucking b\*tch, make another call," and shut his door. While Ms. [REDACTED] waited for her ride, Mr. [REDACTED] stood at the outside door and gave her dirty looks.
- f) (Voluntary Statement - May 26, 2013) Ms. [REDACTED] took a shower at about 8:30 PM and could hear Mr. [REDACTED] groaning and going "ahhh ahhh ahhh" really loud and saying "oh yes oh yes". Ms. [REDACTED] had been taking sponge baths because whenever she showers, he masturbates.
- g) (Police Report - June 1 & 2, 2013) Ms. [REDACTED] reported that Mr. [REDACTED] called her "pussy," and "mean pussy" while they were both in a common area of the building.
- h) (Voluntary Statement - June 1, 2013) At about 10:00 AM, Ms. [REDACTED] was leaving her apartment and as she was going out the door Mr. [REDACTED] and one of his sons were also going out. She did not hold the door for them and they both said, "f\*ck you, you f\*ckin' b\*tch."
- i) (Temporary Order for Protection from Harassment - June 4, 2013) Ms. [REDACTED] obtained a Temporary Order for Protection from Harassment against Mr. [REDACTED] based on sexual harassment and criminal threatening.
- j) (Criminal History Record - June 5, 2013) Mr. [REDACTED] was charged with violating the conditions of his release.
- k) (Criminal Record History - August 20, 2013) Mr. [REDACTED] was found guilty of Disorderly Conduct, Loud Noise, Private Place and fined \$75.00. Mr. [REDACTED] was also found guilty of violating the conditions of his release and fined \$250.00.
- l) (Criminal Record History - August 31, 2013) Mr. [REDACTED] was charged with violating a Protective Order from Harassment.
- m) (Voluntary Statement - September 3, 2013) Ms. [REDACTED] received harassing phone calls from Mr. [REDACTED] apartment on August 15, 2013.
- n) (Arrest Report - September 29, 2013) Shortly after midnight, Ms. [REDACTED] reported that Mr. [REDACTED] was being very loud. Officers responded and heard Mr. [REDACTED] on the phone, yelling and swearing. It sounded like a drug deal that went bad. Mr. [REDACTED] answered the door when the police knocked, swaying back and forth with liquor on his breath. The officers told Mr. [REDACTED] that he was under arrest for disorderly conduct. Mr. [REDACTED] stiffened up and said no he wasn't. Mr. [REDACTED] started for the officers with his right fist raised and told them to get out. An officer got Mr. [REDACTED] to the floor and cuffed him. When Mr. [REDACTED] was being put in the cruiser, Mr. [REDACTED] said he was going to "kill the b\*tch", meaning Ms. [REDACTED]. On the way to jail he said, "I'm gonna kill this b\*tch...she'll be a dead b\*tch before court ever comes." The officers warned Mr. [REDACTED] for criminal threatening. Mr. [REDACTED] said it wasn't criminal because he didn't say anything to "the b\*tch" [Ms. [REDACTED]]<sup>3</sup>

<sup>3</sup> Mr. [REDACTED] trial date for threatening to kill Ms. [REDACTED] is January 21, 2014.

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- o) (Criminal Record History – October 17, 2013) Mr. [REDACTED] was found guilty of violating a Protective Order from Harassment and fined \$350.00.
- 8) Other: In November 2013, the landlord filed a Summons and Complaint for Forcible Entry and Detainer against Mr. [REDACTED]. A judgment was issued in favor of the owner requiring Mr. [REDACTED] to vacate the premises on December 13, 2013. Mr. [REDACTED] moved out on December 14, 2013.

**V. Analysis:**

- 1) The Maine Human Rights Act (“MHRA”) provides that the Commission or its delegated investigator “shall conduct such preliminary investigation as it determines necessary to determine whether there are reasonable grounds to believe that unlawful discrimination has occurred.” 5 M.R.S. § 4612(1)(B). The Commission interprets the “reasonable grounds” standard to mean that there is at least an even chance of Complainant prevailing in a civil action.
- 2) The MHRA provides, in part, that any person has the right to rent an apartment without discrimination on the basis of sex. 5 M.R.S. § 4581-A(1)(B); 94-C.M.R. ch. 8, § 8.04(a)(1).
- 3) The MHRA also provides, in part, that it is “unlawful for a person to coerce, intimidate, threaten or interfere with any individual in the exercise or enjoyment of the rights granted or protected by this Act . . . .” 5 M.R.S. § 4633(2).
- 4) The Commission’s housing regulation, which interprets § 4633(2), provides that:
- A. It shall be unlawful to coerce, intimidate, threaten, or interfere with any person in the exercise or enjoyment of, or on account of that person having aided or encouraged any other person in the exercise or enjoyment of, any right granted or protected by this part.
- B. Conduct made unlawful under this section includes, but is not limited to. . .
- (2) Threatening, intimidating or interfering with persons in their enjoyment of a dwelling because of the . . . sex . . . of such persons. . .
- 94-348 C.M.R. ch. 8, § 8.09.
- 5) Here Complainant alleged that Respondent created a hostile housing environment based on sexual harassment and sex and retaliation for rejecting Respondent’s sexual advances.<sup>4</sup> Respondent denied the allegation.
- 6) A hostile housing environment claim is analyzed similarly to a hostile work environment claim. *See, e.g., Neudecker v. Boisclair Corp.*, 351 F.3d 361, 364-365 (8th Cir. 2003); *DiCenso v. Cisneros*, 96 F.3d 1004, 1008 (7th Cir. 1996); *Honce v. Vigil*, 1 F.3d 1085, 1090 (10th Cir. 1993).

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<sup>4</sup> Complainant’s retaliation claim is that she was subjected to harassment based on sex after she rejected Respondent’s sexual harassment, which makes it unnecessary to address the retaliation claim separately.

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- 7) Such a claim is actionable when unwelcome behavior because of protected class status unreasonably interferes with Complainant's use and enjoyment of the premises. *See Honce*, 1 F.3d at 1090. Cf. Me. Hum. Rights Comm'n Reg. § 3.06(I) (1) (July 17, 1999) (employment). "Hostile environment claims involve repeated or intense harassment sufficiently severe or pervasive to create an abusive [housing] environment." *Doyle v. Dep't of Human Servs.*, 2003 ME 61, ¶ 23, 824 A.2d 48, 57 (employment case). In determining whether an actionable hostile housing environment exists, it is necessary to view "all the circumstances, including the frequency of the discriminatory conduct; its severity; whether it is physically threatening or humiliating, or a mere offensive utterance. . . ." *Doyle*, 2003 ME 61, ¶ 23, 824 A.2d at 57. It is not necessary that the inappropriate conduct occur more than once so long as it is severe enough to cause the housing environment to become hostile or abusive. *Id; Nadeau v. Rainbow Rugs*, 675 A.2d 973, 976 (Me. 1996) (employment). "The standard requires an objectively hostile or abusive environment--one that a reasonable person would find hostile or abusive--as well as the victim's subjective perception that the environment is abusive." *Nadeau*, 675 A.2d at 976.
- 8) The fact that the conduct complained of is unwelcome must be communicated directly or indirectly to the perpetrator of the conduct. *See Lipsett v. University of Puerto Rico*, 864 F.2d 881, 898 (1st Cir. 1988) (employment).
- 9) Here, Complainant established that she was subjected to a sexually hostile housing environment and harassment based on sex by Respondent. From December 2012 to about April 2013, the harassment was primarily sexual. Respondent told Complainant that he fantasized about her every night when he went to bed and suggested that she do the same thing with him. In January and February 2013, Respondent made two or three sexual advances, asking if Complainant would go in his bedroom and "take care" of him because he was so horny. In February 2013, Respondent told Complainant that he could put some drug on the tip of his penis and that they could have a good time having sex because he could "last longer." In April 2013, Respondent repeatedly asked Complainant if he could shower with her. After that, Respondent would masturbate loudly and say things like, "Oh yes, ahhh, it's calling my name" when he heard Complainant in the shower. Complainant repeatedly and consistently rejected Respondent's sexual advances.
- 10) The hostility of Complainant's housing environment was exacerbated by the sexual harassment Complainant witnessed Respondent inflict on other female tenants. Complainant heard Respondent use sexual slurs like "c\*nt," "whore" and "fat fucking b\*itch" against other female tenants. She also heard Respondent yell at another female tenant for refusing to do sexual favors and exchange money for sex.
- 11) In April 2013, Complainant reported to the Norway Police Department that she was being sexually harassed by Respondent. Complainant also reported noise disturbances to the police.
- 12) After Complainant reported the sexual harassment and other disturbances, the tenor of Respondent's harassment shifted. Before that, Respondent subjected Complainant to unwelcome sexual comments and requests for sexual favors. Afterwards, Respondent subjected Complainant primarily to abusive sexist slurs and threats of violence, although the sexual harassment did not entirely cease. (Respondent continued to masturbate loudly when he heard Complainant in her apartment bathroom or taking a shower.)

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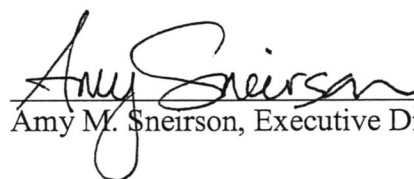
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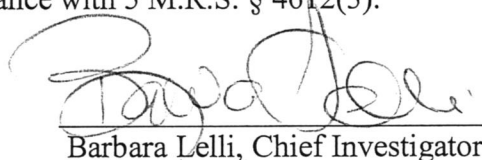
- 13) After April 2013, Respondent shouted and screamed at Complainant, called her a "c\*nt," threatened "You'll get yours," and threatened to shoot her. Respondent intimidated Complainant by sitting on "her" side of the front porch, preventing her from collecting her mail. Respondent verbally harassed Complainant when she left her apartment, calling her a "b\*tch" and "fucking b\*tch," "pussy," and "mean pussy." Respondent would give her dirty looks.
- 14) On September 29, 2013, Respondent made a threat to "kill the b\*tch" (meaning Complainant) when a police officer arrested him for disorderly conduct. On the way to jail he said, "I'm gonna kill this b\*tch...she'll be a dead b\*tch before court ever comes." Although Respondent made these statements to the police and not to Complainant, she was informed about threats and sexist slurs, and the incident added to the already hostile housing environment.
- 15) The evidence in this case shows that Respondent engaged in repeated and intense sexual harassment and harassment based on sex. Complainant subjectively felt that her housing environment was hostile and abusive. A reasonable person in her shoes would have felt the same.
- 16) Respondent's conduct unreasonably interfered with Complainant's use and enjoyment of the premises. The harassment got so bad that Complainant could not shower without being subjected to the sound of Respondent masturbating. She could not come and go from her apartment without being accosted by Respondent using abusive sexist slurs. Complainant feared for her life after Respondent told a police officer that he was going to "kill this b\*tch...she'll be a dead b\*tch before court ever comes."
- 17) The claim of hostile housing environment based on sex is founded.

**VI. Recommendation:**

For the reasons stated above, it is recommended that the Maine Human Rights Commission issue the following finding:

- 1) There are **Reasonable Grounds** to believe that Respondent [REDACTED] subjected Complainant Janalee L. [REDACTED] to a hostile housing environment based on sex; and
- 2) Conciliation should be attempted in accordance with 5 M.R.S. § 4612(3).

  
Amy M. Sneider, Executive Director

  
Barbara Lelli, Chief Investigator