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Jewish residents, condo association settle bias claims

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A federal judge today approved a settlement in two lawsuits accusing a condominium association of violating the Fair Housing Act by repeatedly removing parchments bearing Torah verses from the doorposts of Jewish residents.

Following a brief hearing, U.S. District Judge Virginia M. Kendall entered a consent decree ending a long-running legal battle that twice went before the federal appeals court based in Chicago.

Kendall entered the decree the day after the parties in the consolidated suits had been set to go to trial.

The decree bars the Shoreline Towers Condominium Association on Chicago's North Side and its president from retaliating against the residents who sued the association or from interfering with the sale or lease of any Shoreline unit in which those residents have an interest.

The decree also bars the association and its president from taking any action against the plaintiffs or any other unit owner "on account of their race or religion that would interfere with their right to use — or the exercise or enjoyment of — their property or fair housing rights."

The remaining terms of the settlement are confidential.

The condo association and its president, Dr. Edward J. Frischholz, did not acknowledge any fault by agreeing to the settlement.

Throughout the litigation, the association and Frischholz contended that the removal from doorposts of mezuzot — small scrolls reciting passages from the Torah that are rolled up and placed in cases — merely constituted the even-handed enforcement of a

rule that applied to all residents. The singular term for mezuzot is mezuzah.

That rule barred residents from placing any objects on outer doors or in common hallways.

But former resident Debra Gassman and current resident Lynne Bloch and her children filed separate suits alleging that the association's actions were motivated by bias rather than by a desire to keep the hallways uncluttered.

For example, Bloch alleged that she returned from her husband's funeral to discover that the maintenance staff removed the mezuzah from her doorpost but left a coat rack and card table outside her unit untouched.

Joining Bloch in the suit were her son, Nathan, and daughter, Helen. Helen B. Bloch is a sole practitioner in Chicago.

U.S. District Judge George W. Lindberg granted summary judgment in favor of the condo association and Frischholz.

Lindberg found that the Blochs failed to show that the defendants deliberately discriminated against them.

Lindberg also held that a provision of the Fair Housing Act (FHA) prohibiting discrimination during the sale or rental of property did not apply to post-acquisition discrimination in the use of property.

The 7th U.S. Circuit Court of Appeals initially upheld Lindberg's ruling.

In the majority opinion, Chief Judge Frank H. Easterbrook and Judge William J. Bauer said the Blochs were seeking an accommodation based on religion with their attempts to affix mezuzot to their doorposts in violation of the rule.

And Easterbrook and Bauer said the FHA requires that accommodations be

made only on the basis of disability.

But in a dissent, Judge Diane P. Wood contended that the Blochs raised a "straightforward claim of intentional discrimination based on their Jewish religion and ethnicity" and therefore should be allowed to take that claim to trial.

The 7th Circuit later reheard the case en banc and ruled in favor of the Blochs in an opinion written for the court by Judge John Daniel Tinder.

Much, Shelist, Denenberg, Ament & Rubenstein P.C., a midsize firm, took on the representation of Gassman and the Blochs pro bono.

Firm principals Steven P. Blonder and Anthony C. Valiulis were to try the suit.

Blonder and Valiulis said they were pleased with the settlement.

"We took this case pro bono because we felt strongly about the right of everyone in this country — whether you are Christian, Jewish, Muslim or anything else — to practice your religion at your own home," Blonder and Valiulis said in a joint statement. "It has been a long fight and the terms of the settlement are confidential and we can't go into those, but we are thrilled with the outcome."

David C. Hartwell of Penland & Hartwell LLC, the lead attorney for the condo association and Frischholz, declined to comment.

The cases are *Debra Gassman v. Edward Frischholz, et al.*, No. 05 C 5377, and *Lynne Bloch, et al. v. Edward Frischholz, et al.*, No. 05 C 5379.

In addition to Blonder and Valiulis, attorneys representing Gassman and the Blochs include F. Willis Caruso, director of the Fair Housing Legal Support Center at The John Marshall Law School.