



McLean Man Wins Discrimination Case

The Alexandria Human Rights Commission has ruled that Long and Foster was in violation of the city's human rights code.

By Amber Healy
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All Lawrence Cummings wanted was to buy a home in the City of Alexandria. What he got instead was, in his mind, the cold shoulder of discrimination.

Last week, the City of Alexandria's Human Rights Commission issued a single sentence decision stating that Long and Foster Realtors of McLean, the realtors who had been responsible for the sale of the house Cummings wanted to purchase, had been in violation of the city's Human Rights code for selling the house to a married couple.

Dale Sanders, Cummings' attorney, said that it was unclear from the statement whether Long and Fosters had been found in violation of the code for discriminating on the basis of sexual orientation or marital status, but a written decision will be issued by the end of September to make that clear.

"Neither outcome puts a penny in his pocket," Sanders said of Cummings. "But his whole goal and purpose for pursuing this was to educate the community that this happens and hopefully teach Long and Fosters and other realtors that they won't do this and get away with it."

Cummings said that despite not knowing what, specifically, Long and Fosters had violated in the city code, it's still a victory for him.

"They ruled in my favor and against Long and Fosters, that's a victory in itself," he said. "If they ruled on marital status, that could put every non-married heterosexual person in the same category."



Photo by Amber Healy/The Connection

Lawrence Cummings purchased this house on Dumbarton Street in McLean after a home he wanted to purchase in Alexandria was sold to a married couple.

In 2004, Cummings found a house in Alexandria and put in a bid of \$555,000, which was the price the sellers were asking. He also included an escalation clause that would increase his offer on the house, in \$10,000 increments, to \$600,000.

However, the house was sold to a "young, married couple" whose offer on the house began at \$435,000 and escalated up to the asking price of \$555,000.

"Just because I'm single and I'm gay, I'm not allowed to have a house? That's sad," said Cummings, who decided to take matters into his own hands and, with the initial support of his Realtor, Shahrzad Miller of the McEneaney and Associates Realtors in McLean, took the case to the City of Alexandria Human Rights Commission.

"The City Human Rights Code was enacted in 1975, which includes homosexuals as a protected class," said Jean Niebauer, director of the Human Rights Office.

A PUBLIC HEARING was held last month for Cummings and his lawyer to testify before the commission against Brien Roche, the lawyer defending the Long and Foster real estate office in McLean, where Jackie Moore, the agent for the family selling the home, is employed.

"I originally went to the commission a week after I lost the contract in February of 2004, and they did an investigation into the situation and decided they had found probable cause that I was discriminated against," Cummings said. "We then had a tribunal hearing with another group of people in which Jackie Moore had to testify, and she let it be known that the sellers wanted to sell the house to a young couple."

Had Moore known that the sellers of the home intended to sell to a young couple prior to showing Cummings and Miller the home when it was first listed for sale, she was obligated by a "code of ethics" to walk away from her contract with them, Cummings said. "Realtors are supposed to abide by this code of ethics that says if they know sellers are going to discriminate against a person for any reason, they are supposed to walk away and tell their client they cannot represent them," he said.

"Long and Foster said they had no clue that either of the parties that put bids in on the house were married," said Sanders. "He submitted the contract in his own name, and when he went to see the house, he went with two other men."

Statements given to the Commission report that the original owners of the home sold it to the other bidders because "they fell in love with the family," Sanders said. "However, we have a smoking-gun tape recording of a phone message Ms. Moore left on Ms. Miller's machine, saying that the sellers wanted to sell their home to a married couple who would raise their family there."

"The bottom line is that there were other contracts on the house and the sellers chose to sell the house for substantially less money than what my client offered," Sanders said.

"I've been told that once an offer is qualified, the seller has no say over who gets the house," Cummings said.

That may not be the case.

"The sellers of a house have the right to pick who purchases their house," said Amy Ritsko-Warren, spokeswoman for the Northern Virginia Association of Realtors. "They can pick the lower-priced contract if they choose."

Roche said nothing discriminatory took place at the Long and Foster office. "Two equal contracts were presented, and the owners decided on one of them," Roche said. "There was no discrimination whatsoever."

NEITHER MOORE, the Long and Foster agent who sold the house, nor the original owners of the home had any prior knowledge of Cummings' sexual orientation, Roche said.

"They didn't know anything about Mr. Cummings' sexual preference or marital status, other than the fact that he was on the contract alone," he said. "You can't draw any conclusions based on that."

Several phone calls to Moore's voice mail were not returned.

"Nothing seemed strange about the sale at all," said Miller, a Realtor for 20 years who has worked with McEneaney and Associates in McLean for the past two and-a-half years. "Mr. Cummings was under a tight schedule because he'd already sold his house and he really liked this home in Alexandria."

The two made an appointment to see the house on a Saturday afternoon, the day after it went on the market, she said. "He went with a friend in the morning...he wanted to put an offer on it right away and we wrote one up that evening."

Miller said she and Cummings went back to the house on Sunday morning to give the bid to Moore, who told them the owners would look over the bids on Monday after their open house had finished.

"She called me on Monday to tell me that there had been another offer on the house and the sellers were going with the other contact," Miller said. "Our offer was better. She said they were old, fuddy-duddy people and wanted to sell their house to a young couple."

Miller immediately talked over the matter with her manager, who encouraged her to talk to Cummings to go to the Human Rights office in Alexandria about the situation.

"Mr. Cummings eventually found another house in McLean that he purchased later, but he had to do some major renovations before he could move into the house," Miller said. "It was really very stressful for him. I was dumbfounded by the whole thing. The sellers

would've made more money, they should've just taken it. Who cares who gets the house if you can make more money?" she asked.

The real question, it seems, is whether the sellers of the house had the right to choose which party purchased the house: the single, gay man or the married couple.

The ramifications for their violation, Sanders said, may not amount to much, as there are no state or federal codes to reinforce the discrimination charges.

"The commission can recommend the city manager levy civil penalties against them, but they do not have the authority to recommend the amount of damages to be awarded, nor do they have the right to fine them directly," Niebauer said. "It makes it very frustrating for the commission because the outcomes are really quite limited. Our code offers protection for more classes than the state or federal government, but it can't enforce it."

"The commission will talk about potential remedies when they release the full report," said Priscilla Annamethodo, a human rights investigator with the City of Alexandria's Office of Human Rights. "I couldn't begin to dream or speculate as to what those remedies or suggestions might be. When the report is issued, that's when it will all become much more clear and explicit."

For Cummings, trying to purchase this home has been one disappointment after another. "Ms. Miller and her manager at McEneaney said they'd support me all the way and that their lawyers would represent me. They told me I wouldn't have to pay a single penny," Cummings said. "But after we won the first hearing, they disappeared. Luckily, Dale [Sanders] has cut his hourly fee for me on this case, but I've still spent a lot of money out of my own pocket that I didn't think I'd be spending," he said.

David Howell, manager at McEneaney and Associates, denied that any such offer was made.

"Out of respect for our client, Mr. Cummings, we try to refrain from any comment on this situation. That being said, I will say that I disagree with that characterization. That offer was not made," Howell said.

Looking ahead, Cummings said he plans to be more careful about who he trusts in the future.

"I've never gone through anything like this in my whole life," Cummings said. "I never thought I'd be discriminated against like this."