

Latoni v Sherman Sq. Realty Corp.
2006 NY Slip Op 30854(U)
May 1, 2006
Supreme Court, New York County
Docket Number: 110002/04
Judge: Emily J. Goodman
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SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK : I.A.S. PART 17

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LISA LATONI and ANDREW JORGENSEN,

Plaintiffs,

Index No. 110002/04

-against-

SHERMAN SQUARE REALTY CORP. and
WILLIAM DEROSA,

Defendants.

EMILY JANE GOODMAN, J.S.C.:

FILED

MAY 05 2006

NEW YORK
COUNTY CLERK'S OFFICE

Plaintiffs move for leave to renew in connection with the Court's dismissal of Plaintiff Latoni's discrimination causes of action by Decision and Order, dated August 26, 2005 (the "Decision"). Renewal is based upon the passage of Local Law 85 on October 3, 2005, known as the Local Civil Rights Restoration Act of 2005 (hereafter the "Restoration Act" or "Act").¹ Defendant Sherman Square Realty Corp. cross moves to renew for dismissal of Plaintiff Jorgensen's remaining discrimination claim as against it. William DeRosa cross moves to renew for dismissal of Jorgensen's remaining discrimination claim as against him. Renewal and/or reargument is granted for all parties and upon renewal and/or reargument, the motion and cross motions are denied. As to the cross motions, the Court notes that neither Defendant has addressed why the Court erred in not dismissing Jorgensen's claim. To the extent that Defendant DeRosa presented any

¹The City Counsel passed the Local Civil Rights Restoration Act of 2005 on September 15, 2005. The Mayor signed the legislation, now denominated as Local Law 85 on October 3, 2005.

argument, it was only raised for the first time on Reply and is therefore disregarded.

Even if the Reply was considered, the argument, regarding pleading deficiencies, was not raised in his underlying motion and therefore, is not the proper subject of renewal and/or reargument.

Regarding Plaintiffs' motion, the Court is intrigued by Plaintiffs' reliance on rules of liberal construction. This Court has attempted to make clear a personal belief in a totally non-discriminating system with respect to marriage, housing and living arrangements. The Court also welcomes and appreciates advanced contemporary views of what constitutes a family, a couple, and what defines "marriage" or marriage-like relationships. The Court is fully mindful of such groundbreaking decisions as Braschi v. Stahl Co., 74 NY2d 201 (1989), in which family was redefined by the New York Court of Appeals, consistent with contemporary mores.

The Restoration Act was only a few weeks old when Plaintiffs' counsel, who had an admirable and significant involvement with the creation and passage of the Act, sought to revisit the Decision, partly on the basis of the Act. However, though its earlier drafts took a different and perhaps preferable direction, the newly born Act broadened the New York City Human Rights Law only to protect "partnership status," defined as a domestic partnership relationship in accordance with Administrative Code §3-240 (a) (see Local Law 85, §2 (24)). Further, the Act specifically provides that it shall take effect upon enactment (see Local Law 85, §12). Nonetheless, Plaintiffs ask the Court to apply the

values of liberal construction.

While the Court must protect its own jurisdiction over the interpretation of a statute, all parties agreed that solicitation of the views of the Council Member and staff most involved with the issue might shed valuable light on a brand new enactment, never before interpreted by the Courts.

Therefore, with the consent of all counsel, determined to avoid overlooking legislative intent, the Court has had brief, private conversations with the Council Member who was the primary sponsor of the Act, namely Hon. Gale Brewer, to gain insight into whether the Act, as she and her counsel perceived it, applied to two individuals in a marriage-like relationship who have not registered as domestic partners. According to Council Member Brewer, as finally adopted, the Act is not intended to apply to all loving twosomes, but only those who have registered. While the primary sponsor's interpretation is not ~~absolutely~~ binding on the Court, it reveals that the Court has correctly read and understood the Act's provisions and intentions.

Plaintiffs' counsel would like the Court to interpret the Act as meaning something it was not intended to mean, even though it is arguable that the best public policy would be not to have the limitation created. The Court cannot, however, substitute its own views and find what is not there to be found.

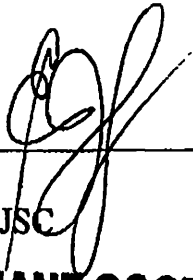
It is hereby

ORDERED that the renewal and/or reargument is granted and upon renewal and/or

reargument, the motion and cross motions are denied.

This Constitutes the Decision and Order of the Court.

Dated: May 1, 2006



JSC
EMILY JANE GOODMAN

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