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Damages in Housing Discrimination Cases

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THE EXISTENCE OF A SHORTAGE of adequate housing in the United States has further intensified the problems of those who suffer most when there is a shortage of anything—the minority groups. They have been the victims of the most malicious forms of discrimination, compelling them to remain confined to segregated areas in large urban complexes, stifling their spirit, and condemning them to what, in many cases, is a fight to stay alive. The public has become increasingly aware of the problem as more people from all walks of life are affected by the deplorable housing situation. Contributing to the awareness of the public is the salient fact that within the last ten years there has been a consistent increase in the number of court cases dealing with housing discrimination. The scope of these cases has expanded from what had been a broad interpretation of public accommodation statutes to the award of damages, both compensatory and punitive, for private acts of discrimination which allegedly precipitated mental suffering on the part of the complainant. A more efficient means of handling such cases is on the horizon with the advent of the use of an administrative agency adjudicating the disputes and awarding damages.

Early Case Development

The award of damages in cases involving racial discrimination is by no means a recent development in civil rights law. A Louisiana case decided in 1876 awarded to a Negro damages of $300 because he was denied admittance to a theater, a place of public accommodation, after he had purchased a ticket.[1] The determination was made according to a state law[2] which only a year later was held by the Supreme Court to be unconstitutional.[3]

For many years certain states[4] have considered discrimination by private persons for reasons of race, color, or religion to be contrary to public policy.[5] After the Supreme Court struck down the Civil Rights

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1 Joseph v. Bidwell, 28 La. Ann. 382 (1876).

2 Act. 38 of 1869 § 1070, La. Rev. Stat.

3 Hall v. De Cuir, 95 U.S. 485, 24 L. Ed. 547 (1877). The Louisiana Act of Feb. 23, 1869 was held to encroach upon the exclusive power of Congress to regulate interstate commerce.

4 Notably California. See, Cal. Civ. C. §§ 51-54, which became effective in 1905.

5 Bamberger and Lewin, The Right to Equal Treatment: Administrative Enforcement of Antidiscrimination Legislation, 74 Harv. L. R. 526 (1961). [Hereinafter cited as Bamberger and Lewin.]

Act of 1875,[6] which had prohibited discrimination in public accommodations, many states enacted statutes dealing with that same form of discrimination.[7] These statutes established either criminal penalties against those who discriminated, a right to damages for those who were discriminated against, or both![8]

One need not be more than a casual observer of American history to realize that the aforementioned actions by some states were in no way indicative of a steadily progressive trend toward rectification of racial injustices. On the contrary, as recently as 1964 the Supreme Court dealt with basically the same problem that was before the Louisiana court in 1876.[9]

One of the more significant early housing cases involving discrimination in the leasing of apartments was *New York State Commission Against Discrimination v. Pelham Hall Apartments.*[10] Although limited to the enforcement of a cease-and-desist order, the court recognized and reaffirmed the proposition that property rights are not absolute and that the public welfare is to be the primary concern.[11] The court stated that there is a presumption of the constitutionality of legislative acts dealing with the eradication of racial or religious discrimination.[12] These laws will be overturned only when they appear to be "clearly arbitrary, discriminatory and without reasonable basis."[13] The limitation of an owner's property rights or the loss of income without provision for compensation in some isolated incidents does not afford sufficient basis for declaring such legislation unconstitutional.[14] Only where the act purports

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[6] *Ibid.* "The Civil Rights Cases," 109 U.S. 3, 3 S. Ct. 18 (1883). The Supreme Court strictly interpreted the Fourteenth Amendment to limit only state action and declared that the Thirteenth Amendment concerned itself only with slavery or its incidents, discrimination in public accommodations not being one of them.

[7] Bamberger and Lewin; *op. cit. supra* n. 5.

[8] Ill. Laws 1885, at 64, §§ 1, 2; Ind. Acts 1885, c. 47, §§ 1, 2 at 76.

[9] Heart of Atlanta Motel, Inc. v. United States, 379 U.S. 241, 85 S. Ct. 348 (1964). Refusal to rent motel rooms to Negroes was declared an obstruction of interstate commerce. Ironically, the same theory was used in 1877 to uphold discrimination.

[10] 10 Misc. 2d 334, 170 N.Y.S. 2d 750 (1958). And see, below, at n. 72.

[11] Although not cited in this case, Nebbia v. New York, 291 U.S. 502, 523, 54 S. Ct. 505, 510 (1934) stated basically the same principle: "Under our form of government the use of property and the making of contracts are normally matters of private and not of public concern. The general rule is that both shall be free of governmental interference. But neither property rights nor contract rights are absolute; for government cannot exist if the citizen may at will use his property to the detriment of his fellows, or exercise his freedom of contract to work them harm." See, Munn v. Illinois, 94 U.S. 113, 124, 125 (1876); Orient Ins. Co. v. Daggs, 172 U.S. 557, 566, 19 S. Ct. 281, 284 (1899); Northern Securities Co. v. United States, 193 U.S. 197, 351, 24 S. Ct. 436, 462 (1904).

[12] New York State Commission Against Discrimination v. Pelham Hall Apartments, *supra* n. 10, at 347, 170 N.Y.S. 2d at 758.

[13] *Id.*

[14] *Id.*

to confiscate the owner's property and deny him the use for which it was reasonably adapted will the legislation be overturned.[15]

A 1960 New Jersey decision is notable for having upheld that state's Law Against Discrimination. The court in *Levitt & Sons, Inc. v. Division Against Discrimination*[16] interpreted the statute's reference to publicly assisted housing accommodations to include housing projects whose mortgages were insured by the federal government. The court reasoned that housing developments owe their very existence to the Federal Housing Administration in that it has enabled home buying and construction to exist on such a large scale.[17] It reiterated the holding in the *Pelham Apartments*[17a] case that the right to own property be subject to the legislature's police power. Due to the lack of sufficient housing, public policy requires the existence of such a statute to protect the rights of those in minority groups.[18] The present New Jersey law states:

> The Division on Civil Rights in the Department of Law and Public Safety shall enforce the laws of this state against discrimination in housing built with public funds or public assistance, pursuant to any law, and in real property, as defined in the law hereby supplemented, because of race, religious principles, color, national origin or ancestry. The said laws shall be enforced in the manner prescribed in the act to which this act is a supplement.[19]

The court also upheld the power of the Division Against Discrimination (now the Division on Civil Rights) to hear and decide charges brought by complainants.[20]

In *Burks v. Poppy Construction Co.*, a California case decided in 1962, the complainant brought an action against a contractor and one of his employees seeking damages and injunctive relief for discrimination in the sale of a house which was part of a tract.[21] The court took a position similar to that taken in *Levitt*[21a] in holding that the government could not lend its support to private housing when such aid also serves to enhance and perpetuate discrimination. The court reasoned that such action is contrary to the Fourteenth Amendment and the state may therefore extend the prohibition against discrimination to cover private hous-

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15 *Id.* The statute deals with discrimination in such areas as employment, the holding of office, public accommodations, jury selection, burial of the dead, and housing. It provides for an administrative agency to handle complaints.

16 31 N.J. 514, 158 A. 2d 177 (1960); appeal dism. 363 U.S. 418, 80 S. Ct. 1257 (1960); citing N.J.S.A. § 10:5-1 to 10:28.

17 *Id.* at 528, 158 A. 2d at 184.

17a *Supra* n. 10.

18 *Supra* n. 16 at 533, 158 A. 2d at 187. See generally, Dodyk, Severn, Berger, Young and Paulsen, Cases and Materials on Law and Poverty 726 (1969).

19 N.J.S.A. § 10:5-9.1; formerly § 18:25-9.1.

20 Levitt & Sons, Inc. v. Division Against Discrimination, *supra* n. 16 at 536, 158 A. 2d at 188.

21 20 Cal. Rptr. 609, 370 P. 2d 313 (1962).

21a *Supra* n. 16.

ing.[22] It determined that the defendant construction company was a "business establishment" within the meaning of the statute[23] and was thus prohibited from engaging in discriminatory practices. In discussing the importance of adequate housing the court stated:

> Moreover, the primary purpose of the governmental assistance, namely, to raise the housing standards of the community, will be frustrated to a substantial extent if racial minorities, whose housing conditions are often substandard, are hampered in obtaining the full benefits of the assistance.[24]

Jones v. Mayer

The Thirteenth Amendment[25] had never been used to enforce the right to possess property prior to *Jones v. Mayer*.[26] This landmark decision prohibited all racial discrimination, public or private, in the sale or rental of property. The complainants initiated the action because of the defendants' refusal to sell them a home in a private subdivision because of their race. They sought an injunction, compensatory damages of $50, and punitive damages of $10,000 in the District Court.[27] On appeal, the Supreme Court, in reversing for the petitioners in effect reversed *"The Civil Rights Cases"* of 1883,[28] holding that Congress was given the power to remove all "badges and incidents of slavery" [29] by the Thirteenth Amendment as implemented by the Civil Rights Act of 1866.[30] The Supreme Court, however, decided that the complainants were not entitled to monetary damages, punitive or compensatory. In place of compensatory damages, the complainants received injunctive relief entitling them to purchase a home from the respondents at a price prevalent at the time the discriminatory action occurred (1965). This was substantially less than the current market price and would leave petitioners with no uncompensated injury. Under no circumstances, however, would they be entitled to punitive damages. The Court did not rule out the possibility that compensatory damages may at some future time be awarded for violation of that Act, nor did it give an opinion as to what damages might be awarded under the Civil Rights Act of 1968.[31]

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22 *Supra* n. 21 at 616, 370 P. 2d at 320.

23 Cal. Health and Safety Code §§ 35700-35741.

24 Burks v. Poppy Construction Co., *supra* n. 21 at 616, 370 P. 2d at 320.

25 Section I reads: "Neither slavery nor involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall exist within the United States or any place subject to their jurisdiction."

26 392 U.S. 409, 88 S. Ct. 2186 (1968).

27 379 F. 2d 33, 36 (8th Cir. 1967).

28 "The Civil Rights Cases," *supra* n. 6.

29 Jones v. Mayer, *supra* n. 26 at 439, 88 S. Ct. at 2240.

30 42 U.S.C.A. § 1982.

31 Jones v. Mayer, *supra* n. 27 at 414-415 and n. 13, 88 S. Ct. 2186, 2190 and n. 14.

Jones v. Mayer[31a] will undoubtedly do a great deal to expedite all future cases in an area where, in many instances, time is of the essence, and where in the past time has worked to discourage and frustrate many an injured party with a valid cause of action.

Racial Discrimination as a Tort

Even prior to *Jones v. Mayer,*[31b] it was suggested that discrimination be made an actionable tort by legislative enactment making those inflicting intentional harm responsible for their actions.[32] This approach had been suggested as a satisfactory alternative to the issuance of a cease-and-desist order by an administrative body which often comes too late and offers an inadequate remedy.[33]

The fact that Congress and various state legislatures have enacted anti-discrimination legislation is indicative of a general awareness that racial discrimination is a wrong requiring both a prohibition and a remedy.[34]

> By making discrimination unlawful, legislative enactments serve to create a standard of conduct. The extension of existing tort doctrines based upon the legislation make a violation of the statute a prima facie tort. The court does not look to the statute for remedies; rather it looks to it to determine whether the prescribed standard of conduct has been met. Thus, the court does not usurp the function of the legislature by the act of interpretation.[35]

By awarding damages the court could, in effect, act to carry out the intent of the legislature and achieve a complete remedy where an administrative agency's relief had been limited to a cease-and-desist order.[36]

Victims of housing discrimination may be awarded damages by the court for the "difference in purchase price of real estate due to a refusal to sell originally desired property. . . ." [37] Complainants could also be awarded damages for intentional infliction of mental suffering.[38] Such an award might also be termed an expression of legislative intent to eliminate discrimination because of the great amount of anxiety and

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[31a] *Supra* n. 26.

[31b] *Id.*

[32] Duda, Damages for Mental Suffering in Discrimination Cases, 15 Clev.-Mar. L. R. 1 (1966); Magaro, Extra-Legislative Tort Liability for Discrimination, 18 W.R. L. R. 278 (1966).

[33] Duda, *op. cit. supra* n. 32.

[34] Magaro, *op. cit. supra* n. 33 at 285.

[35] *Id.* at 289.

[36] Duda, *op. cit. supra* n. 32 at 6.

[37] *Id.*

[38] Magaro, *op. cit. supra* n. 32 at 285. See, Oleck, Cases on Damages 7, 9, 166-8, 302 (1962); Oleck, Damages to Persons & Property §§ 175, 177 et seq. (1961 rev. ed.).

frustration that discrimination engenders within those who are its victims. Not only do they lose their self-respect, but also the determination to continue the struggle for equal rights.

The Increased Role of the Administrative Agency

The use of the courts to aid victims of discrimination has well-recognized limitations. Two writers, in an article dealing with anti-discrimination legislation, stated that:[39]

> Individuals are often hesitant to make use of civil action statutes because of the expense, effort, and threat of community opprobrium their use may entail, the difficulty of calculating damages and their inadequacy as a remedy for one whose primary interest is in finding a better home or job indicate that broad reliance upon civil remedies would be misplaced.

Sole reliance upon civil remedies would work a special hardship on victims of housing discrimination. The immediate relief required for their predicament would not be forthcoming. They would be forced to seek other housing until their cause was heard resulting in great inconvenience and expense. They would also be required to pay legal fees which, along with the expenses connected with obtaining temporary housing, would far exceed the financial means of most of those who are victims of discriminatory conduct. The existence of these obstacles may explain why there have been relatively few cases in this area.

A remedy for the situation is the expanded use of an administrative agency which would not only issue cease-and-desist orders but could also award damages subject, of course, to judicial review. The power of the National Labor Relations Board is analogous in that it can issue injunctions *and* award back pay in discrimination cases.[40] This authority has been challenged repeatedly throughout the years but continues to be one of the most effective weapons in the hands of the N.L.R.B. The reason the N.L.R.B. has been allowed to retain this power is that the defendant always has access to the courts for purposes of appeal. It was held in *Crowell v. Benson*[41] that as long as the right to appeal to a judicial body existed, there was no interference with the judicial power and that the requirement of due process of law was satisfied. Furthermore, the doctrine of separation of powers was not violated by granting an agency this power.

The question has been raised on many occasions as to whether giving an administrative agency the power to award damages is in violation of

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39 Bamberger and Lewin, *op. cit. supra* n. 5 at 526.

40 National Labor Relations Act § 10(c), 29 U.S.C.A. § 160(c) (1935).

41 285 U.S. 22, 52 S. Ct. 285 (1932), upheld the Longshoremen's and Harbor Workers' Compensation Act which provided for the use of an administrative agency to determine questions of fact in cases of compensation for injuries occurring on navigable waters.

the Seventh Amendment's guarantee to a jury trial when the value of the controversy exceeds $20. However, in *N.L.R.B. v. Jones & Laughlin Steel Corp.*,[42] it was held that this guarantee applies only to a suit in common law, and that the back-pay award involved in that case was statutory in nature and therefore not within the purview of the Seventh Amendment.[43] Moreover, the back-pay award is remedial and not punitive in nature. Its intent is to make the injured party whole and not to penalize the wrongdoer.[44]

Administrative agencies have, of late, been awarding damages in discrimination cases. The most recent instance of this where housing discrimination was involved was *Jackson v. Concord*,[45] a New Jersey case decided in June of 1969. The complainant, a Negro, had been denied the opportunity to lease an apartment in a complex owned and operated by respondents. He filed a complaint with the Division on Civil Rights of the Department of Law and Safety. The Division subsequently found that the complainant had been denied an "equal opportunity to lease an apartment," [46] that such property was within the coverage of the Law Against Discrimination,[47] and that such denial constituted a violation of said act.[48] Remedial orders were entered by the director which included a provision that complainant was entitled to recover compensatory damages from respondents equal to the increased rental and travel expenses resulting from his having to live elsewhere. The order directed the exact amount of these damages to be determined after complainant commenced the tenancy the respondents were required by the order to furnish him.[49]

On appeal the Director's orders were affirmed except for the provision giving the complainant a right to damages. The court held that the Director had no authority under the statute to award damages.

The Supreme Court of New Jersey broadly interpreted the Law Against Discrimination to include the power of the Division to award compensatory damages. The applicable section of the statute reads:

> If, upon all evidence at the hearing the director shall find that the respondent has engaged in any unlawful employment practice or unlawful discrimination as defined in this act, the director shall state his findings of fact and conclusions of law and shall issue and

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[42] 301 U.S. 1, 57 S. Ct. 615 (1937).

[43] U.S. Const. Amend. VII; "In suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved, and no fact tried by jury, shall be otherwise re-examined in any Court of the United States, than according to the rules of the common law."

[44] Republic Steel Corp. v. N.L.R.B., 311 U.S. 7, 10, 61 S. Ct. 77, 79 (1940).

[45] 54 N.J. 113, 253, A. 2d 793 (1969).

[46] *Id.* at 116, 253 A. 2d at 794.

[47] *Id.*, the court referring to N.J.S.A. § 10:5-1 to 28.

[48] *Id.*, the court referring to N.J.S.A. § 10:5-12g.

[49] *Id.*

> cause to be served on such respondent an order requiring such respondent to cease and desist from such unlawful employment practice or unlawful discrimination and to *take such affirmative action, including, but not limited to,* hiring, reinstatement or upgrading of employees, with or without back pay, or restoration to membership, in any respondent labor organization, *or extending full and equal accommodations, advantages, facilities, and privileges to all persons, as, in the judgment of the director, will effectuate the purpose of this act, and including a requirement for report of the manner of compliance.* (Emphasis added.)[50]

The court stated that as a matter of public policy the state must protect the civil rights of its inhabitants not only for their benefit but also to preserve the free state. One of the rights deserving of protection was the right to the benefits of real property.[51] Relying on *David v. Vesta Co.*,[52] the court said:

> . . . prevention of unlawful discrimination vindicates not only the rights of individuals but also the vital interests of the State. In short, such discrimination is regarded as a public wrong and not merely the basis of a private grievance.[53]

The court further stated that based on *David v. Vesta,* there was no constitutional objection to the award of money damages by an administrative agency because the respondent still had the right to seek judicial review of the matter.[54] The court reasoned that the provision in the statute for the award of "back pay" in employment discrimination cases indicated that the legislature did not intend that the Division be without the power to make damage awards.[55]

Another provision of the statute which makes the final determination of the Division the exclusive remedy[56] forced the court to conclude that once a complainant pursued his grievance to completion in the Division, he would be precluded from seeking relief otherwise for his out-of-pocket losses.[57] It may be assumed that the Division, therefore, had the power to order remedial relief since it could not be implied that the legislature intended an injured party to lose his right to obtain recompense by coming before the Division.

The order for damages was affirmed. The court stated that the complainant's financial position made it extremely difficult to meet the increased housing costs while the litigation was taking place. A complain-

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50 N.J.S.A. § 10:5-17.

51 *Id.*

52 45 N.J. 301, 212 A. 2d 345 (1965).

53 Jackson v. Concord, *supra* n. 45.

54 *Id.* at 126, 253 A. 2d at 800.

55 *Id.* at 127, 253 A. 2d at 800.

56 N.J.S.A. § 10:5-12.

57 Jackson v. Concord, *supra* n. 45.

ant would be discouraged from pursuing the matter if he knew that his victory would be an empty one.[58] He must have some insurance that his rights will be enforced and that he will come away from the fight as financially whole as he would have been had no discrimination taken place. Hence, the complainant was awarded damages totaling $806 to cover traveling expenses and the expense of renting another dwelling.[59]

New York expressly grants its agency dealing with civil rights the power to issue a cease-and-desist order, the power to award damages to the complainant, and the power to take other affirmative action to enforce civil rights.[60] In the recent decision of *Commission on Human Rights of the City of New York v. Knox Realty*[61] the court interpreted the statute as investing within the commission broad powers to carry out the policies promulgated by the statute. It further expressed the idea that the court should only interfere where "the remedy has no reasonable relation to the unlawful practices felt to exist." [62] The court went on to say that mental anguish and suffering are "proper elements of damage to be taken into consideration where persons aggrieved have been deprived of their undoubted basic civil rights." [63] This is a relatively new concept and is applicable to all civil rights cases although it is here only applied to a situation involving discrimination in an apartment rental. The case resulted in an award of $100 damages to the plaintiff.[64]

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[58] *Ibid.*

[59] *Id.*

[60] N. Y. Executive L. § 297-4(c) (1968), which reads: ". . . If, upon all the evidence at the hearing, the commissioner shall find that a respondent has engaged in any unlawful discriminatory practice as defined in the article, the commissioner shall state findings of fact and shall issue and cause to be served on such respondent an order, based on such findings and setting them forth, (i) requiring such respondent to cease and desist from such unlawful discriminatory practice; (ii) requiring such respondent to take such affirmative action including (but not limited to) . . . the extension of full, equal and unsegregated accommodations, advantages, facilities and privileges to all persons; (iii) awarding of compensatory damages to the person aggrieved by such practice, as, in the judgment of the division, will effectuate the purposes of this article; and including a requirement for report of the manner of compliance. . . ."

[61] 56 Misc. 2d 806, 290 N.Y.S. 2d 633 (Sup. Ct. 1968).

[62] *Id.* at 808, 290 N.Y.S. 2d at 636. See, Siegel Co. v. F.T.C., 327 U.S. 608, 66 S. Ct. 758 (1946).

[63] *Id.* See, Antelope v. George, 211 F. Supp. 657 (9th Cir. 1962); Solomon v. Penn. R. R. Co., 96 F. Supp. 709 (3rd Cir. 1951).

[64] It might be here noted that California also has a statute expressly giving its State Fair Employment Practice Commission the power to award damages, to wit, the California Health and Safety Code § 35738, which reads: "If the commission finds that a respondent has engaged in any unlawful practice as defined in this part, the commission shall state its findings of fact and shall issue and cause to be served on such respondent an order requiring such respondent to cease and desist from such practice and to take one of the following affirmative actions, as in the judgment of the commission, will effectuate the purpose of this part:

(1) The sale or rental of the housing accommodation to the aggrieved person, if it is still possible.

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As more litigation arises, administrative agencies should become more frequently used as a means of effecting remedies in discriminatory situations. Two authors have stated that: [65]

> Although most other personal rights are enforceable only by an aggrieved individual's initiation of a court action in which he must bear the cost and inconvenience of the proceedings, the importance of equal treatment to the general welfare gives the state a special interest in vindicating the rights of complainants. Since the enforcement of an individual's right will have a broad educative effect on the community, the state has also an interest of its own as strong as the complainant's. By replacing the ineffective civil or criminal suit with administrative investigation and enforcement, it is able to insure that both objectives are realized.

Conclusion

An administrative agency, at least on paper, is capable of achieving a more efficient rectification of discriminatory behavior than are the courts. Allowing the agency to handle both the action for discrimination and for damages would save the parties considerable time and expense.[66] This is particularly important when the problem involves housing because the critical shortage of adequate housing tends to multiply the inconveniences, expenses, and general anxiety which an individual must endure in seeking a home. Given an efficiently organized agency, the process of relocation of families would be greatly expedited.

Members of an administrative agency are generally experts in their field and are generally more familiar with the problems connected with discrimination than are most judges and juries.[67] Most judges and juries, not being representatives of minority groups, have a difficult time comprehending the effect that a discriminatory act has on an injured party.[68] This understanding is especially important where mental suffering is involved because those who are not members of a minority group are generally unable to appreciate the devastating psychological effect that an act of discrimination has on a victim.

The fact that a remedy could be achieved before an administrative body more efficiently and at less expense should serve as an impetus to those who would normally not come forward with otherwise legitimate

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(2) The sale or rental of a like accommodation, if one is available, or the next vacancy in a like accommodation.

(3) The payment of damages to the aggrieved person in an amount not to exceed five hundred dollars ($500), if the commission determines that neither of the remedies under (1) or (2) is available."

65 Bamberger and Lewin, *op. cit. supra* n. 5 at 528.

66 Magaro, *op. cit. supra* n. 32 at 286.

67 *Id.*

68 Colley, Civil Actions for Damages Arising Out of Violations of Civil Rights, 17 Hastings L. J. 189 at 203-204 (1965-66).

complaints. Knowing this, would-be violators would not feel as free to abuse the rights of others as they have in the past.

Moreover, the rights of minority groups would be protected. Not only would they be compensated for their injury, "but the accused property owner would escape the publicity that is attendant upon court proceedings even prior to findings of fact." [69] *Jones v. Mayer*,[70] *Jackson v. Concord*,[71] and other similar cases have demonstrated that the right to adequate housing is basic and must not be encumbered. In 1969 the New Jersey Supreme Court ruled that damages should be awarded for refusal to rent an apartment (a case of racial discrimination), and that this is a tort injury.[72] The award of damages, compensatory or punitive, for denial of equal housing opportunities by bigots, seems an extremely effective means of removing the impediments to the basic right to fair treatment in housing.

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[69] Kaplan, Discrimination in California Housing: The Need for Additional Legislation, 50 Calif. L. R. 635, 647 at n. 57 (1959).

[70] *Supra* n. 26.

[71] *Supra* n. 45.

[72] Jackson v. The Concord Co. (N.J. Super. Ct., June 2, 1969) reported in N.Y. *Times*, p. 24 (June 3, 1969). And see, *supra* at n. 10.