

7-29-03

STATE OF FLORIDA  
COMMISSION ON HUMAN RELATIONS

FILED  
04 FEB 27 AM 9:19

Dona M. Burgess,  
  
Petitioner,

AT

HUD Case No. 04-03-0370-8

FCHR Case No. 23-90412H

DIVISION OF  
ADMINISTRATIVE  
HEARINGS

v.

DOAH Case No. 03-1523

WFO-CLB

Lemay Building Company,  
d/b/a Ridgewood Mobile Home Park

FCHR Order No. 04-006

Respondent.

**FINAL ORDER DISMISSING PETITION FOR  
RELIEF FROM A DISCRIMINATORY HOUSING PRACTICE**

Petitioner, DONA M. BURGESS, filed a complaint of discrimination pursuant to Florida Fair Housing Act, Sections 760.20-760.37, Florida Statutes, alleging that Respondent, LEMAY BUILDING COMPANY, d/b/a RIDGEWOOD MOBILE HOME PARK, committed an unlawful act of housing discrimination by failing to provide a reasonable accommodation for her disability. The allegations set forth in the complaint were investigated and on February 27, 2003, the Executive Director issued his determination that there was no reasonable cause to believe that a discriminatory act occurred. The Petitioner filed a Petition for Relief and was granted a formal evidentiary hearing that was held in Sarasota, Florida, on June 10, 2003, before Administrative Law Judge William F. Quattlebaum.

Judge Quattlebaum issued a Recommended Order of Dismissal dated July 29, 2003.

The Commission panel designated below considered the record of this matter and determined the action to be taken on the Recommended Order.

Findings of Fact and Conclusions of Law

The Petitioner alleged that she was denied a reasonable accommodation by the Respondent when she requested that her son (under 55) be allowed to live with her as her caretaker. The Respondent operates a age-restricted mobile home park where residents (with certain exceptions) are aged 55 and older. The Respondent further asserted that the Petitioner is not disabled pursuant to the requirements of federal and state law, and that even if she was, her son's behavior in the mobile home park establishes that he is not an appropriate caregiver and should be removed from the park. The Administrative Law Judge found that there was no credible evidence that the Petitioner needed the services of a full-time, live-in caregiver; that, after her recovery from a stroke she had in August 2002, she had regained her ability to perform major life activities. The ALJ further found that the mobile home park operators had accommodated

disabled or handicapped persons who required full-time, live-in caregiving services without regard to the age of the caregiver or to their age-related restrictions.

We adopt the Administrative Law Judge's findings and his conclusion that the Petitioner failed to establish that she was handicapped as the term is defined by statute.

Exceptions

Neither party filed any exceptions to the Recommended Order.

Dismissal

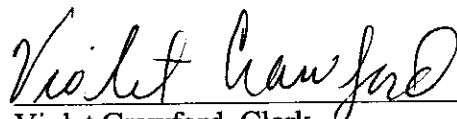
The Request for Relief and Complaint of Discrimination are DISMISSED with prejudice.

The parties have the right to seek judicial review of this Order. The Commission and the appropriate District Court of Appeal must receive notice of appeal within 30 days of the date this Order is filed with the Clerk of the Commission. Explanation of the right to appeal is found in Section 120.68, Florida Statutes, and in the Florida Rules of Appellate Procedure 9.110.

DONE AND ORDERED this 26<sup>th</sup> day of February, 2004.  
FOR THE FLORIDA COMMISSION ON HUMAN RELATIONS

Commissioner Billy Whitefox Stall, Chairperson  
Commissioner Gilbert M. Singer  
Commissioner P.C. Wu

Filed this 26<sup>th</sup> day of February, 2004  
in Tallahassee, Florida.



Violet Crawford, Clerk  
Commission on Human Relations  
2009 Apalachee Parkway, Suite 100  
Tallahassee, Florida 32301  
(850) 488-7082

Copies furnished to:


Elizabeth M. Boyle, Esquire  
Gulfcoast Legal Services, Inc.  
1750 17<sup>th</sup> Street, Building 1  
Sarasota, Florida 34234

Kimberly P. Walker, Esquire  
Kevin Bruning, Esquire  
WILLIAMS, PARKER, HARRISON, DIETZ & GETZEN  
200 South Orange Avenue  
Sarasota, Florida 34236-6802

Honorable William F. Quattlebaum, Administrative Law Judge (DOAH)

Jim Tait, Legal Advisor for Commission Panel

I HEREBY CERTIFY that a copy of the foregoing has been mailed to the above listed addressees this 26<sup>th</sup> day of February, 2004.

BY:   
Clerk of the Commission  
Florida Commission on Human Relations