

11-3-04

STATE OF FLORIDA
COMMISSION ON HUMAN RELATIONS

FILED
05 FEB -1 AM 10:10
DIVISION OF
ADMINISTRATIVE
HEARINGS

FLORIDA COMMISSION ON HUMAN RELATIONS ON
BEHALF OF DERRICK BHAYAT,
Petitioner,

vs.

AT

HUD Case No. 04-02-1298-8
FCHR Case No. 22-91269H
DOAH Case No. 04-816
FCHR Order No. 05-005

LPS
CWS

ONE WATERGATE ASSOCIATION, INC.,
Respondent.

FINAL ORDER DISMISSING PETITION FOR RELIEF FROM
A DISCRIMINATORY HOUSING PRACTICE

Preliminary Matters

Derrick Bhayat (hereinafter referred to as "Complainant") filed a Housing Discrimination Complaint on July 19, 2002, with Petitioner, the Florida Commission on Human Relations (hereinafter referred to as "Petitioner"), pursuant to Title VIII of the Civil Rights Act of 1968 as amended by the Fair Housing Act of 1988 and the Florida Fair Housing Act, Sections 760.22 - 760.37, Florida Statutes (2003), alleging that Respondent, One Watergate Association, Inc. (hereinafter referred to as "Respondent"), committed a discriminatory housing practice on the basis of Mr. Bhayat's national origin and color.

Following its investigation of the matter, on November 14, 2003, the Petitioner issued a Notice of Determination: Cause and Administrative Charge, charging Respondent with engaging in a discriminatory housing practice in violation of the Fair Housing Act. Complainant elected to have the Petitioner resolve the charge in an administrative proceeding pursuant to Section 760.35(3)(a), Florida Statutes (2003), and the matter was transferred to the Division of Administrative Hearings to conduct a formal proceeding.

On June 22 and 23, 2004, the Honorable Lawrence P. Stevenson, Administrative Law Judge, presided over an evidentiary hearing. Judge Stevenson issued a Recommended Order finding that the Petitioner failed to establish a prima facie case of discrimination. Further, Judge Stevenson concluded that even if a prima facie showing of discrimination was established, Respondent presented credible evidence of a nondiscriminatory reason for its failure to consider Complainant's application and the Petitioner failed to demonstrate that the Respondent's reason was pretextual.

Findings of Fact

The Petitioner's file contains a transcript of the proceeding before the Administrative Law Judge. We find the Administrative Law Judge's findings of fact outlined in his Recommended Order dated November 3, 2004, to be supported by competent evidence. We adopt the Administrative Law Judge's findings of fact.

Conclusions of Law

We approve the Administrative Law Judge's conclusion that Petitioner failed to establish that Respondent committed a prima facie case of discrimination against Complainant in violation of Sections 760.22-760.37, Florida Statutes (2003). Although Complainant established that he is a member of a protected class, he failed to demonstrate that he was qualified to purchase the Hess' unit at One Watergate or that the Association "rejected" his incomplete application. In light of Complainant's privacy concerns, Respondent attempted to modify its application process. However, Respondent abandoned its efforts after Complainant failed to provide it with an acceptable credit report. We find the Administrative Law Judge's application of the law to the facts to result in the correct disposition of this matter and we adopt the Administrative Law Judge's conclusion of law as it relates to this matter.

Exceptions

Neither party filed exceptions to the Recommended Order.

Conclusion

For the reasons set forth in this Final Order, we conclude that the Administrative Law Judge's Order should be adopted.

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 thirty (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 31st day of January, 2005.

FOR THE FLORIDA COMMISSION ON HUMAN RELATIONS:

Commissioner Rita Craig, Panel Chairperson;
Commissioner Roosevelt Paige; and
Commissioner Mario M. Valle

Filed this 31st day of January, 2005,
in Tallahassee, Florida.


Violet Crawford, Clerk

Florida Commission on Human Relations
2009 Apalachee Parkway, Suite 100
Tallahassee, Florida 32301-4830
(850) 488-7082

Copies Furnished to:

Vicki D. Johnson, Esquire
William J. Tait, Jr., Esquire
Florida Commission on Human Relations
2009 Apalachee Parkway, Suite 100
Tallahassee, Florida 32301-4830

Harry W. Haskins, Esquire
Mary R. Hawk, Esquire
Porges, Hamlin, Knowles & Prouty, P.A.
One Watergate Association, Inc.
3400 South Tamiami Trail, Suite 201
Sarasota, Florida 34239

Allison K. Bethel, Esq.
Director of Civil Rights
Office of the Attorney General
Office of Civil Rights
110 S.E. 6th Street, 10th Floor
Fort Lauderdale, Florida 33301

Derrick and Nancy Bhayat
101 South Gulfstream Avenue, No. 7E
Sarasota, Florida 34236

Judge Lawrence P. Stevenson, Administrative Law Judge, DOAH