

STATE OF FLORIDA
COMMISSION ON HUMAN RELATIONS

FILED
07 FEB 16 AM 11:03
DIVISION OF
ADMINISTRATIVE
HEARINGS

WILLIAM KLEINSCHMIDT,

HUD Case No. 04-06-0203-8

Petitioner,

FCHR Case No. 25-91782H

v.

DOAH Case No. 06-2251

THREE HORIZONS NORTH
CONDOMINIUM, INC.,

FCHR Order No. 07-013

Respondent.

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

Preliminary Matters

Petitioner William Kleinschmidt filed a housing discrimination complaint pursuant to the Fair Housing Act, Sections 760.20 - 760.37, Florida Statutes (2005), alleging that Respondent Three Horizons North Condominium, Inc., committed discriminatory housing practices on the basis of Petitioner's National Origin (Jewish, German Polish descent) and on the basis of retaliation.

The allegations set forth in the complaint were investigated, and, on May 15, 2006, the Executive Director issued a determination finding that there was no reasonable cause to believe that a discriminatory housing practice had occurred.

Petitioner filed a Petition for Relief from a Discriminatory Housing Practice and the case was transmitted to the Division of Administrative Hearings for the conduct of a formal proceeding.

An evidentiary hearing was held by video teleconference at sites in Tallahassee and Miami, Florida, on October 9, 2006, before Administrative Law Judge John G. Van Laningham.

Judge Van Laningham issued a Recommended Order of dismissal, dated November 21, 2006.

Pursuant to notice, public deliberations were held on February 13, 2007, by means of Communications Media Technology (namely, telephone) before this panel of Commissioners. The public access point for these telephonic deliberations was the Office of the Florida Commission on Human Relations, 2009 Apalachee Parkway, Suite 100, Tallahassee, Florida, 32301. At these deliberations, the Commission panel determined the action to be taken on the Recommended Order.

Findings of Fact

We find the Administrative Law Judge's findings of fact to be supported by competent substantial evidence.

We adopt the Administrative Law Judge's findings of fact.

Conclusions of Law

We find the Administrative Law Judge's application of the law to the facts to result in a correct disposition of the matter.

Section 760.23(2), Florida Statutes (2005), states, "It is unlawful to discriminate against any person in the terms, conditions, or privileges of sale or rental of a dwelling, or in the provision of services or facilities in connection therewith, because of race, color, national origin, sex, handicap, familial status, or religion."

The Administrative Law Judge concluded that this section does not create a cause of action for a homeowner, but rather it protects persons seeking to purchase or lease a dwelling, and tenants. Recommended Order, ¶ 18.

In our view, this is an error of law, which we correct to reflect that this statutory section does apply to homeowners.

In conclusions of law adopted by a Commission panel, it has been stated, "Race, color, national origin, sex, handicap, familial status, or religion-based harassment that creates a hostile housing environment constitutes a 'discriminatory housing practice' prohibited by Section 760.23(2), Florida Statutes. '[A] [hostile housing environment] claim is actionable when the offensive behavior unreasonably interferes with use and enjoyment of the premises. The harassment must be sufficiently severe or pervasive to alter the conditions of the housing arrangement. It is not sufficient if the harassment is isolated or trivial. Casual or isolated manifestations of a discriminatory environment... may not raise a cause of action.' Honce v. Vigil, 1 F.3d 1085, 1090 (10th Cir. 1993) (citations and internal quotations omitted)." Williams v. Samari Lake East Condominium Association, Inc. et al., FCHR Order No. 03-050 (August 11, 2003).

In our view, this reflects that Section 760.23(2), Florida Statutes, would clearly apply to homeowners, for example, in a condominium setting.

In correcting this conclusion of law of the Administrative Law Judge, we conclude: (1) that the conclusion of law being corrected is a conclusion of law over which the Commission has substantive jurisdiction, namely the substantive interpretation of the Fair Housing Act; (2) that the reason the correction is being made by the Commission is that the conclusion of law as stated runs contrary to a previous Commission decision on the issue; and (3) that in making this correction the conclusions of law being substituted is as or more reasonable than the conclusions of law which have been rejected. See, Section 120.57(1)(l), Florida Statutes (2005).

The correction of this conclusion of law does not affect the outcome of the case, given the Administrative Law Judge's conclusions that all Petitioner's claims be dismissed for other reasons, as well.

With this correction, we adopt the Administrative Law Judge's conclusions of law.

Exceptions

Petitioner filed exceptions to the Administrative Law Judge's Recommended Order in a document entitled, "Petitioner Professor William E. Kleinschmidt's Exceptions to Division of Administrative Hearings ("DOAH") Recommended Order."

The document seems to argue that the Recommended Order is anti-Semitic, and that Petitioner was deprived of both substantive and procedural due process.

With regard to exceptions to Recommended Orders, the Administrative Procedure Act states, "The final order shall include an explicit ruling on each exception, but an agency need not rule on an exception that does not clearly identify the disputed portion of the recommended order by page number or paragraph, that does not identify the legal basis for the exception, or that does not include appropriate and specific citations to the record." Section 120.57(1)(k), Florida Statutes (2006).

A review of Petitioner's exceptions document suggests that the document does not comply with this statutory provision.

The Commission has stated, "It is well settled that it is the Administrative Law Judge's function 'to consider all of the evidence presented and reach ultimate conclusions of fact based on competent substantial evidence by resolving conflicts, judging the credibility of witnesses and drawing permissible inferences therefrom. If the evidence presented supports two inconsistent findings, it is the Administrative Law Judge's role to decide between them.' Beckton v. Department of Children and Family Services, 21 F.A.L.R. 1735, at 1736 (FCHR 1998), citing Maggio v. Martin Marietta Aerospace, 9 F.A.L.R. 2168, at 2171 (FCHR 1986)." Barr v. Columbia Ocala Regional Medical Center, 22 F.A.L.R. 1729, at 1730 (FCHR 1999). Accord, Bowles v. Jackson County Hospital Corporation, FCHR Order No. 05-135 (December 6, 2005).

Petitioner's exceptions are rejected.

Dismissal

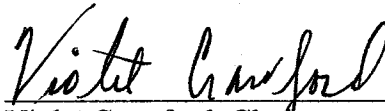
The Petition for Relief and Housing Discrimination Complaint are DISMISSED with prejudice.

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 15th day of February, 2007.
FOR THE FLORIDA COMMISSION ON HUMAN RELATIONS:

Commissioner Donna Elam, Panel Chairperson;
Commissioner Keith Roberts; and
Commissioner Gilbert M. Singer

Filed this 15th day of February, 2007,
in Tallahassee, Florida.



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

Copies furnished to:

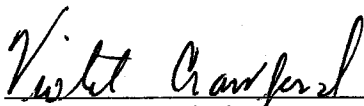
William Kleinschmidt
1470 Northeast 125th Terrace, Apt. 206
North Miami, FL 33161

Three Horizons North Condominium, Inc.
c/o Krista A. Fowler, Esq.
Cole, Scott & Kissane, P.A.
1390 Brickell Avenue, Third Floor
Miami, FL 33131

John G. Van Laningham, Administrative Law Judge, DOAH

James Mallue, Legal Advisor for Commission Panel

I HEREBY CERTIFY that a copy of the foregoing has been mailed to the above
listed addressees this 15th day of February, 2007.

By: 
Clerk of the Commission
Florida Commission on Human Relations

State of Florida
Florida Commission on
Human Relations

By

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DIVISION OF
ADMINISTRATIVE
SERVICES

Professor William E. Kleinschmidt,
Petitioner,

Filing
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original
marked

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By US Postal

VS

DOAH

~~4850~~

~~488~~

service
terminal

car

250

Three Horizons North
Columbus, Inc.,

06-2251

Fax

4885291

Respondent

FAR

NO. 25-917824

Petitioner Professor William E.
Kleinschmidt's Exceptions to
the DIVISION of Administrative
Services (DOAH) Recommended
Order

2006 DEC -5 PM 4:57

Came now, Petitioner
Professor William E. Kleinschmidt
and would further state:

State of Florida
Florida Commission on
Human Relations

By U.S.
Express Mail
Original return
receipt

Professor William E. Kleinschmidt,
Petitioner,

VS

DOHA

Case

06-2251

Three Horizons North
Cardman, Inc.,

Respondent

FCHC

10-25-91/782H

Petitioner Professor William E.
Kleinschmidt's Exceptions to
the DIVISION of Administrative
Hearings (DOHA) Recommended
Order

Comes now, Petitioner
Professor William E. Kleinschmidt
and would further state:

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DOAH case # 06-2251 Page 2

1. The said Division of Administrative Hearings ("DOAH") - State of Florida is one of the most ANTI SEMITIC and "Jew Baiting" Orders ever written by a judicial officer of any court or agency in the United States - This is a very serious matter.

The said Recommended Order states that the Petitioner alleges that every person of German heritage is a Nazi. This is categorically false allegation that the judge attributed to Petitioner.

The ANTI SEMITIC statement that Jews accuse all Germans of collective guilt of NAZI doctrine is a clear "Jew baiting" tactics of REVISIONISTS history.

At NO time did Petitioner accuse anyone being a Nazi.

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DOAH CAR # 06-2251 Page 3

The Recommended Order states no specific incidents pointed by Petitioner, but instead the DOAH "Shotguns" and in an Anti-semitic manner cites all of Petitioner's statements are of no alleged merit is pure "Jew Baiting" by the DOAH.

Any FCHR Commissioner and/or Executive Director of the FCHR Approving the DOAH Recommended Order would in essence admit they are Anti-semitic and also in essence "agree to judicial" "Jew Baiting" - a most serious matter.

Further, a Unit Owner at Three Horizons North Condominium, Inc informed Petitioner that he heard on a TV newscast that the State of Florida has enacted legislation that all Unit owners of Condominiums can have "pets" regardless of the bylaws or rules of the association, consequently, the Respondent's position is moot.

DOAH Case # 06-2251

Page 4

The DOAH Recommended Order failed to give a full and fair statement as to Petitioner's "inability to submit a proposed Recommended Order."

The reason - The Court ordered Petitioner was allowed 20 full days to file a recommended order.

Specifically, Respondent Attorneys acknowledged 2 points (A) Petitioner had only 11 days (October 26, 2006) to file a proposed Recommended Order. The Court's denying Petitioner's "Motion for justice" is anti-Semitic as the Court denied fundamental due process and equal protection.

Further, the judge already was anti-Semitic bias as during the Final Hearing the judge had already made his mind up as to the Recommended Order against

DOAH case # 06-2251

Page 5

Rebitor before the Final
Hearing had started and
was merely going through
the judicial pretense of
a full and fair and alleged
impartial final hearing,

p. 48 Transcript

The Court:

"I believe all things
considered it's better,
at this point to resolve
the matter this way
than potentially to have
the agency to decide for
one reason or another
that they might like to
have some evidence and
to attempt to send it back
to me."

How blatant anti-semitic
as above described.

DOAH case # 06-2251

Page 6

b) The Respondent Counsel
A notice of Release Proof of
Henry Transcript to Petitioner
Respondent Counsel attached letter
dated October 24, 2006 states:

"Enclosed please find for
your file and review a copy
of the 10/9/06 Henry
transcript volume 1, pages
1-149. The Court reporter
has advised us that they
have filed the enclosed
transcript with the DOAH
Clerk on October 19, 2006
volume 11, renamed outstanding"

It is clear that despite
the DOAH Recommended Order of the
DOAH judge — there was
never a volume 11, meaning
attorneys had zero days
to file a Recommended Order
This is a clear violation
of equal protection and due

DOAH Case #06-2251

Page 7

process and is just another
proof of anti-semitic judicial
bias

Further, the DOAH Order
uses the emotional support
animals matter, despite
the very same judge refusal
to allow any testimony, nor
examination of witnesses on
the subject matter of an
ongoing matter (containing)
and despite the witness
Pearson said issue herself
and the court's refusal
to allow Deborah to pursue
cross-examination of an issue
raised by witness Mrs.
Pearson herself is a
blatant bias and clear
due process material violation
of a substantive nature
Deborah as a matter of
right is entitled to both
Substantive due process

DOA# 06-2251

Page 8

as well as, procedural due process.

It is clear from the record the Court was only interested in procedural (going through the formalities) of due process.

It is substantive to point out at the first hearing with this judge who agreed that concerning work in #2.

September 21, 2001 - the first time mentioned in any way, shape or form that Petitioner had no way to litigate a matter which Petitioner was never made aware of, however, the act of the judge's feeling of the judge came forth at the first hearing to deny Petitioner the right to litigate the matter. A clear constitutional violation, and the Unconstitutionality of the Florida Administrative Code ("FAC") as to discovery (which

DOHA Case # 06-2251

Page 9

Florida Civil rules are
liberally construed versus
~~FR~~ where they are so
narrow as to be virtually
non-existent.

It should be noted that
at the Florida Commission
on Human Relations level (FCHR)
Respondent is no judicata as
A did NOT object to anything.

The DOHA judge cut off
all avenues of serious inquiries
of witnesses, and to and behold
the cut & run order was
able to be preterted. It is
most shameful.

In fact, the DOHA case by
DOHA judge's order is not the
same one that was before
FCHR, how can FCHR
sustain the DOHA summary
order when the DOHA changed all
the issues at the DOHA.

DOAH case # 06-2251

Page 10

Wherefore, it is respectfully requested that the recommended order not be adopted and that any and all new fuel be ordered through the Board of Health. (The order - Resparked admitted was carried out by Mr. Alfred Carrasco, etc.)

On September 21, 2001, that all testimony of all witnesses such as Mrs. Ruth Pearson be recalled and that Mrs. Nancy Tejedor without being and without notice of service until after the judge grants a motion order be overruled and require her (Tejedor) to testify as to the ongoing and continuing emotional support animals or wife alternative fuel Resparked guilty. Gas it is unconstitutional for Attorneys under HAD's

DOAH case # 06-2251

Page 11

Wes to sign the affidavit
 and the FELR alleged copy and
 requirement NOT to sign the
 affidavit concerning the
 truthfulness of documents
 and statements is fundamentally
 despised + treated and
 would be unconstitutional
 as after it was before FELR
 I admitted in writing the
 search results was a
 poor choice merely to win
 at the FELR because it signed
 no affidavit of truthfulness
 and for all other relief
 deemed appropriate for petitioner
 Professor William E. Kleinschmidt
 whereas this with Senate DOAH recommended
 Order.

Respectfully submitted,



Professor William E. Kleinschmidt
 Petitioner

tel: 305 731 2732 / 1470 NE 125th Avenue
 Apt 206
 Ft. Lauderdale 33316

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 GOVERNMENT PERFORMANCE

DAH case# 06-2251

Page 12

Certificate of Service

I do hereby certify that a true and correct copy of the foregoing was mailed to Krista Powell Esq, Cole Cott and Kippure PA, 3rd floor, 1390 Brickell Ave, Miami, Florida 33131 on the 5th day of December 2006.


Professor Willem E. Kleinschmitt

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HONORARY COMMISSION ON