

STATE OF FLORIDA  
COMMISSION ON HUMAN RELATIONS

FILED  
2007 MAR 16 P 2:05  
DIVISION OF  
ADMINISTRATIVE  
HEARINGS

ANNA AND ALLAN KANGAS,

HUD Case No. 04-06-0392-8

Petitioners,

FCHR Case No. 26-91789K

v.

DOAH Case No. 06-2822

HATCHETT CREEK MOBILE HOME  
PARK CONDOMINIUM ASSOCIATION,  
INC., ET AL.,

FCHR Order No. 07-016

Respondents.

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

Preliminary Matters

Petitioners Anna Kangas and Allan Kangas filed a housing discrimination complaint pursuant to the Fair Housing Act, Sections 760.20 - 760.37, Florida Statutes (2005), alleging that Respondents Hatchett Creek Mobile Home Park Condominium Association, Inc., et al., committed discriminatory housing practices on the basis of Petitioner Anna Kangas' disability (found by the Administrative Law Judge to be Alzheimer's disease) by refusing to sell a unit to Petitioners and by failing to make a reasonable accommodation.

The allegations set forth in the complaint were investigated, and, on June 26, 2006, the Executive Director issued a determination finding that there was no reasonable cause to believe that a discriminatory housing practice had occurred.

Petitioners 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 in Sarasota, Florida, on December 8, 2006, before Administrative Law Judge Daniel Manry.

Judge Manry issued a Recommended Order of dismissal, dated January 2, 2007.

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

A transcript of the proceeding before the Administrative Law Judge was not filed with the Commission. In the absence of a transcript of the proceeding before the

Administrative Law Judge, the Recommended Order is the only evidence for the Commission to consider. See National Industries, Inc. v. Commission on Human Relations, et al., 527 So. 2d 894, at 897, 898 (Fla. 5th DCA 1988). Accord, Beach-Gutierrez v. Bay Medical Center, FCHR Order No. 05-011 (January 19, 2005), and Waaser v. Streit's Motorsports, FCHR Order No. 04-157 (November 30, 2004). See, also, Villamizar, et al. v. Gomez, FCHR Order No. 06-093 (November 13, 2006).

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.

The Administrative Law Judge found that Petitioner Allan Kangas has no handicap and is not a disabled person, and therefore the Administrative Law Judge sua sponte dismissed the case brought by Petitioner Allan Kangas. Recommended Order, ¶ 1. In the absence of transcript of the proceeding before the Administrative Law Judge it is difficult to determine whether this was an error of law. We note that the Fair Housing Act states, "It is unlawful to discriminate in the sale or rental of, or to otherwise make unavailable or deny, a dwelling to any buyer or renter because of a handicap of: (a) That buyer or renter; (b) A person residing in or intending to reside in that dwelling after it is sold, rented, or made available; or (c) *Any person associated with the buyer or renter* [emphasis added]." Section 760.23(7), Florida Statutes (2005). It would seem to us that Petitioner Anna Kangas, a person with a handicap/disability, is in this instance "associated" with Allan Kangas, her son, and that, therefore, Allan Kangas would have standing in this matter despite not having a handicap/disability, himself. Nevertheless, to the extent the dismissal of the case brought by Allan Kangas might have been error, it would seem to us to have been harmless error given the Administrative Law Judge's finding that a prima facie case was not established because no evidence was presented that Respondents refused to approve the sale of the unit in question to Petitioners. Recommended Order, ¶ 16.

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

#### Exceptions

None of the parties filed exceptions to the Administrative Law Judge's Recommended Order.

#### Dismissal

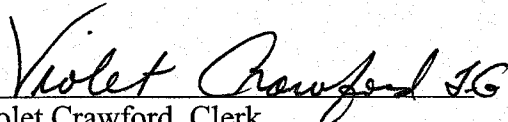
The Petition for Relief and Housing Discrimination Complaint are DISMISSED with prejudice.

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 14th day of March, 2007.  
FOR THE FLORIDA COMMISSION ON HUMAN RELATIONS:

Commissioner Gilbert M. Singer, Panel Chairperson;  
Commissioner Gayle Cannon; and  
Commissioner Billy Whitefox Stall

Filed this 14th day of March, 2007,  
in Tallahassee, Florida.

  
Violet Crawford, Clerk  
Commission on Human Relations  
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Daniel Manry, 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 14<sup>th</sup> day of March, 2007.

By: Violet Crawford JG  
Clerk of the Commission  
Florida Commission on Human Relations