

STATE OF FLORIDA
COMMISSION ON HUMAN RELATIONS

FABIOLA HEIBLUM,

Petitioner,

v.

CARLTON BAY CONDOMINIUM
ASSOCIATION, INC.,

Respondent.

HUD Case No. 04-08-133538

FCHR Case No. 28592666H

DOAH Case No. 08-5244

FCHR Order No. 09-042

FILED
2009 MAY 14 AM 10:46
DIVISION OF
ADMINISTRATIVE
HEARINGS

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

Preliminary Matters

Petitioner Fabiola Heiblum filed a housing discrimination complaint pursuant to the Fair Housing Act, Sections 760.20 - 760.37, Florida Statutes (2007), alleging that Respondent Carlton Bay Condominium Association, Inc., committed a discriminatory housing practice on the bases of Petitioner's National Origin (Hispanic) and familial status (children under 18) by filing a Claim of Lien against her property as a means of collecting an unpaid debt.

The allegations set forth in the complaint were investigated, and, on September 17, 2008, 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 Miami and Tallahassee, Florida, on January 12, 2009, before Administrative Law Judge John G. Van Laningham.

Judge Van Laningham issued a Recommended Order of dismissal, dated February 27, 2009.

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.

We decline to adopt the conclusions of law set out at Recommended Order, ¶ 11, ¶ 12, ¶ 13, and ¶ 14, based on the Commission's order in Kleinschmidt v. Three Horizons North Condominium, Inc., FCHR Order No. 07-013 (February 15, 2007).

We adopt the Administrative Law Judge's remaining conclusions of law.

Exceptions

Neither party filed exceptions to the Administrative Law Judge's Recommended Order.

Dismissal

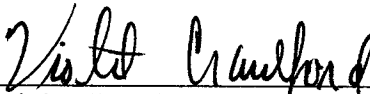
The Petition for Relief and Housing Discrimination Complaint are DISMISSED with prejudice.

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 12th day of May, 2009.
FOR THE FLORIDA COMMISSION ON HUMAN RELATIONS:

Commissioner Gayle Cannon, Panel Chairperson;
Commissioner Patty Ball Thomas; and
Commissioner Mario M. Valle

Filed this 12th day of May, 2009,
in Tallahassee, Florida.



Violet Crawford, Clerk
Commission on Human Relations
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Copies furnished to:

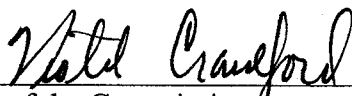
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John G. Van Laningham, Administrative Law Judge, DOAH

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 12th day of May, 2009.

By: 

Clerk of the Commission
Florida Commission on Human Relations