

STATE OF FLORIDA
COMMISSION ON HUMAN RELATIONS

ELIZABETH SHERLOCK,

HUD Case No. 04-10-1252-8

Petitioner,

FCHR Case No. 2010H0395

v.

DOAH Case No. 10-9940

WEDGEWOOD AT PELICAN STRAND
NEIGHBORHOOD ASSOCIATION, ET
AL.; NEWELL PROPERTY
MANAGEMENT, ET AL.; SHERYL
WHITAKER, OWNER; AND CAMBRIDGE
MANAGEMENT, ET AL.,

FCHR Order No. 11-068

Respondents.

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

Preliminary Matters

Petitioner Elizabeth Sherlock filed a housing discrimination complaint pursuant to the Fair Housing Act, Sections 760.20 - 760.37, Florida Statutes (2009), alleging that Respondents Wedgewood at Pelican Strand Neighborhood Association, et al., Newell Property Management, et al., Sheryl Whitaker, Owner, and Cambridge Management, et al., committed discriminatory housing practices on the bases of Petitioner's sex (female) and familial status (Petitioner lived with her 9-year-old son) in circumstances surrounding Petitioner's leasing and attempted lease renewal of a residence.

The allegations set forth in the complaint were investigated, and, on September 22, 2010, 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 in Fort Myers, Florida, on May 16, 2011, before Administrative Law Judge Thomas P. Crapps.

Judge Crapps issued a Recommended Order of dismissal, dated June 7, 2011.

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, Mack v. Agency for Persons with Disabilities, FCHR Order No. 11-026 (March 17, 2011), Hall v. Villages of West Oaks HOA, FCHR Order No. 08-007 (January 14, 2008), 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).

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 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 30th day of August, 2011.
FOR THE FLORIDA COMMISSION ON HUMAN RELATIONS:

Commissioner Donna Elam, Panel Chairperson;
Commissioner Elena Flom; and
Commissioner Lizzette Romano

Filed this 30th day of August, 2011,
in Tallahassee, Florida.

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

Copies furnished to:

Elizabeth Sherlock
245 Walnut Street South
Belle Plaine, MN 56011

Cambridge Management, et al.
c/o Daniel J. Santaniello, Esq.
c/o Thomas J. Gibbons, Esq.
Luks, Santaniello, Petrillo & Jones
110 Southeast 6th Street, 20th Floor
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Wedgewood at Pelican Strand Neighborhood Association, et al.,
and Newell Property Management, et al.
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The Strand Golf and Country Club
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9132 Strada Place, Fourth Floor
Naples, FL 34108

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Thomas P. Crapps, 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 30th day of August, 2011.

By: _____/s/_____
Clerk of the Commission
Florida Commission on Human Relations

Elizabeth Sherlock v. Wedgewood at Pelican Strand Neighborhood Association, et al.;
Newell Property Management, et al.; Sheryl Whitaker, Owner; and Cambridge
Management, et al.

DOAH 10-9940

FCHR 2010H0395

HUD 04-10-1252-8

FCHR Order No. 11-068

Type of case: Housing

Basis of discrimination: sex (female); familial status

Commission staff determination: No Cause

ALJ recommendation: dismissal

Commission panel final action: Adopt Recommended Order

Key Words: no transcript, terms and conditions, lease, failure to renew lease, good failure to renew lease prima facie in R.O. ¶ 14.

ADDRESSES FOR NOTICE:

For Petitioner.....

Elizabeth Sherlock
245 Walnut Street South
Belle Plaine, MN 56011

For Respondents.....

Cambridge Management, et al.
c/o Daniel J. Santaniello, Esq.
c/o Thomas J. Gibbons, Esq.
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9132 Strada Place, Fourth Floor
Naples, FL 34108

DOCKET INFORMATION:

Rec Order: Dismissal
Transcript: No
Exhibits: Yes
Exceptions: No

STATE OF FLORIDA
COMMISSION ON HUMAN RELATIONS

Order Approval/Disapproval

TO: FCHR Commissioners impaneled to decide the below-referenced case

FROM: Jim Mallue, Assistant General Counsel

RE: Sherlock v. Wedgewood at Pelican Strand Neighborhood Association, et al.; Newell Property Management, et al.; Sheryl Whitaker, Owner; and Cambridge Management, et al.

DOAH 10-9940; FCHR 2010H0395; FCHR Order No. 11-068

Accompanying this "Order Approval/Disapproval" page is a copy of a final order drafted by the Panel's counsel / legal advisor containing counsel's recommendation to you regarding the disposition of the case. This case has been returned to the Commission from the Division of Administrative Hearings.

Please review the case record and determine whether you are in agreement with the recommendations contained in the order drafted by Commission counsel.

Further, please indicate your approval or disapproval of the order drafted by Commission counsel by signing on the appropriate line below, and returning this form by FAX to Denise Crawford in the Commission's Tallahassee office at 850-488-5291, and by then returning this form by Mail to Ms. Denise Crawford, Clerk of the Commission, Florida Commission on Human Relations, 2009 Apalachee Parkway, Suite 100, Tallahassee, FL 32301. If a majority of the panel approves of the order, the order will be entered by the Clerk of the Commission.

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I **approve** of the order drafted to reflect the Commission's disposition of this matter:

_____, Commissioner.

I **do not approve** of the order drafted to reflect the Commission's disposition of this matter:

_____, Commissioner.

END