

STATE OF FLORIDA  
COMMISSION ON HUMAN RELATIONS

FRANCISCO COSME,

HUD Case No. 04-11-0283-8

Petitioner,

FCHR Case No. 2011H0188

v.

DOAH Case No. 11-1115

LAKESHORE CLUB OF POLK COUNTY  
HOMEOWNERS ASSOCIATION,

FCHR Order No. 11-072

Respondent.

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

Preliminary Matters

Petitioner Francisco Cosme filed a housing discrimination complaint pursuant to the Fair Housing Act, Sections 760.20 - 760.37, Florida Statutes (2010), alleging that Respondent Lakeshore Club of Polk County Homeowners Association committed discriminatory housing practices on the basis of Petitioner's National Origin (Hispanic) by harassing Petitioner and by Petitioner not receiving the endorsement of Respondent's Nominating Committee for a seat on Respondent's Board of Directors. Petitioner also alleged that Respondent retaliated against Petitioner for complaining to Respondent about discrimination he allegedly had experienced.

The allegations set forth in the complaint were investigated, and, on January 28, 2011, 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 Lakeland and Tallahassee, Florida, on May 24, 2011, before Administrative Law Judge Thomas P. Crapps.

Judge Crapps issued a Recommended Order of dismissal, dated July 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

Neither 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:

Francisco Cosme  
Post Office Box 8118  
Fedhaven, FL 33854

Lakeshore Club of Polk County  
Homeowners Association  
c/o Scott Jackman, Esq.  
Cole, Scott & Kissane, P.A.  
4301 West Boy Scout Boulevard  
Suite 400  
Tampa, FL 33607-5712

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

Francisco Cosme v. Lakeshore Club of Polk County Homeowners Association  
DOAH 11-1115  
FCHR 2011H0188  
HUD 04-11-0283-8  
FCHR Order No. 11-072

Type of case: Housing

Basis of discrimination: National Origin (Hispanic); retaliation

Commission staff determination: No Cause

ALJ recommendation: dismissal

Commission panel final action: Adopt Recommended Order

Key Words: no transcript, National Origin, harassment, good support of “post acquisition” cause of action for common area use, etc., at R.O. ¶ 18 and ¶ 21.

ADDRESSES FOR NOTICE:

For Petitioner.....

Francisco Cosme  
Post Office Box 8118  
Fedhaven, FL 33854

For Respondent.....

Lakeshore Club of Polk County  
Homeowners Association  
c/o Scott Jackman, Esq.  
Cole, Scott & Kissane, P.A.  
4301 West Boy Scout Boulevard  
Suite 400  
Tampa, FL 33607-5712

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: Cosme v. Lakeshore Club of Polk County Homeowners Association  
DOAH 11-1115; FCHR 2011H0188; FCHR Order No. 11-072

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**