STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS

RICARDO LOCKETT,	)	
	)	
Petitioner,	)	
	)	
vs.	)	Case No. 11-6126
	)	
MIAMI-DADE COUNTY,	)	
	)	
Respondent.	)	
	)	

RECOMMENDED ORDER

Pursuant to notice, a hearing was conducted in this case pursuant to sections 120.569 and 120.57(1), Florida Statutes, before Cathy M. Sellers, an Administrative Law Judge of the Division of Administrative Hearings ("DOAH"), on August 20, 2012, by video teleconference at sites in Miami and Tallahassee, Florida.

APPEARANCES

For Petitioner: Terrence A. Smith, Esquire
Miami-Dade County Attorney's Office
Suite 2810
111 Northwest 1st Street
Miami, Florida 33128

For Respondent: Ricardo Lockett, pro se
Post Office Box 430612
Miami, Florida 33243

STATEMENT OF THE ISSUE

Whether Respondent unlawfully discriminated against Petitioner on the basis of race, in violation of the Florida Fair Housing Act, sections 760.20 through 760.37, Florida Statutes.

PRELIMINARY STATEMENT

On August 5, 2011, Petitioner, an African-American adult male, filed a Housing Discrimination Complaint with the United States Department of Housing and Urban Development ("HUD"), alleging that Respondent, Miami-Dade County, through the Miami-Dade Public Housing and Community Development Department[1/] and Alix Cedras, site manager for the Perrine Gardens Public Housing Development, had unlawfully discriminated against him on the basis of race, in violation of section 804 of the federal Fair Housing Act of 1988, by steering him into housing that predominantly served African-Americans. HUD conducted an investigation and issued a determination that there was not reasonable cause to believe that a discriminatory housing practice had occurred.

HUD forwarded the Complaint to the Florida Commission on Human Relations ("FCHR") for investigation. On November 9, 2011, the FCHR issued a Notice of Determination of No Cause, determining that reasonable cause did not exist to believe that

a discriminatory housing practice had occurred and dismissing the Complaint.

On November 17, 2011, Petitioner filed a Petition for Relief ("Petition") alleging that Respondent unlawfully discriminated against him in violation of the Florida Fair Housing Act by steering him, through its rental offer, into a predominantly black public housing community. The FCHR forwarded the Petition to the Division of Administrative Hearings for assignment of an Administrative Law Judge and conduct of an administrative hearing pursuant to sections 120.569 and 120.57(1).

The final hearing initially was set for February 6, 2012; pursuant to motion filed by Petitioner, the hearing was rescheduled for April 18, 2012. On April 13, 2012, pursuant to the parties' request, the case was placed in abeyance to accommodate settlement discussion. On May 15, 2012, the parties informed the undersigned that despite their good faith efforts, they were unable to resolve the claim and requested that the matter be scheduled for final hearing.

The final hearing was held on August 20, 2012. Petitioner testified on his own behalf and offered Petitioner's Exhibits 1, 2, 2A, and 5 through 9, which were admitted into evidence without objection. Respondent presented the testimony of Marie Santiague, Janie Hicks, Arlina Mendoza, and Alix Cedras, and

offered Respondent's Exhibits 1 through 9, which were admitted into evidence without objection.

The two-volume Transcript was filed on September 24, 2012, and the parties were given ten days in which to file their proposed recommended orders. Respondent timely filed its Proposed Recommended Order on September 27, 2012, and Petitioner timely filed his Proposed Recommended Order on October 2, 2012. Both Proposed Recommended Orders were considered in preparing this Recommended Order.

FINDINGS OF FACT

I. The Parties

1. Petitioner is an African-American adult male. He is a United States military veteran.[2/]

2. Respondent is a political subdivision of the State of Florida and is a public housing authority within Miami-Dade County.

II. Respondent's Housing Programs

3. Respondent owns and operates between 9,000 and 10,000 public housing units.

4. Through its Public Housing and Community Development Department, Respondent administers several public housing programs, including the Section 8 and non-Section 8 public housing programs, which receive federal funding from the United States Department of Housing and Urban Development ("HUD").[3/] To

receive federal housing assistance funding from HUD, Respondent must maintain an occupancy rate of at least 95 percent at its individual public housing properties.

5. HUD regulations govern the admission of persons into Respondent's Section 8 and non-Section 8 public housing programs.

6. Respondent has adopted its own public housing policies in a document entitled the "Admissions and Continued Occupancy Policy" ("ACOP").[4/] This document sets forth Respondent's policies governing its public housing programs, including policies to ensure compliance with HUD housing regulations and the United States Housing Act of 1937. HUD reviews and approves the ACOP.

7. On or about June 6, 1998, Respondent and HUD entered into a Consent Decree to resolve a class action lawsuit brought by past, present, and future black residents of Respondent's public housing, alleging that Respondent, in providing public housing, discriminated against them on the basis of race in violation of, among other things, the United States Fair Housing Act of 1937. Adker v. United States Dep't of Hous. and Urban Dev., Case No. 87-0874 CIV-PAINE (Consent Decree June 6, 1998). The Consent Decree went into effect on or about August 2, 1999, and expired on August 2, 2009.[5/]

8. The Consent Decree required Respondent to establish a tenant-based[6/] waiting list and a project-based[7/] waiting list for admission into Respondent's public housing programs.

9. The Consent Decree also required Respondent to establish a neutral lottery system to rank the housing assistance applications it received. Through the lottery system, each applicant was assigned two ranking numbers, one for the tenant-based waiting list and one for the project-based waiting list.

10. Even though the Consent Decree no longer is in effect, Respondent continues to maintain its project-based and tenant-based waiting lists and its lottery ranking system pursuant to the ACOP.

11. Because the demand for public housing assistance greatly exceeds the availability of units, Respondent opens registration for housing assistance only when units become available. At that time, persons who wish to qualify for housing assistance complete an online web application to be placed on the waiting lists.

12. Waiting list rankings are randomly assigned by computer, and each applicant is assigned separate ranking numbers for the project-based waiting list and for the tenant-based waiting list. Applicants move up the waiting lists sequentially based on ranking number; for the project-based

waiting list, the type and size of unit requested also determines movement up the list.

13. Housing assistance recipients are selected through the waiting lists. Once an applicant moves to the top of the waiting list, he or she is contacted to participate in a preliminary eligibility interview. Eligibility is determined based on annual gross income, qualification pursuant to an eligibility category,[8/] citizen or eligible immigration status, and other factors.[9/]

14. To enable Respondent to determine whether an applicant has any special needs that must be accommodated in assigning a housing unit, each applicant must complete a Reasonable Accommodation Request Questionnaire ("RARQ").[10/] If an applicant identifies a need for special accommodation on the RARQ, the applicant must then submit a Reasonable Accommodation Request Form ("RARF"), and a Reasonable Accommodation Request Verification form ("RARV") completed by a health care provider. Both of these forms must be submitted for an applicant to be assigned a unit based on need for special accommodation.

15. The first qualified applicant in sequence on a waiting list is offered a unit of appropriate size and type. If more than one unit that meets the applicant's specified needs is available, the applicant is given a choice of units.

16. Once an applicant accepts an offer, Respondent forwards the applicant's file to the specific housing site for which the offer was made. A final determination of the applicant's eligibility, including a review of the applicant's income, verification of other requirements, and rent calculation is made at the specific housing site. If determined eligible, the applicant signs the lease and moves into the unit.

17. The ACOP states the circumstances under which an applicant's name will be removed from a waiting list, unless good cause is shown.[11/] These circumstances are that the applicant receives and accepts an offer of housing, requests that his or her name be removed from the waiting list, or is determined ineligible for assisted housing; or that an application is deemed withdrawn under specified circumstances, including that the applicant failed to respond to the offer or failed to attend the leasing meeting.

18. If an applicant is removed from the waiting list, Respondent provides written notice and informs the applicant that he or she has the right to request an informal review of the removal decision and to present information justifying reinstatement to the waiting list.[12/]

19. Respondent generates a current list of available housing units on a daily basis. Respondent does not maintain a

historic list of the specific units that were available on a particular date.[13/]

III. Petitioner's Housing Assistance Application

20. Respondent opened its public housing assistance registration in 2008 and received over 72,000 applications.

21. On or about July 30, 2008, Petitioner submitted a 2008 Waiting List Web Application to Respondent, seeking public housing assistance. Petitioner specified in his application that he needed a three-bedroom unit to accommodate himself and his two children.[14/]

22. Pursuant to Respondent's lottery ranking system, Petitioner was assigned ranking numbers 6,352 for the project-based waiting list and 68,187 for the tenant-based waiting list.

23. Based on Petitioner's project-based waiting list ranking number, Respondent contacted Petitioner to interview for eligibility for public housing. Respondent interviewed Petitioner on or about December 2, 2009.

24. As part of the interview, Petitioner was required to complete various forms, including the RARQ form. Respondent's eligibility screener, Marie Santiague, completed the top portion of the RARQ. The RARQ listed a series of responses to the question "[d]o you (head of household or any member or your family require any of the following:" For response number 3, Ms. Santiague checked "yes" and circled the word "elevator." On

the portion of the form entitled "Reason for Needing Feature," Ms. Santiague wrote the word "elevator." At hearing, Ms. Santiague testified that she was in training during this period and completed every applicant's RARQ in this manner, whether or not the applicant had requested a unit having an elevator.

25. Petitioner credibly testified that he did not request a housing unit with an elevator because neither he nor his children needed such an accommodation. He emphatically denied that he signed the RARQ.[15/]

IV. Respondent's Offer and Petitioner's Acceptance

26. Based on Petitioner's request for a three-bedroom unit, on or about December 11, 2009, Respondent offered Petitioner Unit No. 077032 ("Unit" or "Perrine Unit") at the Perrine Gardens Public Housing Development ("Perrine Gardens"), 16800 Southwest 106th Avenue, Miami. The Unit is part of a 32-unit single family residential site that is physically separate from, but a part of, Perrine Gardens.

27. The persuasive evidence establishes that the Perrine Unit was the only three-bedroom unit available, so was the only unit offered to Petitioner. The persuasive evidence also establishes that had other three-bedroom units been available, Petitioner would have been offered a choice of units.

28. Respondent's offer letter directed Petitioner to contact the site manager or visit the site's management office if he wished to see the unit, and to respond to the offer by December 17, 2009, to avoid having his name removed from the project-based waiting list. The offer letter further stated: "[a]ccepting this offer requires that you contact the site manager within 5 working days to complete your eligibility process, failure to do so may result in your name being removed from the 2008 project based programs."

29. Petitioner accepted Respondent's offer to rent the Perrine Unit on December 15, 2009. He later visited Perrine Gardens and site manager Alix Cedras showed him the Unit.

30. The Unit was a three-bedroom single story home without an elevator.

31. The persuasive evidence establishes that in assigning the Unit to Petitioner, Respondent did not consider the RARQ form that Ms. Santiague filled in during Petitioner's initial eligibility interview. Specifically, Respondent assigned Petitioner to a single story, non-elevator unit, notwithstanding that Ms. Santiague circled and wrote the word "elevator" on the form. Moreover, Petitioner never completed and submitted the RARF and RARV forms, both of which would have been required for Petitioner to have been assigned a unit based on an accommodation request.

V. Refusal to Move Into the Perrine Unit

32. During the timeframe relevant to this proceeding, the racial composition of Perrine Gardens predominantly was African-American, with a smaller number of Caucasian Hispanic tenants also residing in the development.

33. After being shown the Unit, Petitioner walked around the neighborhood and became concerned that the Unit was not located in a desegregated area. At hearing, he testified that he was particularly concerned about the quality of schools and potential for crime in the area. He acknowledged that these concerns were based on his own assumptions rather than on any specific evidence.

34. On or about January 20, 2010, Mr. Cedras sent Petitioner a letter setting forth two rental payment options for the Unit, a flat rent option and an income-based option.

35. In a February 1, 2010, letter to Mr. Cedras, Petitioner disputed the rental options presented and asserted the he should have been presented a zero-income option, which he claimed was appropriate since at the time he accepted the offer for the Unit, he was unemployed and had no income. He was concerned that he could not afford the calculated rent because he was in the process of transitioning from one unemployment compensation tier to another and did not know the specific amount of unemployment he would receive.[16/]

36. By letter dated February 2, 2010, Mr. Cedras notified Petitioner that Respondent was not able to further delay his move into the Unit, and requested that Petitioner be present at the Perrine Gardens management office on February 11, 2010, to sign the lease and complete all other documents necessary to move into the Unit. The letter stated: "[f]ailure to respond and comply with this invitation will result in our returning your file to the Application and Leasing Office for further action."

37. Petitioner did not complete the leasing process as directed by Respondent and did not move into the Unit.

38. By letter dated March 24, 2012, Respondent notified Petitioner that his name had been removed from the 2008 project-based waiting list for failure to move into the Unit.[17/]

39. Petitioner requested and received informal review of the decision to remove his name from the project-based waiting list; the informal review affirmed the decision.

40. Respondent subsequently offered the Perrine Unit to a Caucasian Hispanic female, who accepted the offer and resides in the Unit.

41. Petitioner claims that Respondent unlawfully discriminated against him on the basis of race by steering him to a unit in a public housing project having a predominantly black resident population.[18/] In making this claim, Petitioner

asserts that by only offering him a unit in a project having a predominantly black resident population, Respondent effectively rejected him as a tenant, or refused to rent him a unit, in a predominantly non-black project.

CONCLUSIONS OF LAW

42. The Division of Administrative Hearings has jurisdiction over the parties to and subject matter of this proceeding pursuant to sections 120.569 and 120.57(1), Florida Statutes.

43. Florida's Fair Housing Act is codified at sections 760.20 through 760.37, Florida Statutes. Section 760.23 provides in pertinent part:

> 760.23 Discrimination in the sale or rental of housing and other prohibited practices.—
> (1) It is unlawful to refuse to sell or rent after the making of a bona fide offer, to refuse to negotiate for the sale or rental of, or otherwise to make unavailable or deny a dwelling to any person because of race, color, national origin, sex, handicap, familial status, or religion.
> (2) 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.

44. Florida's Fair Housing Act is modeled after the federal Fair Housing Act. Accordingly, federal case law involving housing discrimination is instructive and persuasive

in interpreting section 760.23. Loren v. Sasser, 309 F.3d 1296, 1300 n.9 (11th Cir. 2002); Dornbach v. Holley, 854 So. 2d 211, 213 (Fla. 2d DCA 2002).

45. In cases involving a claim of unlawful housing discrimination under section 760.23, the petitioner has the burden, by a preponderance of the evidence, to establish a prima facie case of discrimination. Sec'y, Housing and Urban Dev. ex rel. Herron v. Blackwell, 908 F.2d 864, 870 (11th Cir. 1990). The petitioner's failure to do so ends the inquiry. See Ratliffe v. State, 666 So. 2d 1008, 1012 n.6 (Fla. 1st DCA), aff'd 679 So. 1183 (Fla. 1996)(citing Arnold v. Burger Queen Systems, 509 So. 2d 958 (Fla. 2d DCA 1987)). However, if the petitioner establishes a prima facie case, then the burden shifts to the respondent to articulate some legitimate, non-discriminatory reason for its action. Texas Dep't of Cmy. Affairs v. Burdine, 450 U.S. 248, 254 (1981)(evidence of a nondiscriminatory reason need only be sufficient to raise a genuine issue of material fact regarding the alleged discrimination); Budnick v. Town of Carefree, 518 F.3d 1109, 1114 (9th Cir. 2008). If the respondent meets this burden, then the burden shifts back to the petitioner to establish, by a preponderance of the evidence, that the reason articulated by the respondent is merely a pretext to conceal unlawful discrimination. Massaro v. Mainlands Section 1 & 2 Civic Ass'n,

Inc., 3 F.3d 1472, 1476 n.6 (11th Cir. 1993), cert. denied, 513 U.S. 808 (1994); Soules v. U.S. Dep't of Housing and Urb. Dev., 967 F.2d 817 (2d Cir. 1992).

46. To establish a prima facie case of housing discrimination based on race, Petitioner must demonstrate each of the following elements: (1) he is a member of a protected class; (2) he applied for and was qualified to rent a public housing from Respondent; (3) Respondent rejected his application or refused to rent him a unit; and (4) the unit was rented to a member of a non-protected class. See Selden Apartments v. HUD, 785 F.2d 152, 159 (6th Cir. 1986); Nat'l Housing Alliance v. Town & Country-Sterling Heights, 2009 U.S. Dist. LEXIS 5142 (E.D. Mich. 2009).

47. Petitioner is African-American and thus is a member of a class protected under the Fair Housing Act. Accordingly, the first element of Petitioner's housing discrimination claim is met.

48. Petitioner also satisfies the second element of his housing discrimination claim. He applied to rent, and, pursuant to Respondent's established application and qualification processes, was determined qualified to rent a public housing unit.

49. Petitioner has not shown that he meets the third element of his housing discrimination claim. Respondent offered

Petitioner a housing unit, and Petitioner accepted the offer. Petitioner subsequently decided, on his own volition, not to move into the unit, and as a result, was removed from the project-based waiting list. Further, the evidence does not establish that Petitioner was steered into a predominantly black housing project by being rejected or refused a unit in a predominantly non-black housing project. To the contrary, the persuasive evidence establishes that at the time Petitioner was extended an offer, the Perrine Unit was the only available unit that fit his need for a three-bedroom unit[19/] and had other three-bedroom units been available, Petitioner would have been offered a choice of these units. The evidence also does not support Petitioner's contention that the RARQ was used to steer him into a unit that he did not request. As discussed above, for Respondent to assign a unit based on a reasonable accommodation request, not only must the RARQ be completed, but the RARF and RARV forms also must be completed and submitted; it is undisputed that Petitioner did not complete or submit these forms. Moreover, the Perrine Unit was a single-story house without an elevator; thus, it is apparent that Respondent did not consider Petitioner's RARQ in assigning him the Unit. In sum, the evidence does not establish that Petitioner was rejected from, or refused offers for, units in predominantly non-black housing projects, and that he was instead steered to

Perrine Gardens based on his race. See Gladstone Realtors v. Bellwood, 441 U.S. 91, 94 (1979)(racial steering entails directing prospective purchasers or renters to different areas according to their race).

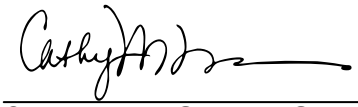
50. Petitioner also has not satisfied the fourth element of his housing discrimination claim. Only after Petitioner accepted the Perrine Unit and subsequently chose not to move in was it offered to a white person. Further, Petitioner did not present evidence showing that three-bedroom units were available in predominantly non-black housing projects and that these units were offered to whites rather than to him.

51. For these reasons, Petitioner did not establish the elements of his housing discrimination claim by a preponderance of the evidence. Accordingly, he failed to prove that Respondent unlawfully discriminated against him in violation of the Florida Fair Housing Act.

RECOMMENDATION

Based upon the foregoing Findings of Fact and Conclusions of Law, it is hereby RECOMMENDED that the Florida Commission on Human Relations enter a Final Order finding that Respondent Miami-Dade County did not unlawfully discriminate against Petitioner Ricardo Lockett in violation of the Florida Fair Housing Act, sections 760.20 through 760.37, Florida Statutes.

DONE AND ENTERED this 31st day of October, 2012, in Tallahassee, Leon County, Florida.



CATHY M. SELLERS
Administrative Law Judge
Division of Administrative Hearings
The DeSoto Building
1230 Apalachee Parkway
Tallahassee, Florida 32399-3060
(850) 488-9675
Fax Filing (850) 921-6847
www.doah.state.fl.us

Filed with the Clerk of the
Division of Administrative Hearings
this 31st day of October, 2012.

ENDNOTES

[1/] The Miami-Dade Public Housing and Community Development Department is now responsible for administering the housing programs that formerly were the responsibility of the Miami-Dade Public Housing Agency.

[2/] Petitioner was to receive housing assistance through the Veterans Affairs Supportive Housing (VASH) program. He currently resides in a one-bedroom unit subsidized by the Miami Beach Housing Authority Section 8 rental assistance program.

[3/] Respondent and HUD annually execute an Annual Contribution Contract, which authorizes Respondent to administer the Section 8 and non-Section 8 housing programs.

[4/] The 2008 Revision to the ACOP was in effect when the events giving rise to this proceeding occurred. The ACOP was revised in 2010 and 2012.

[5/] While the Adker Consent Decree was in effect, Respondent was required to consider an applicant's race in making offers for housing assistance for both the tenant-based and project-based waiting lists. The Consent Decree required public housing offers to be desegregative, and established percentages of

tenant-based and project-based vacancies required to be offered to black applicants who met the qualifying criteria to be members of the mobility pool. For project-based vacancies, desegregative offers were defined as offers in a development in which the household's race does not predominate, i.e., does not exceed 65 percent. For tenant-based vacancies, desegregative offers were defined as offers in a neighborhood in which the race of the household receiving the offer does not predominate, i.e., in which no more than 65 of the population is the same race as the household receiving the offer.

[6/] "Tenant-based" assistance means rental assistance through the Section 8 voucher program that is not project-based and that allows for an eligible family to select suitable housing and to move to other suitable housing. See 42 U.S.C. § 1437f. Under Respondent's 2008 ACOP, the tenant-based waiting list included the Housing Choice Voucher Program, the voucher program for the disabled, and the Project-Based Voucher Program.

[7/] The term "project-based" assistance means rental assistance under which a housing project owner reserves units for rental by eligible persons and the federal government pays the difference between the tenant's contribution and the rent established by contract between the owner and the federal government. See id. Under the 2008 ACOP, the project-based waiting list included conventional public housing, Section 8 Moderate Rehabilitation, and Respondent-owned Section 8 New Construction.

[8/] Persons must qualify as a family, as an elderly person, or as a person with a disability.

[9/] Other factors specified in the ACOP for which documentation must be provided include social security status information and legal capacity.

[10/] Respondent executed a Voluntary Compliance Agreement ("VCA") with HUD to address deficiencies in its housing, non-housing facilities, and administrative offices for purposes of complying with the Americans With Disabilities Act, the Fair Housing Act, the Architecture Barriers Act, and the Uniform Federal Accessibility Standards. Respondent included the RARQ in its application review process to help ensure compliance with the VCA.

[11/] Applicants who do not accept offers must show "good cause" to remain on Respondent's waiting lists. The ACOP defines "good

cause" as an undue hardship not related to consideration of race, color, sex, religion, national ancestry, marital or familial status, or sexual orientation, specifically: the unit is not ready for move-in; inaccessibility to source of employment, education, job training, day care, or educational program for disabled children such that the applicant would be forced to quit a job, drop out of an educational institution or job training program, or take a child out of day care or disabled children's educational program; placement of the applicant's or a family member's life, health, or safety in jeopardy, as established by specific and compelling documentation such as restraining orders or other court orders or risk assessments from a law enforcement agency; health-related circumstances verified by a health professional; inappropriateness of the unit for the applicant's disability; or decision by an elderly or disabled person not to accept the unit. The ACOP states that refusal to accept a unit based on location alone does not constitute good cause for an applicant to remain on the waiting list after refusing an offer.

[12/] The informal review is conducted by a staff member of Respondent's Public Housing and Community Development Department who was not involved in making the decision under review.

[13/] According to Respondent's Acting Director of the Public Housing and Community Development Department, this is because the unit availability information constantly changes.

[14/] At the time, Petitioner was in process of getting a divorce and residential arrangements for his children had not been finalized. His children did not reside with him at the time, and they currently do not reside with him.

[15/] Petitioner testified that the signature on the completed RARQ was his but that he did not sign the form. Petitioner posited that the form may have been mechanically signed using an image of his signature.

[16/] At hearing, Mr. Cedras explained that Respondent does not have a "zero-income" rent option because all public housing residents must have some means of paying their utility and water bills, whether through an income source such as a job or unemployment compensation, or through a utility subsidy. Mr. Cedras further explained that if a tenant's income were to change such that he or she was unable to pay the rent, the site manager's office would accordingly adjust the rent.

[17/] Here, Petitioner accepted the offer and subsequently decided not to move into the Unit. Even if his not moving into the Unit amounted to refusing Respondent's offer, the reasons Petitioner cited for not moving into the unit——personal assumptions about the character of the neighborhood and a dispute over the rent——do not constitute "good cause," as defined in the ACOP, that would allow him to remain on the project-based waiting list.

[18/] Petitioner further asserts that pursuant to Resolution No. R-1044-09, adopted by the Miami-Dade County Commission on September 1, 2009 ("Resolution"), he was entitled to a desegregative offer. The Resolution directed the Mayor or his designee to, among other things, ensure that the Adker Consent Decree's desegregative offers requirement continued to apply to Respondent's housing offers after the Consent Decree expired. Respondent formally amended the ACOP in early 2010 to incorporate this requirement. Petitioner contends that the Resolution required Respondent to make desegregative offers during the period in which Petitioner received his offer. Petitioner's assertions may give rise to a claim that Respondent's offer to Petitioner violated its own desegregative offers housing policy in effect at that time. Alleged violations of local housing policies are not cognizable in a housing discrimination claim brought under section 760.23, Florida Statutes, and the Division of Administrative Hearings lacks jurisdiction to adjudicate such claims; jurisdiction over such claims may instead properly lie in the state circuit court or federal court.

[19/] Respondent's "convenient" practice of not keeping historic records of units that are available on a particular date makes it virtually impossible for challengers like Petitioner to independently verify Respondent's representations regarding unit availability when an offer is extended.

COPIES FURNISHED:

Denise Crawford, Agency Clerk
Florida Commission on Human Relations
Suite 100
2009 Apalachee Parkway
Tallahassee, Florida 32301

Ricardo Lockett
Post Office Box 430612
Miami, Florida 33243

Terrence A. Smith, Esquire
Miami-Dade County Attorney's Office
Suite 2810
111 Northwest 1st Street
Miami, Florida 33128

Lawrence F. Kranert, Jr., General Counsel
Florida Commission on Human Relations
Suite 100
2009 Apalachee Parkway
Tallahassee, Florida 32301

NOTICE OF RIGHT TO SUBMIT EXCEPTIONS

All parties have the right to submit written exceptions within 15 days from the date of this Recommended Order. Any exceptions to this Recommended Order should be filed with the agency that will issue the Final Order in this case.