

STATE OF FLORIDA
COMMISSION ON HUMAN RELATIONS

TRACIE INMAN,

Petitioner,

FCHR Case No. 2011-01219

v.

DOAH Case Nos. 12-1796F
11-5602

JIAN DENG BAO, d/b/a CHINA
GARDENS RESTAURANT,

FCHR Order No. 13-004

Respondent.

**FINAL ORDER AWARDING AFFIRMATIVE
RELIEF FROM AN UNLAWFUL PUBLIC ACCOMMODATIONS PRACTICE**

Preliminary Matters

Petitioner Tracie Inman filed a complaint of discrimination pursuant to the Florida Civil Rights Act of 1992, Sections 509.092 and 760.01 - 760.11, Florida Statutes (2010), alleging that Respondent Jian Deng Bao, d/b/a China Gardens Restaurant, committed an unlawful public accommodations practice on the basis of Petitioner's handicap by refusing Petitioner access to the restaurant for dine-in service because Petitioner was accompanied by her service animal.

The allegations set forth in the complaint were investigated, and, on October 6, 2011, the Executive Director issued a determination finding that there was reasonable cause to believe that an unlawful public accommodations practice had occurred.

Petitioner filed a Petition for Relief and the case was transmitted to the Division of Administrative Hearings for the conduct of a formal proceeding.

An evidentiary hearing was held in Jacksonville, Florida, on January 10, 2012, before Administrative Law Judge Lawrence P. Stevenson.

Judge Stevenson issued a Recommended Order, dated February 16, 2012, recommending that the Commission find that an unlawful public accommodations practice occurred and recommending affirmative relief.

The Commission issued an "Interlocutory Order Awarding Affirmative Relief from an Unlawful Public Accommodations Practice and Remanding Case to Administrative Law Judge for Issuance of Recommended Order Regarding Amounts of Attorney's Fees and Costs Owed Petitioner," FCHR Order No. 12-019, dated April 23, 2012.

Following an evidentiary hearing conducted by video teleconference at sites in Jacksonville and Tallahassee, Florida, on September 26, 2012, Judge Stevenson issued a Recommended Order, dated October 26, 2012, recommending the Commission issue a final order awarding Petitioner attorney's fees in the amount of \$12,754.50 and costs in the amount of \$212.21.

The Commission panel designated below considered the record of this matter and determined the action to be taken on the Recommended Order, dated October 26, 2012.

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, Gantz, et al. v. Zion's Hope, Inc., d/b/a Holy Land Experience, FCHR Order No. 11-048 (June 6, 2011), 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.

Affirmative Relief / Attorney's Fees and Costs

Through our adoption of the Administrative Law Judge's findings of fact and conclusions of law, as set out above, we have adopted the Administrative Law Judge's recommendation for the amount of attorney's fees and costs owed Petitioner.

Noting that Respondent has already been ordered by FCHR Order No. 12-019 to cease and desist from discriminating further in the manner it has been found to have unlawfully discriminated against Petitioner, Respondent, Jian Deng Bao, d/b/a China Gardens Restaurant, is hereby ORDERED to pay Petitioner attorney's fees in the amount of \$12,754.50 and costs in the amount of \$212.21, as recommended by the Administrative Law Judge.

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 10th day of January, 2013.
FOR THE FLORIDA COMMISSION ON HUMAN RELATIONS:

Commissioner Gilbert M. Singer, Panel Chairperson;
Commissioner Michael Keller; and
Commissioner Michell Long

Filed this 10th day of January, 2013,
in Tallahassee, Florida.

_____/s/_____
Violet Crawford, Clerk
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Copies furnished to:

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Lawrence P. Stevenson, 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 10th day of January, 2013.

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