

STATE OF FLORIDA
COMMISSION ON HUMAN RELATIONS

ERIC AND NORA GROSS,

HUD Case No. 04-14-0751-8

Petitioners,

FCHR Case No. 2014H0228

v.

DOAH Case No. 14-4997

ROYAL ARMS VILLAS CONDOMINIUM,
INC.,

FCHR Order No. 15-030

Respondent.

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

Preliminary Matters

Petitioners Eric and Nora Gross filed a housing discrimination complaint pursuant to the Fair Housing Act, Sections 760.20 - 760.37, Florida Statutes (2013), alleging that Respondent Royal Arms Villas Condominium, Inc., committed a discriminatory housing practice on the basis of Petitioner Erich Gross' disability / handicap and on the basis of retaliation for filing an earlier housing discrimination complaint, by taking action to achieve the nonrenewal of Petitioners' lease of a unit from a unit owner.

The allegations set forth in the complaint were investigated, and, on September 24, 2014, 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 Ft. Myers, Florida, on January 27, 2015, before Administrative Law Judge Lynne A. Quimby-Pennock.

Judge Quimby-Pennock issued a Recommended Order of dismissal, dated March 17, 2015.

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

We find the Administrative Law Judge's findings of fact to be supported by competent substantial evidence.

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

Respondent filed exceptions to the Administrative Law Judge's Recommended Order, in a document received by the Commission on or about March 31, 2015.

Respondent's exceptions document contains two exceptions, which take exception to the Recommended Order failing to state that, "...the facts are such that Respondent has a right to recover its reasonable attorney's fees and costs on two separate bases if it is the prevailing party, under the Conciliation Agreement as the prevailing party in an action involving the interpreting of the Agreement, and under the Association's Declaration of Condominium as the prevailing party against the non-prevailing party in an action."

The Commission does not have the authority to award attorney's fees and costs to a prevailing Respondent in a case brought pursuant to the Fair Housing Act. Wergeles v. Tregate East Condo Association, Inc., FCHR Order No. 10-053 (June 24, 2010).

Enforcement of a settlement agreement is not within the jurisdiction conferred upon the Commission by the Florida Statutes. See, generally, Wunderlich v. WCI Communities, Inc., FCHR Order No. 08-040 (July 1, 2008).

Whether Respondent has the right to an award of attorney's fees and costs under the referenced Conciliation Agreement or the referenced Declaration of Condominium is not an issue appropriate for this forum to decide.

Respondent's exceptions are rejected.

Dismissal

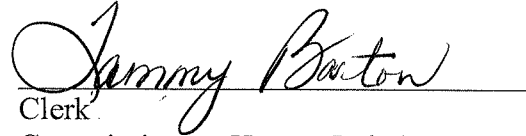
The Petition for Relief and Housing Discrimination Complaint are DISMISSED with prejudice.

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 21 day of May, 2015.
FOR THE FLORIDA COMMISSION ON HUMAN RELATIONS:

Commissioner Michael Keller, Panel Chairperson;
Commissioner Onelia Fajardo-Garcia; and
Commissioner J. Jeff Graber

Filed this 21 day of May, 2015,
in Tallahassee, Florida.


Clerk
Commission on Human Relations
4075 Esplanade Way, Room 110
Tallahassee, FL 32399
(850) 488-7082

Copies furnished to:

Erich Gross
Nora Gross
209 Yorkshire Court
Naples, FL 34112

Royal Arms Villas Condominium, Inc.
c/o Peter M. Starling, Esq.
c/o Meredith A. Peck, Esq.
Peck and Peck, P.A.
5200 Tamiami Trail North, Ste. 101
Naples, FL 34103

Lynne A. Quimby-Pennock, 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 26 day of May, 2015.

By: 
Clerk of the Commission
Florida Commission on Human Relations