

STATE OF FLORIDA
COMMISSION ON HUMAN RELATIONS

KEVIN AND CATHERINE HANNON,

HUD Case No. 04-14-1083-8

Petitioners,

FCHR Case No. 2015H0063

v.

DOAH Case No. 15-0223

HORSE CREEK ESTATES HOMEOWNERS
ASSOCIATION, INC.; THE COMPASS
MANAGEMENT GROUP, LLC; AND DALE
MULLIN,

FCHR Order No. 15-047

Respondents.

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

Preliminary Matters

Petitioners Kevin and Catherine Hannon filed a housing discrimination complaint pursuant to the Fair Housing Act, Sections 760.20 - 760.37, Florida Statutes (2014), alleging that Respondents Horse Creek Estates Homeowners Association, Inc., the Compass Management Group, LLC, and Dale Mullin committed discriminatory housing practices by originally denying and subsequently delaying Petitioners' tenants' approval to rent Petitioners' house on the basis of the tenants' race (Asian) and familial status.

The allegations set forth in the complaint were investigated, and, on December 5, 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 Naples, Florida, on March 11, 2015, before Administrative Law Judge Lynne A. Quimby-Pennock.

Judge Quimby-Pennock issued a Recommended Order of dismissal, dated May 8, 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

Petitioners filed exceptions to the Administrative Law Judge's Recommended Order in a document entitled, "Petitioners' Exceptions to Recommended Order."

The exceptions document contains four numbered exceptions.

The first exception takes exception to the conclusion set out in Recommended Order, ¶ 25, that Petitioners are not within a protected class. The Administrative Law Judge clearly explains the meaning of this in Recommended Order, ¶ 26, indicating that the action is based on the protected classes of Petitioners' tenants, as opposed to any protected class of the Petitioners.

The second exception argues that the case should not be dismissed on the basis that the Petition for Relief was not timely filed. The Recommended Order contains no findings or conclusions that the Petition for Relief was untimely, nor does it recommend that the Commission dismiss the matter on that basis.

The third exception indicates that Petitioners had newly discovered evidence depicting a pattern of housing discrimination that was not investigated by the Commission. Allegations not contained in the initial complaint may not subsequently be raised in the case. See, e.g., Olascoaga v. Crowley Marine Services, Inc., FCHR Order No. 14-020 (June 11, 2014).

The fourth exception argues that Respondents should not receive an award of attorney's fees. In the Recommended Order, the Administrative Law Judge specifically denied Respondents' request for attorney's fees.

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 31 day of July, 2015.
FOR THE FLORIDA COMMISSION ON HUMAN RELATIONS:

Commissioner Michael Keller, Panel Chairperson;
Commissioner Derick Daniel; and
Commissioner Sandra Turner

Filed this 31 day of July, 2015,
in Tallahassee, Florida.


Clerk
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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 31 day of July, 2015.

By: Jimmy Barton
Clerk of the Commission
Florida Commission on Human Relations