

STATE OF FLORIDA  
DIVISION OF ADMINISTRATIVE HEARINGS

RENTAL ASSET MGMT OF FLORIDA,  
LLC, C/O RONNIE PORTEE,

Petitioner,

vs.

Case No. 18-2381

MHC WINDMILL MANOR, LLC,

Respondent.

\_\_\_\_\_ /

RECOMMENDED ORDER

Administrative Law Judge John D. C. Newton, II, of the  
Division of Administrative Hearings, conducted the final hearing  
in this case on June 1, 2018, in Tallahassee, Florida.

APPEARANCES

For Petitioner: Ronnie Portee  
Rental Asset Management of Florida, LLC  
Post Office Box 21043  
Brandenton, Florida 34204

For Respondent: J. Allen Bobo, Esquire  
Jody Gabel, Esquire  
Lutz, Bobo & Telfair, P.A.  
2 North Tamiami Trail  
Sarasota, Florida 34236

STATEMENT OF THE ISSUE

Did Respondent, MHC Windmill Manor, LLC (Windmill Manor),  
discriminate against Petitioner, Rental Asset Management of  
Florida, LLC (Rental Asset), in violation of section 760.23(1),  
Florida Statutes (2017?)<sup>1/</sup>

PRELIMINARY STATEMENT

On August 16, 2017, Ronnie Portee filed a complaint of discrimination in housing on behalf of his Limited Liability Company (LLC), Rental Asset, with the Florida Commission on Human Relations (Commission). The complaint alleged that Windmill Manor discriminated against Rental Asset, by refusing to rent it a mobile home lot on account of the race of Ronnie Portee and prospective resident William Portee, and on account of William Portee's disability. The Commission issued its Notice of Determination of No Cause. Ronnie Portee filed a Petition for Relief with the Commission on behalf of Rental Asset. On May 10, 2018, the Commission referred the Petition to the Division of Administrative Hearings. The undersigned conducted the final hearing on June 1, 2018.

Ronnie Portee testified on behalf of Rental Asset. Rental Asset's Exhibits 1, 2, 4C, 4D, and 5 through 9 were admitted into evidence. Windmill Manor presented the testimony of Stanley Martin and Aaron Schattler. Windmill Manor's Exhibits 1 through 4, 6 through 9, 11, 12, and 16 were admitted into evidence.

A transcript of the hearing was filed. The parties filed proposed recommended orders. They have been considered in preparation of this Recommended Order.

## FINDINGS OF FACT

1. Ronnie Portee is a member of a racial minority who wished to rent a mobile home lot in Windmill Manor to provide housing for his disabled brother, William Portee. William Portee is also a member of a racial minority. Ronnie Portee planned to rent the lot using his LLC, Rental Asset, to lease a lot at Windmill Manor for a mobile home that he purchased. He intended for William Portee to occupy the mobile home.

2. Windmill Manor is a community association that manages a mobile home park also known as Windmill Manor. Equity Lifestyle Properties, Inc. (ELS), owns Windmill Manor and the lots in Windmill Manor.

3. Rental Asset purchased a mobile home from All Aces Realty, Inc. The mobile home was already on a lot in Windmill Manor. Ronnie Portee intended for William Portee to live in the mobile home once Rental Asset leased the lot. All Aces Realty, Inc., did not lease the mobile home's lot from Windmill Manor.

4. Windmill Manor only leases to natural persons. Windmill Manor does not lease to business entities. Windmill Manor maintains this policy because the limited liability of business entities, such as an LLC, would limit Windmill Manor's ability to obtain payment from tenants in default.

5. Windmill Manor requires lease applicants to provide a driver's license to verify their identity and to ensure that

Windmill Manor meets its obligations under the "55-plus exemption" to the Florida Fair Housing Act. Windmill Manor also requires applicants to submit a residency form used to conduct a criminal background and a credit history check. For the criminal background check and the credit history check to be processed, an applicant must submit his or her date of birth and social security number. Windmill Manor's computer system generates leases from the approved residency application. Occupants who will live on the property but do not sign the lease are only screened through a criminal background check.

6. Ronnie Portee attempted to submit a Windmill Manor residency application for Rental Asset. Windmill Manor was unable to process the application because Windmill Manor's system requires an applicant's date of birth and social security number to conduct its background check. So, Ronnie Portee completed the residency application using his name and personal information.

7. Ronnie Portee passed the criminal background and credit history check.

8. Ronnie Portee submitted an application for William Portee only as an occupant on the leased property. William Portee passed the criminal background check required for occupants.

9. Ronnie Portee wanted Rental Asset to lease the lot from Windmill Manor because he did not want to be personally obligated under the lease.

10. Windmill Manor's system could not generate the lease under the name of Rental Asset because the system generates leases from processed residency applications.

11. Windmill Manor informed Ronnie Portee of its policy against leasing to business entities. Windmill Manor offered to make an exception to the policy and allow Rental Asset to lease a lot if Ronnie Portee signed a guarantee for the lease. Ronnie Portee rejected the offer. Windmill Manor also offered to lease the lot to Ronnie Portee instead of Rental Asset. Ronnie Portee refused this offer too.

12. Ronnie Portee tried to put the lease under his brother's name. However, William Portee had not completed a residency application. Consequently, he had not been screened through the prerequisite credit history check. Therefore, he could not lease the lot.

13. Windmill Manor did not lease the property to Ronnie Portee. It also did not provide him with the lease agreement and other documents when he requested them.

14. In spite of not having a lease, Ronnie Portee moved his brother into the mobile home. Ronnie Portee submitted a rent payment from Rental Asset to Windmill Manor on July 1, 2017.

Windmill Manor returned the money. Not long afterwards, Windmill Manor began an eviction proceeding against Rental Asset.

15. Windmill Manor leases lots to members of racial minorities. Windmill Manor, in accordance with its policy, does not lease to business entities, although ELS owns some mobile homes in Windmill Manor.

16. Ronnie Portee asserts that Windmill Manor discriminated against him and William Portee because of their race and discriminated against William Portee because of his disability by refusing to rent to Rental Asset.

17. Ronnie Portee believes that Windmill Manor treated him differently during the application process once he provided his and his brother's driver's licenses, which identified them as members of a racial minority. Ronnie Portee also believes that Windmill Manor rents property to other business entities and that Windmill Manor discriminated against Rental Asset because the owner was a racial minority. The evidence does not support these beliefs. Among other things, there is no evidence of the race of the principals for the business entities Ronnie Portee claims rented lots at Windmill Manor.

#### CONCLUSIONS OF LAW

18. Rental Asset brings its complaint under Florida's Fair Housing Act (Fair Housing Act), sections 760.20 through 760.37, Florida Statutes. Rental Asset alleges that Windmill Manor

engaged in a discriminatory housing practice by refusing to lease it property because Rental Asset was a minority owned business and because of the race and disability of William Portee. Rental Asset bears the burden of proving by a preponderance of the evidence that Windmill Manor violated the Fair Housing Act. See §§ 760.34(5) and 120.57(1)(j), Fla. Stat.

19. Section 760.23(2), makes it unlawful to discriminate against anyone in the sale or rental of housing because of, among other things, race or disability.

20. The Florida Legislature modeled the Fair Housing Act after the United States Fair Housing Amendments Act of 1988. Therefore, interpretation of the federal law, by federal courts, is instructive and persuasive in applying Florida's Fair Housing Act. Dornbach v. Holley, 854 So. 2d 211, 213 (Fla. 2d DCA 2002).

21. The three-part burden of proof analysis developed in McDonnell Douglas Corporation v. Green, 411 U.S. 792, 93 S. Ct. 1817, 36 L. Ed. 2d 668 (1973), as applied in Secretary, United States Department of Housing and Urban Development ex rel. Herron v. Blackwell, 908 F.2d 864 (11th Cir. 1990), is useful in this case.

22. First, the petitioner must prove a prima facie case of discrimination by a preponderance of the evidence. Second, if the petitioner establishes a prima facie case, the burden shifts to the defendant to articulate some legitimate, nondiscriminatory

reason for its action. Third, if the defendant satisfies the burden, the petitioner can prove by a preponderance of the evidence that the legitimate reasons asserted by the defendant are pretextual. Id.

23. Rental Asset did not establish a prima facie case. It established that Rental Asset is a minority-owned business. However, Rental Asset did not prove that it was qualified to rent a lot in Windmill Manor.

24. Rental Asset advanced a circumstantial evidence theory based upon Ronnie Portee's belief that Windmill Manor leased lots to business entities owned by white persons. The evidence does not prove this.

25. In addition, Windmill Manor tried to accommodate Ronnie Portee and would have rented the lot to Rental Asset if he had personally guaranteed the lease.

26. The facts do not support Rental Asset's claim of discrimination.

#### RECOMMENDATION

Based on the foregoing Findings of Fact and Conclusions of Law, it is RECOMMENDED that the Florida Commission on Human



Relations issue a final order denying the Petition for Relief of Rental Asset Management, LLC, of Florida.

DONE AND ENTERED this 13th day of July, 2018, in Tallahassee, Leon County, Florida.



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JOHN D. C. NEWTON, II  
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 13th day of July, 2018.

ENDNOTE

<sup>1/</sup> All citations to the Florida Statutes are to the 2017 codification unless otherwise noted.

COPIES FURNISHED:

Tammy S. Barton, Agency Clerk  
Florida Commission on Human Relations  
Room 110  
4075 Esplanade Way  
Tallahassee, Florida 32399-7020  
(eServed)

Ronnie Portee  
Rental Asset Management of Florida, LLC  
Post Office Box 21043  
Bradenton, Florida 34204  
(eServed)

J. Allen Bobo, Esquire  
Lutz, Bobo & Telfair, P.A.  
2 North Tamiami Trail  
Sarasota, Florida 34236  
(eServed)

Jody B. Gabel, Esquire  
Lutz, Bobo & Telfair, P.A.  
2 North Tamiami Trail  
Sarasota, Florida 34236  
(eServed)

Stanley L. Martin, Esquire  
Equity LifeStyle Properties, Inc.  
5100 West Lemon Street  
Tampa, Florida 33609  
(eServed)

Cheyenne Costilla, General Counsel  
Florida Commission on Human Relations  
Room 110  
4075 Esplanade Way  
Tallahassee, Florida 32399-7020  
(eServed)

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.