

STATE OF FLORIDA  
DIVISION OF ADMINISTRATIVE HEARINGS

FRANCIS DANDREA,

Petitioner,

vs.

Case No. 19-6072

LAKEVIEW OF LARGO CONDOMINIUM  
ASSOCIATION, INC., ET AL,

Respondent.

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FINAL ORDER

Pursuant to notice, the final hearing was held in this case on February 17, 2020, in Largo, Florida, before Administrative Law Judge Lynne A. Quimby-Pennock of the Division of Administrative Hearings (DOAH).

APPEARANCES

For Petitioner: Sarah Nelson, Esquire  
Gulf Coast Legal Services, Inc.  
Suite 420  
501 1st Avenue North  
St. Petersburg, Florida 33701

For Respondent: Scott H. Jackman, Esquire  
Cole, Scott, and Kissane, P.A.  
Suite 400  
4301 West Boy Scout Boulevard  
Tampa, Florida 33607

STATEMENT OF THE ISSUES

The issues in this case are whether Respondent, Lakeview of Largo Condominium Association, Inc., et al. (Lakeview or Respondent), violated chapter 70, Pinellas County Code of Ordinances, as alleged in the

discrimination complaint (Complaint) filed by Francis Dandrea (Mr. Dandrea or Petitioner); and, if so, what relief should be granted.

PRELIMINARY STATEMENT

On May 13, 2019, Mr. Dandrea filed a Complaint with the Pinellas County Office of Human Rights (PCOHR). Mr. Dandrea alleged that Respondent discriminated against him on the basis of his disability when it failed to provide a reasonable accommodation for him.

Pursuant to the procedures set forth in chapter 70, Pinellas County Code of Ordinances, the PCOHR conducted an investigation and found that there was reasonable cause to believe that unlawful housing discrimination (the denial of a reasonable accommodation) had occurred as charged. On November 14, 2019, following a failed attempt at conciliation between the parties, the case was forwarded to DOAH for the assignment of an Administrative Law Judge to conduct a hearing pursuant to section 70-147, Pin. Cnty Code of Ord., which conforms to the provisions of the Florida Administrative Procedure Act. *See* § 70-147(b) Pin. Cnty Code of Ord.

The parties timely responded to the Amended Initial Order. The hearing was scheduled for February 17, 2020, and completed on that day.

A Joint Pre-Hearing stipulation was filed in advance of the hearing, in which the parties stipulated to certain exhibits, findings of fact, and conclusions of law. Where relevant, the stipulated facts have been incorporated into this Final Order, and are designated with an (\*).

At the final hearing, Petitioner testified on his own behalf and also presented the testimony of Mary Eldridge and Joseph Glorioso.

Respondent presented the testimony of Frank Fundora, Fred Harrington, and Kathy Ross. Joint Exhibits A through Q<sup>1</sup> were received into evidence.

A court reporter was present to preserve the testimony at the final hearing, but no transcript was ordered. The parties initially agreed to file their post-hearing submittals by February 27, 2020. On February 25, 2020, a “JOINT STIPULATION TO EXTEND DEADLINE FOR PARTIES TO SUBMIT THEIR RESPECTIVE RECOMMENDED ORDERS” was filed, and the extension to March 9, 2020, was granted. Both parties timely filed post-hearing submittals within the extended time and their submittals have been considered in the preparation of this Final Order.

#### FINDINGS OF FACT

The following Findings of Fact are based on the relevant stipulated facts and the oral and documentary evidence adduced at the final hearing.

1. The parties agree that the Federal Act (42 U.S.C. 3601 et seq.), the Florida Fair Housing Act (sections 760.20 through 760.37, Florida Statutes, (2019)),<sup>2</sup> and “the Pinellas County Code mirror one another, so the same legal arguments apply to all counts of the Complaint.”(\*)

2. The Lakeview campus consists of 12 to 14 acres of land and six residential buildings with approximately 60 condominiums in each building, for a total of 312 units. There are laundry facilities (a washer/dryer unit) on each floor for residents to use. Residents are not allowed to use laundry facilities found on the different floors of each building, but must use the facilities on their floor. If the laundry facilities on their floor are in use,

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<sup>1</sup> At the hearing, the parties jointly offered an additional exhibit, Exhibit Q, which was admitted into evidence.

<sup>2</sup> Unless stated otherwise, all Florida statutory citations will be to the 2019 version of the Florida Statutes. No legislative changes have been made to sections 760.20 through 760.37 since 2013.

residents must wait until the laundry facilities are available.

3. In 2004, Petitioner was 71 years old, and his wife, Dolores Dandrea, was 70 years old when they purchased Lakeview Condominium No. 6113. On April 13, 2004, Petitioner and Mrs. Dandrea executed the following statement: I have read the frequently asked questions and answer sheet and understand my responsibilities as an owner.<sup>3</sup>

4. Lakeview's Rules and Regulations (the "Rules"), Section VIII, paragraph three provides: "No new washer or dryer installations will be permitted within the units as of January 1, 1994. ... Upon the sale of the unit, washers and/or dryers within the unit must be removed."(\*)

5. The Rules do not provide who (buyer or seller) is to remove the washer and dryer upon sale of a condominium unit. (\*)

6. Petitioner and Mrs. Dandrea resided in Condominium No. 6113 for nine years. In those nine years, Petitioner testified he had never thought about the Rules, specifically about the washer/dryer unit, as they were "very close" or "right next door" to the first floor laundry facility.

7. In 2013, Condominium No. 6110 was listed for sale. Petitioner either knew or became aware that there was a washer/dryer unit in that condominium, a main purchasing point for Petitioner.

8. On March 29, 2013, Petitioner executed an "AS IS" residential contract for the sale and purchase of Condominium No. 6110. The contract clearly listed additional personal property included in the sale: refrigerator(s); microwave oven; washer; dryer; and blinds. It is undisputed that the washer/dryer unit was installed prior to the Dandrea's purchase of Condominium No. 6110. (\*)

9. An "Estoppel Letter"<sup>4</sup> requested by the title company provided there were no violations against Condominium No. 6110 at the time of the sale.

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<sup>3</sup> As part of Lakeview's screening process, all new residents have to acknowledge a "55+ Community Frequently Asked Questions and Answer Sheet DBR Form 33-032."

<sup>4</sup> The "Estoppel Letter" provides that the buyers are "Francis and Dolores D'Andrea".

10. Petitioner and Mrs. Dandrea moved from Condominium No. 6113 into Condominium No. 6110 in late April or early May 2013. A washer/dryer unit was in Condominium No. 6110, as specified in the purchase agreement.

11. Petitioner's current unit (Condominium No. 6110) is a dwelling within the meaning of the Act, 42 U.S.C. § 3602(b), because it is within a multi-unit building occupied as a residence by several families. (\*)

12. On October 24, 2018, Lakeview's community association manager, Frank Fundora, notified Petitioner and Mrs. Dandrea of their non-compliance with the Rules regarding the presence of the washer/dryer unit in Condominium No. 6110. (\*)

13. On January 22, 2019, Mr. Fundora, on behalf of Lakeview, sent the Dandreas a letter that "required" them to attend a Lakeview Compliance Committee hearing to explain their position as it related to the washer/dryer unit in their condominium. The hearing was held on February 6, 2019.<sup>5</sup>

14. On February 21, 2019, Mr. Fundora, on behalf of Lakeview, advised the Dandreas that they were found in non-compliance of the Rules by the Compliance Committee. (\*) That violation was reported to the Lakeview Board of Directors (Board), who requested the washer/dryer unit be removed from Condominium No. 6110 within 14 days of the letter. Additionally, the Dandreas were notified that the non-compliance (the failure to remove the washer/dryer unit) would lead to a monetary fine of up to \$100 per day to a maximum of \$1,000. (\*)

15. The Dandreas did not remove the washer/dryer unit from Condominium No. 6110.

16. On March 14, 2019, Mr. Fundora, on behalf of Lakeview, notified the Dandreas of the fine assessment of \$100 per day for the violation of the

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<sup>5</sup> The January 22, 2019, letter provided the hearing would be on February 5, 2019, however the February 21, 2019, Lakeview letter to the Dandreas provided the hearing took place on February 6, 2019.

Rules, up to a maximum of \$1,000 fine, consistent with chapter 718, Florida Statutes.

17. The fine was placed on Petitioner's account in an amount of \$1,000 on March 22, 2019. (\*)

18. Petitioner, via letter to the Board dated April 19, 2019,<sup>6</sup> requested a reasonable accommodation from the Rules pursuant to the Act. (\*) The letter provides<sup>7</sup>:

Dear Sirs,  
I respectfully request a conversation with you asap [sic] about reasonable accommodations at our condo complex...[sic] I am enclosing letters from our doctors stating that we should not get rid [of] our washer/dryer due to our medical complications and conditions.  
Respectfully,  
Francis Dandrea

19. Along with the April 19, 2019, reasonable accommodation request, Petitioner submitted supporting documentation from medical professionals setting forth the medical conditions of both Petitioner and Mrs. Dandrea as the basis for the reasonable accommodation request. (\*)

20. The parties stipulated that the medical documentation below was provided in Petitioner's request for a reasonable accommodation. That documentation provided:

11/06/2018

To whom it may concern,  
Francis Dandrea suffers from generalized arthritis in addition to medical diagnoses of emphysema and intermittent atrial fibrillation. His wife is limited functionally by polymyalgia rheumatic. Removing the washer/dryer from their condo would creat [sic] a physical hardship and is not recommended.

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<sup>6</sup> The certified letter was "signed for" by Mr. Fundora on April 22, 2019.

<sup>7</sup> This letter was written in all capital letters. The text is provided in sentence format.

Please share this communication with the patient.  
Signed by: /es/ JOHN H HULL, MD  
GERIATRICS & EXTENDED CARE  
11/07/2018 05:41  
Analog Pager: [Omitted]  
Digital Pager: [Omitted]

And:

12/12/2018

To Whom It May Concern:

Mrs. Dolores D'Andrea is under my medical care for 5 years. She asked me to write this letter. She has multiple medical conditions. It came to my attention that recently washer and dryer was [sic] required to be removed from her unit. Patient has urinary incontinence. It is absolutely important for her to have washer and dryer nearby, so she can wash her clothes because of frequent accidents. Also she has polymyalgia rheumatica, and it is very difficult for her to walk down the hall to a washer and dryer units that located down the hall in apartment area. [sic] It would be medically necessary for her to have washer and dryer in her apartment.

If any questions, please feel free to call my office 727-584-7706.

Sincerely,  
Helen Brvenik, M.D.

21. Petitioner testified to his multiple infirmities: osteoarthritis; atrial fibrillation; and a bulging disc. Petitioner also provided that he had had surgery on both knees ("not replacements"), and he had to give up golf three years ago. Petitioner also testified that his wife has neurological problems, including double vision for which she had surgery, and anxiety issues.

22. On April 24, 2019, two days after receipt of Petitioner's request for a reasonable accommodation, Mr. Fundora, on behalf of the Lakeview Board, informed the Dandreas that Lakeview had denied the requested

accommodation. Further, the Board voted to give the Dandreas until May 8, 2019, to comply with the Rules by removing the washer/dryer unit. If the Dandreas refused to do so, their right to use the common recreational facilities would be suspended. (\*)

23. Petitioner did not remove the washer/dryer unit, and on May 8, 2019, Lakeview suspended Petitioner's rights to the common recreational facilities. (\*)

24. Petitioner filed the Complaint against Lakeview with the PCOHR on May 13, 2019. (\*)

25. On September 8, 2019, the PCOHR issued a Determination of Reasonable Cause and Charge of Discrimination. (\*)

26. Those individuals who testified at the hearing either are friends of Petitioner, serve (or have served) on Lakeview's Board, or are employed by Lakeview. However, none of them are health care professionals, and their observations are just that, observations without any medical training or knowledge of Petitioner's health issues.

27. Mr. Fundora testified that Lakeview did not have a process in place for the type of reasonable accommodation requested by Petitioner. However, Lakeview had, in the past, received reasonable accommodation requests for emotional support animals, large vehicles, and motorcycles. Those requests have been handled on a case-by-case basis.<sup>8</sup> A request for additional medical information to support or discredit the requested accommodation for Petitioner (or Mrs. Dandrea) was never sought.

28. There is no dispute that Lakeview objected to the Dandreas retaining the washer/dryer unit. Lakeview's denial of the request for a reasonable accommodation within two days of the request appears to be solely based on observations made by non-medically trained residents or Board members who

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<sup>8</sup> At least one request for an emotional support animal was approved, while another was denied when the supporting documentation was found to be fabricated.



had seen Petitioner (and Mrs. Dandrea) walking around the Lakeview complex at some time. These witnesses attempted to give opinions from their observations, yet they were not qualified to do so as they did not know if the requested accommodation was medically necessary. Lakeview has not articulated a legitimate, non-discriminatory reason for withholding the reasonable accommodation request.

29. The preponderance of the evidence demonstrates that having the washer/dryer unit within Petitioner's condominium is a reasonable accommodation; and necessary to afford Petitioner (and Mrs. Dandrea) the opportunity to the use and enjoy their home.

#### CONCLUSIONS OF LAW

30. DOAH has jurisdiction over this matter pursuant to section 120.65(6), Florida Statutes, and the contract between DOAH and Pinellas County, Florida.

31. Division 3, chapter 70, Pinellas County Code of Ordinances, governs housing and public accommodation complaints. Section 70-147(b) provides that "the Florida Administrative Procedures [sic] Act (F.S. ch. 120) governs hearings under this section." Subsection (f) further provides that the "administrative law judge shall issue a final order within 30 days of the hearing<sup>[9]</sup> conducted under this section. The final order issued by the administrative law judge shall be the final agency action under this section." The Pinellas County Code of Ordinances provides that if the administrative law judge determines that the respondent has engaged in a discriminatory housing practice, he/she may order a wide range of relief to the complainant, including actual damages, reasonable attorney's fees, costs, and any other injunctive or equitable relief. *See* § 70-148, Pin. Cnty Code of Ord.

32. Section 70-176(b), Pin. Cnty. Code of Ord. makes it an unlawful

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<sup>9</sup> The parties effectively waived this requirement by jointly requesting additional time in which to file the post-hearing submittals.

housing discrimination practice for any person “in terms, conditions, or privileges . . . or in providing services or facilities in connection with such sale or rental because of . . . handicap.”

33. Section 70-180(c), Pin. Cnty. Code of Ord. provides in pertinent part:

For purposes of this section only, discrimination includes:

\* \* \*

(2) A refusal to make reasonable accommodations in rules, policies, practices, or services when such accommodations may be necessary to afford the person equal opportunity to use and enjoy a dwelling:

34. Section 120.57(1)(j), Florida Statutes, provides:

Findings of fact shall be based upon a preponderance of the evidence, except in penal or licensure disciplinary proceedings or except as otherwise provided by statute, and shall be based exclusively on the evidence of record and on matters officially recognized.

Thus, Petitioner has the burden of proving by a preponderance of the evidence that Respondent committed an unlawful housing discrimination practice. *See* § 120.57(1)(j), Fla. Stat. *See also U.S. Dep’t of Hous. & Urban Dev. v. Blackwell*, 908 F.2d 864, 870 (11th Cir. 1990) (Petitioner has the burden of establishing facts to prove a prima facie case of housing discrimination).

35. The Fair Housing Amendments Act of 1988 (FHA), as codified at 42 U.S.C. § 3604, protects individuals with disabilities from discriminatory housing practices. In the Complaint, Petitioner alleges that Lakeview failed to make a reasonable accommodation based on his disability. The FHA, 42 U.S.C. § 3604(f)(2), makes it illegal 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 with such dwelling” due to a

person's handicap.<sup>10</sup> The FHA defines discrimination based on handicap to include "a refusal to make reasonable accommodations in rules, policies, practices, or services, when such accommodations may be necessary to afford such person equal opportunity to use and enjoy a dwelling." § 3604(f)(3)(B). Accordingly, under the FHA, a person or entity may be liable if there is a refusal to make a reasonable accommodation in the rules, policies, practices, or services and such accommodation may be necessary to afford a handicapped person equal opportunity to use and enjoy a dwelling or facilities. See *Schwarz v. City of Treasure Island*, 544 F.3d 1201, 1218-19, (11th Cir. 2008). The essence of Petitioner's claim is that Lakeview failed to accommodate his request to retain the washer/dryer unit.

36. Sections 760.20 through 760.37, Florida Statutes, make it unlawful to discriminate against persons in matters incidental to a dwelling on the basis of a person's handicap. In that regard, section 760.23 provides in pertinent part:

(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.

\* \* \*

(8) 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 with such dwelling, because of a handicap of:

\* \* \*

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<sup>10</sup> In the Joint Pre-hearing Stipulation, Agreed Principles of Law, the parties agreed to this language, and provided that "[S]ub-paragraph (b) of Pinellas County Code Sec. 70-176(b) closely mirrors the language set forth under 42 U.S.C. § 3604 (f)."

(b) A person residing in or intending to reside in that dwelling after it is sold, rented, or made available; or

(c) Any person associated with the buyer or renter.

37. The Florida Fair Housing Act is patterned after Title VIII of the Civil Rights Act of 1968, as amended by the Fair Housing Act of 1988, and discrimination covered under the Florida Fair Housing Act is the same discrimination prohibited under the Federal Fair Housing Act. *Savannah Club Worship Serv. v. Savannah Club Homeowners' Ass'n*, 456 F. Supp. 2d 1223, 1224 (S.D. Fla. 2005); *see also Loren v. Sasser*, 309 F.3d 1296, 1299 (11th Cir. 2002). When “a Florida Statute is modeled after a federal law on the same subject, the Florida statute will take on the same constructions as placed on its federal prototype.” *Brand v. Fla. Power Corp.*, 633 So. 2d 504, 509 (Fla. 1st DCA 1994); *see also Dornbach v. Holley*, 854 So. 2d 211, 213 (Fla. 2d DCA 2002); *Fla. Dep't of Cmty. Aff. v. Bryant*, 586 So. 2d 1205, 1209 (Fla. 1st DCA 1991).

38. As provided above, Petitioner has the burden of establishing by a preponderance of the evidence that Lakeview violated the Florida Fair Housing Act. § 760.34(5), Fla. Stat.; *Fla. Dep't of Transp. v. J.W.C. Co.*, 396 So. 2d 778 (Fla. 1st DCA 1981). Mr. Dandrea bears the burden of establishing the following:

(1) [Mr. Dandrea] is a person with a disability within the meaning of the FHA or a person associated with that individual;

(2) [Mr. Dandrea] requested a reasonable accommodation for the disability;

(3) the requested accommodation was necessary to afford [Mr. Dandrea] an opportunity to use and enjoy the dwelling; and

(4) [Lakeview] refused to make the accommodation.

*Hunt v. Aimco Props., L.P.*, 814 F.3d 1213, 1225 (11th Cir. 2016) (citing *Bhogaita v. Altamonte Heights Condo. Ass'n*, 765 F.3d 1277, 1285 (11th Cir. 2014)); See also *Bone v. Vill. Club, Inc.*, 223 F. Supp. 3d 1203, 1210-11 (M.D. Fla. 2016).

39. Mr. Dandrea credibly established that he has physical disabilities within the meaning of the FHA.

40. Mr. Dandrea requested a reasonable accommodation for his disability. Mr. Dandrea provided a medical doctor's note that he has physical disabilities ("generalized arthritis, emphysema and intermittent atrial fibrillation") and removing the washer/dryer unit from his residence "would creat [sic] a physical hardship and is not recommended." Further, the Dandreas provided a medical doctor's note that Mrs. Dandrea also has medical issues that require the reasonable accommodation. The Board (or Compliance Committee) did not request additional documentation supporting Petitioner or Mrs. Dandrea's medical condition(s).

41. Lakeview refused to make the accommodation.

42. Once Mr. Dandrea establishes a prima facie case of discrimination, the burden shifted to Lakeview to articulate a legitimate, non-discriminatory, non-retaliatory reason for the challenged action. *McDonnell Douglas Corp. v. Green*, 411 U.S. 792, 802 (1973). Lakeview failed to articulate a legitimate, non-discriminatory reason for denying the requested accommodation.

#### DISPOSITION

Based on the foregoing Findings of Fact and Conclusions of Law, it is ORDERED that:

A. Respondent violated section 70-180, Pinellas County Code of Ordinances, and 42 U.S.C. § 3604; and

B. Respondent shall provide the requested reasonable accommodation by allowing Petitioner to retain the washer/dryer unit within his condominium unit; and

C. Respondent shall remove the \$1,000 fine from Petitioner's account; and restore Petitioner's right to use all the facilities at Lakeview; and

D. Respondent shall pay Mr. Dandrea reasonable attorney's fees and costs in prosecuting this action. Jurisdiction is retained to determine the amount of reasonable attorney's fees and costs. The parties are hereby directed to confer within 20 days of the date of this Final Order concerning the amount of attorney's fees and costs. Within five days after the parties confer, the parties shall file a written joint status report that informs the undersigned as to whether or not they are able to stipulate to an amount of attorney's fees and costs. If the parties are able to stipulate an amount of the attorneys' fees and costs, then the stipulation shall be sent to the undersigned for review and approval. If the parties are unable to reach a stipulation as to attorney's fees and costs, then a hearing shall be set to determine the reasonable amount of attorney's fees and costs.

DONE AND ORDERED this 30th day of March, 2020, in Tallahassee, Leon County, Florida.



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LYNNE A. QUIMBY-PENNOCK  
Administrative Law Judge  
Division of Administrative Hearings  
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Filed with the Clerk of the  
Division of Administrative Hearings  
this 3th day of March, 2020.

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NOTICE OF RIGHT TO JUDICIAL REVIEW

Any party who is adversely affected by this Final Order is entitled to seek judicial review by filing a petition for writ of certiorari in the circuit court of the Sixth Judicial Circuit in and for Pinellas County, Florida, within 30 calendar days of the date of this Final Order. § 70-147(g), Pinellas County Code of Ordinances.