

STATE OF FLORIDA
COMMISSION ON HUMAN RELATIONS

MIRIAM AND LENNOX HOYTE,

HUD Case No. 04-18-2866-8

Petitioners,

FCHR No. 201804008

v.

DOAH No. 20-0788

STONELAKE RANCH HOMEOWNERS ASSOC.,
INC.,

FCHR Order No. 21-055

Respondent.

**INTERLOCUTORY ORDER AWARDING AFFIRMATIVE RELIEF
FROM AN UNLAWFUL EMPLOYMENT PRACTICE
AND REMANDING CASE TO ADMINISTRATIVE LAW JUDGE
FOR ISSUANCE OF RECOMMENDED ORDER REGARDING AMOUNTS OF
ATTORNEY'S FEES AND COSTS OWED PETITIONER**

Preliminary Matters

On June 4, 2018, Petitioners, Miriam and Lennox Hoyte, filed a housing discrimination complaint pursuant to the Fair Housing Act, Sections 760.20 - 760.37, Florida Statutes (2017), alleging that Respondents committed discriminatory housing practices against Petitioners and their son on the bases of race, disability, and retaliation.

The allegations set forth in the complaint were investigated, and, on January 14, 2020, the Executive Director issued a determination finding that there was no reasonable cause to believe that a discriminatory housing practice had occurred.

On February 13, 2020, Petitioners 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.

The hearing was set and continued numerous times due to the COVID-19 pandemic.

On March 5, 2021, there was a pre-hearing conference with all of the parties.

On March 9, 2021, a final evidentiary hearing took place before Administrative Law Judge Hetal Desai, via Zoom web conferencing.

On June 8, 2021, Judge Desai issued a Recommended Order, which found that Respondent engaged in a discriminatory housing practice based on Petitioners' race by selectively enforcing a Declaration against them, but failing to enforce the same provisions against similarly situated homeowners that were not the same race as Petitioners.

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

On June 23, 2021, Petitioner's attorney emailed the Commission "Petitioners' Exceptions to the Recommended Order Dated June 8, 2021". Petitioners took exception to Paragraph 117 of the Recommended order stating that Petitioner Dr. Lennox Hoyte should be entitled to loss of income damages for the time spent defending the Pre-Suit letter and Enforcement Action. The Administrative Law Judge made a finding of fact on this issue stating in Paragraph 117 that "Petitioners failed to provide sufficient evidence to quantify such damages."

With regard to exceptions to facts found from the evidence presented, and to Petitioners' comments and argument on the facts found referenced in Petitioners' exceptions document, the Commission has stated, "It is well settled that it is the Administrative Law Judge's function 'to consider all of the evidence presented and reach ultimate conclusions of fact based on competent substantial evidence by resolving conflicts, judging the credibility of witnesses and drawing permissible inferences therefrom. If the evidence presented supports two inconsistent findings, it is the Administrative Law Judge's role to decide between them.' Beckton v. Department of Children and Family Services, 21 F.A.L.R. 1735, at 1736 (FCHR 1998), citing Maggio v. Martin Marietta Aerospace, 9 F.A.L.R. 2168, at 2171 (FCHR 1986)." Barr v. Columbia Ocala Regional Medical Center, 22 F.A.L.R. 1729, at 1730 (FCHR 1999). Accord, Bowles v. Jackson County Hospital Corporation, FCHR Order No. 05-135 (December 6, 2005).

As to the legal portion of the exceptions, as stated above we adopt the Administrative Law Judge's conclusions of law.

Accordingly, Petitioners' Exceptions are rejected.

Affirmative Relief and Remand

Through our adoption of the Administrative Law Judge's findings of fact and conclusions of law, as set out above, we find that unlawful discrimination occurred in this matter in the manner found by the Administrative Law Judge and have adopted the Administrative Law Judge's recommendations for the remedy of the discrimination.

Respondent is hereby ORDERED:

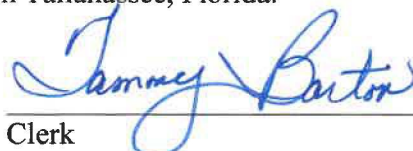
1. to cease and desist from selective enforcement of the Declaration based on race;
2. to never remove Oberon from Petitioners' home in the future unless it follows the procedures in the Declaration and establishes Oberon is a direct threat under the Florida Fair Housing Act (FFHA);
3. to pay Petitioners \$31,094 in quantifiable damages.
4. to pay Petitioners attorney's fees that have been reasonably incurred in this matter by Petitioners; and
5. to pay the Petitioners the amount of costs that have been reasonably incurred in this matter by Petitioners.

This matter is REMANDED to the Administrative Law Judge for further proceedings to determine the amounts of attorney's fees and costs owed Petitioners and the issuance of a Recommended Order as to those amounts.

DONE AND ORDERED this 19 day of August, 2021.
FOR THE FLORIDA COMMISSION ON HUMAN RELATIONS:

Commissioner Darrick McGhee, Panel Chairperson;
Commissioner Libby Farmer; and
Commissioner Angela Primiano

Filed this 19 day of August, 2021, in Tallahassee, Florida.



Clerk
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Copies furnished to:

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Hetal Desai, Administrative Law Judge, DOAH

Sarah Stewart, Legal Advisor for Commission Panel

I HEREBY CERTIFY that a copy of the foregoing has been mailed to the above listed addressees this 19 day of August, 2021.

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