

STATE OF FLORIDA
COMMISSION ON HUMAN RELATIONS

CARLOS RODRIGUEZ,
and MONICA BONTEMPI,

HUD Case No. 04-19-6053-8

Petitioners,

FCHR No. 201918636

v.

DOAH No. 20-0978

BONAVIDA CONDOMINIUM ASSOCIATION, INC.,
ET AL.,

FCHR Order No. 22-002

Respondent.

FINAL ORDER DISMISSING PETITION FOR
RELIEF FROM A DISCRIMINATORY HOUSING PRACTICE

Preliminary Matters

On September 23, 2019, Petitioners filed an amended housing discrimination complaint pursuant to the Fair Housing Act, Sections 760.20 - 760.37, Florida Statutes (2019), alleging that Respondent committed discriminatory housing practices against Petitioners due to national origin.

The allegations set forth in the complaint were investigated, and, on January 24, 2020, the Executive Director issued a determination finding that there was no reasonable cause to believe that a discriminatory housing practice had occurred.

Petitioners filed a Petition for Relief from a Discriminatory Housing Practice on February 20, 2020, and the case was transmitted to the Division of Administrative Hearings for the conduct of a formal proceeding.

A final evidentiary hearing took place on August 18 and 21, 2020, before Administrative Law Judge Darren A. Schwartz, via Zoom.

On October 6, 2020, Judge Schwartz issued a Recommended Order, which would result in a dismissal of the Petition for Relief.

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

Regarding the Administrative Law Judge's conclusions of law set out at Recommended Order, ¶ 59 through ¶ 72, 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 set out at Recommended Order, ¶ 59 through ¶ 72.

We choose not to address the issue of retaliation discussed in ¶ 73 through ¶ 77 of the Recommended Order. Petitioners alleged retaliation in her Petition for Relief; however, Petitioners' initial complaint filed with the Commission contained no allegation of retaliation. A Commission Panel has stated, "...the Petition for Relief may not contain allegations that were not initially contained in the complaint of discrimination. See, Bratcher v. City of High Springs, FCHR Order No. 11-091 (December 7, 2011), and cases cited therein." Breville v. Florida Department of Economic Opportunity, FCHR Order No. 13-030 (May 1, 2013); see, also, Titus v. Miami-Dade County, FCHR Order No. 17-025 (March 30, 2017) and Williams v. First Commerce Credit Union, FCHR Order No. 17-082 (November 2, 2017), Taylor v. Pelican Bay Communities, LLC, FCHR Order No. 19-007 (February 6, 2019).

Exceptions

On October 21, 2020, Petitioners filed exceptions to the Administrative Law Judge's Recommended Order. The exceptions ("Petitioner's Exceptions to ALJ Recommended Order") were incorrectly filed with the Division of Administrative Hearings and not the Florida Commission on Human Relations.

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) and Eaves v. IMT-LB Central Florida Portfolio, LLC, FCHR Order No. 11-029 (March 17, 2011) and Taylor v. Universal Studios, FCHR Order No. 14-007 (March 26, 2014).

Petitioners' exceptions except to facts found and inferences drawn by the Administrative Law Judge from the evidence. Therefore, Petitioners' exceptions are rejected.

Dismissal

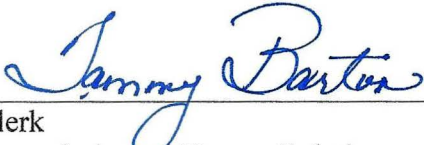
The Petition for Relief and Housing Discrimination Complaint are DISMISSED with prejudice.

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 27 day of January, 2022.
FOR THE FLORIDA COMMISSION ON HUMAN RELATIONS:

Commissioner Angela Primiano (Panel Chair);
Commissioner Libby Farmer; and
Commissioner Larry Hart

Filed this 27 day of January, 2022, in Tallahassee, Florida.


Clerk
Commission on Human Relations
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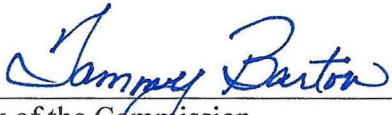
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Darren A. Schwartz, Administrative Law Judge

John Scotese, Legal Advisor for Commission Panel

I HEREBY CERTIFY that a copy of the foregoing has been mailed to the above listed addressees this 27 day of January, 2022.

By: 
Clerk of the Commission
Florida Commission on Human Relations