

STATE OF FLORIDA
COMMISSION ON HUMAN RELATIONS

LUSHERYL WALDEN,

Petitioner,

v.

SOMERSET PARK CONDOMINIUM,
ASSOCIATION, INC.; WISE PROPERTY
MANAGEMENT, INC.; AND THOMAS
KELLEHER,

Respondents.

HUD Case No. 04-20-1335-8

FCHR No. 202024706

DOAH No. 20-5191

FCHR Order No. 21-036

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

Preliminary Matters

On April 18, 2020, Petitioner, Jack Wilson, filed a housing discrimination complaint pursuant to the Fair Housing Act, Sections 760.20 - 760.37, Florida Statutes (2019), alleging that Respondents, Somerset Park Condominium Association, Inc., Wise Property Management, Inc., and Thomas Kelleher, committed discriminatory housing practices against Complainant on the basis of disability.

The allegations set forth in the complaint were investigated, and, on October 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 November 30, 2020, 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.

A final evidentiary hearing took place on February 3, 2021, before Administrative Law Judge Jodi-Ann V. Livingstone, via Zoom Conference.

On March 8, 2021, Judge Livingstone 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

A transcript of the proceeding before the Administrative Law Judge was not filed with the Commission. In the absence of a transcript of the proceeding before the Administrative Law Judge, the Recommended Order is the only evidence for the Commission to consider. See National Industries, Inc. v. Commission on Human Relations, et al., 527 So. 2d 894, at 897, 898 (Fla. 5th DCA 1988). Accord, Coleman v. Daytona Beach, Ocean Center Parking Garage, FCHR Order No. 14-034 (September 10, 2014), Gantz, et al. v. Zion's Hope, Inc., d/b/a Holy

Land Experience, FCHR Order No. 11-048 (June 6, 2011), and Hall v. Villages of West Oaks HOA, FCHR Order No. 08-007 (January 14, 2008).

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

Neither party filed exceptions to the Administrative Law Judge's Recommended Order.

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 23 day of June, 2021.
FOR THE FLORIDA COMMISSION ON HUMAN RELATIONS:

Commissioner Darrick McGhee, Panel Chairperson;
Commissioner Larry Hart; and
Commissioner Jay Pichard

Filed this 23 day of June, 2021, in Tallahassee, Florida.

Tammy Barton

Clerk
Commission on Human Relations
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Wise Property Management, Inc.
Thomas Kelleher
c/o Joseph Riopelle, Esquire
Boyd Richards Parker & Colonnelli, P.L.
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Tampa, Florida 33602

Jodi-Ann V. Livingstone, 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 23 day of June, 2021.

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