

June 08, 2018

Determination

Case Name: Jerome Lascko v. Sun Country Properties, Inc.

Case Number: 04-18-1577-8; PC-18-030

I. Jurisdiction

A complaint was filed on February 28, 2018 alleging that the complainant(s) was injured by a discriminatory act. It is alleged that the respondent(s) was responsible for: Discriminatory terms, conditions, privileges, or services and facilities; Failure to make reasonable accommodation; and Discriminatory refusal to sell. It is alleged that the respondent(s)'s acts were based on Handicap. The most recent act is alleged to have occurred on December 08, 2017, and is continuing. The property is located at: 799 E. Klosterman Rd., , Tarpon Springs, FL 34689. The property in question is not exempt under the applicable statutes. If proven, the allegation(s) would constitute a violation of Article II, Division 3 of Chapter 70 of the Code of Ordinances of Pinellas County, Florida and Sections 804b or f, 804f3B, and 804a or f of Title VIII of the Civil Rights Act of 1968 as amended by the Fair Housing Act of 1988.

The respondent(s) receive no federal funding.

II. Complainant Allegations

Jerome Lascko (CP) a disabled male interested in purchasing a home located at 799 E. Klosterman Rd., Tarpon Springs, FL 34689. The Property is owned by Sun Country Properties (R1) Carmine Triggiano, Manager (R2), Luccio (last name unknown), Park Manager (R3) and Michelle Waldron, Realtor (R4).

CP states he signed a purchase agreement to purchase a mobile home, however, CP was informed that he was denied because he has an animal (service animal). CP states he informed R's of the necessity of his service animal and provided documentation, however, R's did not care. R2 told CP that they do not believe in Federal Law and feels it's a sham. CP states on December 8, 2017, he spoke with R2 and R3 personally and was told the same thing again. CP states R4 also confirmed the statement that was made.

CPs believes that the Respondent's actions constitute a violation of the Fair Housing Laws.

III. Respondent Defenses

When the realtor dropped off the application and payment for background check for Jerome Lascko, a background check was done and then Respondent noticed that "has pet" was checked on application. Respondent promptly called Complainant and told him their policy is pets were not allowed in their park and then he told Respondent his pet was actually a service animal.

Respondent states that it does not take people's word on this matter and require, at the very least, a letter/documentation from a doctor stating that they have a need for a service animal. No such documentation was provided with Complainant's application. The realtor came back to the office and Respondent gave her the refunded monies for the background check to give to Complainant.

IV. Findings and Conclusions

Complainant Jerome Lascko alleges that he was discriminated against on the basis of his disability when he attempted to purchase a mobile home. He alleges that he has a service animal and provided documentation illustrating his need for the animal to the Respondent. Mr. Lascko asserts that Carmine Triggiano, park owner, told him that they do not believe in Federal law and feels it's a sham. He further alleges that the agent for the property confirmed that the statement was made.

REASONABLE ACCOMMODATION/REFUSAL TO SELL

In order to prevail in a reasonable accommodation/refusal to sell case, the following elements must be established: (1) The Complainant is a person with a disability; (2) The Respondent knew or reasonably should have known that the Complainant is a person with a disability; (3) The Complainant requested a reasonable accommodation in the rules, policies, practices, or services of the Respondent; (4) The requested accommodation may be necessary to afford the Complainant an equal opportunity to use and enjoy the dwelling; (5) The Respondent refused the Complainant's request to make such accommodation or failed to respond or delayed responding to the request such that it amounted to a denial; and (6) The Respondent's refusal made housing unavailable to the Complainant.

As to the first element, Complainant provided a doctor's note to this office. It was written by James T. Bukuts, MD and is dated March 15, 2017. Doctor Bukuts writes:

"Patient is under my care and I am currently treating him for a mental health disability recognized by the DSM V. I have diagnosed him with Recurrent Major Depressive Disorder. His disorder substantially limits at least one major life activity.

As the primary treatment to address his psychological disability, I have prescribed Patient to obtain a dog or a cat to serve as an emotional support animal. It is my professional opinion that the presence of this animal is a necessary treatment for the mental health of Patient because its presence will mitigate the symptoms he is currently experiencing.

Patient meets the definition of disability under the Americans with Disabilities Act, the Fair Housing Act, and the Rehabilitation Act of 1973. Due to mental illness, Patient has certain limitations regarding [social interaction/coping with stress/anxiety, etc.]. In order to help alleviate these difficulties, and to enhance his ability to live independently and to fully use and enjoy the dwelling unit you own and/or administer, I am prescribing an emotional support animal that will assist Patient in coping with his disability." (C-2)

Based on the details in the doctor's note, we conclude that the first element has been met. Complainant is a person with a disability covered by the Fair Housing Act. He has a mental impairment that substantially limits one or more major life activities. Doctor Bukuts states that Complainant has Recurrent Major Depressive Disorder, and that his limitations include social interaction, coping with stress/anxiety. (C-2)

The second element requires that Respondent knew or reasonably should have known that the Complainant is a person with a disability. In Carmine Triggiano's answer on behalf of the park, he states that they noticed that "has pet" was checked on the application. The park promptly called Complainant and told him the policy concerning pets. Respondent acknowledges that Complainant told them that his "pet was actually a service animal."

Agent Michelle Waldron explained that she learned from Complainant that he has an emotional support animal. She states that she informed Complainant that he had to provide supporting documentation for the animal. Ms. Waldron states that this was provided to her. She provided her fax number, which matches the fax number that Complainant used to submit his supportive documentation. (C-8, E-1)

Respondents were aware that Complainant is a person with a Disability covered by the Fair Housing Act. The second element has been met.

Turning to the third element, it must be shown that Complainant requested a reasonable accommodation in the rules, policies, practices, or services of the Respondent. The park provided their pet policy, which states that pets "are not permitted to reside or visit in the park. There are absolutely NO EXCEPTIONS of any kind." (D-3)

Although a service or emotional support animal is not a pet, the Complainant requested an exception to their rule concerning animals/pets. By providing his supporting documentation to Ms. Waldron, who in turn provided it to the park, Complainant has requested a reasonable accommodation to Respondent's pet policy. The third element has also been satisfied.

The fourth element provides that the requested accommodation may be necessary to afford the Complainant an equal opportunity to use and enjoy the dwelling. Turning back to the doctor's note, Dr. Bukuts prescribed an emotional support animal "to enhance his ability to live independently and to fully use and enjoy the dwelling unit." Doctor Bukuts also wrote that "the presence of this animal is a necessary treatment for the mental health of Patient." The information in the doctor's note fulfills the fourth element of the case.

In order to prevail on the fifth element, the evidence must demonstrate that the Respondent refused to make such accommodation. We received responses and spoke to the parties to the potential transaction. Our findings are as follows:

Complainant Jerome Lascko - He asserts that he provided his supporting documentation to Respondent. Complainant provided a fax that was sent to a number with a 777-prefix on December 7, 2017. He also maintains that he was told by Carmine Triggiano that they do not believe in Federal law and they feel it's a sham. He was told the same thing by Carmine and Luccio Triggiano, and he maintains that this was confirmed by Ms. Waldron. (C-7, C-8)

Respondent Michelle Waldron, agent - She states that the deal involved the sale of a mobile home, and that the park approves applicants. Ms. Waldron states that the decision to approve or deny is made by the park. She recalls that Complainant informed her that he has an emotional support animal, and that she advised him to provide supportive documentation. Although Ms. Waldron did not recall the exact details, she states that she typically provides this information to office. In this case, Ms. Waldron recalls that Complainant was denied. She is not sure, but she thinks it was because of the animal.

Respondent Carmine Triggiano - He asserts in the answer to the complaint that Complainant told the park that the pet was actually a service animal. He states that they do not take people's word on this matter and require a letter/documentation from a doctor stating that they have a need for a service animal. Mr. Triggiano states that "no such documentation was provided with Mr. Lascko's application." (D-2) Mr. Triggiano, upon further questioning, was asked if he had a telephone conversation with Complainant after receiving his application, and what was said during this conversation. In response, Mr. Triggiano, said that Complainant "said he had a pet and I told him we do not accept pets." He then states that he told Ms. Waldron that Complainant was not approved because "we do not accept pets in our community." Mr. Triggiano also explained the comments regarding Federal law by stating that he told Complainant that he does not believe that the federal government should dictate whether he has to take animals into his business. (D-6)

Mr. Triggiano has submitted information in response to a request for information that conflicts with information provided in his answer. In the follow-up questions, Mr. Triggiano asserts that Complainant told him he had a 'pet', but in the answer, he said that Complainant told him the pet was actually a 'service animal'. Based on his own assertion in the answer, Mr. Triggiano was aware that Complainant maintained that his animal was a 'service' animal. After this information was

provided to Mr. Triggiano, there was no further discussion or interactive process. The potential deal was immediately nixed. There is absolutely no evidence that Mr. Triggiano requested any supporting documentation for the service/emotional support animal.

Furthermore, Mr. Triggiano acknowledged telling Complainant that he does not believe that the federal government should dictate whether he has to take animals into his business. If Complainant were simply attempting to move into a mobile home with a 'pet', there would be no reason to discuss federal law. Federal law would reasonably be a topic of conversation if Complainant claimed that his animal is a service or emotional support animal. This further cements the finding that Mr. Triggiano was aware that Complainant claimed that he has a service/emotional support animal.

In a follow-up conversation with Ralph Triggiano, he asserted that they never received Complainant's doctor's note. Mr. Triggiano was asked to provide a timeline of his conversation with Complainant. Mr. Triggiano simply reiterated what was said in the answer. The summary of this response is as follows (D-7):

- * The realtor dropped off the application and payment for background check for Complainant.
- * A background check was conducted and they noticed "has pet" was checked on the application.
- * They promptly called Complainant and told him their policy is pets are not allowed in the park.
- * Complainant said that his pet was actually a service animal.
- * Respondent states that Complainant did not provide supporting information with his application.
- * The realtor came back to the office and they gave her the refund monies for the background check to give to Complainant.

An issue is whether the Triggianos received documentation confirming that Mr. Lascko needs a support animal. Mr. Lascko stated that he spoke to Janet Petty, who works in the real estate office. Ms. Petty of True Bearing Group was interviewed by telephone on June 7, 2018. She explained that she received Mr. Lascko's application, application fee, doctor's note, and information about the dog. Ms. Petty asserts that she put together a packet, which was brought to the property by another real estate agent. (E-4)

Beth Durner, real estate agent, was also interviewed on June 7, 2018. She recalls that the Office Manager gave her the Lascko packet. Ms. Durner states that she brought this packet to the property and handed it to the Triggianos. The father and son were present, and it is a small office. She recalls saying that it was the application for a particular unit number. Mr. Durner remembers that the dog information was in the packet. (E-5)

We have no reason to doubt the credibility of the True Bearing Group witnesses. Based on the allegations from Mr. Lascko, his recollection from the telephone call, the witness statements, and Respondent's own responses, we conclude that Respondent was aware of Mr. Lascko's disability and his need for the support animal. Once this information was received by Respondent, no interactive process took place and Mr. Lascko's application was denied.

We conclude that the fifth element has been satisfied.

As a result of this refusal to reasonably accommodate, the mobile home became unavailable to Complainant. We conclude that the sixth and final element has been met.

We conclude that there is REASONABLE CAUSE to believe that Respondent Sun Country

Propeties, Inc. may have violated Article II, Division 3 of Chapter 70 of the Code of Ordinances of Pinellas County, Florida.

We conclude that a NO REASONABLE CAUSE finding should be entered against Michelle Waldron, real estate agent for True Bearing Group. She was not the decision-maker in this case. The decision to deny was made by Sun Country Properties, Inc. We conclude that there is NO REASONABLE CAUSE that any representative of True Bearing Group may have violated Article II, Division 3 of Chapter 70 of the Code of Ordinances of Pinellas County, Florida.

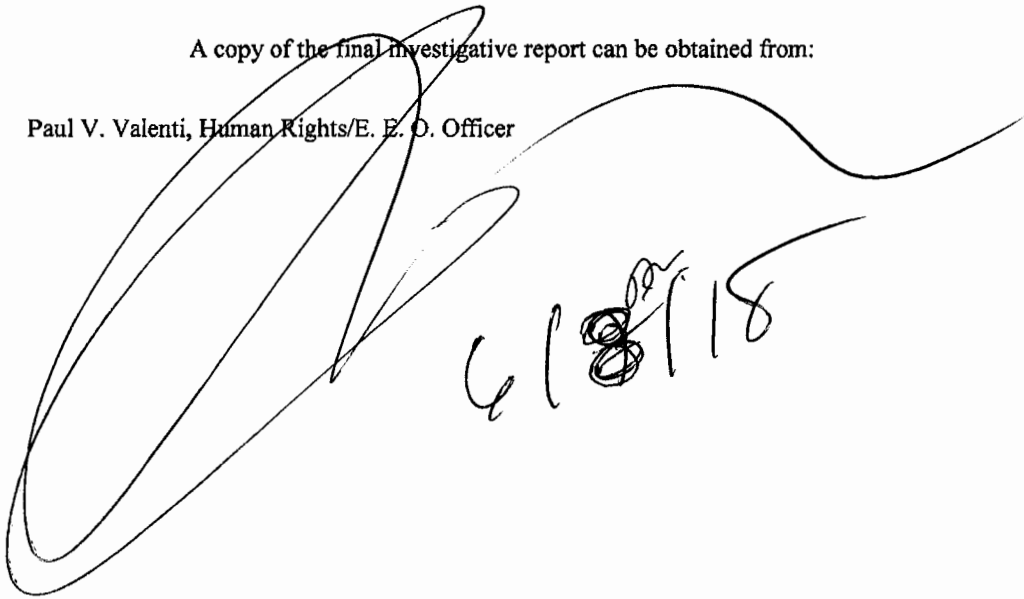
V. Additional Information

Notwithstanding this determination by the Pinellas County Office of Human Rights, the Fair Housing Act provides that the complainant may file a civil action in an appropriate federal district court or state court within two years after the occurrence or termination of the alleged discriminatory housing practice. The computation of this two-year period does not include the time during which this administrative proceeding was pending. In addition, upon the application of either party to such civil action, the court may appoint an attorney, or may authorize the commencement of or continuation of the civil action without the payment of fees, costs, or security, if the court determines that such party is financially unable to bear the costs of the lawsuit.

The Department's regulations implementing the Act require that a dismissal, if any, be publicly disclosed, unless the respondent requests that no such release be made. Such request must be made by the respondent within thirty (30) days of receipt of the determination to the Field Office of Fair Housing and Equal Opportunity at the address contained in the enclosed summary. Notwithstanding such request by the respondent, the fact of a dismissal, including the names of all parties, is public information and is available upon request.

A copy of the final investigative report can be obtained from:

Paul V. Valenti, Human Rights/E. E. O. Officer

A large, stylized handwritten signature in black ink, followed by the date "6/28/18" written in a similar style.