



Pinellas County Office of Human Rights

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July 17, 2017

Determination

Case Name: Donna Pitman & Frank Owen v. Lake Placid Park, Inc.

Case Number: 04-17-7118-8/PC-17-016

I. Jurisdiction

A complaint was filed on February 16, 2017 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; and Failure to make reasonable accommodation. It is alleged that the respondent(s)'s acts were based on Handicap. The most recent act is alleged to have occurred on January 27, 2017, and is continuing. The property is located at: Lake Placid Park, Inc. , 980 7th Street NW #1, Largo, FL 33770. 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, and 804f3B of Title VIII of the Civil Rights Act of 1968 as amended by the Fair Housing Act of 1988.

It is not known if the respondent(s) receive federal funding.

II. Complainant Allegations

Donna Pitman (CP Pitman) a disabled female with a service dog who resides at 980 7th St. NW, Largo, FL 33770 with partner Frank Owens (CP Owens). The property is owned by Lake Placid Park, Inc. (R). Bibi Hussein, Secretary (R Hussein)

CP Pitman states in July 2016, CP Owens purchased Lot 1 with a mobile home on it at Lake Placid Park in hopes of having a relaxing second home, however, it's been everything except relaxing and enjoyable. CP states on July 16, 2016 she provided all documents required for the approval of her support animal. Per the HOA CP placed all the documents in the outside drop box at the clubhouse. R's notified CP that she would need to be added as a 2nd resident if she would be staying more than 30 days out of the year. CP Pitman interviewed with the HOA on September 09, 2016 and was approved to be the 2nd resident. The HOA approved for her to become a 2nd occupant. During this interview CP Pitman states she asked about support animals on the property and she was told that the HOAs attorney was amending the rules to allow support animals.

CP Pitman states there were 3 separate votes to decide if the HOA would approve the support animal. During the HOA meeting on December 12, 2016, the HOA approved CP Pitman's support animal. CP Pitman states on December 16, 2016 as she was in route to the Largo property from her residence 9 hours away, she received a call from R Hussein stating that CP Pitman's support animal would not be allowed on the property. R Hussein told CP Pitman she would need to find other accommodations for her support animal before she comes to the park. Per the approval of the HOA on the 12th of December, CP Pitman proceeded to go to the property with her support animal. On December 19, 2016, HOA called another meeting where they decided to rescind the previous approval for CP Pitman's support animal. R's stated they were not convinced that the letters were legit and additional information would be required from CP Pitman's physician. R's

informed CP Pitman they would turn their eye to her support animal being on the property for the holidays, but she will not be allowed to bring him back after the holidays.

CP states the R's have made her feel humiliated by broadcasting her personal health issues and making it a spectacle of entertainment to all of the neighbors at the meetings. CP states some neighbors won't even speak to her after all of this occurred. CP Pitman also feels she is being harassed by the numerous memos that are being sent to her as well as other neighbors about her support animal. The most recent by the R's attorney on January 27, 2017.

On December 30, 2016, CP Pitman returned to the property, she stayed until January 3, 2017. During CP Pitman's visit, she was unable to completely enjoy herself due to the emotional stress and grief she felt by not having her support animal there with her. CP Pitman's support animal has a calming effect on her.

On 5/30/2017, the complainants amended their complaint of discrimination to include the following:

During the investigation, another note from the complainant's doctor was provided to the respondent to justify the presence of the animal. Despite this further information, the respondent continued to deny the approval of the animal as an accommodation.

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

III. Respondent Defenses

In the instant matter, Ms. Pitman's charge of discrimination is apparently based on allegations that she suffers from a disability recognized under the Fair Housing Act and is in need of a reasonable accommodation in order to use and enjoy the premises. However, Ms. Pitman has not submitted any reliable medical documentation evidencing that she suffers from a handicap or disability under the Fair Housing Act that makes it necessary for her to have a service or support dog in violation of Respondents' Rules and Regulations.

The Park is unable to state that Ms. Pitman is disabled. A letter purchased from an on-line website that advertises to write housing and air transit letters is insufficient to establish a disability, just as the tags and certificates are that are purchased on-line. Further, the letter from Dr. Booker states that Ms. Pitman suffers from adjustment disorders with depressed mood and anxiety. A diagnosis does not equate to a disability. Moreover, the letter does not state which of Ms. Pitman's major life activities are impaired or explain how the animal ameliorates the effects of her alleged disability. Accordingly, Ms. Pitman is unable to establish that she suffers from a disability, that the Park knew or should have known that she suffers from a disability or that the animal was necessary to allow her to use and enjoy the property.

Further, and most importantly, the Park never denied the request for accommodation. Instead, the Park permitted the animal while requesting additional information and engaging in the interactive process. A second letter was drafted requesting better documentation in response to the letter from Dr. Booker. The Park was unable to send that letter because Ms. Pitman hastily filed this complaint and unilaterally terminated the interactive process.

Ms. Pitman was in no way harassed by anyone. The Board clearly wanted to do what was correct and proper under the law as evidenced by the approval of the animal on December 12, 2016. It was only after the Board determined that the letter and tags were purchased on-line that they rescinded the approval. Even more telling is the fact that the Board did not deny the request at that time, but instead, it engaged in the interactive process to try to obtain better documentation just as it would

have done in response to Dr. Booker's letter. Ms. Pitman appears to be accusing Ms. Bibi Hussein, the Board's former secretary, of improper conduct. However, Ms. Hussein voted to approve the animal on both December 12th and the 19th. In fact, it was Ms. Hussein who advised Ms. Pitman that the animal could remain on the property for the holidays despite the lack of proper documentation.

The Park has only received three requests for accommodations for service or support animals in the last seven years, with Ms. Pitman's being one of them. The first was the request' referenced above from Mr. Crawford. The Park requested proper documentation and he filed a HUD complaint. The Park acted properly. There was also a request made by an owner who has since passed away. She did not provide any medical statement at the time of her request. She was asked to do so and she decided not to pursue her request.

Because Ms. Pitman has not and cannot set forth any of the elements necessary to establish a prima facie case for disability discrimination, her charges, along with Mr. Owens', under the Fair Housing Act and Pinellas County Human Rights Ordinance are without merit and a determination of "no cause to believe discrimination occurred" is warranted.

In light of the 5/30/2017 amendment, the respondent stated the following:
As the amendment involves only the second to last paragraph of the Complaint, this response will only address that paragraph. The Respondents' Position Statement, dated March 20, 2017, remains operative for the remainder of the original Complaint.

Regarding the amendment, Respondents state that the additional note from Complainant's physician, which was first submitted after the initial Complaint was filed, fails to provide the information necessary for Respondents to make an informed decision on the request for accommodation as this letter fails to address which of Complainant's Major Life Activities are impaired. As such, the Letter fails to support the request. The Respondents would entertain a letter that addresses the required information.

IV. Findings and Conclusions

A. FINDINGS:

1. 6/30/2016 Cp Owens purchases mobile home #1 in the respondent park; (C-1)
2. 7/2016 Cp Pitman seeks approval as 2nd occupant; (C-1)
3. 9/9/2016 Cp Pitman approved as 2nd occupant after Skype interview; (C-1)
4. 12/7/16 Violation letter to Cp about woman walking dog on property. (B-1)
5. 12/12/2016 Respondent board votes to approve RA request; (C-1)
6. 12/19/2016 Respondent board has special meeting and votes to rescind RA request; (C-1)
7. 1/24/2017 Letter from respondent's attorney sent to cp seeking more information; (C-1)
8. 1/27/2017 Cp writes she was in the process of filing with HUD when she received 1/24/17 respondent letter. (B-1)
9. 1/27/2017 Cp emails her 1/18/17 Dr.'s note to respondent HOA attorney Mezer on this date. (B-2)
10. 4/26/2017 Cp provides additional Dr.'s note, dated 4/7/2017. (B-4)

B. LAW & ANALYSIS:

The cp alleged the respondent HOA voted three times to approve, and finally deny, the cp's request for a service animal. The Prima facie elements for a reasonable accommodation are as follows:

1. Complainant has a disability or is a person associated with a disabled person;
2. Respondent knew of the disability or could have been reasonably expected to know of it;
3. Accommodation of the disability may be necessary to afford complainant an equal opportunity to use and enjoy the dwelling and;
4. Respondent refused to make the requested accommodation.
5. Accommodation is not an undue burden on respondents.

Regarding her disability, the cp states she suffers from depression and anxiety, and was denied the right to have the animal with her at the park after previously voting to approve it.

Overall, the essence of this case is whether the cp provided sufficient information to the respondent for their consideration. Thus, elements one and two are discussed more fully in the analysis section.

The cp states she submitted assistance related information on 7/16/2016, in the HOA drop box, and asserted that the respondent board had voted to approve the animal either in September, or sometime prior to Thanksgiving. However, she was unsure of the date. She also asserted that the board had voted on 12/12/16 to approve the animal, but then reversed that vote days later.

Respondent defense:

On June 30, 2016, Mr. Owens purchased the mobile home on Lot 1 in the community. The Park's Rules and Regulations does not permit dogs. In July 2016, Mr. Owens sought approval of a second occupant, Ms. Pitman.

The required background screening was performed and Ms. Pitman was approved as a second occupant on September 9, 2016 after a Skype interview. The formal approval correspondence was sent to Ms. Pitman on September 14, 2016 and requested that Ms. Pitman acknowledge that the Park is governed by the Master Occupancy Lease, the Articles of Incorporation, the By-laws and the Rules and Regulations and further confirming that she read and understood the documents. Ms. Pitman never returned the signed document.

After the approval, the Park was able to address Ms. Pitman's request for an accommodation to maintain a dog as a reasonable accommodation when she visits the mobile home. It should be noted that Ms. Pitman brought the dog to the property and has had the animal at the property on most visits. She is not a full time resident and only visits periodically and for short periods of time.

In support of her requested accommodation, Ms. Pitman provided the Park with a letter from "Spring Eternal" authored by Dr. Mariechia Palmer from Oklahoma City, Oklahoma.

The letter is undated but appears to state that it is effective for the period June 13, 2016-June 12, 2017. Since Ms. Pitman is from South Carolina and the medical professional is from Oklahoma, the Park was skeptical of the request and began researching the issue. Additionally, Ms. Pitman provided an identification tag and Registration Certificate form the U.S. Animal Registry dated June 7, 2016.

The Park had not had a request for an accommodation for many years and the Board decided to implement a non-discrimination policy and rules to address requests for accommodations.

Accordingly, Rules 17 and 18, addressing requests for accommodations and maintaining a service or support animal if approved, were drafted in September, revised in October and adopted in November 2016.

Ms. Pitman's request for accommodation was addressed at the December 12, 2016 board meeting. The Board voted to approve the request but immediately thereafter became skeptical of the documentation provided. No approval letter was sent to Ms. Pitman. On December 19, 2016, the board voted to rescind the approval and to turn the matter over to counsel.

Due to the overwhelming fraud and abuse in this area, research was conducted on the medical provider and the tag and certification and it was determined that the tag and certification are the type that can be purchased by anyone on-line from a number of different websites for a fee. The websites contain disclaimers that they have done no independent research, nor have they verified the information provided by the purchaser. These tags and certificates are insufficient to establish that a person is disabled or that an animal is a service or support animal.

Moreover, as stated above, the letter from Dr. Palmer raised concerns because of her location, the "one year duration" of the letter and the fact that the letter states Dr. Palmer made her assessment "according to an initial screening and consultation on 13 June, 2016". The letter goes on to state that based upon this initial screening, Ms. Pitman has a mental health disorder defined in the DSM-5. The letter states that the condition limits at least one major life activity but does not state which major life activity(ies) is impaired, which is required in order to determine if there is a nexus. Further, the letter fails to state how the animal ameliorates the effects of the condition.

The letter states that Ms. Pitman registered her pet with the "Emotional Support Animal Registration of America, which further substantiates her need for and commitment to an ESA". Ms. Pitman did not provide this registration, but as stated above, since there is no recognized service or support animal registry, this registration would have been of no assistance either.

Accordingly, the letter did not provide the necessary information to establish a disability related need for the animal under the Florida or Federal Fair Housing Acts.

Moreover, research regarding ESA Registration of America, as mentioned by Dr. Palmer in her letter, revealed that Spring Eternal is associated with this registry. The on-line application states:

WELCOME! Please complete the following assessment questions before your Phone Evaluation for your Emotional Support Animal (ESA) Letter.

SPRING Eternal is the Contracted Mental health Provider for Emotional Support Animal Registration of America www.ESAreistration.org

Based upon the fact that the letter was deficient, and was the type of letter paid for on-line after a one-time consultation by a company that advertises to write these letters, the Park engaged in the interactive process with Ms. Pitman and requested reliable documentation from a treating medical professional. The Park did not deny the request.

In response on January 27, 2017, Ms. Pitman provided a letter from Dr. Edward H. Booker, Jr., dated January 18, 2017. The letter states that Dr. Booker has "seen her for a number of years" and she suffers from "adjustment disorder with depressed mood and anxiety". The letter then states generally how animals provide comfort and support to patients. The letter does not state which major life activities are substantially impaired or explain how the animal ameliorates the effects of Ms. Pitman's alleged disability.

The Park had authorized counsel to again engage in the interactive process but Ms. Pitman filed this complaint before the letter could be sent, thereby unilaterally terminating the interactive process and preventing the Park from conducting a meaningful review of the request. Again, the requested accommodation was never denied.

In the instant matter, Ms. Pitman's charge of discrimination is apparently based on allegations that she suffers from a disability recognized under the Fair Housing Act and is in need of a reasonable accommodation in order to use and enjoy the premises. However, Ms. Pitman has not submitted any reliable medical documentation evidencing that she suffers from a handicap or disability under the Fair Housing Act that makes it necessary for her to have a service or support dog in violation of Respondents' Rules and Regulations.

The Park is unable to state that Ms. Pitman is disabled. A letter purchased from an on-line website that advertises to write housing and air transit letters is insufficient to establish a disability, just as the tags and certificates are that are purchased on-line. Further, the letter from Dr. Booker states that Ms. Pitman suffers from adjustment disorders with depressed mood and anxiety. A diagnosis does not equate to a disability. Moreover, the letter does not state which of Ms. Pitman's major life activities are impaired or explain how the animal ameliorates the effects of her alleged disability. Accordingly, Ms. Pitman is unable to establish that she suffers from a disability, that the Park knew or should have known that she suffers from a disability or that the animal was necessary to allow her to use and enjoy the property.

Further, and most importantly, the Park never denied the request for accommodation. Instead, the Park permitted the animal while requesting additional information and engaging in the interactive process. A second letter was drafted requesting better documentation in response to the letter from Dr. Booker. The Park was unable to send that letter because Ms. Pitman hastily filed this complaint and unilaterally terminated the interactive process.

Ms. Pitman was in no way harassed by anyone. The Board clearly wanted to do what was correct and proper under the law as evidenced by the approval of the animal on December 12, 2016. It was only after the Board determined that the letter and tags were purchased on-line that they rescinded the approval. Even more telling is the fact that the Board did not deny the request at that time, but instead, it engaged in the interactive process to try to obtain better documentation just as it would have done in response to Dr. Booker's letter. Ms. Pitman appears to be accusing Ms. Bibi Hussein, the Board's former secretary, of improper conduct. However, Ms. Hussein voted to approve the animal on both December 12th and the 19th. In fact, it was Ms. Hussein who advised Ms. Pitman that the animal could remain on the property for the holidays despite the lack of proper documentation.

The Park has only received three requests for accommodations for service or support animals in the last seven years, with Ms. Pitman's being one of them. The first was the request referenced above from Mr. Crawford. The Park requested proper documentation and he filed a HUD Complaint. The Park acted properly. There was also a request made by an owner who has since passed away. She did not provide any medical statement at the time of her request. She was asked to do so and she decided not to pursue her request.

Because Ms. Pitman has not and cannot set forth any of the elements necessary to establish a prima facie case for disability discrimination, her charges, along with Mr. Owens', under the Fair Housing Act and Pinellas County Human Rights Ordinance are without merit and a determination of "no cause to believe discrimination occurred" is warranted.

As part of their response, the respondent denied three votes had taken place. Instead, the respondent stated, "the Association had a vote to approve Ms. Pitman as a second occupant in

September 2016. This vote did not address the support dog. On December 12, 2016 the Board voted to approve Ms. Pitman's support dog. However, the Board had sent the letter for counsel's review prior to the Board meeting but a response was not provided until after the meeting. Without disclosing attorney-client privileged communications, it was determined that the letter in support of the requested accommodation was from "Spring Eternal" authored by Dr. Mariechia Palmer from Oklahoma City, Oklahoma.

Due to the overwhelming fraud and abuse in this area, research was conducted on the medical provider and the tag and certification and it was determined that the tag and certification are the type that can be purchased by anyone on-line from a number of different websites for a fee. The websites contain disclaimers that they have done no independent research, nor have they verified the information provided by the purchaser. These tags and certificates are insufficient to establish that a person is disabled or that an animal is a service or support animal.

Moreover, as stated above, the letter from Dr. Palmer raised concerns because of her location, the "one year duration" of the letter and the fact that the letter states Dr. Palmer made her assessment "[a]ccording to an initial screening and consultation on 13 June, 2016". The letter goes on to state that based upon this initial screening, Ms. Pitman has a mental health disorder defined in the DSM-5. The letter states that the condition limits at least one major life activity but does not state which major life activity(ies) is impaired, which is required in order to determine if there is a nexus. Further, the letter fails to state how the animal ameliorates the effects of the condition. FCHR has previously determined that letters that are paid for on-line are not acceptable." (C-4)

Regarding what had transpired between the first vote on 12/12/16, and the second vote, on 12/19/16, so as to generate a re-vote, the respondent stated, "after conducting research on the author of the letter, it was determined that the letter was paid for from an on-line website that conducts an "assessment" after an on-line exam. FCHR has previously concluded that these letters are unacceptable, as have many of the HUD local equivalent agencies." (C-4)

During the investigation, the respondent was given another letter from the complainant and her treating physician, Dr. Edward H. Booker, Jr., dated 4/7/2017, which is described in the Analysis section below. The 2nd note from Dr. Booker was conveyed to the respondent's legal representative on 4/26/2017, by email. (C-4)

In a reply on 5/23/2017, the respondent wrote, "The second letter from Dr. Booker **continues to suffer from the same deficiencies as his first letter. For instance, the second letter does not state which major life activities of Ms. Pitman are substantially impaired, nor does it explain how the dog ameliorates the effects of her disability.** The Park never had the opportunity to address the deficiencies in Dr. Booker's first letter with Ms. Pitman, and continue the interactive process with her, as she filed her Complaint shortly after submitting the first letter. Any finding by the FCOHR must be based on the documentation provided by Ms. Pitman to the Park as of the time the Complaint was filed (February 10, 2017). The Park continues to be open to considering any additional relevant and competent medical documentation that Ms. Pitman may submit, however the documentation submitted to date remains deficient." (C-4)

As a result of the rejection of the 2nd note from Dr. Booker, this current complaint of discrimination was amended to include the note as part of the official request and denial.

On 7/10/2017, the respondent submitted their official response to their denial of the 2nd note, stating, "regarding the amendment, respondents state that the additional note from complainant's physician, which was first submitted after the initial complaint was filed, fails to provide the information necessary for respondents to make an informed decision on the request for

accommodation as this letter fails to address which of complainant's major life activities are impaired. As such, the letter fails to support the request. The respondents would entertain a letter that addresses the required information." (C-5)

Analysis:

The central issue is whether sufficient information was submitted to the respondent.

The cp's first note, dated 6/13/2016, came from "Spring Eternal", based in Oklahoma. It was signed by two persons, which included Dr. Mariechia Palmer, whom had the credentials of LMFT, and LPC. LMFT stood for "Licensed Marital and Family Therapist", and LPC stood for "Licensed Professional Counselor", which were verified as active with the Oklahoma State Board of Behavioral Health .

"To Whom It May Concern: RE: Donna Pitman

According to an initial screening and consultation on 13 June, 2016, Ms. Pitman was diagnosed with a mental health disorder as defined in the Diagnostic Statistical Manual Fifth Edition (DSM-5). Her psychological condition significantly limits at least one daily life activity. It can affect her ability to cope and the maintenance of her psychological stability.

Based on my consultation and diagnosis, I strongly recommend she has an Emotional Support Animal (ESA) as the primary treatment modality to address her psychological adjustment and for the ongoing treatment of the psychological condition, to be able to support her functional living activities in housing and to ameliorate the severity of the symptoms for air travel.

This letter further supports her dog, Luke, a Cavachon, as an ESA, which entitles her to the rights and benefits that are legitimized by the Amendments to the Fair Housing Act of 1988, the Air Carriers Access Act 49 U.S.C. 41705 and the US Dept. of Transportation 14 C.F.R. Part 382. Each of these Acts defines a person with a mental health diagnosis, which affects their daily functioning significantly, as a disability. This gives her the ability to be accompanied by her Emotional Support Animal for air travel and in housing and necessary for the full use and enjoyment of the housing facilities.

She has registered her pet with the Emotional Support Animal Registration of America, which further substantiates her need for and commitment to an ESA. If further information is requested in reference to my assessment of Ms. Pitman a written, signed authorization request from Ms. Pitman is required." (B-1)

The cp's second note, dated 1/18/2017, came from Dr. Edward H. Booker, the cp's treating physician. The doctor, whose specialty was family practice, had a valid license with the South Carolina Board of Medical Examiners. The letter was provided in response to the respondent HOA's attorney seeking more information. The note stated the following:

"To Whom It May Concern:

I am writing on behalf of my patient of whom I have seen for a number of years. My patient suffers with adjustment disorders with depressed mood and anxiety. In the past one of the therapies that have been suggested thru counselors and me has been pet therapy. From this therapy there is a relaxation technique and in stressful or anxious times which may include grieving situations or situations with crowds which may cause anxiety the pet relieves stress and offers comfort to the patient. These patients have been found to benefit from having service dogs with them at all times. I am writing to make you aware that there pet has been designated as a registered

animal and as such to live and travel with them, and as well have all of the other benefits of having a service dog with them. This is a right recognized under the American Disability Act and pursuant thereof. I am requesting that my patient be allowed to have her pet serve as her service dog and be allowed with her at all times. If you should have any questions or I can be of further assistance in this matter please feel free to contact me.” (B-1)

During the investigation, pursuant to a request for more corroboration from the investigator, the cp submitted the following note on April 11, 2017:

“RE: DONNA PITMAN DOB 07/13/1965

To Whom It May Concern:

I am writing on behalf of my patient of whom I have seen for a number of years. My patient suffers with adjustment disorder with depressed mood (sic) and anxiety. In the past one of the therapies that have been suggested thru counselors and me has been pet therapy. From this there is a relaxation technique and in stressful or anxious times which may include grieving situations or situations in which there are crowds. These patients have been found to benefit from having service dogs with them at all times. I am writing to make you aware that there pet has been designated as a registered animal and as such to live and travel with them as well as have all of the other benefits of having a service dog with them. This is a right recognized under the American Disability Act and pursuant thereof. Donna has a permanent diagnosis of anxiety, depression and obsessive compulsive disorder. Her diagnosis does meet the standards under ADA guidelines as being a permanent disability. The use of a service dog in these individuals has been shown to be extremely effective.

Any denial of her being able to live with her service dog would be a clear violation of the American Disability Act, and a violation of her civil right.”

This note appears similar to the first note from Booker in stating she suffers from adjustment disorders and anxiety, and had been under his treatment for years. Both state that “pet therapy” could be beneficial in stressful or anxious times “which may include grieving situations or situations in which there are crowds. These patients have been found to benefit from having service dogs with them at all times.” (Booker, 1/18/17, 4/7/17).

The primary difference between the letters is that the second one, dated 4/7/2017, directly states the cp has a “permanent diagnosis of anxiety, depression and obsessive compulsive disorder. Her diagnosis does meet the standards under ADA guidelines as being a permanent disability.” (Booker, 4/7/17)

It is noted that the cp’s first letter from “Spring Eternal”, the on-line service that was deemed unreliable by the respondent, did specify that “her psychological condition significantly limits at least one daily life activity. It can affect her ability to cope and the maintenance of her psychological stability.” Thus, one symptom had been identified through the three notes.

Even though rejected as unreliable by the respondents, it is believed that once the cp has established that she is in fact disabled by her subsequent notes, this initial note does gain some credibility and is relevant. That is, in itself and as an initial impression, the respondents could be correct in casting doubt on it. However, once subsequent notes corroborate the initial notes diagnosis, it would appear the remaining information in that note could be deemed as credible.

Further, as the cp is disabled through anxiety as one of the disabilities, it would follow that anxiety would be one of the symptoms affecting her daily life. If the animal can alleviate those symptoms,

it would appear helpful in ameliorating the effects of her disability.

Regarding the sufficiency of information, in HUD's Joint Statement of The Department of Housing And Urban Development And The Department Of Justice, Reasonable Accommodations under the Fair Housing Act, it states the following in relevant part:

"18. If a disability is not obvious, what kinds of information may a housing provider request from the person with a disability in support of a requested accommodation?"

A housing provider may not ordinarily inquire as to the nature and severity of an individual's disability. However, in response to a request for a reasonable accommodation, a housing provider may request **reliable disability-related information** that (1) is necessary to verify that the person meets the Act's definition of disability (i.e., has a physical or mental impairment that substantially limits one or more major life activities), (2) **describes** the needed accommodation, and (3) **shows the relationship** between the person's disability and the need for the requested accommodation. Depending on the individual's circumstances, information verifying that the person meets the Act's definition of disability can usually be provided by the individual himself or herself (e.g., proof that an individual under 65 years of age receives Supplemental Security Income or Social Security Disability Insurance benefits or a credible statement by the individual). A doctor or other medical professional, a peer support group, a non-medical service agency, or a reliable third party who is in a position to know about the individual's disability may also provide verification of a disability. In most cases, an individual's medical records or detailed information about the nature of a person's disability is not necessary for this inquiry.

Once a housing provider has established that a person meets the Act's definition of disability, the provider's request for documentation should seek only the information that is necessary to evaluate if the reasonable accommodation is needed because of a disability. Such information must be kept confidential and must not be shared with other persons unless they need the information to make or assess a decision to grant or deny a reasonable accommodation request or unless disclosure is required by law (e.g., a court-issued subpoena requiring disclosure)."

Under this standard, it would appear the notes are sufficient, if all three are read together. However, under the "FHEO Notice: FHEO-2013-01, Service Animals and Assistance Animals for People with Disabilities in Housing and HUD-Funded Programs", the guidance appears to suggest that at least one symptom should be identified to the respondent.

In relevant part, it states:

"An assistance animal is not a pet. It is an animal that works, provides assistance, or performs tasks for the benefit of a person with a disability, or provides emotional support that alleviates one or more identified symptoms or effects of a person's disability... Housing providers are to evaluate a request for a reasonable accommodation to possess an assistance animal in a dwelling using the general principles applicable to all reasonable accommodation requests. After receiving such a request, the housing provider must consider the following:

- (1) Does the person seeking to use and live with the animal **have a disability**- i.e., a physical or mental impairment that substantially limits one or more major life activities?
- (2) Does the person making the request have a disability-related need for an assistance animal? In other words, does the animal work, provide assistance, perform tasks or services for the benefit of a person with a disability, or provide emotional support that alleviates **one or more of the identified symptoms** or effects of a person's existing disability?

If the answer to question (1) or (2) is "no," then the FHAct and Section 504 do not require a modification to a provider's "no pets" policy, and the reasonable accommodation request may be denied.

Where the answers to questions (1) and (2) are "yes," the FHAct and Section 504 require the housing provider to modify or provide an exception to a "no pets" rule or policy to permit a person with a disability to live with and use an assistance animal(s) in all areas of the premises where persons are normally allowed to go, unless doing so would impose an undue financial and administrative burden or would fundamentally alter the nature of the housing provider's services." (FHEO Notice: FHEO-2013-01, Service Animals and Assistance Animals for People with Disabilities in Housing and HUD-Funded Programs, p. 2-3).

Overall, the cp's notes have indicated she is disabled, and that the animal would provide benefit. If applicable case law does ultimately requires the identification of a symptom, it is believed the first note may have done this, along with the 3rd note. Although the 2nd and 3rd letters from her treating physician had a vague nexus, they could be deemed to be sufficient.

Regarding why the cp used an online service with licensed personnel from another state, as opposed to her own treating physician in her own state, the cp replied the first time she had discussed it with her treating physician, he told her to go to the internet. He reportedly stated that some of his patients had got it from the internet. In writing, the cp stated roughly the same thing of her doctor being unfamiliar with the assistance animal process. Regarding the dog, she stated she obtained the animal on January 2, 2015. In her rebuttal, the cp wrote it was with her treating physician with whom she spoke with about the benefits of a support dog, before obtaining the dog. (B-7)

C. CONCLUSIONS:

Therefore, based on the available evidence, we conclude that there is REASONABLE CAUSE to believe that the Respondent may have violated **violated Article II, Division 3 of Chapter 70 of the Code of Ordinances of Pinellas County, Florida on the Complainant's allegations**, Title VIII of the Civil Rights Act of 1968, and Chapter 70 of the Pinellas County Code respectively on the Complainant's allegations.

Reasonable Cause
Determination

Paul Valenti, Human Rights Director
Paul Valenti, Human Rights Director

Date *July 17, 2012*

V. Additional Information

Notwithstanding this determination by 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