

April 15, 2021

## Determination

**Case Name:** Patricia Lang V. Rosetree Village Association, et al

**Case Number:** 04-20-2631-8; PC-20-035

### I. Jurisdiction

A complaint was filed on July 17, 2020 alleging that the complainant(s) was injured by a discriminatory act. It is alleged that the respondent(s) was responsible for: 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 December 01, 2019, and is continuing. The property is located at: Rosetree Village , 7360 Ulmerton Rd. , 1A, Largo, FL 33771. 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 804f3B 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

Patricia Lang (CP) is a disabled female who resides at 7360 Ulmerton Rd. #1A, Largo, FL 33771. The property is owned by CP and governed by Rosetree Village Association (R Association). The property is managed by RealManage, LLC (R Management).

CP states "I have asked for a reasonable accommodation (3 times in writing) to be made for my disability because I have trouble walking to my assigned parking space (located at the end of the building (the length of 6 villas), which is too far). All other villas have parking available outside their front door. None of my letters have been answered despite my numerous pleas."

CP alleges that she has made three (3) separate requests for a reasonable accommodation to (R Management) and (R Association). The last request was made sometime in December 2019. All requests have been ignored.

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

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### III. Respondent Defenses

Respondent states they have previously discussed the parking issue with CP on several occasions and have responded to any written requests it has received from her.

Respondent states the facts are: 1. CP is an end unit with is located at the front corner of the main entrance to the Community on Ulmerton Road in Largo, Florida. The Parking spaces for all the units in her building are located at the West End of the building. 2. In response to CP's assertion that hers is the only building which does not have parking in front of the units, there are two other buildings (of the 31 in the Community) which do not have parking directly in front of the individual units in those buildings because of the physical configuration. 3. There is no land at CP's unit which could be converted to a parking space. In front of her unit, there is a small grassy area, and the walkway leading to her unit. Beyond that is the entry road from Ulmerton Road into

the Rosetree Community. Any vehicle parked in that area would create an inherently dangerous condition because of incoming traffic. 4. Because of the entry feature adjacent to her unit, there is no land on the side of CP's unit in which to create a parking space. 5. The signs regarding limitation on parking on the street have been in place for many years, and have been replaced as needed from time to time. The Rules and Regulations authorize short term parking for loading and unloading. 6. The Board had acknowledged a number of accommodations for disability requests, including alterations to parking spaces, installation of sidewalk ramp and the like. All of those accommodations involved parking spaces which were located in front of the actual building, where there was sufficient and reasonable space for the modification.

#### IV. Findings and Conclusions

##### **ALLEGATIONS:**

**Failure to make reasonable accommodation – basis: disability**

**Failure to allow a reasonable modification – basis: disability**

##### **FINDINGS:**

1. 2/28/00 CP purchased the property; (B-2)
2. 10/30/14 CP sent an email to HOA asking for the no parking sign to be moved due to disabilities; (C-3)
3. 12/2016 CP submitted Dr. statement asking for no parking sign to be removed and disabled parking space closer to her unit due to disabilities; (C-1)
4. 12/19/19 CP submitted a letter requesting a response to her letter for an accommodation due to disabilities; (C-1)
5. 1/6/2020 CP sent an email to HOA RE: parking accommodation request. (C-2)
6. 7/9/2020 CP filed discrimination complaint; (B-1)

##### **Failure to Make a Reasonable Accommodation:**

CP alleged she was denied a reasonable accommodation request due to her disability.

##### **Analysis:**

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;
4. Respondent refused to make the requested accommodation or failed to respond or delayed responding to the request such that it amounted to a denial;
5. Accommodation is not an undue burden on respondents.

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CP is a person with a disability as referenced by two (2) doctor's statements of her mobility impairment. (C-1, C-4) This element is met.

CP submitted several requests stating she was disabled, one of which included a doctor's statement. (C-1, C-2, C-3, C-4) This element is met.

CP's accommodation request is related to her mobility related disabilities and are necessary according to her doctor's statements. (C-1, C-2) This element is met.

CP alleges respondent failed to respond to any of her requests. (C-1) This element is met.

Respondent does not state an undue burden. (D-1) This element is met.

CP states that she has requested respondent move or remove the no parking sign in front of her unit, and that she needs parking closer to her unit due to her disabilities. CP states she has submitted several reasonable accommodation requests to respondent. CP states she has not had a response from respondent concerning her requests. (C-1) CP's disabilities were corroborated by two (2) doctor's statements. The first dated December 5, 2016 stating, *"This is a request to remove, "no parking at anytime" sign, located in front of Patricia Lang's villa. She has chronic debilitating neurologic issues, that affect her gait and balance adversely, she cannot walk greater than 5 ft without a walking aid or needing to rest. She has suffered multiple falls walking from her car to her villa over long distances. This sign needs to be removed and relocated she can park closer to her villa for her safety. Additionally she needs a perminate [sic] hand-capped [sic] parking space located near her villa for her safety this is medically necessary."* (C-1) The second dated October 6, 2020 stating, *"Patricia Lang is handicapped and is in need of a closer parking spot in the front. The patient falls all the time and cannot walk very far at all it would be great if you could provide this for her."* (C-4)

Respondent states they have previously discussed the parking issue with CP on several occasions and have responded to any written requests it has received from her. Respondent states the signs regarding limitation on parking on the street have been in place for many years and have been replaced as needed. (D-1) Respondent states street parking is not permitted in the community. Respondent states the location of CP's building and unit (right at the main entrance to the community) creates a potentially dangerous condition. Respondent states they have looked carefully at the configuration of the grass and the entry and the main road, and they cannot find a way to create a special parking space on the road. *"It is simply too dangerous."* (D-2)

CP submitted documents showing that on several occasions she made reasonable accommodation requests to respondents. (2014 C-3, 2016 & 2019 C-1, 2020 C-2) CP stated respondents failed to respond to any of the requests she submitted.

Respondents initially stated they had responded to any written requests they had received from CP. However, when documentation was requested, respondents provided two (2) affidavits. The affidavit from Peter F. Makres, President of the Association, acknowledges CP made her request *"a number of times"* but does not state that he or anyone else spoke to or responded to CP's requests. (D-2 (4)) The affidavit received from Valarie Sharrow, Director of Operations, acknowledges receipt of CP's letter dated December 31, 2019 and that it was forwarded to the Board of Directors for handling. (D-4 (3 &4))

Part of a housing providers obligation regarding a reasonable accommodation request is to provide a response within an appropriate amount of time. In cases such as this, where the respondent states that they *"have looked carefully at the configuration of the grass and the entry and the main road, and we cannot find a way to create a special parking space on the road. It is simply too dangerous."* it is even more important for the provider to enter into the interactive process in an attempt come up with a solution.

Although respondent deemed CP's request too dangerous to grant, respondent still has the responsibility to fulfill their obligations to CP. There has been no evidence provided that respondent fulfilled their obligation to provide CP a response to her multiple reasonable accommodation requests or that the respondent attempted to enter the interactive process in an attempt to find a solution to assist CP, thus, denying CP's reasonable accommodation requests.

Sufficient information has been provided to prove:

1. CP is a person with a disability;
2. Respondent knew of CP's disability;
3. CP's accommodation request is due to her disability and timely;
4. Respondent failed to respond to CP's requests in a reasonable time;

5. Respondent did not raise an undue burden defense.

Therefore, there is sufficient information to prove respondent denied a reasonable accommodation request due to a disability.

**Failure to Allow a Reasonable Modification:**

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. Modification for the disability may be necessary to afford complainant an equal opportunity to use and enjoy the dwelling;
4. Complainant is ready, willing and able to pay for the modification;
5. Respondent refused to allow the requested modification or failed to respond or delayed responding to the request such that it amounted to a denial;
6. Modification is not an undue burden on respondents.

CP is a person with a disability as referenced by two (2) doctor's statements of her mobility impairment. (C-1, C-4) This element is met.

CP submitted several requests stating she was disabled, one of which included a doctor's statement. (C-1, C-2, C-3, C-4) This element is met.

CP's modification request is related to her mobility related disabilities and are necessary according to her doctor's statements. (C-1, C-2) This element is met.

CP is aware it is her responsibility to pay for the modification and has obtained 3 estimates for the work. (C-5, C-6)

CP alleges respondent failed to respond to any of her requests. (C-1) This element is met.

Respondent does not state an undue burden. (D-1) This element is met.

CP states she needs a parking space closer to her unit due to a mobility disability. CP states there is no parking in front of her unit, that the parking area is at the opposite end of her building. CP states that she has requested respondent move or remove the no parking sign in front of her unit, and that she need parking closer to her unit due to her disabilities. CP states she has submitted several requests to respondent. CP states she has not had a response from respondent concerning her requests. (C-1) CP states she is aware she is responsible for the cost of construction of a parking pad and has obtained three (3) quotes from different companies to complete the work. (C-5) CP's disabilities were corroborated by two (2) doctor's statements. The first dated December 5, 2016 stating, "*This is a request to remove, "no parking at anytime" sign, located in front of Patricia Lang's villa. She has chronic debilitating neurologic issues, that affect her gait and balance adversely, she cannot walk greater than 5 ft without a walking aid or needing to rest. She has suffered multiple falls walking from her car to her villa over long distances. This sign needs to be removed and relocated she can park closer to her villa for her safety. Additionally she needs a perminate [sic] hand-capped [sic] parking space located near her villa for her safety this is medically necessary.*" (C-1) The second dated October 6, 2020 stating, "*Patricia Lang is handicapped and is in need of a closer parking spot in the front. The patient falls all the time and cannot walk very far at all it would be great if you could provide this for her.*" (C-4)

Respondent states they have previously discussed the parking issue with CP on several occasions and have responded to any written requests it has received from her. Respondent states there is no land at CP's unit which could be converted to a parking space. Respondent states because of the

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:

Jeffery Lorick, Human Rights/E. E. O. Officer

*J. Lorick* 4-15-2021  
CAUSE FIND ON REASONABLE ACCOMMODATION  
CAUSE FOR REASONABLE MODIFICATION