

February 28, 2022

Determination

Case Name: Curtis Stowe d/b/a CWS Enterprises v Chalet Capri Condominium Association Inc

Case Number: 04-22-8869-8; PC-22-009

I. Jurisdiction

A complaint was filed on November 03, 2021 alleging that the complainant(s) was injured by a discriminatory act. It is alleged that the respondent(s) was responsible for: Discriminatory refusal to rent; Discriminatory terms, conditions, privileges, or services and facilities; Otherwise deny or make housing unavailable; and Discriminatory acts under Section 818 (coercion, Etc.). It is alleged that the respondent(s)'s acts were based on Race; Color; and Retaliation. The most recent act is alleged to have occurred on August 27, 2021 and is continuing. The property is located at: 275 Capri Circle North, Unit A103, Treasure Island, FL 33706. 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 804(a), 804(b) and 818 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

Curtis Stowe (CP) purchased the property located at 375 Capri Circle N. unit A103 Treasure Island, FL 33706. CP is currently using the property for a few months a year, and then doing short term rentals during the summer. CP advised Chalet Capri Condominium Association Inc, and the President Mr. David A. Kidd (R Kidd), of his intent to rent the property as a short-term rental during the months that he was not occupying the unit. CP had an attorney verify that he was allowed to rent the unit and confirmed with R Kidd that he was able to do so. CP hired Vacasa, an agency that managed the short-term rentals and availability of the property.

CP indicates that he has received communication from Vacasa representative Jodi Wert, that his tenants were being harassed and discriminated against by R Kidd. On one occasion, an African American tenant was staying at the property and visited the pool, and R Kidd called the police department, and advised the tenant that they do not accept his kind here. CP has been advised that R Kidd has acted discriminatory against his tenants and himself, and he has received written communication from R Kidd indicating that he would continue to harass and discriminate to his tenants.

III. Respondent Defenses

Respondent deny race and color had anything to do with the events that have occurred at the condominium property. Respondent state the legality of CP's frequent rentals of less than 14 days is disputed by the Association as a violation of its rules as well as Treasure Island zoning laws. What has occurred is the direct and proximate result of CP's misuse of his unit.

IV. Findings and Conclusions

A. FINDINGS:

1. 11/16/2020 CP purchased subject unit. (B-2)
2. 7/23/2021 CP sent "Cease and Desist" letter from attorney to Respondent. (D-1)
3. 8/4/2021 CP sent "Statutory Offer to Participate in Pre-suit Mediation" to Respondent. (D-1)
4. 10/28/2021 CP filed Housing complaint. (B-1)
5. 12/31/2021 Respondent sent "End of Year Message" to all residents. (C-4)

B. LAW & ANALYSIS:

CP alleges he has been subjected to disparate treatment due to race and color. CP states he and his renters have been harassed while on the property.

To establish a violation under the Act 804(a), and 804(b), the investigation must demonstrate that Respondent refused to rent, imposed unfavorable terms not undertaken against others similarly situated, and/or made housing unavailable.

CP bought the subject unit for purposes of both personal and business use. CP purchased the unit with the intent to use it as a short-term rental when he was not personally using the unit. The subject unit is one of fourteen (14) units within the Association. Two (2) units are occupied by long term renters. All unit owners are Caucasian including CP.

CP alleges that Respondent harassed him, and his renters based on race and/or color. CP states his management company for the short-term rental of the unit received complaints from the renters that they were harassed by the residents and told that they were not welcome there. CP's property manager, Jodi Wert, was interviewed and stated, "Complaints are pretty consistent from the renters" and "They make it known renters are not welcome." When asked about the race of the renters, Ms. Wert stated that she did not know their races as she does not ask the race of the renters of CP's unit. Ms. Wert did state she knew of one incident with an African American family at the pool where they were told, "we don't want your kind here". Ms. Wert stated she did not know if was racially motivated or because they were renters.

Ms. Lauren Robinson, Lemont Management, does administrative work for Respondent. Ms. Robinson was interviewed. Ms. Robinson stated that all the complaints she received have come through Mr. Kidd, she has not spoken to any of the other residents as to the complaints regarding the short-term rental. Ms. Robinson stated she has not personally witnessed any discrimination with regard to Respondent. Ms. Robinson stated there is no indication that the issue is race or color "it seems the problem is the Air BNB" style rental issue."

The response was provided by David Kidd, President of the Board on behalf of the Respondent. Respondent states race and color had nothing to do with the events that have occurred at the condominium property. Respondent states the legality of CP's frequent rentals of less than 14 days is disputed by the Association as a violation of its rules. Respondent states what has occurred is a direct and proximate result of CP's misuse of his unit.

Based on the evidence there is insufficient information to prove discrimination based on race and/or color has occurred.

To establish a violation under 818, Retaliation, Coercion, Intimidation, Threats, Interference: Based on Protected Activity the investigation must demonstrate that:

1. CP engaged in an activity protected by the Act.
2. The respondent interfered with that activity, or coerced, intimidated or threatened the complainant.
3. Circumstantial evidence indicates that the respondent's actions were related to the protected activity. Such circumstantial evidence could include the sequence of events

leading up to the interference or other context for the respondent's actions.

Regarding the first element, the CP retained an attorney to write and serve Respondent with a Cease-and-Desist letter July 23, 2021 demanding Respondent stop their harassing and discriminatory behavior. This element was met.

Regarding the second element, after Respondent was served the Cease-and-Desist, CP continued to receive complaints from his renters that they were being harassed. CP took further action and began the Pre-suit Mediation against the Respondent for interfering with his business. However, mediation was unsuccessful. This element was met.

Although, Respondent attempted to change the Condominium Declarations prior to the Cease-and-Desist, shortly thereafter, on October 15, 2021, Respondent became successful and filed a Certificate of Amendment to Declaration of Condominium. At this time, the Respondent made the following amendments:

Respondent deleted all references to "vacation rental" and added that "units may not be rented for periods of less than one month. This amendment does not apply to CP due to his objection during the original vote, therefore, CP still has the ability to use his unit for personal and short-term rentals under the previous Declarations.

The second was in reference to animals. Respondent put restrictions as to the number of animals allowed, stating, "Unit owners may keep two dogs and/or cats or other non-exotic household pets...." Respondent included the underlined, whereas prior there were no restrictions. The Respondent provided the amended Declarations to the residents via email through Lamont Management on October 28, 2021. CP states in his information that he believes this amendment targeted him to prevent him from returning to his unit with his three dogs.

On October 28, 2021 CP filed a complaint of discrimination with Pinellas County Office of Human Rights based on race and color.

Then on December 31, 2021, the Respondent sent a letter to all unit owners titled; "End of the Year Message". In this letter Respondent stated, *"Due to the cost of litigation initiated by one disgruntled new owner we have had to cancel certain planned maintenance and repair projects in order to meet our tight 2021 budget and defend our peaceful, residential, neighborhood way of life. We hope to get back on the beam this spring. It is going to be an interesting year and it will be challenging. However, I believe we can handle it, increase our property values, and enjoy our amenities if we pull together. I pray it will be calm, peaceful, dignified, and respectful and we can get back to focus on proper maintenance of our common properties and enjoy a safe and harmonious neighborhood."*

Respondent was asked who he was referring to as the "disgruntled new owner", the response was, "Disgruntled owner is Stowe".

The investigation shows that the CP began to exercise his rights in an effort to stop the Respondent's continued harassment towards him and his renters with a Cease-and-Desist letter. When the harassment failed to stop, the parties were subjected to a pre-suit mediation. However, the pre-suit mediation was unsuccessful.

After the unsuccessful mediation, Respondent filed for a Certificate of Amendment to Declaration of Condominium whereas not only did Respondent change the length of time a unit can be rented, but Respondent also placed restrictions on the number of animals allowed in a unit. Respondent is aware CP has three dogs. Thus, placing a restriction on CP's ability to freely occupy his unit with his three dogs he owned when he purchased this unit.

CP's property manager continued to receive complaints from CP's renters, including an African American family that had an issue at the pool. Upon advice from CP's attorney, CP filed a complaint with Pinellas County Office of Human Rights. Respondent received the complaint on or about November 5, 2021.

On January 12, 2022, Respondent distributed a letter dated December 31, 2021 to all residents of the Association. In this letter Respondent refers to CP as "one disgruntled new owner" and accuses CP's litigation costs as the cause for canceling planned maintenance and repair projects.

Additionally, Respondent placed signage at the pool that states in part, "Children under the age of 18 must be accompanied by an adult". This has further interfered with CP and his tenants, as many of his tenants have had children of all ages with them. Restrictions limiting the use of a pool by children under the age of 14, 13 or 12 without adult supervision is to be reasonably related to health, safety and welfare of the child. An age limitation above that may be seen as restricting pool access to all children.

Furthermore, CP and his tenants have not been able to access the pool since September 2021 as the lock has been changed and the key provided to CP by Mr. Kidd does not work. CP has attempted to contact Mr. Kidd on several occasions to request a key that works, the only response Mr. Kidd provided was on February 7, 2022 and states in part, "The lock has not been changed. ... I have no extras. Maybe you can borrow a neighbors and make a copy."

The totality of Respondent's actions shows the intimidation and interference in CP's use of his unit.

C. CONCLUSIONS:

Therefore, based on the available evidence, we conclude that there is No Cause to believe that the Respondent may have violated 804a, 804b or 804d of the Fair Housing Act of 1988; Article II, Division 3 of Chapter 70 of the Code of Ordinances of Pinellas County, Florida on the Complainant's allegations.

However, based on the available evidence, we conclude there is Cause to believe that the Respondent may have violated 818 of the Fair Housing Act of 1988; Article II, Division 3 of Chapter 70 of the Code of Ordinance of Pinellas County, Florida on the Complainant's allegations.

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:

Betina Baron
Betina Baron, Compliance Manager

2/28/22
Date