

March 15, 2022

Final Investigative Report

Case Name: Leanne Brandfass v Imperial Cove Condominium X Association Inc.

Case Number: 04-22-8540-8; PC-21-049

I. Jurisdiction

A complaint was filed on October 05, 2021, alleging that the complainant(s) was injured by a discriminatory act. It is alleged that the respondent(s) was responsible for: Discriminatory acts under Section 818 (coercion, Etc.); and Failure to make reasonable accommodation. It is alleged that the respondent(s)'s acts were based on Disability, and Retaliation. The most recent act is alleged to have occurred on September 01, 2021 and is continuing. The property is located at: Imperial Cove Condominium X, 19029 US Highway 19 North, Unit 11A, Clearwater, FL 33764. 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 818, and 804(f)(3)(B) 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. Parties and Aggrieved Persons

A. Complainant(s)

Leanne Brandfass
Imperial Cove Apartments
19029 US Hwy 19 North
11A
Clearwater, FL 33764

Complainant Representative(s)

Complainant Allegations

Leanne Brandfass (CP) and her husband John Brandfass (CP husband) purchased a condominium at Imperial Cove in October of 2020. Prior to the move, the CP and the CP husband were asked if they had any pets, as there is a strict no pet policy; they both answered no; because the CP has a service animal, not a pet. The purchase was completed, and they moved in. After they moved in, the Homeowners Association President James Larisa (R) stated to the CP and the CP husband that he was not aware that they had a pet; stating that this is a pet free apartment, and the pet wouldn't have been approved. CP clarified that what she has is a medical service animal, trained to alert the CP when her medical condition became critical. The CP provided documentation to the R indicating the purpose of the service animal; and stated to the R that the sale of the Condominium was already approved by the Board. The CP states that since the initial meeting, the R has been consistently harassing them, attempting to remove the medical service animal by identifying it as an emotional support animal (ESA) and accusing them of actions that are untrue.

On May 4th, 2021 the CP received a letter from Chuck Pitassi (Office Manager), indicating that the CP's ESA was barking and launching at passersby at all hours of the day and night. The CP this statement is untrue. CP has evidence to the contrary. The Association and office personnel refuse to recognize CP's service animal as such and continue to refer to it incorrectly as an ESA.

On June 3, 2021 the CP receive a letter from Drew Corbin, Esq. (Association lawyer). Indicating that the CP's service animal continuously barks and possibly acts aggressively and has a dangerous disposition; requiring the CP

to take immediate action to ensure that the service animal does not bark or startle other residents. The CP has evidence to the contrary. The CP states that her service animal only barks when there is someone at her door, or when her medical condition requires him to do so, per training provided.

The CP states that they are being harassed by the HOA, indicating that they selectively enforce the condo rules as follow:

They were asked to get building permits for remodeling (which they did) but other residents within their community are not asked to do so. They were given a reprimand for backing into the parking lot, but other residents can do so even if it is against the rules (proof will be provided).

The CP states that the R has consistently bullied them, by lying to other residents, and posting false information publicly in social media, causing the community to shun them, CP and husband are subjected to verbal assaults from the community because of false information provided by the R. The CP and her husband were falsely accused cutting the mangroves behind their unit illegally. R posted on the community's social media page false information causing the community to shun them. The CP has had to defend herself and her husband of false allegations made by R, and being subjected to verbal attacks, harassment, and shunning behavior from other residents. This behavior has prevented the CP and her husband of the enjoyment of the common places in the community. Everywhere they go within the community they are shunned and harassed by other residents, verbally assaulted, and retaliated against. The R has also sent emails to the few parties that have attempted to defend the CP and her husband, by sending e-mails and text messages warning them to be careful to who they align with.

B. Other Aggrieved Persons

John Brandfass
19029 US Hwy 19 North
11A
Clearwater, FL 33764

C. Respondent(s)

James Larissa
Imperial Cove Condominium X Association Inc.
19029 US Hwy 19 North
12D
Clearwater, FL 33764

Chuck Pitaki
Community Association Manager
19029 US. HWY 19 N.
Clearwater, FL 33764

Respondent Representative(s)

Joseph Riopelle
Boyd Richards Parker & Colonelli, P.L.
100 SE 2nd St.
2600
Miami, FL 33131

Representing: James Larissa (Imperial Cove Condominium X Association Inc.), Chuck Pitaki (Community Association Manager)

Notes:

Respondent Defenses

The Association has received several complaints from other unit owners regarding the dog's behavior; including barking, growling and snarling at neighbors, and generally acting aggressively towards pedestrians who happened to walk past the dog. The Association sent notifications to the CP advising her of these complaints and requested that these issues be addressed. The dog is still on the property and the RPs have not made any effort to have it removed.

In addition to the issues pertaining to the alleged service animal, the Association also sent correspondence to the CP regarding drywall work that was being performed without first obtaining board approval. Notably, this was work that also required a permit from the local building dept. As such, it was the City of Clwtr, not the Association, that required a permit. As to the work itself, the board eventually approved the work and allowed it to proceed.

The Association has not discriminated against the CP and has instead sought to balance the interests of the CP with those of other unit owners.

D. Witnesses

III. Case Summary

A. Interviews

Complainant: Brandfass, Leanne;
Date of Interview: December 27, 2021
Type of Interview: Email
Interviewer: Lewis, Alana

The CP was sent a RFI along with the Position Statement and given the opportunity to rebut.

Respondent Representative: Riopelle, Joesph;
Date of Interview: January 28, 2022
Type of Interview: Email
Interviewer: Lewis, Alana

Good evening, Attorney Riopelle:

I am in receipt of the Charging Party's rebuttal to the Position Statement. It is attached for your reference. I will also forward videos that were submitted of Mrs. Brandfass's service dog, Drew.

I have a few follow up questions for the Respondent. They are:

1. After receiving the two complaints about Drew, did the Respondent engage in the interactive process with the Charging Party regarding Drew's alleged behavior or was she simply told that a bark collar would be required or the dog would not have authorization on the premises?

1. Has any other resident(s) received violation notices for having BBQ grills and/or tiki torches in Association X?
 - a. If so, please provide documentation.

1. Have other residents residing in Association X been sued over having tiki torches or similar code violations?
 - a. If so, please provide documentation.

1. The Charging Party claims that a mediation agreement was made in October 2021; however, it was revised without the mediator's knowledge.
 - a. Is the Respondent willing to agree to the original terms of the agreement?

Please remember that throughout the investigation, there is an opportunity to conciliate. The Charging Party has provided me with conciliation terms. Kindly inform me if your client is open to conciliating. It is the policy of the PCOHR and HUD to attempt conciliation of all complaints.

The Respondent now has the opportunity to respond to the Charging Party's rebuttal. Additionally, please furnish the answers to the above questions by **February, 14, 2022**. Your cooperation is greatly appreciated.

Best weekend wishes,

Alana M. Lewis

Complainant: Brandfass, Leanne;
Date of Interview: February 17, 2022
Type of Interview: Email
Interviewer: Lewis, Alana

Please respond by the COB on **Thursday, February 24, 2022** to the following:

1. Is Drew an ESA or service animal;
 - a. It was stated in an email that you and your husband both have ESAs.
2. Did you receive any complaints from the Respondent about Drew prior to April 2021?
3. Are you aware of any other residents that may have received violation notices about their pets/animals?
4. Are you aware of any others that have a service animal?
5. When did you move in?
6. Is your yard/patio fenced?

Respondent Representative: Riopelle, Joesph;
Date of Interview: February 17, 2022
Type of Interview: Email
Interviewer: Lewis, Alana

1. Please furnish a copy of all violations to residents regarding pets and/or animals within the last year;
2. Provide a list of tenants with service animals and ESAs;
3. Has the Respondent required any other tenants with pets/animals to obtain a bark collar?
4. Furnish a copy of the Respondent's bylaws, pet policy, and rules/regulations;
5. Provide a copy of all complaints made against the Charging Party regarding the service animal. IE emails, texts, calls, letters, etc.

Please furnish the additional documentations by **Monday, February 28, 2022**.

B. Documents

Nature of Document: Respondent Response to Request for Information
Who Provided: RP's Attorney
How Transmitted to HUD: Email
Date of Document: February 14, 2022
Date Obtained: February 14, 2022

The Rp's attorney furnished their four answers to the RFI. An attachment was also included.

Nature of Document: Respondent Response to Request for Information
Who Provided: RP's Attorney
How Transmitted to HUD: Email
Date of Document: March 04, 2022
Date Obtained: March 04, 2022

1. Please furnish a copy of all violations to residents regarding pets and/or animals within the last year; (See First Attachment)
2. Provide a list of tenants with service animals and ESAs; Unit 11D – No complaints against that ESA or unit owner.
3. Has the Respondent required any other tenants with pets/animals to obtain a bark collar? No as no complaints have been lodged against unit 11D's ESA.
4. Furnish a copy of the Respondent's bylaws, pet policy, and rules/regulations; (See Second , Third & Fourth Attachments)
5. Provide a copy of all complaints made against the Charging Party regarding the service animal. IE emails, texts, calls, letters, etc. (See First Attachment) There have been other complaints from residents but they would not put the complaints in writing. (See First Attachment)

Nature of Document: 903
Who Provided: Complainant
How Transmitted to HUD: email
Date of Document: September 28, 2021
Date Obtained: September 28, 2021

Nature of Document: initial contact letter
Who Provided: intake
How Transmitted to HUD: email
Date of Document: September 28, 2021
Date Obtained: September 28, 2021

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Date Obtained: September 28, 2021

Nature of Document: Exhibit 12
Who Provided: RP's Attorney
How Transmitted to HUD: Email

Date of Document: December 07, 2020
Date Obtained: October 29, 2021

Resolution of Board/Disapproval for Unit 11D.

Nature of Document: Exhibit 8
Who Provided: RP's Attorney
How Transmitted to HUD: Email
Date of Document: November 02, 2020
Date Obtained: October 29, 2021

Letters to CP regarding bonfires, dumpster, drywall repair without the Board's approval, permit, violation notice regarding service dog and two complaints about the dog acting in an aggressive manner.

Nature of Document: Exhibit 4
Who Provided: RP's Attorney
How Transmitted to HUD: Email
Date of Document: November 02, 2020
Date Obtained: October 29, 2021

Service Animal Registration forms, USA Service Dog Registration, Rabies Certificate, Exam/Physical Forms, License & Rabies Vaccination Certificate, picture of CP's service dog & disability statement from CP's physician.

Nature of Document: Position Statement
Who Provided: RP's Attorney
How Transmitted to HUD: Email
Date of Document: October 29, 2021
Date Obtained: October 29, 2021

The Association has received several complaints from other unit owners regarding the dog's behavior; including: barking, growling and snarling at neighbors, and generally acted aggressively towards pedestrians who happened to walk past the dog. The Association sent notifications to the CP advising her of these complaints and requested that these issues be addressed. The dog is still on the property and the RPs have not made any effort to have it removed.

In addition to the issues pertaining to the alleged service animal, the Association also sent correspondence to the CP regarding drywall work that was being performed without first obtaining board approval. Notably, this was work that also required a permit from the local building dept. As such, it was the City of Clwtr, not the Association, that required a permit. As to the work itself, the board eventually approved the work and allowed it to proceed.

The Association has not discriminated against the CP and has instead sought to balance the interests of the CP with those of other unit owners.

Nature of Document: Exhibit 7
Who Provided: RP's Attorney
How Transmitted to HUD: Email
Date of Document: September 01, 2021
Date Obtained: October 29, 2021

2nd notice to CP regarding the service animal. She was instructed to use a bark collar on the dog when outside of the home.

Nature of Document: Exhibit 5
Who Provided: RP's Attorney
How Transmitted to HUD: Email

Date of Document: April 12, 2021
Date Obtained: October 29, 2021

Two complaints from residents about the CP's service animal, mangroves that were cut down and burning tiki torches too close to the trees.

Nature of Document: Exhibit 2
Who Provided: RP's Attorney
How Transmitted to HUD: Email
Date of Document: September 25, 2020
Date Obtained: October 29, 2021

Condo's Rules & Regs

Nature of Document: Exhibit 1
Who Provided: RP's Attorney
How Transmitted to HUD: Email
Date of Document: February 13, 2019
Date Obtained: October 29, 2021

Certificate of Amendment to the Declaration of Condominium for Imperial Cove Condominium X (98 pages)

Nature of Document: Exhibit 11
Who Provided: RP's Attorney
How Transmitted to HUD: Email
Date of Document: July 09, 2014
Date Obtained: October 29, 2021

Documentation that the Board approved an unspecified ESA for Unit 13A.

Nature of Document: Exhibit 10
Who Provided: RP's Attorney
How Transmitted to HUD: Email
Date of Document: November 06, 2021
Date Obtained: October 29, 2021

Unit # 12F was approved by Association 4 for an ESA (cat).

Nature of Document: Exhibit 9
Who Provided: RP's Attorney
How Transmitted to HUD: Email
Date of Document: February 02, 2021
Date Obtained: October 29, 2021

Documents relating to drywall repair without Board's approval.

Nature of Document: Exhibit 6
Who Provided: RP's Attorney
How Transmitted to HUD: Email
Date of Document: May 04, 2021
Date Obtained: October 29, 2021

Letter from the Rp's Community Association Manager regarding the two complaints received from residents about the service dog.

Nature of Document: Exhibit 3
Who Provided: RP's Attorney
How Transmitted to HUD: Email
Date of Document: March 01, 2014
Date Obtained: October 29, 2021

ESA Ownership Agreement & Registration (5 page document)

Nature of Document: CP's Rebuttal (Part I)
Who Provided: Doug Brandfass
How Transmitted to HUD: Email
Date of Document: January 05, 2022
Date Obtained: January 05, 2022

FAQs about SA and the ADA
Federal Service Dog Registration Form
Letter from P/W Environmental Management regarding cutting mangroves
Email/group post about mangroves

Nature of Document: 100 Day Letters
Who Provided: OHR
How Transmitted to HUD: In Person
Date of Document: January 13, 2022
Date Obtained: January 13, 2022

100-day letters sent to both parties. Add'l investigation needed.

Nature of Document: CP's Rebuttal (Parts I & II)
Who Provided: CP
How Transmitted to HUD: Email
Date of Document: January 15, 2022
Date Obtained: January 15, 2022

The CP furnished the rebuttal to the Rp's Position Stmt. Included were: timeline of events, videos of the service animal, violation emails/letters from Rp and their attorney, correspondence from Rp and photos of tiki torches and BBQ grills.

Nature of Document: Video 2
Who Provided: CP
How Transmitted to HUD: Email
Date of Document: January 15, 2022
Date Obtained: January 15, 2022

4 videos were sent showing Drew's friendly disposition.

Nature of Document: Video 3
Who Provided: CP
How Transmitted to HUD: Email
Date of Document: January 15, 2022
Date Obtained: January 15, 2022

4 videos: This is the common area behind the CP's backyard, where there are multiple walkers daily. The CP sits on their patio and in their Florida room every morning while she drinks coffee with Drew at her side. Drew loves watching the people walk by.

Nature of Document: Video 1
Who Provided: CP
How Transmitted to HUD: Email
Date of Document: January 15, 2022
Date Obtained: January 15, 2022

Drew at the dog park, in close proximity to another dog and people.

Nature of Document: Determination
Who Provided: OHR
How Transmitted to HUD: In Person
Date of Document: March 11, 2022
Date Obtained: March 11, 2022

Nature of Document: SIGNED AMENDMENT
Who Provided: INTAKE
How Transmitted to HUD:
Date of Document: February 23, 2022
Date Obtained:

Nature of Document: CP AMENDMENT NOTIFICATION PACKAGE
Who Provided: INTAKE
How Transmitted to HUD:
Date of Document: February 23, 2022
Date Obtained:

Nature of Document: RP AMENDMENT COMPLAINT PACKAGE
Who Provided: INTAKE
How Transmitted to HUD:
Date of Document: February 23, 2022
Date Obtained:

Nature of Document: AMENDMENT 903 PACKAGE TO CP FOR SIGNATURE
Who Provided: INTAKE
How Transmitted to HUD:
Date of Document: February 22, 2022
Date Obtained:

C. Interrogatories

D. Factual Observations

Betina Baron

3/15/22

Betina Baron, Compliance Manager

Date