

DETERMINATION OF REASONABLE CAUSE

DATE July 10, 2023

CASE NAME: Carolyn Pulido v. Isle of Sand Key Condominium Association Inc.

CASE NUMBER: HUD NO.: 04-23-4677-8 PCOHR NO.: PC-23-021

I. JURISDICTION:

Complainant alleges that she is being denied the opportunity to store a tricycle in the community bicycle room as a reasonable accommodation for her disability in violation of Sections 804(f)(3)(B) of the Fair Housing Act and Chapter 70 of the Pinellas County Code of County Ordinances. The Respondents are Isle of Sand Key Condominium Association, Inc. and Progressive Management, Inc.

The most recent act of discrimination is alleged to have occurred on December 9, 2022; and is continuing. The complaint was filed timely on April 4, 2023. The subject property concerns Complainant's dwelling at 1621 Gulf Boulevard, Unit 1108, Clearwater, Florida 33767, a condominium in Pinellas County.

II. COMPLAINANT'S ALLEGATIONS:

Complainant (hereinafter referred to as CP Pulido) Carolyn Pulido, an individual with a disability, states that her disability prevents her from riding a two-wheel bicycle. She alleges that in or around May of 2022, she contacted Cascie Savage (RP Savage), Association Manager, to ask for an accommodation to park a tricycle inside the bicycle storage building. CP Pulido advised that due to her disability, she was unable to use a bicycle and wanted to confirm that there would be space inside the storage building for the tricycle. RP Savage advised CP Pulido that she would contact Joe Forish (resident) to look at the bicycle room and see if there was space inside. CP Pulido alleges that in or around the last week of July 2022, she went with Mr. Forish to look at the storage building and identify potential spaces. CP Pulido states that Mr. Forish advised her that he would speak to RP Savage and present the matter to RP Isle. Mr. Forish also advised CP Pulido that she might have to pay for two spaces, as the tricycle was too big to fit into one space.

CP Pulido alleges that on August 6, August 19, and August 30 of 2022, she sent emails to RP Savage regarding her request to have space designated for her tricycle and was advised that her request was forwarded to the board. On December 7, 2022, CP Pulido sent RP Savage an email asking for an update as she had not received a response. On December 9, 2022, CP Pulido received an email from RP Savage advising that the bicycle storage building was full and that she would not be able to use the space. RP Savage advised CP

Pulido that she consulted with RP Isle, and they would grant her the opportunity to store the tricycle in her parking space. CP Pulido maintains that storing the tricycle in her parking space is not an option as it would be open to the elements and at increased risk of theft. CP Pulido further alleges that RP Savage's delay is a denial of her reasonable accommodation request in violation of Section 804(f)(3)(B) of the Fair Housing Act and Chapter 70 of the Pinellas County Code of County Ordinances.

III. RESPONDENT'S DEFENSES

RP attorney submitted an answer on behalf on all Respondents. RPs acknowledge that CP Pulido indicated that she has a disability related to her balance, and that she cannot ride a two-wheel bicycle due to her disability. RPs state that there was a discussion regarding this issue in August 2022. RPs state that CP Pulido was only on the property intermittently and did not raise the issue again.

RPs state that CP Pulido requested an accommodation to park a three-wheeled bicycle in the storage room. RPs assert that at the time of the request and at all times thereafter, the storage room was full and would not accommodate that use. RPs state that they are open to CP Pulido using the storage room when space is available. RPs assert that no other person has been granted a new or additional use of the storage room since CP Pulido's initial request. RPs state that the property manager suggested that CP Pulido store her tricycle in the carport, which is a practice found to be acceptable by another resident who is disabled.

IV. FINDINGS

During the investigation, CP Pulido provided a doctor signed a note stating that she suffers from poor balance due to a spinal cord lesion. He recommends that she obtain a tricycle to help with her balance and exercise. He states that it is medically necessary that she have a tricycle, to be placed in storage close to her apartment in a dry, safe storage location. (C-7)

CP Pulido purchased her home at the end of April 2022. She moved in on May 12, 2022.

CP Pulido had a meet and greet with Roberta Palmer between May 12 and May 20 of 2022. During this meet and greet, CP Pulido learned about the bicycle room.

Between May 20 and the Memorial Day weekend (Memorial Day fell on May 30 in 2022), CP Pulido approached RP Savage and told her that she wanted to get a tricycle. CP Pulido stated that after her sister comes down in May and leaves in July, that would be her only form of transportation.

The investigation revealed that on June 3, 2022, the Erwins, tenants at the property signed an agreement for bike storage. They received spaces 57 and 58. (D-2, D-6)

It was revealed that Joe Forish is a homeowner who volunteered to organize the bicycle

room in approximately June and July of 2022. He striped the floor and created numbered spaces for the floor and upper berth (hanging from the ceiling).

CP Pulido spoke to Mr. Forish in approximately, but no later than July of 2022. She informed Mr. Forish that she was going to buy a tricycle and inquired about space.

During said time, RP Isle and RP Savage approved residents' requests for storage space in the bicycle room.

Mr. Forish met with RP Savage and Association President Terry Jones (RP Jones) in July of 2022 and relayed CP Pulido's request for space in the bicycle room.

On August 6, 2022, CP Pulido sent an email to RP Savage. Within this email, CP Pulido stated, "I'm still waiting to hear back from Joe about the bike storage. He said he needed to get with you and the board members." (C-8)

The investigation also revealed that on August 17, 2022, the Martins signed an agreement for bike storage. They received spaces 61 and 62. (D-2, D-6)

On August 19, 2022, CP Pulido emailed RP Savage and stated, "I have not heard back from you so I wanted to send this message again." (C-8)

On August 30, 2022, CP Pulido forwarded her August 19, 2022 email to RP Savage. (C-3)

On September 20, 2022, CP Pulido informed RP Savage that she would be away until October 3, 2022. She informed RP Savage that she was having a medical procedure and touched on what the procedure would entail. (C-8)

On December 7, 2022, CP Pulido sent another email to RP Savage. In this email, she indicates that she wants to touch base with her about the tricycle and bike storage. CP Pulido continues, "Last I heard from you was that you were going to talk to the board about the situation. This was way back in August (around the 6th). I'm still waiting for an answer. Seeing this would be my only form of transportation it is kind of important for myself and I cannot ride a two-wheel bicycle because I'd (sic) my disability (I can't balance). I sure hope by now that you and the board have met and have a solution for me. I had not asked you about this earlier because I was having medical procedures completed and I was out of the building." (C-3, C-8)

On December 9, 2022, RP Savage replied to CP Pulido's email of December 7. She writes, "I have checked the bike room and it is full. I did come up with an idea and spoke to the board and they agreed. Why not park your bike in the assigned parking space that would be used as if you had a car. The rules do not allow bikes to be in those spaces, however, since it is your only means of transportation, they will allow it."

On March 14, 2023, another set of residents, the Gielows' signed an agreement for bike

storage. They received spaces 59 and 60. (D-2, D-6)

V. ANALYSIS

The *prima facie* elements for a reasonable accommodation case are as follows: (1) The CP is a person with a disability; (2) RP knew or reasonably should have known that the CP is a person with a disability; (3) CP requested an accommodation in the rules, policies, practices, or services of the RP; (4) The requested accommodation may be necessary to afford the CP an equal opportunity to use and enjoy the dwelling; (5) RP refused the CP's request to make such accommodation or failed to respond or delayed responding to the request such that it amounted to a denial.

CP Pulido produced a doctor's note stating that she suffers from poor balance due to a spinal cord lesion. CP Pulido also indicated that she would be undergoing additional medical procedures in September and October of 2022 (if the September procedure went well). This is sufficient evidence to establish that CP Pulido is a member of the protected class as defined by the Fair Housing Act and Chapter 70. The first element has been met.

Turning to the second element, RP states in its answer that CP Pulido "has indicated that she does have a disability relating to her balance, and that she cannot ride a 2-wheeled bicycle because of that disability. There was a discussion regarding that issue in August 2022." (D-2) Because the RPs acknowledge that they were aware of CP Pulido's disability, the second element has also been satisfied.

RP Isle provides a bicycle storage room for its residents. This room is one of the features of the property and residents are informed of this room during an orientation/meet and greet. (D-9, E-3) Currently, there are standard two-wheel bicycles and electronic two-wheel bicycles in the storage room (E-2). CP Pulido requested a deviation from RP's standard practice by asking for space to store a tricycle in the bicycle room., which has three wheels. This request was first made in May of 2022. Mr. Forish relayed CP Pulido's request to RPs Savage and Jones in July of 2022, and CP Pulido followed up on her request in August of 2022 (three emails) and on December 7, 2022. The third element has been fulfilled.

To establish the fourth element, the evidence must demonstrate that the requested accommodation may be necessary to afford CP Pulido an equal opportunity to use and enjoy the dwelling. CP Pulido's doctor's note recommends use of a tricycle for her balance and exercise. CP Pulido's doctor also recommends that the tricycle be stored in a dry, safe place. To note, at no point did the RP request for CP Pulido to provide supportive documentation. This note sufficiently explains the need for the tricycle as a means to help CP Pulido enjoy the use of her dwelling. Therefore, the fourth element has also been met.

Turning to the fifth element, the evidence demonstrates that CP Pulido moved in on May 12, 2022, and inquired about storing a tricycle in the bicycle storage room shortly thereafter (prior to the Memorial Day weekend of May 28-May 30). Resident Joe Forish relayed CP Pulido's request again in July of 2022. In the meantime, the Martins purchased

their unit on August 4, 2022, as evidenced by their warranty deed (C-5). The Martins subsequently received two spaces in the bicycle storage room on August 17, 2022 (D-2, D-6)

CP Pulido sent three emails to RP Savage in August of 2022, inquiring about the status of her request. RP Savage did not respond to these August requests. In a warranty deed signed on September 6 (page 2) and dated September 8, 2022 (page 1), the Gielows purchased their unit.

CP Pulido followed up with an email to RP Savage on December 7, 2022. Two days later, CP Pulido was informed by RP Savage that there was no room in the bicycle storage room.

The Gielows signed their bicycle storage agreement on March 14, 2023. They received two spaces.

CP Pulido purchased her unit at the end of April, 2022, and moved in on May 12, 2022. Despite submitting several requests from herself and through Mr. Forish, she still does not have space in the bicycle storage room as of the date of this report (a span of over thirteen months). The Martins moved in after CP Pulido's move-in date and were awarded two spaces in the bicycle storage less than two weeks after moving in.

Based on the evidence presented, the fifth element has been fulfilled. CP Pulido was denied a reasonable accommodation by RPs Savage and Isle.

VI. CONCLUSION

Based on the foregoing analysis, the Office of Human Rights concludes that there is REASONABLE CAUSE to believe that RPs Savage and Isle denied a reasonable accommodation in violation of Section 804(f)(3)(B) of the Fair Housing Act and Chapter 70 of the Pinellas County Code of County Ordinances.

VII. 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 the Pinellas County Office of Human Rights.

Betina Baron
Betina Baron, Compliance Manager

07/11/23
Date