

February 28, 2020

**Determination**

**Case Name:** Shantelle Andre v The Wave Condominium Association of St. Petersburg, Inc. et al

**Case Number:** 04-19-8369-8/PC-19-068

I. Jurisdiction

A complaint was filed on August 21, 2019 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; 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 Handicap. The most recent act is alleged to have occurred on August 05, 2019, and is continuing. The property is located at: The Wave Condominiums, 3315 58th. Ave. S , 411, St. Petersburg, FL 33712. 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, 818, and 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

Shantelle Andre (CP) is a disabled female who resides at the 3315 58th. Ave. S #411, St. Petersburg, FL 33712. The Property is governed by The Wave Condominium Association of St. Petersburg, Inc. (R Wave). The property is managed by Resource Property Management, Inc. (R Management).

CP moved into the property on May 1, 2019. CP who is disabled and issued a disabled parking permit from the Florida Department of Highway Safety and Motor Vehicles, has been given difficulty by (R Wave) concerning the validity of her parking permit.

CP alleges, however is unsure of the exact date, (R Wave) representatives placed a warning on CP's vehicle stating that it will be towed, without a reason listed. CP paid to have the sticker removed and was not seeking reimbursement, CP was looking for clarification. CP spoke to the (R Management) office and the individual CP spoke to advised that she would have the board members in the building call CP, since they put the sticker on the vehicle. CP advised (R Management) that she did not want to deal with the two board members that reside in the building, due to not feeling welcomed in the building regarding an incident that made me CP feel that they are confrontational individuals. CP requested to speak directly with "Charlotte" who is the on-site representative for (R Management).

CP states: "Shortly after the phone call someone knocked on my door and I felt it was the board members so I did not answer the door. Later I noticed both of them walking towards my vehicle looking in the window and pointing at my tires. I waited for them to walk away, then went to my vehicle to see if there was any damage to my vehicle ( previous break-ins, damage to my vehicle and tag hanging off car instead of screwed on so I placed my tag inside my vehicle). I didn't notice any further damage to my vehicle. I received a call from Charlotte at 4:37 p.m. on 08/05/2019 , but missed the call. I returned the call and I expressed my concerns to Charlotte regarding the sticker and the two board members."

CP continued to state: "She questioned if my handicap placard was valid, and I advised that it is and there was no reason for the sticker to be placed on my car warning me that they will tow my vehicle. She then stated that they need the supporting documentation for my handicap decal. I advised that I will not provide any medical documentation regarding my handicap decal, but I'd give her a copy of the placard in the window. She declined to accept that and stated that it's probably easier to give them what they want or they are going to call the police and I'll get ticketed \$250."

CP advised "Charlotte" that (R Wave) can call the police, however she will not be ticketed she will not provide supporting documentation to (R Wave) or (R Management) because CP feels they are violating her rights. CP stated to "Charlotte" "when the cops come out they will look at my drivers license and placard and see that it's valid." CP advises "Charlotte then questioned if my drivers license has the designation on it for the handicap parking; and I advised that my drivers license doesn't have anything on it regarding my handicap decal." "I advised that I received my handicap decal after I received my tag, so if their issue is the handicap logo not being on the tag, then that's the reason why. She then placed me on hold, but came back and advised that she didn't know what to tell me, but will tell the board members to use less adhesive when putting the stickers on the cars, since it can be extremely difficult to remove them."

CP alleges Charlotte went on to say that she will tell them to send their request in writing and to not knock on her door. CP states "I reiterated myself and stated that I am not providing supporting documentation regarding the reason as to why I have a handicap placard even if they send the request in writing because it has medical information on it."

CP continued: "I stated yet again that if they want a copy of the placard I can give her that. Charlotte replied, " They see that, their looking for something they can't see". I asked, " What can't they see?" She replied, " Apparently there is a piece of documentation that I am issued that supports the placard that's hanging in the window and they want to see the piece of paper that supports the handicap placard". I asked, "So they don't want the piece of paper that the yellow handicap sticker came off of?" Charlotte replied, " I don't know, they want more documentation that supports the handicap placard. If you don't have it then we may be in a dilemma or they could be asking for something that doesn't exist. I don't know. They maybe asking for something you're not willing to provide."

Cp continued: "I then stated that if they want documentation that deems the reason as to why I have a handicap decal they can go to the DMV and request it legally, but I'm not releasing any of my medical information since that document has medical information on it. Charlotte stated that nobody's asking for you to share private medical information, they just want the supporting documentation that validated the placard that's hanging in the window. I advised that I could give them a copy of the placard and if they want to go and request that information they can do that. She then stated that nope they would want it from me and there is no reason to get upset if it's valid."

CP stated "I advised that it is and she wanted to know why I'm giving them a hard time and I advised that I'm at the point that I feel like I'm being harassed. I told her about the board members by my car earlier that day , pointing at my tires and she didn't even acknowledge the comment. I explained that for some reason these men have an issue with me and I don't know why. Charlottes replied, "Oh please! If you don't want to make it simple and give them what they want and make it go away that's fine, if you want to make a big ol deal about it that's fine too. Its all between you and the board; I was calling because you requested that I call, I'm telling you what happened, you don't want to cooperate that's fine we'll take it from there, it's easy." That was the end of the telephone conversation."

CP States: "I feel their actions are discriminatory because they are requesting supporting documentation because they can't "see" the reason as to why I have a handicap placard. I have

spoke to the DMV and have been advised that they are in fact violating my HIPPA rights since they are asking for supporting documentation and I do not need to provide a copy of my placard or any supporting documentation to them. If the police wants to request to see my placard and my drivers license to verify that it is valid then he/she have the legal right to do so, but not these board members.was extremely upset.”

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

Amendment:

The CP alleged: "In short, once I declined Charlotte Churchhill' s request to provide supporting documentation or giving the board members what they want. I was told that the board members would call the police and I would be ticketed ....Eventually law enforcement was called."

"Consistent with my allegations, on or about 8/22, the association, knowing that I was a resident and with a visible disability parking placard in my car, gave me another parking warning notice stickered on my car with a check mark indicating 'No valid parking permit' and the following comments: Unit sticker 107 does not belong to this car called police. I have had the same resident parking permit "107", since the beginning of my lease in May; So it doesn't make sense that it becomes invalid after I decline a request to give them what they want.

I do not believe the property manager or the board members have the right to seek supporting documentation above and beyond a visible, valid disabled parking placard hanging in my vehicle."

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

### III. Respondent Defenses

The respondent stated CP had not made a reasonable accommodation request and that the “totality of the circumstances underlying this "Complaint" are that CP has a handicap placard and she parks in one of the several handicap parking spaces on the property. **Her car was ticketed for parking in a handicap space without displaying the placard. Her car was ticketed a second time for the same reason, although this second time it may be that the person ticketing the vehicle did not see the placard. No action of any type other than ticketing the car, however, was taken; CP was not fined, her car was not towed and she otherwise was not denied access to any Association amenities.** The "oversight" was a one-time incident and there have been no others. Nothing about these events even remotely qualifies as an actionable complaint under any provision of any "fair housing" law, and that, perhaps, is why there is no specific provision of chapter 70 of the Pinellas County Code or the Fair Housing Act cited in the Complaint as having been violated.” (B-1)

In a response to an RFI, the respondent confirmed that board member Bergamino had instructed the property manager to request the cp’s handicapped placard registration information, and had visited the cp’s unit to discuss such on or about 8/5/2019. The respondent stated Bergamino had placed the warning sticker on the cp’s car a second time because the unit parking decal number was incorrect.

In closing, the respondent’s attorney argued, “nothing about these events even remotely qualifies as an actionable complaint under any provision of any fair housing law, and that, perhaps, is why there is no specific provision of chapter 70 of the Pinellas County Code or the fair housing Act cited in the complaint as having been violated.” (C-1)

### IV. Findings and Conclusions

#### A. FINDINGS:

5/1/2019 Cp moves into complex; (B-1)

8/5/2019 Tow Warning Sticker glued on cp’s car while parked in disabled parking space at complex; (B-1)

8/5/2019 Cp communicates with respondent Ameri-Tech property manager Charlotte

Churchill concerning why sticker was placed on her car. Cp states she was asked for supporting documentation for her disabled parking placard. Cp declines to provide but offers copy of Placard, which is declined by the respondent; (B-1)

8/7/2019 Cp files complaint of Disability discrimination on-line with HUD; (B-1)  
8/14/2019 Cp signs perfected complaint with PCOHR; (A-1)  
8/21/2019 PCOHR Notice of the complaint letters sent to parties; (A-1)  
8/22/2019 2nd Tow warning sticker placed on cp's car; Police called about the illegal parking. Caller stated vehicle "with handicap decal is parked in wrong spot"/"doesn't think the person with the decal is actually the authorized user for the placard"; (D-2)  
8/23/2019 Police called about illegal parking: "Compl sts construction vehicle parked in handicap spot"; (D-2)  
Unspecified date Cp calls Administrator Rebecca who states that sticker #107 given to Cp in error; (B-3)

## **B. LAW & ANALYSIS:**

### **Cp allegations:**

This case concerns the respondent's legal right to request additional disability verification information from a disabled resident who had been parking in the complex's generic handicapped space with a valid disability parking placard.

The cp states that upon moving into the complex in May of 2019, she began parking in the complex's disabled parking space. The cp has two reserved parking spots assigned to her unit but preferred to park in the generic handicapped parking space at the complex due to ease and safety.

On or about 8/5/2009, the cp had parked in the complex generic disabled space, allegedly with her disability parking placard visible on the mirror. Despite the alleged presence of the placard the cp nonetheless had a warning sticker glued onto her car window by a board member. (B-1)

After complaining to the office on or about the same day, office staff requested she submit her disability parking placard registration form, which is issued along with the placard. The cp declined to do so, stating this information was private but reiterated her disability parking placard was valid, and offered a copy to the respondents. This was declined by them.

The cp then filed a complaint of housing discrimination on 8/14/2019.

On or about 8/22/2019, while parked in the generic handicapped space with her disability placard visible, the cp received another warning sticker glued on her window for "No Valid Parking Permit". Written on the sticker was "unit sticker (107) does not belong to this car[.] Called police", with 8/22/2019 as date issued.

The cp noted the next day someone had placed a construction barricade in the disabled parking space, preventing anyone from parking there. The cp then called the police about the matter. (D-2)

The cp then amended her complaint to include the most recent warning sticker of 8/22. (A-2)

On the face of the complaint, the cp alleged a failure to accommodate, different terms and conditions due to disability, and interference, coercion and intimidation due to disability.

Regarding the allegation of a failure to accommodation, this is not applicable. The cp did not make a reasonable accommodation request, nor did she need one to park in the disabled space.

Regarding the discrimination against the cp in the terms and conditions of handicapped parking, the applicable law and analysis would be: The Pinellas County Ordinance states the following: "Sec. 710-180, (b) A person may not discriminate against any person in the terms, conditions, or privileges of sale or rental of a dwelling or in the provision of services or facilities in connection

with the dwelling because of a handicap of that person.”

As the cp has a valid disability parking placard and legally allowed to park in any disabled parking spot, the respondent’s alleged imposition of further disability verification against a disabled person could be viewed as an additional term or condition of housing parking.

Regarding the cp’s claim of Interference, coercion or intimidation, the law and analysis would be:

The Pinellas County Ordinance states the following:

Sec. 70-183: “It shall be unlawful to coerce, intimate, threaten or interfere with any person in the exercise or enjoyment of, or on account of his having exercised or enjoyed, or on account of his having aided or encouraged any other person in the exercise or enjoyment of, any right granted or protected by this subdivision.”

As the cp has a valid disability parking placard and legally allowed to park in any disabled parking spot, the respondent’s alleged imposition of further disability verification against a disabled person could be viewed as a form of interference in the right to park in disabled parking with a standard disability parking placard.

Other information:

On 8/22/2019, respondent board member Bergamino called the St. Petersburg Police Department about illegal parking (#2019190744). The police report notes stated the following:

“abandoned vehicle/parking complaint”.

“STTS VEH WITH HANDICAP DECAL IS PARKED IN THE WRONG SPOT”

“STTS THE ADDRESS ASSOCIATED WITH THE DECAL IS NOT REG TO THE PARKING SPOT”...

CALLER IS ACTUALLY TRYING TO FIND OUT  
WHO THIS IS THAT IS PARKING IN THE SPOT  
BECAUSE THE DECAL ON THE VEH FOR THE CONDO  
COMES BACK TO A VACANT UNIT  
HAVE AN OFC SEE COMPL

**HE ALSO DOESN’T THINK THE PERSON WITH THE DECAL IS ACTUALLY  
THE AUTHORIZED USER FOR THE PLACARD**

\*\*\*ALL SPACES ARE ASSIGNED\*\*\*

I ADVISED THE COMPLAINANT THAT THE ISSUE IS CIVIL IN NATURE AND  
**THEREFORE I CAN NOT AND WILL NOT GIVE HIM THE INFORMATION HE IS  
ASKING FOR.** I TOLD HIM TO FOLLOW HIS CONDO ASSOCIATION BI-LAWS ABOUT  
PARKING AND TOWING THE VEHICLE.

COMPLAINANT WASN’T UPSET HE STATED HE UNDERSTOOD.” (D-2)

A call to the Department of Motor Vehicle revealed that no personal information was given out to members of the public, even with the Placard decal numbers. The DMV stated that if someone called with the Placard number, the DMV would not be able to provide that caller/person with any personal information, as that was protected by state law. The DMV stated that law enforcement had the ability to look up the number and match identities. (D-3)

During the investigation Officer Karen Lofton was interviewed. She was the officer who visited the premises during the above police report. She stated the respondent board member wanted to know if the person lived at the complex. When asked if the board member had wanted disability related information from the police officer, Lofton replied “they didn’t know anything about the car or the person.” She stated, “they didn’t know if the person was from a neighboring complex. They wanted me to tell them whether the person could park there.” Lofton stated the respondent wanted to be sure that it was not a person from a different complex using their parking space. When asked if the board member truly did not know who owned the car, Lofton replied ‘yes, totally’, stating, “he wanted information on whether the vehicle belonged to someone at the apartment.” She stated they wanted to know where the person lived and did not ask about the

disability parking placard. (D-2)

Respondent position:

The respondent denied the cp had requested a reasonable accommodation and stated the following, in relevant part, as their initial position:

“The totality of the circumstances underlying this "Complaint" are that CP has a handicap placard and she parks in one of the several handicap parking spaces on the property. **Her car was ticketed for parking in a handicap space without displaying the placard. Her car was ticketed a second time for the same reason, although this second time it may be that the person ticketing the vehicle did not see the placard. No action of any type other than ticketing the car, however, was taken; CP was not fined, her car was not towed and she otherwise was not denied access to any Association amenities.** The "oversight" was a one-time incident and there have been no others. Nothing about these events even remotely qualifies as an actionable complaint under any provision of any "fair housing" law, and that, perhaps, is why there is no specific provision of chapter 70 of the Pinellas County Code or the Fair Housing Act cited in the Complaint as having been violated.” (C-1)

Upon further questions, the respondent specified the following as their position:

“[T]he first time a warning sticker was placed on claimant’s vehicle, it had been done because there was no handicap placard in the car when it had been parked in one of the three handicap parking spaces on the property. Mr. Bergamino had so noted the lack of a handicap placard when he put the warning sticker on claimant’s car. The next day or so, Mr. Bergamino got a call from Ms. Churchill advising that claimant had called complaining that she does have a handicap placard. Mr. Bergamino then told Charlotte to request of claimant the registration certificate that is issued with all handicap placards. Mr. Bergamino himself has a handicap placard and so has first-hand knowledge that all placard holders are issued the registration certificate. Another day or so afterward Ms. Churchill again spoke with Mr. Bergamino and advised that she had spoken with claimant and requested that she provide the registration certificate but that claimant had refused. Mr. Bergamino at that time instructed Ms. Churchill to take no further action.” (C-3, 11/26/2019, q.2 (b))

Regarding whether the particular board member had visited the cp’s unit on or about 8/5, the respondent: “Yes, at some point after he instructed Ms. Churchill to take no further action, Mr. Bergamino went to claimant’s unit to address the issue and explain the need to see her registration certificate. No one answered the door and Mr. Bergamino left. He has never met or spoken with claimant.” (C-3, 11/26/2019, q.2 (e))

Regarding why the warning sticker was placed on the cp’s car on 8/22, the respondent stated: “I believe the “unauthorized parking...block was checked on this warning sticker. The parking sticker in the car windshield was for space 107. Mr. Bergamino has a list of units and assigned parking spaces on his phone. He checked the list and noted that space 107 is assigned to unit 412. Mr. Bergamino called and confirmed with the property manager that unit 412 was vacant.” (C-3, q.3 (b))

Regarding why the board member told the police on 8/22 that “they did not they did not think the “person with the decal is actually the authorized user for the placard”, the respondent stated: “After confirming that parking sticker 107 was for unit 412, which was vacant, Mr. Bergamino called the St. Petersburg police in an effort to identify the car’s owner. Officer Karen Loftin responded to the property and advised Mr. Bergamino that his concern was a civil matter and not one in which the police would get involved. At that point Mr. Bergamino put the second warning sticker on claimant’s car, for unauthorized parking.” (C-3)

During the investigation property manager Charlotte Churchill was interviewed. She recounted

how the office had received a call from a board member who had just placed a warning sticker on a car in the disabled spot and to get verification they had a placard to park there. From that message, Churchill called the cp to obtain the requested verification, which she stated was a card. Churchill confirmed the cp told her she had a valid parking permit and confirmed the cp had offered to provide them a copy, which they declined. Churchill did ask for verification, and when it was declined to be provided by the cp, Churchill did agree the statement about calling the police and/or being ticketed \$250 was made. Churchill stated she had volunteered this, as she believed the police department did govern such realm. Churchill clarified that no one had directly told her that the cp's disability parking placard had been present during the first warning notice on 8/5. Churchill stated she had assumed the placard was visible and was not told this by anyone, regarding the 8/5 warning placement. She stated she had heard about the 8/22 incident after the fact. Regarding the placement of the 8/22 warning sticker, Churchill stated this was about the wrong unit number decal being incorrectly given out by them, and not an instance of the cp parking in the wrong spot. Churchill stated the parking decal numbers did not match the unit number for security purposes. Therefore, having an incorrect unit number was not the same thing as parking in the incorrect assigned space to that unit. Churchill stated incorrectly assigned unit decals were a rare occasion, as they typically did not know or reconcile these unless someone was parking in the wrong spot. Churchill stated that if someone parked in the wrong numbered spot, even with the correct unit decal, then they would be ticketed. When asked why a board member would call the police for a car with the incorrect unit number, Churchill began to say the police had not been called for an incorrect unit number but instead because they did not believe she had the right to park there. At this point, respondent attorney Jackman correctly noted that Churchill had not been present for that event, and that Bergamino was the proper person who was knowledgeable about that aspect. Churchill confirmed her understanding that Bergamino had visited the cp's unit on or about 8/5. She stated that when speaking to board members she would always ensure they knew which unit the person resided in as a matter of procedure when dealing with board members. (C-7)

Analysis and conclusion:

The respondent board member who did this, Ron Bergamino, stated no disability parking placard was visible or present in the card at the time he placed the first one on 8/5. However, the cp disputed this, stating it was present and that she never took it down from hanging on the rear-view mirror, even while driving. (B-2)

Although the respondent assert they wrote, "Parked in handicapped space" on the warning notice check-off box, the cp disputed this and submitted a photos of both her car with the handicapped placard present, and a photo of the torn but reassembled warning notice. The reassembled notice had no reason specified in the check-off boxes. (B-4)

Regarding the first 8/5 warning action, it is believed the cp's disability parking placard had been present. However, it cannot be totally discounted that the placard was not seen, or not present during that particular day.

However, it appears the 8/22 warning sticker was placed due to the respondent wanting verification.

Respondent Bergamino confirmed he had spoken to Churchill on or about 8/5, and that, "claimant was asked to provide the registration certificate that is issued to all handicap placard recipients. It is not a proper use of a handicap placard for a person that does not possess the requisite registration certificate to use the handicap placard to park in a handicap space." (C-3, p.1, q.2.c.)

The respondent confirmed that Bergamino then visited the cp's unit on or about 8/5 and knocked on her door but left after the cp did not answer.

On 8/22, Bergamino called the police and also placed a warning sticker on the cp's car for (No

valid parking permit"). However, as the cp was parked in an unassigned generic disabled spot, it cannot be stated she was parked in the wrong spot. Instead, the warning sticker was placed for having the wrong unit # assigned to her, which was incorrectly issued by the respondent.

As indicated by Churchill, if a resident parked in the wrong spot they would be ticketed. However, capturing whether someone had the wrong unit number was more infrequent, as they could only know or reconcile such if there was a complaint about parking.

As Bergamino had visited the cp's unit on or about 8/5, and was told by Churchill where the cp lived, it would appear clear the respondent knew precisely who she was, where she lived and that she claimed to have a valid parking placard.

It is unclear why the respondent would not simply look up the cp's application to see which cars she used at the complex. Perhaps then the respondent would have seen their error in assigning the wrong numbered unit decal.

It is not disputed by the respondent that the cp had her disability parking placard visible on 8/22. Therefore, according to the respondent, the police were called to ascertain who the person was. However, as indicated above, it would appear the respondent reasonably knew who the car belonged to, as he had knocked on her door. According to the police, Bergamino did not know who owned the car. However, according to Churchill, she had told him as regular procedure who the person was and which unit they resided in. Further, most resident applications have space to describe/specify the car the resident will be using and parking at the complex.

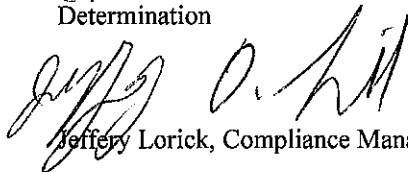
Further, the police report notations indicate the caller (Bergamino) did not believe the "person with the decal is actually the authorized user for the placard." It is believed they were called in order to obtain the disability related verification, as it would not make sense to call the police over an incorrect numbered private unit decal of a car parked with a handicapped placard .

As such, it appears that Respondent Bergamino did place the sticker, at least in part, because he did not believe the person parking there was the legitimate owner of the disability parking placard.

**C. CONCLUSIONS:**

Therefore, based on the available evidence, we conclude that there is CAUSE to believe that the Respondent may violated Article II, Division 3 of Chapter 70 of the Code of Ordinances of Pinellas County, Florida on the Complainant's allegations.

CAUSE  
Determination

  
Jeffery Lorick, Compliance Manager

Date 2-28-2020

V. 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:

Paul V. Valenti, Human Rights/E. E. O. Officer