

9-8-04

STATE OF FLORIDA
COMMISSION ON HUMAN RELATIONS

FILED

2004 DEC -9 P 1:52

INGRID GOMEZ AND LUIS MORAN,

Petitioners,

AT

v.

JIM HILL, JUDY HILL, AND
DEMARCO INVESTMENTS

Respondents.

HUD Case No. 04-04-0278-8

FCHR Case No. 24-90350H

DOAH Case No. 04-1969

FCHR Order No. 04-154

DIVISION OF
ADMINISTRATIVE
HEARINGS

LPS
CWS

**FINAL ORDER DISMISSING PETITION FOR
RELIEF FROM A DISCRIMINATORY HOUSING PRACTICE**

Preliminary Matters

Petitioners Ingrid Gomez and Luis Moran filed a housing discrimination complaint pursuant to the Fair Housing Act, Sections 760.20 - 760.37, Florida Statutes (2003), alleging that Respondents Jim Hill, Judy Hill and DeMarco Investments committed a discriminatory housing practice on the bases of race and familial status with regard to terms, conditions, privileges and facilities relating to Petitioners' apartment lease.

The allegations set forth in the complaint were investigated, and, on May 5, 2004, the Executive Director issued a determination finding that there was no reasonable cause to believe that a discriminatory housing practice had occurred.

Petitioner filed a Petition for Relief from a Discriminatory Housing Practice and the case was transmitted to the Division of Administrative Hearings for the conduct of a formal proceeding.

An evidentiary hearing was held in Fort Myers, Florida, on August 18, 2004, before Administrative Law Judge Lawrence P. Stevenson.

Judge Stevenson issued a Recommended Order of dismissal, dated September 8, 2004.

The Commission panel designated below considered the record of this matter and determined the action to be taken on the Recommended Order.

Findings of Fact

A transcript of the proceeding before the Administrative Law Judge was not filed with the Commission.

We adopt the Administrative Law Judge's findings of fact.

Conclusions of Law

We find the Administrative Law Judge's application of the law to the facts to result in a correct disposition of the matter.

The Administrative Law Judge concluded, "The statute prohibits acts, not opinions or speech, regardless of how repugnant they might be. See Fletcher v. Hatfield, Case No. 93-5540 (DOAH June 16, 1994)." Recommended Order, ¶ 18.

In the Commission's final order of the case cited by the Administrative Law Judge the Commission panel stated, "We note the Hearing Officer's finding that, "The racially repugnant comments of the Respondent, in the absence of any acts infringing on the tenants' free use of the leasehold, are not a violation of Section 760.23, Florida Statutes.'... We hereby clarify that this finding does not mean that racially-repugnant comments can never amount to a violation of the Fair Housing Act." Fletcher v. Hatfield, 18 F.A.L.R. 1590, at 1591 (FCHR 1995).

With this clarifying comment, and in the absence of a transcript of the proceeding before the Administrative Law Judge, we adopt the Administrative Law Judge's conclusions of law.

Exceptions

Neither party filed exceptions to the Administrative Law Judge's Recommended Order.

Dismissal

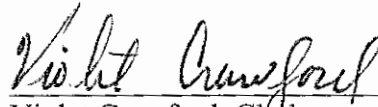
The Petition for Relief and Housing Discrimination Complaint are DISMISSED with prejudice.

The parties have the right to seek judicial review of this Order. The Commission and the appropriate District Court of Appeal must receive notice of appeal within 30 days of the date this Order is filed with the Clerk of the Commission. Explanation of the right to appeal is found in Section 120.68, Florida Statutes, and in the Florida Rules of Appellate Procedure 9.110.

DONE AND ORDERED this 7th day of December, 2004.
FOR THE FLORIDA COMMISSION ON HUMAN RELATIONS:

Commissioner Rita Craig, Panel Chairperson;
Commissioner Roosevelt Paige; and
Commissioner Dominique B. Saliba, M.D.

Filed this 7th day of December, 2004,
in Tallahassee, Florida.



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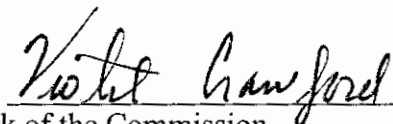
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Lawrence P. Stevenson, Administrative Law Judge, DOAH

James Mallue, Legal Advisor for Commission Panel

I HEREBY CERTIFY that a copy of the foregoing has been mailed to the above
listed addressees this 7th day of December, 2004.

By: 
Clerk of the Commission
Florida Commission on Human Relations