

**BROWARD COUNTY, FLORIDA
BOARD OF COUNTY COMMISSIONERS
HUMAN RIGHTS BOARD**

BROWARD COUNTY
HUMAN RIGHTS SECTION,
on behalf of KEITH TONKS
and MATTHEW CONDON,

HRS CASE NO.: 1066-05-16

HUD NO.: 04-17-7193-8

Petitioners,

v.

ISLAND CLUB ONE, INC.,

Respondent.

STATEMENT OF CHARGE

Petitioner, Broward County Human Rights Section (the "Section"), on behalf of Complainants, KEITH TONKS ("Mr. Tonks") and MATTHEW CONDON ("Mr. Condon"), brings this action pursuant to Sections 16½-35(g) and 16½-35(h) of the Broward County Human Rights Act (the "Human Rights Act"), against Respondent, ISLAND CLUB ONE, INC. ("Island Club"), due to Island Club's violation of the Human Rights Act as well as the Federal Fair Housing Act, Title VIII of the Civil Rights Act of 1968, as amended (the "Fair Housing Act"), by unlawfully discriminating against Mr. Tonks because of his disability. In support of this Statement of Charge, the Section alleges the following:

Jurisdiction

This action is brought before the Broward County Human Rights Board, which is empowered to hold hearings, adjudicate facts, and grant relief from discriminatory actions pursuant to Section 16½-22(b) of the Human Rights Act.

Parties

1. Petitioner, the Section, is an agency of the Broward County Government, a political subdivision of the state of Florida and a home rule charter county.

2. The Section has the authority to investigate complaints of discrimination brought under the Human Rights Act and, as a Fair Housing Assistance Program certified by the United States Department of Housing and Urban Development, authority to investigate any complaint of housing discrimination brought pursuant to the Fair Housing Act.

3. At the time of the actions set forth herein, Mr. Tonks attempted to lease a condominium located within the Island Club residential dwelling complex at 777 South Federal Highway, Unit H302, Pompano Beach, Florida 33062 ("Unit").

4. Mr. Tonks suffers from a disability. Therefore, Mr. Tonks belongs to a class of persons protected from unlawful housing discrimination by the Human Rights Act and the Fair Housing Act.

5. Mr. Condon owns but does not reside in the Unit that Mr. Tonks attempted to lease.

6. Island Club is a not-for-profit corporation operating as a condominium association with its principal place of business at 777 South Federal Highway, 3rd Floor, Building F, Pompano Beach, Florida 33062.

7. The condominium units at Island Club are dwellings within the meaning of Subsection 16½-3(u) of the Human Rights Act and, as such, are subject to the anti-discrimination requirements thereof.

8. The condominium units at Island Club are dwellings within 42 U.S.C. Subsection 3602(b), and, as such, are subject to the anti-discrimination requirements of the Fair Housing Act.

General Allegations

9. On or about August 11, 2016, Mr. Tonks filed a complaint with the Section alleging housing discrimination against Island Club based upon Island Club's denial of Mr. Tonks' rental application to lease Mr. Condon's Unit. See Housing Discrimination Complaint, attached as Exhibit A. On or about November 2, 2017, Mr. Tonks amended his complaint against Island Club to include Mr. Condon as an aggrieved party. See Amended Housing Discrimination Complaint, attached as Exhibit B. Mr. Tonks also filed a complaint with the U.S. Department of Housing and Urban Development ("HUD").

10. In or about February 2016, Mr. Condon advised Island Club of his intent to lease his Unit to Mr. Tonks. Mr. Condon specifically informed Island Club that Mr. Tonks was a recovering alcoholic that was moving out of a halfway house. See Final Investigative Report at pp. 2-3, attached as Exhibit C.

11. Mr. Condon and Mr. Tonks executed a residential lease agreement for the Unit. See Residential Lease Agreement, attached as Exhibit D. As a stipulation thereto, Mr. Tonks agreed not to enter Mr. Condon's locked room within the Unit but otherwise had free reign to the remaining portions of the Unit. *Id.* at pp. 6-7; see also Exhibit C at p. 7.

12. On or about March 20, 2016, Mr. Tonks submitted a rental application to Island Club in order to lease Mr. Condon's Unit. *Id.* at pp. 2-4. As a component of the

rental application, Island Club required Mr. Tonks to undergo a background screening conducted by Renters Reference of Florida, an independent investigative agency. *Id.*

13. Upon completing the background screening, Renters Reference of Florida forwarded Mr. Tonks' background screening report to Island Club. See Background Screening Report, attached as Exhibit E. In the residential verification section of Mr. Tonks' background screening report, Mr. Tonks' prior residence was listed as New Beginnings Clean Living Sober House, specifically noting that "the applicant admitted himself into this facility for an alcohol addiction. He has been under their living care for sobriety since [July] 2014." *Id.* at p. 6.

14. On or about April 14, 2016, Island Club denied Mr. Tonks' rental application on the basis of his "negative financial history." See Island Club's Notice of Disapproval, attached as Exhibit F.

15. Island Club has previously approved other applicants to lease or own its condominiums with financial history that is similar to or worse than Mr. Tonks' financial history, including Mr. Condon. None of these previously approved applicants are able to be identified as having a disability. See Determination for Reasonable Cause at p.4, attached as Exhibit G.

16. After receiving the complaint, the Section investigated Mr. Tonks' allegations of housing discrimination and found reasonable cause to believe that Island Club had engaged in a discriminatory housing practice by denying housing to a member of a protected class that qualified, willing, and able to lease Mr. Condon's Unit. See *id.*

17. Specifically, the Section found that Island Club was aware of Mr. Tonks'

disability and previously approved similar situated applicants, outside of Mr. Tonks' protected class, to rent condominiums within their complex. *Id.* at 5.

18. After conducting the investigation, the Section issued a Determination for Reasonable Cause. *Id.* Accordingly, this action is now necessary.

Count I – Violation of 42 U.S.C. Subsection 3604(f)(1) and (f)(2)

19. The Section realleges and incorporates, by reference, paragraphs 1-18, as if fully set forth herein.

20. Island Club, through its conduct and actions described above, violated 42 U.S.C. Subsections 3604(f)(1) and (f)(2) by refusing to allow Mr. Tonks to lease Mr. Condon's Unit.

21. As a result of the conduct and actions of Island Club, Mr. Tonks and Mr. Condon have suffered damages and are aggrieved persons within the meaning of 42 U.S.C. Subsection 3602(i).

22. The discriminatory conduct or actions of Island Club were intentional, willful, and/or taken in disregard for the rights of Mr. Tonks and Mr. Condon.

Count II – Violation of Subsections 16½-35(f) and (g) of the Human Rights Act

23. The Section realleges and incorporates, by reference, paragraphs 1-18, as if fully set forth herein.

24. Island Club, through its conduct and acts described above, violated Subsections 16½-35(f) and (g) of the Human Rights Act by refusing to allow Mr. Tonks to lease Mr. Condon's Unit.

25. As a result of the conduct or actions of Island Club, Mr. Tonks and Mr.

Condon have suffered damages and are aggrieved persons within the meaning of Subsection 16½-3(b) of the Human Rights Act.

26. The discriminatory conduct or actions of Island Club were intentional, willful, and/or taken in disregard for the rights of Mr. Tonks and Mr. Condon.

Prayer for Relief

WHEREFORE, the Section, on behalf of Mr. Tonks, respectfully requests that the Human Rights Board enter a final order pursuant to 42 U.S.C. Section 3612 and Section 16½-49 of the Human Rights Act, which:

(a) Declares that the discriminatory housing practices of Island Club, as set forth above, violate both the Human Rights Act and the Fair Housing Act;

(b) Awards to Mr. Tonks such damages as would fully compensate him for any injuries caused by Island Club's denial of housing to Mr. Tonks because of his disability;

(c) Awards to Mr. Condon such damages as would fully compensate him for any injuries caused by Island Club's denial of housing to Mr. Tonks because of his disability.

(d) Awards the Petitioner its reasonable attorneys' fees and costs incurred in bringing this action to enforce the Fair Housing Act and the Human Rights Act on behalf of Mr. Tonks;

(e) Assesses a civil penalty against Island Club in the amount authorized in Section 16½-50(c) of the Human Rights Act, in order to vindicate the public interest; and

(f) Grants such other relief as justice may require.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that the original of this Statement of Charge was filed with Myrielle D. Smith, Human Rights Section Manager for the Broward County Office of Professional Standards; and a true copy of the original was furnished by U.S. Mail to: Mr. Tonks, 2 Chingarora Avenue, Keyport, New Jersey 07735; Mr. Condon, 20 Grove Street Beacon, New York 12508; Island Club, 777 South Federal Highway, 3rd Floor, Building F, Pompano Beach, Florida 33062; and by e-mail and U.S. mail to: Andrew B. Black, Esq., ablack@kbrlegal.com; Kaye Bender Rembaum, P.L., 1200 Park Central Boulevard South, Pompano Beach, Florida 33064, on this 6th day of March, 2018.

Respectfully submitted,

**FOR THE BROWARD COUNTY
HUMAN RIGHTS SECTION**

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BY: 

Anthony C. Halmon
Florida Bar No.: 118240

6th DAY OF March 2018.