

BROWARD COUNTY, FLORIDA
BOARD OF COUNTY COMMISSIONERS
HUMAN RIGHTS BOARD

BROWARD COUNTY
HUMAN RIGHTS SECTION,
On behalf of DAVID FEREBEE

HRS CASE NO.: HO 1053-02-17
HUD CASE NO.: 04-17-7413-8

Petitioners,

v.

WILTON STATION CONDOMINIUM
ASSOCIATION, INC., and CASTLE
MANAGEMENT, LLC.

Respondents.

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STATEMENT OF CHARGE

Petitioner, Broward County Human Rights Section ("the Section"), on behalf of Complainant, David Ferebee ("Ferebee" or "Complainant"), brings this action pursuant to Section 16½-22(b) of the Broward County Human Rights Act ("the Human Rights Act") against Wilton Station Condominium Association, Inc. ("Wilton Station") and Castle Management LLC ("Castle Management") (collectively referred to as "Respondents"), due to Respondents' 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 and retaliating against Complainant on the basis of his disability.

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. Complainant Ferebee, who requires the use of a wheelchair, belongs to a class of persons protected from unlawful housing discrimination by the Human Rights Act and the Fair Housing Act.

4. Wilton Station is a not-for-profit corporation operating as a condominium association with its principal place of business at 2631 N.E. 14th Avenue, Wilton Manors, Florida, 33334.

5. Castle Management manages Wilton Station and has its principal place of business at 12270 S.W. 3rd Street, Plantation, Florida 33325.

6. The condominium units at Wilton Station 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.

7. The condominium units at Wilton Station are dwellings within 42 U.S.C. §3602(b), and, as such, are subject to the anti-discrimination requirements of the Fair Housing Act.

GENERAL ALLEGATIONS

8. At the time of the actions set forth herein, Ferebee resided at 2609 NE 14th Avenue, Unit 107, Wilton Manors, Florida. The subject property is located within Wilton Station. Castle Management serves as Wilton Station's property management agent.

9. Complainant is physically disabled and requires a pool lift in order to use the pool at Wilton Station.

10. In a series of written communications with Respondents, Complainant informed Respondents of his disability and requested that an existing pool lift be repaired and made available for his use.

11. Although Wilton Station's Declaration provides, in relevant part, that "[a]ll maintenance repairs and replacements in or to the common elements and Association property shall be performed by the Association," Respondents informed Complainant that he may use the pool lift at his own expense. Respondents also asked Complainant to sign a waiver which would preclude Complainant from filing a fair housing complaint.

12. Ultimately, Complainant agreed to incur the expense of repairing the lift but requested that the pool lift remain permanently by the pool, as it weighs approximately 900 lbs. Complainant refused to sign the waiver.

13. On September 21, 2016, Complainant emailed Respondents suggestions for modifications to the pool gate latches that would make it easier for disabled individuals to open the gates.

14. A few days later, Complainant requested an update on his request for modifications to the gate latches. In response, Complainant was advised by Castle Management that all requests are to be made to Wilton Station's attorney.

15. For several months thereafter, Complainant continued to request that the latches and other doors throughout specific areas of the community be adjusted for use by disabled individuals.

16. In February 2017, and again in March 2017, Complainant, through his counsel, once again requested that the pool lift be made available and placed directly next to the pool; that all exterior doors to the clubhouse maintain a maximum door opening pressure of 8.5

pounds of force, as required by Fair Housing Act standards; that the pool gates be made more accessible, that cross-slopes not be as steep, and utilization of a PA system during board meetings so that he could hear all individuals speaking.

17. An inspection of the premises by the Broward County Human Rights Section revealed that all access points to the pool area contained barriers that were inaccessible to persons in wheelchairs.

18. The inspection also revealed steep cross-slopes which make it difficult for wheelchair users to maintain their balance, and that certain doors were not in compliance with established guidelines.

19. On March 24, 2017, Complainant sold his unit and vacated the premises.

20. Based on all the foregoing, the Human Rights Section found reasonable cause that Respondents discriminated against Complainant on the basis of disability and retaliated against him in violation of Sections 804(f)(2), 804(f)(3)(B), and 818 of the Fair Housing Act and Sections 16½-35(g)(2), 16½-35(h)(2), and 16½-36, of the Broward County Human Rights Act.

21. Because of the Human Rights Section's issuance of a Determination of Reasonable Cause, this action is now necessary.

Count I—Violation of 42 U.S.C. §3604(f)(2) and §3604(f)(3)(B)

22. The Section realleges and incorporates by reference paragraphs 1-21 as if fully set forth herein.

23. Respondents, through their conduct and actions described above, violated 42 U.S.C. §3604(f)(2) and §3604(f)(3)(B) by refusing to accommodate Complainant after he made a request for a reasonable accommodation because of a disability.

24. As a result of the conduct of Respondents, Complainant has suffered damages and is an aggrieved person within the meaning of 42 U.S.C §3602(i)(1).

25. The discriminatory conduct and actions of Respondents were intentional, willful, and/or taken in disregard of the rights of Complainant.

Count II-Violation of Section 16½-35(g)(2) and (h)(2) of the Human Rights Act

26. The Section realleges and incorporates by reference paragraphs 1-21 as if fully set forth herein.

27. Respondents, through their conduct and actions described above, violated 16½-35(g)(2) and (h)(2) of the Human Rights Act by discriminating against Complainant by failing to accommodate him after he made a request for a reasonable accommodation because of disability.

28. As a result of the conduct of Respondents, Complainant has suffered damages and is an aggrieved person within the meaning of 16½-353(b).

29. The discriminatory conduct and actions of Respondents were intentional, willful, and/or taken in disregard of the rights of Complainant.

Count III—Violation of 42 U.S.C §3617

30. The Section realleges and incorporates by reference paragraphs 1-21 as if fully set forth herein.

31. Respondents, through their conduct and actions described above, violated 42 U.S.C. §3617 by prohibiting Complainant from communicating directly with Wilton Station and Castle Management and requiring him instead to go through an attorney, thereby retaliating against Complainant and interfering with his exercise of a right protected by 42 U.S.C. §3604.

32. The conduct and actions of Respondents were intentional, willful, and/or taken in disregard of the rights of Complainant.

Count IV- Violation of Section 16½-36 of the Human Rights Act

33. The Section realleges and incorporates by reference paragraphs 1-21 as if fully set forth herein.

34. Respondents, through their conduct and actions described above, violated 16½-36 by prohibiting Complainant from communicating directly with Wilton Station and Castle Management and requiring him instead to go through an attorney, thereby retaliating against Complainant and interfering with his exercise of a right protected by Section 16½-35.

35. The conduct and actions of Respondents were intentional, willful, and/or taken in disregard of the rights of Complainant.

PRAYER FOR RELIEF

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

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

(b) Awards to Complainant such damages as would fully compensate him for any injuries caused by Respondents' refusal to accommodate Complainant;

(c) 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 Complainant;

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

(e) 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 Rhonda Wiltshire of the Broward County Professional Standards/Human Rights Section, as Ex-Officio Clerk for the Human Rights Board; and a true copy of the original was furnished by Email and U.S. Mail to: Complainant, David Ferebee, 1280 NE 24th St., Unit 2407, Wilton Manors, FL 33305, and discokachina@yahoo.com; Respondent Castle Management, LLC, c/o Craig Vaughn, Registered Agent, 12270 S.W. 3rd St., Suite 200, Plantation, Florida 33325; Respondent Wilton Station Condominium Association, Inc., c/o Darrin Gursky, Esq., 14 N.E. 1st Avenue, 2nd floor, Miami, FL 33132 and darrin@drcondolaw.com; and Counsel for Respondents, George W. Bush Jr., Esq., Fox McCluskey Bush Robison, PLLC., The Tower Building at Willoughby Commons, 3473 SE Willoughby Boulevard, Stuart, FL 34994 and gwbush@foxmccluskey.com, on this 9 day of October 2018.

Respectfully submitted,

**FOR THE BROWARD COUNTY HUMAN
RIGHTS SECTION**

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