

IN THE CIRCUIT COURT OF THE TWELFTH JUDICIAL CIRCUIT
IN AND FOR MANATEE COUNTY, FLORIDA

STATE OF FLORIDA, DEPARTMENT
OF LEGAL AFFAIRS, OFFICE OF
THE ATTORNEY GENERAL
ATTORNEY GENERAL BILL McCOLLUM,
on behalf of Melinda Lawton,

CASE NO.: 2008-CA-000978

B

Plaintiffs,

vs.

SUMMERFIELD/ RIVERWALK VILLAGE ASSOC.,
INC., ANDREW BARNARD, as President of the Association,
CYNTHIA WILLS, as property manager of
Community Services Office, LESLIE NETZE, individually
and as chairperson of Ridge Neighborhood Committee.

Defendants.

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FILED FOR RECORD
IN THE CIRCUIT COURT
OF MANATEE COUNTY
FLORIDA
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PLAINTIFFS' COMPLAINT
FOR INJUNCTION, CIVIL PENALTIES AND OTHER STATUTORY RELIEF

Plaintiffs, STATE OF FLORIDA, DEPARTMENT OF LEGAL AFFAIRS, OFFICE OF THE ATTORNEY GENERAL ("Attorney General" or collectively "Plaintiffs") on behalf of MELINDA LAWTON ("Lawton" or collectively "Plaintiffs"), sue Defendants, SUMMERFIELD/ RIVERWALK VILLAGE ASSOC., INC., ANDREW BARNARD, as President of the Association, CYNTHIA WILLS, as property manager of Community Services Office, LESLIE NETZE, individually and as chairperson of Ridge Neighborhood Committee ("Riverwalk Village," "Association" or "Defendants"), and allege:

GENERAL ALLEGATIONS

1. This is an action for damages, injunctive and other statutory relief brought pursuant to Florida Statutes, Chapter 760, Parts II and III (2006).

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2. This court has jurisdiction pursuant to the provisions of said statute.
3. The amount in controversy exceeds \$15,000.00; as such, this Court has subject matter jurisdiction over the instant matter.
4. Venue is proper in this circuit as the incident complained of occurred in, and Riverwalk Village is located in, Lakewood Ranch, Florida in Manatee County.
5. Defendant, Riverwalk Village Association is a non-profit Florida corporation. It is located at 12304 Lobelia Terrace, Lakewood Ranch, FL 34202. It has the ability to sue and be sued.
6. The Association acts through an elected board of directors. The board is empowered to accept or deny applications for ownership and/or occupancy in the building. Upon information and belief, the Association is responsible for maintaining the condominium property.
7. Upon information and belief, Defendant, Andrew Barnard, at all relevant times, was the President of Summerfield/ Riverwalk Village Association, Inc. ("Association").
8. Upon information and belief, Defendant, Cynthia Wills, at all relevant times, was an association manager employed by Lakewood Ranch Community Services Offices ("CSO"). The CSO serves as the Association's management company and conducts the business of the Association. Ms. Wills is also the Registered Agent for the Association.
9. Upon information and belief, Defendant, Leslie Netze, at all relevant times, was the chairperson of Riverwalk Neighborhood Committee ("Committee"). As chairperson of the Committee, Netze was primarily responsible for keeping residents informed of the Association's business.
10. Plaintiff, Melinda Lawton, suffers from multiple physical disabilities as a result of

a severely degenerative form of rheumatoid arthritis. Thus, Lawton is an aggrieved party within the meaning of the FFHA .

11. In February 2003, the Lawtons took possession of their newly constructed home. The home was designed with a home office for Mr. Lawton's consultation business.

12. At all relevant times, Mr. Lawton employed one person in his home consulting business.

13. In April 2004, the Lawtons received a notice of violation from the CSO regarding the "Business on Premises" rule found in Section (f) of the homeowners' handbook.

14. The Business on Premises rule provides:

While a member of the family may conduct business from the home, at no time shall such activities provide services or manufacture goods for sale on the premises. The business may not cause an increase in foot or vehicle traffic of any sort except for Federal Express or UPS.

15. The notice further stated the rule "does not permit a regular employee working out of the home and the amount of traffic that has been reported to us as being a common occurrence as a result of the business."

16. The Lawtons' interpretation of the rule did not prohibit an employee. Nevertheless, in an effort to remedy the issue, shortly after receiving the notice in April 2004, Mrs. Lawton requested an employee as a reasonable accommodation for her disability.

17. The CSO never approved or denied Mrs. Lawton's request. Instead, in October 2005, a year and half after her request, Defendants proposed to change the rule so that it would expressly prohibit employees and directly affect the Lawtons.

18. Defendant Wills even acknowledged, to Mrs. Lawton, that the proposed rule would

only affect the Lawtons.

19. The new rule's language follows: "There shall be no employees working in the home office other than those employed of a domestic nature."

20. Prior to the vote, Mrs. Lawton expressed her opposition to the amendment. At which time, Leslie Netze, chairperson of the Ridge Neighborhood Committee, made snide remarks directed at her.

21. The Association voted on the rule on or about October 27, 2005.

22. Despite Lawton's objections, the amendment was approved.

23. Thereafter, Netze engaged in a campaign to harass, intimidate and annoy Lawton.¹ Netze made a concerted effort to humiliate and embarrass the Lawtons and/or retaliate against them for requesting a reasonable accommodation.

24. The retaliation and harassment included, but was not limited to, Netze monitoring the Lawtons' visitors and activities, filing and soliciting false complaints against the Lawtons to the Association and disparaging personal remarks about Mrs. Lawton.

25. On or about April 20, 2006, Lawton filed a complaint with the Florida Commission on Human Relations ("FCHR") against Defendants alleging discrimination on the basis of her disability, in violation the FFHA.

26. On November 28, 2006, the FCHR issued a Determination of Cause finding reasonable cause to believe Defendants engaged in a discriminatory housing practice in violation of § 760.37, Florida Statutes (2006), based on interference, coercion, or intimidation. A copy of the

¹ Defendants do not deny that Mr. Netze engaged in this behavior, but state the actions were taken for the purposes of enforcing the community's covenants.

FCHR's Determination is attached hereto as Exhibit A.

27. Pursuant to the Florida Fair Housing Act § 760.34(4), Florida Statutes (2006), Lawton elected to have the State of Florida, Department of Legal Affairs, Office of the Attorney General, represent her in this action.

28. As a direct and proximate result of Defendants' harassment and retaliatory behavior and noncompliance with state and federal law, Mrs. Lawton suffered irreparable harm, for which there is no adequate remedy at law, and compensatory damages, including great emotional distress, humiliation and attorneys' fees and costs.

COUNT I
ACTION FOR DAMAGES, INJUNCTIVE RELIEF, AND CIVIL PENALTIES
UNDER CHAPTER 760, PART II, THE FLORIDA FAIR HOUSING ACT

29. The Attorney General realleges and incorporates by reference paragraphs 1 through 28, as if fully set forth above.

30. Section 760.34(4), Florida Statutes (2006), permits the Attorney General to bring a civil action for injunctive relief, other equitable relief, actual and punitive damages, reasonable attorneys' fees and costs, and other appropriate relief, when the FCHR finds reasonable cause to believe that a discriminatory housing practice has occurred, and the person aggrieved elects the Attorney General to represent them in the matter.

31. Section 760.37, Florida Statutes (2006), permits an individual to commence appropriate administrative or civil action whenever any person coerces, intimidates, threatens, or interferes with any person in the exercise of, or on account of her or his having exercised, or on account of her or his having aided or encouraged any other person in the exercise of any right granted

under ss. 760.20 - 760.37.

32. Defendants violated the Florida Fair Housing Act by interference, coercion, or intimidation on the basis of Lawton's disability.

33. The Florida Fair Housing Act, § 760.37, Florida Statutes (2006), secures for all individuals freedom from retaliation that is subsequent to the individual invoking rights guaranteed by the Act.

34. By engaging in retaliatory acts, as set forth in Paragraphs 1 through 28, including but not limited to rule revisions, false allegations and humiliating verbal confrontations, Defendants interfered through intimidation and coercion with Lawton's exercise of rights secured by § 760.37, Florida Statutes (2006).

35. Defendants' retaliatory practices are in contravention to Florida Statute § 760.37 (2006).

36. Defendants' illegal actions have damaged not only Lawton, individually, but the public interest and the State of Florida. Unless Defendants are enjoined from engaging further in the acts and practices described herein, Defendants' activities will continue to result in irreparable injury to disabled persons and the public interest.

WHEREFORE, the Attorney General and Mrs. Lawton request the Court order the following:

- (A) Declare Defendants violated the Florida Fair Housing Act;
- (B) Enter a Permanent Injunction enjoining Defendants, and all officers, agents, employees, or any other persons who act under, by, through, or on behalf of Defendants, from

violating the Florida Fair Housing Act, §760.20, *et seq.*, Florida Statutes (2006), by:

- (1) coercing, intimidating, threatening, or interfering with any person in the exercise of, or on account of her or his having exercised, or on account of her or his having aided or encouraged any other person in the exercise of any right granted;
- (C) Grant Plaintiffs all relief under the Florida Fair Housing Act, Part II, §760.35, Florida Statutes (2006);
- (D) Award reasonable attorneys' fees and costs to the Attorney General; and
- (E) Grant such other relief as this Court deems just and proper.

COUNT II
VIOLATIONS OF CHAPTER 760, PART III, § 760.51

37. The Attorney General realleges and incorporates by reference paragraphs 1 through 28, as if fully set forth above.

38. Section 760.51, Florida Statutes (2006), permits the Attorney General to bring a civil action for damages and for injunctive relief and other appropriate relief whenever any person, whether or not acting under color of law, interferes by threats, intimidation, or coercion, or attempts to interfere by threats, intimidation, or coercion with the exercise or enjoyment by any other person of rights secured by the State Constitution or laws of this state.

39. The Florida Civil Rights Act, § 760.51, Florida Statutes (2006), secures for all individuals within the state freedom from discrimination in the rental and ownership of dwellings.

40. Defendants' acts and practices, as set forth in Paragraphs 1 through 28, including but not limited to the amending an association rule to affect Mrs. Lawton and Leslie Netze's monitoring and false reports constitute illegal interference or attempted interference with Mrs. Lawton's housing

rights, in violation of § 760.51, Florida Statutes.

41. Unless this court enjoins the Defendants from engaging further in the acts and practices herein complained, the continued activities of Defendants will result in irreparable injury to Mrs. Lawton.

WHEREFORE, the Attorney General and Mrs. Lawton request the Court order the following:

- (A) Declare that Defendants violated the Florida Civil Rights Act of 1992;
- (B) Enter a Permanent Injunction enjoining Defendants, and all officers, agents, employees, or any other persons who act under, by, through, or on behalf of the Defendants, from violating Part III, §760.51 of the Florida Civil Rights Act, Florida Statutes (2006), by:
 - (1) interfering with threats, intimidation, or coercion or attempting to interfere by threats, intimidation, or coercion with the exercise or enjoyment by any person of the rights secured by the State Constitution or laws of this state.
- (C) Grant the Attorney General and Mrs. Lawton all relief under and the Florida Civil Rights Act, Part III, §760.51, Florida Statutes (2006);
- (D) Assess against Defendants civil penalties in the amount of \$10,000.00 (ten thousand dollars) for each act or practice found to be in violation of Part III, §760.51 of the Florida Civil Rights Act, Florida Statutes (2006); and
- (E) Award reasonable attorneys' fees and costs pursuant to §760.51, Florida Statutes (2006).

(F) Grant such other relief as this court deems just and proper.

DEMAND FOR JURY TRIAL

Plaintiffs demand a trial by jury on all issues so triable.

Respectfully Submitted,

ATTORNEY GENERAL
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By _____

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