

BEFORE THE MARYLAND COMMISSION ON CIVIL RIGHTS

IN THE MATTER OF:

Ms. Sheryl Katzman
3536 Chiswick Court
Silver Spring, MD 20906

COMPLAINANT

vs.

Mr. Kevin Flannery
General Manager
LEISURE WORLD OF MARYLAND CORPORATION
2901 S. Leisure World Blvd.
Silver Spring, MD 20906

RESPONDENT

MCCR NUMBER: 1705-0306

HUD NUMBER: 03-17-6519-8

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WRITTEN FINDING

The above-captioned case has been investigated pursuant to State Government Article, Sections 20-1005(a) and 20-1022, Annotated Code of Maryland and the Maryland Commission on Civil Rights' Fair Housing Regulations, COMAR 14.03.04.12. The written finding is made in accordance with COMAR 14.03.04.12E(1)(a). All procedural requirements have been met.

SUMMARY OF COMPLAINANT'S POSITION:

The Complainant alleges that the Respondents discriminated against her on the basis of her disability and retaliated against for participating in protected activity.

SUMMARY OF RESPONDENT'S POSITION:

The Respondent denies discriminating against the Complainant on the basis of her disability or retaliating against the Complainant for engaging in protected activity.

SUMMARY OF THE INVESTIGATION:

The following is a list of the allegations made by the Complainant, responses from the Respondent and the corresponding results of the investigation into the specific allegations:

“On May 20, 2012 I moved into a two-bedroom townhome at 3536 Chiswick Court, Silver Spring, Maryland 20906.”

The Respondent asserts that the Complainant moved to the community in 2012.

The investigation confirmed the Complainant’s statement.

“In November 2014, I first disclosed my disability to Barbara Cronin, Chair or Leisure World Community Board of Directors, after she denied me the ability to use my laptop to take notes during the meeting. Despite my disclosure, I was still prevented from using my laptop during this and future meetings on Respondent’s property.”

The Respondent denies these allegations.

The investigation was unable to prove or disprove the Complainants allegation. An interview with Barbara Cronin indicated that she was the Chair of Leisure World Community Board of Directors in November of 2014, however, Ms. Cronin stated that she had no recollection of the Complainant disclosing a disability.

“In March 2015, I was again prevented from using my laptop to take notes during a Landscape Advisory Committee meeting. I reiterated my disability to justify the use of my laptop during the meeting. After complaining to the committee board about the incident and requesting that I be allowed to use my laptop during meetings as a reasonable accommodation, my request was granted.”

The Respondent asserts that the Complainant was asked to use her computer because she used it to record and take unauthorized pictures during the community meetings which she used to attack the board on her private blog.

The investigation confirmed that the Complainant was asked by the board to stop using her computer, however, she was latter allowed to use the computer to take notes.

“Following the committee granting my request, I began to be harassed by several committee members during meetings that I attended on Respondent’s property. Also, my request was not upheld at every meeting.”

The Respondent denies these allegations.

The investigation did not uncover any evidence and the Complainant did not provide any evidence to substantiate her allegations. The Commission staff interviewed witnesses provided by the Complainant. The witnesses mostly indicated that the Respondent is not fair to the people living in the community, and one of the witnesses indicated that the board denied the Complainant the use of her computer because the board members are "Idiots."

"For example, on March 8, 2017, I attended a meeting for the Leisure World Foundation that was held in club house #2 on Respondent's property. During the meeting, I attempted to use my laptop in order to take notes, due to my disability. James Olsen, Director began to make derogatory comments to me like 'I don't trust her', which caused other members in attendance to direct negative comments toward me. I was then forced to close my laptop and it was taken away from me by Marion Altman, President/Director and Mr. Olsen."

The Respondent denies these allegations.

The investigation established that the Complainant and the Respondent had an ongoing issue within the community. The investigation showed that the Complainant had verbal exchanges with the Respondent. However, the investigation failed to show the issues were due to a disability.

“On March 10, 2017, I submitted an email to Ms. Altman, Mr. Olsen and other members of the foundation, again requesting a reasonable accommodation. My request was to be allowed to use my laptop during meetings due to my disability.”

The Respondent asserts that the Complainant was allowed to use her computer during community meetings.

The investigation confirmed the Complainant’s statement.

“To date my request has not been acknowledged. I believe that any reason Respondent gives for not upholding and acknowledging my request for a reasonable accommodation and harassment is a pretext to discriminate against me due to my disability and in retaliation for engaging in a protected activity in violation of Maryland Fair Housing Laws.”

The Respondent denies these allegations.

The investigation established that the Complainant was allowed to use her computer during community meetings. The Commission staff interviewed the Complainant’s witnesses. One witness indicated that she was not sure if she saw the Complainant using her computer because she arrived late to the meeting. However, another witness indicated that the Complainant used her computer during the last meeting she attended. Furthermore, Mr. David Frager stated during an interview that

the Complainant had been using her computer during community meetings. Mr. Frager indicated that Respondent had no issue with Complainant using her computer during meetings. However, it is a problem when she uses the computer to record or take unauthorized pictures for her private blog during meetings.

CONCLUSION:

The Complainant alleges that the Respondents discriminated against her based on her disability. The Respondent deny any discriminatory action against the Complainant. To prevail on her claim, the investigation must show (1) Complainant is a disabled person within the meaning of Title 20, (2) Respondent knew or should have known that Complainant was a disabled person within the meaning of Title 20, (3) Complainant specifically requested permission, either verbally or in writing, that Respondent make one or more reasonable accommodations in the rules, policies, practices, procedures or services, (4) the requested accommodation was necessary because of Complainant's disability to afford the Complainant an equal opportunity to use and enjoy the premises, and (5) Respondent denied, or unreasonably delayed granting, the Complainant's request for a reasonable accommodation. The investigation failed to show that the Complainant have a physical or mental impairment that substantially limits one or more major life activities. The Investigation failed to substantiate the Complainant's discriminated against her.

In order to prove retaliation, the investigation must show (1) Complainant was involved in a protected activity, (2) Respondent knew that Complainant was engaged in a protected activity, and (3) Respondent undertook one or more substantial actions against Complainant to discourage

Complainant, or punish the Complainant for her involvement in the protected activity. In the instance case the investigation failed to establish that the Complainant reported a discriminatory activity sufficient to satisfy the first requirement. The Complainant did not meet the second and third element for retaliation because there was no protected activity.

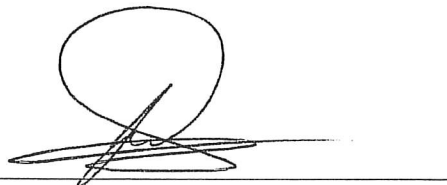
FINDING OF NO PROBABLE CAUSE:

Based on the evidence gathered by the Commission staff during this investigation, it has been determined that there is **No Probable Cause** to believe that the Respondent discriminated against the Complainant because of Disability and Retaliation, under Title 20, Subtitle 7 of the State Government Article, Annotated Code of Maryland.

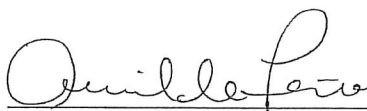
Under the Commission's Fair Housing Regulations, COMAR 14.03.04.12F, the Complainant may submit in writing a Request for Reconsideration of the No Probable Cause finding within fifteen (15) days from the date upon which these findings were mailed. The request shall specifically state the grounds upon which the request is being made. The Request for Reconsideration shall be directed to:

Cleveland L. Horton II, Deputy Director
Maryland Commission on Civil Rights
William Donald Schaefer Building
6 St. Paul Street, Suite 900
Baltimore, Maryland, 21202

Once the Deputy Director has had the opportunity to review the Request for Reconsideration and the entirety of the case file, all parties will be notified of the decision. In the absence of a Request for Reconsideration, the above captioned complaint will be dismissed and the Commission's proceedings in the matter will be terminated.



Atto Commey
Civil Rights Officer

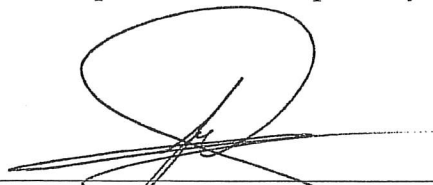


Awilda Pena
Civil Rights Officer Supervisor

Date: 2/5/18

CERTIFICATE OF SERVICE

This is to certify that the foregoing Written Finding was issued on this 5th day of February, 2018 and was served on all parties to the complaint by regular mail on said date.



**FOR THE MARYLAND COMMISSION ON
CIVIL RIGHTS**