

**BEFORE THE MONTGOMERY COUNTY
COMMISSION ON COMMON
OWNERSHIP COMMUNITIES**

OFFICE OF ZONING AND ADMINISTRATIVE HEARINGS

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ELWIN D. JONES, III

Complainant

v.

KEY WEST CONDOMINIUM, INC.

Respondent

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Before: Kathleen E. Byrne, Hearing Examiner

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CCOC Case Nos. 2022-090, 2023-027 &
2024-029
OZAH Case No. CCOC 24-02

HEARING EXAMINER'S REPORT AND RECOMMENDATION OF DISMISSAL

I. STATEMENT OF THE CASE

The Commission on Common Ownership Communities (CCOC) referred CCOC Case Nos. 2022-090 and 2023-027 to OZAH on October 5, 2023, and No. 2024-029 on January 4, 2024. The Hearing Examiner scheduled a Prehearing Scheduling Conference with the parties on December 22, 2023. Dkt. 4. Mr. Jones, Complainant, Ms. Burgess counsel for Respondent and Ms. Glavan, Board President attended the pre-hearing conference and agreed to a revised hearing schedule. The Hearing Examiner issued a Revised Scheduling Order memorializing the agreed-upon schedule, setting a date dispositive motion date for Respondent of January 12, 2024 and a response and/or counter dispositive motion date for Complainant of January 31, 2024. Dkt. 5.

On January 25, 2024, Complainant requested an extension to the January 31, 2024 dispositive motion deadline to engage in settlement negotiations with Respondent. Dkt. 6. On

January 26, 2024, the Hearing Examiner granted the requested extending the deadline for Complainant until February 9, 2024. Dkt. 8.

On February 7, 2024 the Hearing Examiner received an email from Complainant indicating the parties reached a settlement agreement and requested to formally withdraw the above referenced three open CCOC Complaints. The Hearing Examiner accepted the email as Complainant's request to withdraw all open CCOC Complaints with OZAH.¹ Dkt. 9.

II. RECOMMENDED DECISION

Given the fact that the parties have reached a settlement agreement resulting in Complainant's request to withdraw all three open CCOC complaints, there is no reason to conduct a formal hearing. Therefore, the Hearing Examiner accepts the Complainant's request to withdraw the three complaints and all previously filed documents into the administrative record and hereby closes the record.

Sec. 2A-10(g) of the Montgomery County Administrative Procedures Act provides:

(g) Informal disposition. Where appropriate to the nature of the proceedings and the governing laws, informal disposition may be made of any contested case by stipulation, agreed settlement, consent order or default.

The Complainant's decision not to proceed with the case is clearly a basis for dismissal. On this record, the Hearing Examiner recommends that the Case Review Panel dismiss the case as requested by the Complainant.

Dated: February 8, 2024

Respectfully submitted,



Kathleen E. Byrne
Hearing Examiner

¹Because the Hearing Examiner does not have authority to make a final disposition of the case, she does not issue an Order Dismissing the Case but recommends that the CCOC Case Review Panel dismiss the case.

COPIES TO:

Elwin D. Jones, III, Complainant
Ursula K. Burgess, Attorney for Respondent
Frances Glavan, Board President – Key West Condominium Inc.
Ramon Espin, Executive Director, CCOC
Ife Fabayo, CCOC
Walter Wilson, Esq., Office of the County Attorney