

STATE OF FLORIDA
DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION
DIVISION OF FLORIDA LAND SALES, CONDOMINIUMS, AND MOBILE HOMES

IN RE: PETITION FOR ARBITRATION

Cordova Gardens Condominium
Association, Inc.,

Petitioner,

v.

Case No. 2003-04-2777

Diana A. Demby and
Raymond E. Demby,

Respondents.

_____ /

SUMMARY FINAL ORDER

Comes now, the undersigned arbitrator, and issues this summary final order as follows:

On February 18, 2003, Cordova Gardens Condominium Association, Inc. filed a petition for mandatory non-binding arbitration, naming Diana A. Demby and Raymond E. Demby as respondents. The petition alleges that Ms. Demby maintains a dog in her unit in violation of Rule G (1) of the condominium rules and regulations, adopted October 7, 1998, prohibiting all dogs except for those dogs that were in residence at the condominium prior to the adoption of the rule. On March 20, 2003, the respondents, through legal counsel, filed a motion to dismiss or, in the alternative, a motion for stay. In an order issued April 16, 2003, the arbitrator denied both motions and directed the respondents to file an answer within twenty days of the entry of that order.

In response to that order, on April 22, 2002, respondents filed a notice of compliance and request for dismissal due to their voluntary removal of the dog in question. On April 23, 2003, an order to show cause was issued directing the association to demonstrate why the petition should not be dismissed given the removal of the dog. The association filed a response, on April 28, 2003, agreeing that the action would be moot if the dog has been removed.

Pursuant to Rule 61B-45.030, Florida Administrative Code, the arbitrator may enter a summary final order where there are no disputed issues of material fact. Since the respondents have voluntarily removed the offending dog from the condominium property, the alleged pet violation is no longer continuing. Accordingly, the entry of a summary final order is appropriate.

The issue of whether attorney's fees and costs will be awarded in this case will be decided if any party files a motion for attorney's fees and costs pursuant to Rule 61B-45.048, Florida Administrative Code.

Based on the foregoing, it is ORDERED:

Within fourteen (14) days of the date of entry of this order, the respondents shall permanently remove their dog from the condominium property, if not already done so. Additionally, respondents shall in the future fully comply with Rule G (1) of the condominium rules and regulations.

DONE AND ORDERED this 5th day of May 2003, at Tallahassee, Leon County, Florida.

Melissa Mnookin, Arbitrator
Department of Business and
Professional Regulation
Arbitration Section
Northwood Centre
1940 North Monroe Street
Tallahassee, Florida 32399-1029

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing summary final order has been sent by U.S. Mail to the following persons on this 5th day of May 2003:

Andrew H. Cohen, Esq.
Hankin, Persson, Davis,
McClenathen & Darnell
1820 Ringling Boulevard
Sarasota, Florida 34236

Carl J. Robie, III, Esq.
P.O. Box 5747
Sarasota, Florida 34277

Melissa Mnookin, Arbitrator

RIGHT TO APPEAL

As provided by section 718.1255, F.S., a party which is adversely affected by this final order may appeal by filing a petition for trial de novo with a court of competent jurisdiction in the circuit in which the condominium is located, within 30 days of the entry and mailing of this final order. This order does not constitute final agency action and is not appealable to the district courts of appeal.

ATTORNEY'S FEES

As provided by section 718.1255, F.S., the prevailing party in this proceeding is entitled to have the other party pay its reasonable costs and attorney's fees. Rule 61B-45.048, F.A.C., requires that a party seeking an award

of costs and attorney's fees must file a motion seeking the award not later than 45 days after rendition of this final order. The motion must be actually received by the Division within this 45-day period and must conform to the requirements of Rule 61B-45.048, F.A.C. The filing of an appeal of this order does not toll the time for the filing of a motion seeking prevailing party costs and attorney's fees.