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IN THE DISTRICT COURT OF APPEAL OF FLORIDA
FIFTH DISTRICT

PEGGY TROIANO,

Petitioner/Appellant,

v.

DCA Case No.: 15-3071

HERNANDO COUNTY
HOUSING AUTHORITY,

Respondent/Appellee.

_____/

APPELLANT'S AMENDED INITIAL BRIEF

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PREFACE

Appellant, Peggy Troiano, is the Petitioner in the case below, and will be referred to in this brief as “Ms. Troiano.”

Appellee, Hernando County Housing Authority, is the Respondent in the case below, and will be referred to in this brief as “HCHA.”

Julia Williams is Ms. Troiano’s daughter and live-in-aide, and will be referred to in this brief as “Julia” or “Ms. Williams.”

The Division of Administrative Hearings will be referred to as “DOAH.”
The case was presided over by Administrative Law Judge James H. Peterson, III, of DOAH, who at all times will be referred to as “the ALJ.”

Reference to materials in the record will be designated as follows:

- R.V. – Record, followed by the volume and page number
- Tr.V. – DOAH Hearing Transcript, followed by the volume and page number

Reference to the Appendix items shall be designated by “App.”, followed by the appropriate items.

The Florida Commission on Human Relations will be abbreviated in this brief as “FCHR.”

The United States Department of Housing and Urban Development will be abbreviated in this brief as “HUD.”

STATEMENT OF THE CASE

This is a housing discrimination case. Appellant Peggy Troiano appeals a Final Order of the Florida Commission on Human Relations (FCHR) dismissing the Petition for Relief and the Housing Discrimination Complaint that she filed when the Hernando County Housing Authority (HCHA) unlawfully denied her a reasonable accommodation based on her disability. Ms. Troiano, in this timely appeal, seeks the reversal of that dismissal.

Ms. Troiano is a person with a disability who suffers from toxic injury. (R.166.) Due to her physical disabilities, Ms. Troiano requires a living environment free of toxic substances. (R.166.) On October 8, 2014, Ms. Troiano, who had received a Section 8 Housing Choice Voucher for fifteen years, filed a *pro se* housing discrimination complaint with FCHR seeking review of HCHA's denial of her request for an accommodation to remain in her current house with her live-in aide, and subsequent termination of her Section 8 housing assistance when she was unable to move. (R. 28-29,164.) FCHR made an initial finding of "no cause" for discrimination. (R. 16-27,164.)

On December 18, 2014, Ms. Troiano contested FCHR's findings and requested an evidentiary hearing, which was held before the Division of Administrative Hearings' (DOAH) Administrative Law Judge James H. Peterson,

III, on February 13, 2015. (R.165.) Ms. Troiano appeared by telephone and *pro se*. (R.165.)

Four witnesses testified at the hearing. Ms. Troiano and Julia Williams, her daughter and live-in aide, testified on behalf of Ms. Troiano. (R.165-166.) The HCHA presented the testimony of its Executive Director, Donald Singer and an employee, Edward Bancroft. (R.166.) Both parties submitted exhibits at the hearing. (R.165-166.) All of HCHA's exhibits were admitted without objection. (R. 166.)

Ms. Troiano and HCHA each submitted proposed recommended orders. (R.166.) In a Recommended Order dated May 22, 2015, the ALJ found no cause for discrimination and recommended dismissal of Ms. Troiano's Petition. (R.162-166.) The ALJ decided only one issue: **whether HCHA discriminated against Peggy Troiano on the basis of her disability by denying her requested accommodation to continue to receive Section 8 assistance at the home owned by her daughter and live-in aide.** (R.163.) To make this determination the ALJ had to determine whether or not the requested accommodation was reasonable. (R.179.)

Ms. Troiano filed written exceptions to the Recommended Order. (R.191.) Nevertheless, on September 19, 2015, FCHR filed a Final Order adopting the

ALJ's findings of fact from the Recommended Order and dismissing the Petition. (R. 187.)

The facts, as established in the record, are set forth herein with detail because a determination of whether a requested accommodation is required by law is determined on a case-by-case basis and is highly fact specific. Because no competent, substantial evidence supports FCHR's Final Order, and it is contrary to law, Ms. Troiano now appeals that Final Order and seeks its reversal.

STATEMENT OF THE FACTS

The Appellant, Peggy Troiano submitted evidence into the record of this case to support the following (where a fact was also found by the ALJ it is so noted along with the citation to the Recommended Order in the record):

Peggy Troiano is 73 years old (R. 467) and has been severely disabled since 1995 when she experienced a serious exposure to solvents and other petrochemicals. (R. 555.) She now suffers from toxic encephalopathy, reactive upper and lower airway disease, migraines, food intolerances, widespread musculoskeletal pain, malabsorption, bowel inflammation, hypertension, diabetes II, secretory IgA deficiency, sleep disturbance, and hypothyroidism. (R. 555.) Ms. Troiano's condition is commonly referred to as "toxic injury." (R. 166; Tr.V1.16.)

Due to her disability, she must avoid a host of common chemicals including combustion products, disinfectants, bleach, ammonia, other cleaning agents, scented products, pesticides, herbicides, latex, gluten, and cigarette smoke. (R. 555; Tr.V1. 16-17.) Ms. Troiano requires a non-toxic living environment (R. 166), and is, for the most part, *unable to leave her home*, lest she come into contact with an irritant. (Tr.V1. 17.) Doctors or other visitors to Ms. Troiano's home must use a separate entrance, shower, and decontaminate before entering into Ms. Troiano's living and breathing space. (Tr.V2. 279, 282) Due to her disability, Ms. Troiano must live on an income of about \$750.00 per month. (Tr.V1. 17) Ms. Troiano's daughter, Julia Williams, provides her with in-home healthcare as a trained healthcare worker (R. 167), runs her errands, and does her shopping. (Tr.V2. 202) The Appellee, HCHA has been aware of Ms. Troiano's disabilities and need for non-toxic housing since 2011. (Tr.V2. 209.) HCHA does not dispute that Ms. Troiano is a person with a disability. (R. 5.)

For about fifteen years, Ms. Troiano has been the recipient of a federal housing subsidy in the form of a "Section 8 voucher" under the Housing Choice Voucher Program funded and administered by the United States Department of Housing and Urban Development (HUD). (Tr.V.1.17) Without a housing subsidy, she is unable to afford housing. (Tr.V1. 17.) Since at least 2011, Appellee Hernando County Housing Authority (HCHA) has been the local agency

administering Ms. Troiano's Section 8 voucher (Tr.V2. 207), and Donald Singer has been its Executive Director. (R. 166.) HCHA is a recipient of Federal HUD funding and required to comply with HUD regulations, as well as all Federal, state, and local fair housing laws and regulations. (R. 167, Recommended Order.)

Since 1999, Ms. Troiano has been treated by Dr. Grace Ziem, M.D., MPH, Dr. P.H., an expert in chemical injury, occupational and environmental health. (R.555.) In March of 2014, Dr. Grace Ziem sent a letter to the HCHA stating in part:

Her disability is "very serious and *life threatening*. She medically requires specialized cleaning products, food, personal products, filters, and other environmental control devices...She medically needs additional housing space and an extra room to accommodate rehabilitation equipment.

Due to the severity of her illness, patient's residence needs a *caregiver efficiency unit, with separate entrance*."

(R.553.) (Emphasis added)

The next day Dr. Ziem sent a "Standing Medical Order" stating, in detail, which toxins that must be avoided by Ms. Troiano and stating, "Her genuine medical needs are real and must be taken seriously: she does not make unnecessary

demands. These needs are as *essential to her survival* as pulling a child out of a flooding area.” (R.555.) (Emphasis added.)

It is extremely difficult for Ms. Troiano to locate housing that meets her medical needs, where a landlord will accept a Section 8 voucher as payment, and where she is welcome along with her host of required accommodations. (Tr.V1.65-67,109-110; App. F.)¹ Among other structural necessities, the home must have ceramic wood or tile floors, accommodate a high-rise commode and grab bars, and have a non-chlorinated water supply. (App. F.) The home cannot have gas appliances, fresh paint that contains VOCs, mold, recent pesticide application, or previous smokers. (App. F.) The home must not be close to another residence, a swimming pool, a blacktop roadway, a gas station, a fire station, a healthcare facility, an industrial site, an airport, an agricultural site, a school, traffic congestions or dense populations. (App. F.) Over the last seven years, Ms. Troiano’s disability has caused her to have to move five times, as each new apartment presented one problem or another that exacerbated Ms. Troiano’s condition. (Tr.V1. 66, 171; App. F.) Moving requires cleaning and decontamination of the new unit, as well as of the moving truck. (App. F.) The

¹ Ms. Troiano submitted into evidence a four-page document titled “Some of what is involved in relocating me.” At the hearing the ALJ admitted the document into evidence (Tr.V1. 109-110.), however, because the document was not included in the record prepared by DOAH, it is included here as Appendix F.

physical act of moving causes her health to deteriorate each time. (Tr.V1. 66; App. F.)

In an effort to put an end to the continuous need to move from housing unit to housing unit, Ms. Troiano's daughter, Julia Williams, spent more than two years searching for a house to purchase that would accommodate Ms. Troiano's needs, and where Ms. Troiano would not be asked to leave when the lease expired. (Tr.V1.65, 66; App. F.) In April 2014, the parties had multiple conversations regarding the plan for Julia to remodel a house to meet her mother's needs, which could then be rented to her mother. (R.168-169, Recommended Order; Tr.V2.198, 212.)

Julia did purchase, detoxify, and remodel a home at 15141 Pomp Parkway, Weeki Wachee, Florida. (Tr.V.1 126-127.) All homes rented under the Section 8 program must be inspected and approved by the housing authority as meeting the Federal Housing Quality Standards. (R. 517-518.) Julia was notified that the house on Pomp Parkway had passed inspection by the HCHA and was in compliance with Federal Housing Quality Standards on May 6, 2014. (R.472.) Julia and the HCHA then entered into a Housing Assistance Payment (HAP) contract (R.170) with an initial lease term of May 7, 2014 to April 30, 2015 for the property at Pomp Parkway (R.476-477), and Ms. Troiano made what was to be her final move into the home. A Section 8 participant may receive housing assistance

while residing in a unit owned by a relative, as a reasonable accommodation for a person with a disability (R.168, Recommended Order), as stated at Paragraph 4.D(8) in HUD form 52646, the agreement signed by all voucher holders and their administering housing authority, and per HUD regulations. (R.413.)

During the discussions between the parties in April, the likelihood of Ms. Troiano requiring a live-in aide in the near future was also discussed (Tr.V.1 127), and on May 6, HCHA requested by letter that Ms. Troiano sign and return a release of healthcare information on a “Live-in Aide Request Verification” form, so that the form could be completed by Dr. Ziem. (R.394.) Ms. Troiano promptly signed and returned the form, and it was completed by Dr. Ziem on May 19, 2014, and returned to the HCHA. (R.396-397)

Additionally, on May 8, 2014, Dr. Ziem sent a letter to HCHA stating that Ms. Troiano’s condition is continuing to deteriorate and she now requires a live-in caretaker:

Julia Williams is a professional health caregiver, and over many years has studied toxic injury. She knows the importance of avoidance, the harmful life threatening effects that exposures cause this patient, and how to respond to various situations.

Due to the unavailability of trained professionals in the field, it is medically necessary for *Ms. Williams* to *immediately* take on the position of patient’s live-in care provider/aide.

(R.483.) (Emphasis added).

Julia testified that she moved in with her mother on or about June 1, 2014, due to the doctor's statement that the live-in aide was needed *immediately* for medical reasons, even though HCHA had yet to formally respond to her mother's request for accommodation. (Tr.V2. 195.)

In mid-June, Donald Singer exchanged emails regarding Ms. Troiano's request for a live-in aide with Preston Fleming of the HUD Jacksonville Field Office. (R. 152, Recommended Order.) Mr. Fleming's job title is not part of the record, and Mr. Fleming did not testify at the hearing. (R. 492-493; Tr.V1.1-181, V.182-304.) Mr. Fleming quoted 24 C.F.R. § 982.352(a)(6) and told Mr. Singer that a unit occupied by its owner is not eligible housing for the Section 8 program, and that Mr. Singer did not have authority to approve the unit. (R. 492-493.)

On June 27, 2014, Donald Singer finally responded to Ms. Troiano granting her request for a live-in-aide and stating in part:

...our office has determined that *your daughter, Julia E. Williams* meets the program qualifications(s) to act as your Live in Aide. Therefore, our office is approving Julie E. Williams as your Live in Aide effective immediately.

(R.172-173, Recommended Order.) (Emphasis added.)

Nonetheless, the ALJ found that Ms. Troiano's request for a live-in aide did not specifically request that Julia be allowed to "move into and occupy" the unit on Pomp Parkway, and that Ms. Troiano "has never received written approval from the Respondent to have Ms. Williams live and occupy the 15141 Pomp Parkway unit under the Section 8 voucher program." (R.171, Recommended Order.)

On August 11, 2014, Ms. Troiano requested that her voucher be increased from two-bedrooms to three-bedrooms to accommodate her live-in aide, in accordance with HUD rules for live-in aides, via email to Donald Singer. (R.606-607).

Donald Stringer replied to Ms. Troiano by letter on August 22, stating that the HCHA would be *terminating the HAP contract with Julia Williams for the home at Pomp Parkway*, effective September 30, 2014. The letter cited 24 C.F.R. 982.352(a)(6) and stated in part:

...the owner of the home, Julia Williams, is also serving as your live in aide. The fact that the owner of the home is residing in the home as a live in aide even as a reasonable accommodation does not supersede the HUD regulation(s).

...

Our office will issue and mail you a new three bedroom voucher and voucher packet so that she [sic] can begin

searching for a new rental unit where Ms. Williams can continue to serve as her [sic] live in aide.

(R.174, Recommended Order.)

On August 27, 2014, HCHA sent Ms. Troiano a new, three-bedroom Section 8 Voucher packet with instructions to have it completed by a prospective new landlord and returned to the HCHA within sixty days.² (R.175, Recommended Order.) Ms. Troiano and Julia attempted to find another house or apartment to meet Ms. Troiano's needs, but were not able to do so in the amount of time allotted. (Tr.V1. 174.)

On September 8, 2014, Ms. Troiano sent an email to Mr. Singer notifying him that she was unable to move and requesting an accommodation to either stay at Pomp Parkway, or to have additional time at the Pomp Parkway address to work with HCHA to find another accommodation that would meet her needs. (R.611)

The letter stated, in part:

...Each housing search takes months to years in order to find a house that might meet my Medically Required Needs. You know that it will be *extremely difficult if not impossible* to find another house and landlord that will be able/willing to meet all of my Medically Required

² The ALJ incorrectly states in the finding of fact that voucher packet must be completed by September 30, when in fact the letter stated that *payment* would terminate on September 30. The new voucher packet had a term of 60 days before expiration.

Accommodations and allot me the benefit of not having to move again.

Each move leaves me in severe unrelenting pain, in a weakened, more vulnerable condition, resulting in my conditions deteriorating further...

(R.611) (Emphasis added).

HUD form 52646, which had been signed by the parties, states at paragraph 6 that at its discretion the PHA may grant a family's request for one or more extensions of the initial term granted to secure a housing unit. (R.413.) No evidence was presented to show that HCHA responded to Ms. Troiano's request to remain at Pomp Parkway, or her request for an extension of time. (R. 389-987.)

Mr. Singer testified that the HCHA administers a Home Ownership Program, with down payment assistance, and that he did not offer or suggest application to or participation in the program as an option for Ms. Troiano. (Tr.V2. 268.) Mr. Singer testified that HCHA did not apply for a regulatory waiver from HUD in accordance with 24 C.F.R. § 5.110, in an attempt to provide an accommodation to Ms. Troiano. (Tr.V2. 244.)

Ms. Troiano's Section 8 subsidy was terminated on September 30, 2014, and no payment was made for October 2014, or any month since. (Tr.V1. 173; R. 174, Recommended Order.) Ms. Troiano returned the new three-bedroom voucher packet to HCHA on October 30 with the Pomp Parkway house listed as the

property to be rented (R. 175), because she was unable to relocate and at a loss for what to do. (Tr.V1. 171.)

In the Determination issued by FCHR on November 24, 2014, the investigator states:

The investigation found that as long as Complainant was approved only for a two-bedroom voucher, HUD policy 982.352(a)(6) was not violated, even with Ms. Williams residing in the residence she owned and being allowed as a live-in aide for Complainant.

...

The investigation shows that a three bedroom voucher would be paying the owner of the residence, Ms. Williams, to live there and that is the violation of HUD policy 982.352(a)(6).

(R. 23.)

Ms. Troiano then made a request to HCHA that her housing assistance status be returned to a two-bedroom housing voucher at Pomp Parkway, exactly what was in place before HCHA terminated the HAP contract with Julia Williams. (R.407.) The request was not granted. (R. 174, Recommended Order.)

Despite the multitude of evidence presented at the hearing, the ALJ made no findings of fact regarding Ms. Troiano's needs for any particular type, features or locations of housing, regarding how likely she would be to find appropriate

housing in her area, or regarding how long it might reasonably take for her to find alternate housing. (R.166-176.) The ALJ made no findings of fact regarding the reasonableness of someone other than Julia Williams serving as Ms. Troiano's live-in aide. (R.166-176.) The ALJ made no findings of fact regarding Ms. Troiano's physical ability to move, given her age and condition. (R.166-176).

The ALJ found that HCHA would have been willing to continue Ms. Troiano's housing assistance so long as she "met program requirements and the housing was deemed eligible housing under the C.F.R. through the issuance of a new three-bedroom voucher for a different unit, or by having Petitioner live in the 15141 Pomp Parkway unit without Ms. Williams both owning and occupying the unit." (R.175.) The ALJ also stated in his findings of fact that, "the facts fail to support a finding that Respondent's refusal to allow Petitioner to participate in the Section 8 voucher program while occupying a unit owned and occupied by her daughter was because of Petitioner's disability." (R.176.)

SUMMARY OF THE ARGUMENT

The reasonable accommodation provisions of the Fair Housing Act and the Rehabilitation Act create an affirmative duty on federally funded housing providers to accommodate the needs of people with disabilities, and in doing so, recognize that housing-related rules, policies, practices, and services, that are

otherwise fair, can have discriminatory effects when applied to those who have a disability. Therefore, the law requires housing providers to make exceptions for people with disabilities, so as to allow those individuals the opportunity to address the needs that arise from their disabilities and strive towards independent living.

Here, HCHA denied Ms. Troiano's requests to either remain in the home that was purchased and renovated by her daughter and live-in aide, solely for the purpose of accommodating her disability-related needs, or to have additional time to find other housing. Federal law and HUD regulations give HCHA the authority and discretion to consider Ms. Troiano's requested accommodation. Furthermore, they create an affirmative duty on the part of HCHA to provide necessary accommodations, or propose alternatives when they are unable to provide necessary accommodations. Denial of a necessary and reasonable accommodation is *de facto* discrimination. As such, FCHR's final action of finding no cause for discrimination is not supported by law.

Ms. Troiano's requested accommodation was necessary to afford her an equal opportunity to participate in the Section 8 Housing Choice Voucher Program. Her disability of toxic injury makes it extremely difficult for her to find suitable housing that does not aggravate her life-threatening condition. The act of moving, in itself, aggravates her condition. Ms. Troiano's requested accommodation was reasonable in that it did not pose undue financial and

administrative burden on HCHA, and it did not constitute a fundamental alteration of HCHA's housing program. Because denial of a necessary and reasonable accommodation is *de facto* discrimination, FCHR's final action is not supported by law.

Before denying a request for an accommodation, the law requires housing providers to open a dialogue with disabled individuals to determine the reasonableness of the request, or to suggest alternative accommodations. HCHA denied Ms. Troiano's requested accommodation without engaging her in a dialogue or suggesting alternatives, and in doing so discriminated against Ms. Troiano. FCHR's final action is not supported by law.

Finally, Ms. Troiano proved with competent and substantial evidence that her requested accommodation was reasonable and necessary, that HCHA failed to engage her in an interactive process to explore options for accommodating her before denying her request for accommodation. FCHR's finding of no cause for discrimination is not supported by the evidence in the record.

Ms. Troiano affirmatively proved that HCHA discriminated against her by failing to make a reasonable accommodation for her disability, and HCHA failed to controvert that proof. FCHR's final order adopts the ALJ's recommended order and is not based on competent, substantial evidence in the record or supported by law and should be reversed.

ARGUMENT

HUD is charged with the task of administering housing related programs in such a way as to affirmatively further the purposes of the Fair Housing Act and section 504 of the Rehabilitation Act of 1973. Exec. Order No. 12892, 59 Fed. Reg. 2939 (Jan. 17, 1994), 24 C.F.R. Part 8. Protections such as those provided to individuals with disabilities by the Fair Housing Act and the Rehabilitation Act are especially important in subsidized housing programs where poverty and disability combine to create barriers to alternative housing choices. Because of their poverty, recipients of housing subsidies are severely restricted in their housing choices – they cannot simply shop around for an apartment that will accommodate their disability.

I. FCHR's final action is not supported by law.

An agency's final action based on a conclusion of law is subject to de novo review. *Volusia County School Bd. v. Volusia Home Builders Ass'n, Inc.*, 946 So.2d 1084 (Fla. 5th DCA 2006) citing *Parlato v. Secret Oaks Owner Ass'n*, 793 So. 2d 1158 (Fla. 1st DCA 2001).

The Fair Housing Act, §§ 760.20-760.37, Florida Statutes (2014), prohibits discrimination based on a disability in the provision of housing.³ Discrimination based on disability in programs receiving Federal funding is prohibited by Section 504 of the Rehabilitation Act of 1973, codified at 29 U.S.C. § 794. Discrimination under the Fair Housing Act includes “the refusal to make reasonable accommodations in rules, policies, practices, or services, when such accommodation may be necessary to afford such person an equal opportunity to use and enjoy a dwelling”, and the provisions under the Rehabilitation Act are substantially the same. § 720.23(9)(b), Fla. Stat. (2014); 24 C.F.R. Part 8. Accordingly, under the Fair Housing Act and the Rehabilitation Act, Federally funded housing providers, such as HCHA, have an affirmative duty to reasonably accommodate the needs of a person with a disability.

- a. The ALJ misapplied the law in determining that federal law gives HCHA no authority or discretion to consider Ms. Troiano’s request for accommodation, instead of finding that it had an affirmative duty to accommodate her.**

The judge erred in finding that HUD regulations at 24 C.F.R. § 982.551(j), 24 C.F.R. § 982.615(b)(3), and 24 C.F.R. § 982.352, regarding housing units owned and occupied by blood relatives of assisted persons, prohibit HCHA from

³ The Federal Fair Housing Act and the Florida Fair Housing Act are essentially identical and the same legal analysis applies to each. *Bhogaita v. Altamonte Heights Condo. Ass’n*, 765 F.3d 1277, 1285 (11th Cir. 2014).

even considering Ms. Troiano's requested accommodations. HUD has made clear that public housing authorities such as HCHA have an affirmative duty to accommodate persons with disabilities by making adjustments to their rules, policies, practices and procedures in order to enable persons with disabilities to use and enjoy a housing unit and have access to HUD programs. See 24 C.F.R. Part 8; HUD PIH Notice 2006-13 (HA) (App. D).

First, 24 C.F.R. § 982.551(j) does not apply to Ms. Troiano's situation. It states that "[t]he family must not own or have any interest in the unit." In the Section 8 Housing Choice Voucher Program, HUD defines "family" to include only household members *receiving assistance* under the program. 24 C.F.R. § 982.4. As Julia Williams was not receiving Section 8 assistance, she is not considered a member of the "family" as the term is used in the HUD regulations. HUD has made clear that live-in aides are not considered members of the "family." See HUD PIH Notice 2014-25 (HA) at page 3.

Second, the ALJ completely ignored other HUD regulations and authorities in making his determination that HCHA was prohibited from offering Ms. Troiano her requested accommodation. 24 C.F.R. § 982.306(d) states that a public housing authority (PHA) may approve a unit owned by a blood relative **if "*approving the unit would provide reasonable accommodation*"** for a family member who is a person with disabilities." 24 C.F.R. § 982.306(d) (emphasis added). After stating

that 24 C.F.R. § 982.352 prohibits rental of owner-occupied units, the ALJ correctly noted that under the shared housing provisions at 24 C.F.R. § 982.615, the owner of a shared housing unit may reside in the unit, so long as that person is not related by blood or marriage to a resident owner. However, the ALJ stopped here and did not consider § 982.306(d), which *specifically allows* for the rental of a unit owned by a child, or other relative, of the assisted person *as a reasonable accommodation*.

In a factually similar case a federal district court found that the HUD regulations allowed a Section 8 voucher holder to rent an owner-occupied unit from a blood relative. In *Garcia v. Washington County Dept. of Housing Services*, 2006 WL 897984 (D.Or. 2006), as in the instant case, a Section 8 voucher recipient with a disability claimed discrimination by a housing authority for failure to make a reasonable accommodation after he moved into a home owned by a relative. The housing authority, at the written direction of a HUD employee, then terminated the assistance based on 24 C.F.R. § 615(b)(3). *Id.* at 1. In that case, the plaintiff, Mr. Garcia, moved in with his brother because he needed a caregiver. *Id.* He did not have the resources to obtain a caregiver, and the brother could not have afforded to house and care for Mr. Garcia without a voucher. *Id.* The defendant housing authority moved to dismiss, claiming that its obligations to follow HUD regulations left them no power, discretion, or authority to make such an

accommodation, especially where HUD had sent letters specifically directing it to terminate the assistance. *Id.* at 1. The court found that the argument failed and denied the motion to dismiss. *Id.* at 1.

The court found that the Fair Housing Act trumps the HUD regulations and specifically 24 C.F.R. § 982.615(b)(3), the prohibition on renting from a homeowner who is a blood relative. *Id.* at 2. The court stated:

It is well-settled that the affirmative duty on public agencies to reasonably accommodate disabled individuals includes modifying administrative rules and policies. 24 C.F.R. §982.306(d), in restating the prohibition in §982.615(b)(3), adds that a public housing authority (PHA) may approve of such a living condition if the PHA determines that approving the unit would provide reasonable accommodation for a family member who is a person with disabilities. Similarly, the [Rehabilitation Act of 1973] provides that no otherwise qualified individual with a disability ...shall, solely by reason of her or his disability, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance. 29 U.S.C. 794(a).

Id. at 2, (internal quotations and citations omitted).

The court went on to say:

There is no conflict between the requirement that PHAs comply with HUD regulations and the affirmative duty they have to accommodate the disabled. Actions taken to hinder accommodation are in direct contrast to the affirmative duties placed on public agencies by FHA requiring them to reasonably accommodate the needs of disabled individuals.

Id. at 4.

The ALJ completely ignored the HUD regulation at 24 C.F.R. § 982.306(d) in making his determination that HCHA did not have the authority to offer Ms. Troiano her requested accommodation. Not only does HCHA have the authority to accommodate Ms. Troiano by making an adjustment to HUD rules, policies, practices or procedures, but Federal law and HUD regulations actually impose an affirmative obligation on HCHA to accommodate her.

The ALJ also ignored the HUD regulation at 24 C.F.R. § 982.601(b)(3), Special Housing Types, which preface the shared housing provisions at § 982.615 allowing for rental of owner-occupied units:

The PHA must permit use of any special housing type if needed as a *reasonable accommodation* so that the program is readily accessible to and usable by persons with disabilities in accordance with 24 C.F.R. Part 8. (Emphasis added).

Under 42 U.S.C. § 3535(q), part of the HUD Reform Act 1989, Congress created a process by which housing authorities may make written requests to HUD for waivers of HUD regulations, and HUD has created a process for review and approval of regulatory waivers to housing authorities within the Housing Choice Voucher Program, on a case-by-case basis, as accommodations for persons with disabilities. *See* HUD PIH Notice 2008-13 (HA), *Requests for Exception Payment Standards for Persons with Disabilities as a Reasonable Accommodation*. Clearly, Congress contemplated that it would be necessary, on occasion, to waive or modify a HUD regulation in order to accommodate persons with disabilities in HUD programs, and HUD has created a process whereby it routinely provides regulatory waivers upon request. Therefore, HCHA certainly has discretion to consider Ms. Troiano's requested accommodations, and the ALJ's assertion is without merit.

The ALJ ignored 24 C.F.R. Part 8 of the HUD regulation, which implements 29 U.S.C. § 794, part of the Rehabilitation Act of 1973, and specifically prohibits discrimination based on a disability in federally-assisted housing programs. The regulation states in relevant part at § 8.33, that a HUD-funded housing program shall:

...modify its housing policies and practices to ensure that these policies and practices do not discriminate []. The recipient may not impose upon individuals with handicaps other policies [] that have the effect of

limiting the participation of tenants with handicaps in the [] program.

(Emphasis added.)

The HUD regulations at 24 C.F.R. § 8.28, specifically direct Section 8 programs to encourage participation by owners with accessible units, and to “take into account the specific problem of ability to locate an accessible unit when considering requests by eligible individuals with handicaps for extensions of [] Housing Vouchers” and to “otherwise assist the family in locating an available accessible dwelling unit...”

In 2006, HUD’s Office of Public and Indian Housing issued PIH Notice 2006-13 (HA) to remind recipients of Federal funds of their obligation to comply with laws mandating non-discrimination in housing programs for persons with disabilities. (App. D.) On the topic of reasonable accommodations, the notice cites 24 C.F.R. §§ 8.20, 8.24 and 8.33, and states that “[w]hen a family member requires a policy modification to accommodate a disability, PHAs *must* make policy modifications unless doing so would result in a fundamental alteration in the nature of its program, or an undue financial *and* administrative burden.” PIH 2006-13 at page 4, (emphasis in original). (App. D.) Additionally, HUD PIH Notice 2014-25 (HA) addresses issues raised when voucher holders require live-in aides, and on the issue of reasonable accommodations states “The PHA must

consider requests for an exception to the established subsidy standards on a case-by-case basis and provide an exception, where necessary, as a reasonable accommodation.” HUD PIH Notice 2014-25 (HA) at page 3.

Clearly, the ALJ not only erred in his finding that Federal law and HUD regulations create prohibitions on providing accommodations such as the one requested by Ms. Troiano, which called for a modification in the rules, policies, procedures, or practices of HCHA’s Section 8 program, but the ALJ also erred in failing to find that HCHA had an affirmative duty to accommodate Ms. Troiano.

b. The ALJ erroneously determined that Ms. Troiano’s requested accommodations were not necessary or reasonable.

Whether an accommodation based on a disability is required by law is “highly fact-specific, requiring case-by-case determination.” *California Mobile Home Park Mgmt. Co.*, 29 F.3d at 1418. Courts have found a wide range of accommodation requests calling for alterations of rules, policies, and practices that could be considered reasonable and necessary. *See, e.g., Douglas v. Kriegsfeld Corp.*, 884 A.2d 1109 (D.C. Cir. 2005) (mentally impaired tenant’s request for stay in eviction proceedings to allow time for her to have her apartment cleaned); *Jankowski Lee & Assocs. v. Cisneros*, 91 F.3d 891 (7th Cir. 1996) (tenant’s request for a designated parking space close to his apartment); *Bentley v. Peace & Quiet Realty 2, LLC*, 367 F. Supp. 2d 341 (E.D.N.Y. 2005) (request of woman who had

difficulty climbing stairs to be moved to a lower level without having her rent raised); *Oras v. Housing Authority of City of Bayonne*, 861 A.2d 194 (N.J. Super. 2004) (request of tenant with paralyzed legs to have a dog to assist him with daily activities and to have a handicapped-accessible unit).

There are four elements to a *prima facie* case for discrimination based on denial of a reasonable accommodation:

- i. complainant suffers from a disability;
- ii. respondent knew of complainant's disability or should reasonably have been expected to know of it;
- iii. accommodation of the disability may be necessary to afford complainant an equal opportunity to use and enjoy the dwelling; and
- iv. respondent refused to make such accommodation.

Phillippeaux v. Apt. Inv. and Mgmt. Co., 598 Fed. Appx. 640, *6-*7 (11th Cir. 2015); *United States v. California Mobile Home Park*, 107 F.3d 1374, 1380 (9th Cir. 1997). Once the elements are established, the burden shifts to the housing provider to show that the requested accommodation is not reasonable because it would impose an undue financial and administrative burden. *Schwarz v. City of Treasure Island*, 544 F.3d 1201, 1220 (11th Cir. 2008). Therefore, denial of a reasonable and necessary accommodation to a disabled person is *de facto* discrimination in the rental of housing, and there is no requirement to show that the

housing provider intended to discriminate because of the disability. § 720.23(9)(b), Fla. Stat. (2014).

The ALJ correctly found that Ms. Troiano established the first, second, and fourth elements. The ALJ erred in concluding that Ms. Troiano did not establish the third element: that the requested accommodations are *necessary* to afford Ms. Troiano an equal opportunity to use and enjoy her dwelling. The ALJ ignored the law in finding that the accommodations were not necessary thereby constituting preferential treatment to Ms. Troiano, and that they were unreasonable because they would impose undue financial and administrative burdens on HCHA, or constitute a fundamental alteration of the Section 8 program.

i. The ALJ erroneously determined that Ms. Troiano's requested accommodations were not necessary, and that they would have constituted preferential treatment.

The ALJ erred in concluding that the accommodations requested by Ms. Troiano were not necessary to afford her an equal opportunity to use and enjoy the Section 8 program, and that they would have amounted to preferential treatment. Ms. Troiano requested that the HCHA allow her to continue to receive Section 8 assistance even though she was unable to move from the Pomp Parkway house, which was owned by her daughter and live-in aide, after HCHA notified her that payment at the Pomp Parkway home would end in thirty days, and she that she had sixty days to find another property to rent. Alternatively, Ms. Troiano requested

that the HCHA grant her an extension of time to find another property to rent. In concluding that the requests were not reasonable, the ALJ incorrectly asserted that Ms. Troiano had other options that would have allowed her to remain in the Section 8 program. Specifically the ALJ suggests: (1) moving to another unit, (2) finding a different live-in aide, or (3) having Ms. Williams serve as a live-in aide without living in the home. The ALJ offered no explanation of how he arrived at this conclusion. HCHA presented no evidence in the case to controvert the multitude of evidence presented by Ms. Troiano to show that the requested accommodations were necessary due to her medical needs, and the ALJ made no such findings of fact. The ALJ cited to no finding of fact to explain how he believed that it would have been possible for Ms. Troiano to consider any of the alternatives he suggested.⁴

Several courts have addressed the question of what is meant by “necessary to afford a disabled person an equal opportunity to use and enjoy a dwelling” under the Fair Housing Act. In *Bronk v. Ineichen*, the court found that a requested accommodation is necessary if “at a minimum ... the desired accommodation will affirmatively enhance a disabled plaintiff’s quality of life by ameliorating the effects of the disability.” *Bronk v. Ineichen*, 54 F.3d 425, 429 (7th Cir. 1995). In

⁴ If there were other options that would have allowed Ms. Troiano to remain on the Section 8 program, the HCHA had a duty to explore those options with Ms. Troiano through an “interactive process.” Their failure to do so is addressed in the next section, I(c), of this brief.

Schwarz v. City of Treasure Island the court found that a person with a disability is afforded an “[equal] opportunity to use and enjoy a dwelling as non-handicapped people ... when accommodations address *the needs created by the handicaps*.” *Schwarz v. City of Treasure Island* at 1226 (emphasis in original). The court in *Schwarz* goes on to say that “if accommodations go beyond addressing these needs and starts addressing problems not caused by a person’s handicap, then the handicapped person would receive not an ‘equal’, but rather a better opportunity to use and enjoy a dwelling...”

Clearly, Ms. Troiano asked to continue to use her voucher at the Pomp Parkway house for the sole reason of addressing the needs created by her disability, and because she would be unable to participate in the Section 8 program without the accommodations. That Julia and Ms. Troiano searched for more than two years to find a home suited to Ms. Troiano’s disability-related needs, and that Julia purchased and renovated the Pomp Parkway house solely for the purpose of meeting Ms. Troiano’s medical needs (Tr.V1. 66-68; App. F.), shows that finding another property with the same features, within the sixty days allotted by HCHA, would have been impossible. (Tr.V1. 171.) Even if a suitable home away from farms, schools, busy roadways, dense population, etc. (App. F.), and with a separate caregiver efficiency unit with a separate entrance (R. 553.) could have been located, approved by HCHA, detoxified and prepared (Tr.V1. 171.) in a

matter of sixty days, moving to a new location would cause Ms. Troiano great physical harm. (Tr.V1. 174-175.) As, for the most part, she is unable to leave her home (Tr.V1. 175.), the idea that she could pick up and move to a new house within sixty days is contrary to all the evidence presented in the case. Clearly, it was *necessary* for Ms. Troiano's continued use of the Section 8 program for her to remain in the house at Pomp Parkway, or at least to have additional time to find a different home.

That Ms. Troiano's physician specifically ordered that Julia Williams serve as live-in aide, due to Julia's special training and skill set, shows that it was necessary for Julia to serve as Ms. Troiano's live-in aide, and that another aide could not address her disability-related needs. (Tr.V1. 66-67; R. 483.) That the physician made clear that the live-in aide was needed to *live in* the home, for reasons arising from the disability, shows that Julia could not have performed her duties as the live-in aide from outside the home. (Tr.V1. 66-67; R. 483.) The ALJ's legal conclusion that another person could have served as the live-in aide, or that Julia could have performed her duties from outside the home is not supported by any finding of fact, and, even if it was, this was never offered to Ms. Troiano by the HCHA as an alternative.

In *U.S. v. California Mobile Home Park Mgmt. Co.*, 29 F.3d 1413 (9th Cir. 1994), the court addressed the issue of when an accommodation may place

someone in a better position than other tenants. The court was considering a case in which a tenant with a child with a disability was charged a parking fee for her the child's babysitter, and the tenant asked that the fee be waived. The court stated that it seemed unlikely that many other residents would have a guest *requiring* an extra parking space every day, making it "much less probable that waiver of guest fees would give [the resident] an advantage over other residents." *Id.* at 1418. Applied to the instant case, granting Ms. Troiano's requested accommodations would indeed put her in better position than other Section 8 participants *if* most other participants had a need to live in a home owned by a live-in aide who is also a relative, and their requests were denied, but, that is certainly not the case. In *Holly v. Clarkson Industries, LLC*, 492 F.3d 1247 (11th Cir. 2007), the court said, "The very purpose of reasonable accommodation law is to *require* employers to treat disabled individuals differently in some circumstances....Were that not so, the 'reasonable accommodation' provision could not accomplish its intended objective...."⁵ *Id.* at 1263. The requested accommodations go no further than to give Ms. Troiano an equal opportunity to use the Section 8 program, and would give her no advantage over other participants.

⁵ The underlying concepts of reasonable accommodations under the Fair Housing Act (FHA), Rehabilitation Act and the Americans with Disabilities Act are identical, therefore courts will often cite to employment cases when discussing reasonable accommodations under the FHA.

If Ms. Troiano cannot safely live anywhere other than the house on Pomp Parkway, and does not have access to a suitable live-in aide that is not her daughter, then the only way for her to participate in the Section 8 program is with assistance at the home owned and occupied by her daughter. Therefore, her requested accommodations are *necessary* under the law. HCHA presented nothing to show that Ms. Troiano's requested accommodations were not related to her disability, that they would not have addressed the needs created by her disability, or that they would have provided her any benefit beyond ameliorating her disability. Likewise, the ALJ made no such findings of fact. The ALJ's conclusions are not supported by law and should be reversed.

ii. The ALJ erred in determining that Ms. Troiano's requested accommodation constituted a fundamental alteration of HCHA's program or a financial burden.

An accommodation is reasonable if it is both necessary and does not pose and undue financial and administrative burden on a housing provider, or constitute a fundamental alteration of the provider's program. Joint Statement of the U.S. Department of Housing and Urban Development and the Department of Justice, *Reasonable Accommodations Under the Fair Housing Act* (May 17, 2004) at 7, available at http://www.justice.gov/crt/housing/joint_statement_ra.pdf. (App. C) (hereinafter HUD/DOJ Joint Statement). Generally, courts balance the benefits of the requested accommodation to the tenant against the burdens imposed on the

housing provider. *Smith & Lee Assocs. v. City of Taylor*, 102 F.3d 781, 795 (6th Cir. 1996).

The ALJ implied that providing an accommodation to 24 C.F.R. § 982.352(6) would constitute a fundamental alteration of HCHA's program, again stating incorrectly that HCHA has no discretion in complying with HUD regulations.⁶ The HUD/DOJ Joint Statement defines a fundamental alteration of a program as "a modification that alters the essential nature of a provider's operations" and gives the example of a tenant with a limited ability to walk asking his provider to transport him to the grocery store. HUD/DOJ Joint Statement at 8. (App. C.) Because the housing provider does not provide *any* transportation or shopping services for its tenants, granting this request would require a fundamental alteration of the provider's operations. *Id.* Granting Ms. Troiano's requested accommodation would have involved no more than continuing to make a monthly rent payment to her landlord, as housing authorities had been doing on Ms. Troiano's behalf for almost fifteen years, and would certainly not "alter the essential nature" of HCHA's operations. Making a monthly rent payment is fundamentally the same as what HCHA does for all of its Section 8 clients. The law does not support a finding that Ms. Troiano's requested accommodation would constitute a fundamental alteration of HCHA's program.

⁶ A discussion of whether or not housing authorities have discretion in making accommodations in HUD regulations appears in Section I(a) of this brief.

The ALJ implied that providing the accommodation would be a financial burden on HCHA because “failure to comply [with HUD regulations] could jeopardize federal funding of its Section 8 program.” The ALJ offered no support or explanation for these assertions, and cites to no facts in the record. HUD regulations, guidance and other sources of Federal law make clear that housing authorities have both the authority and an affirmative obligation to make adjustments to rules, policies, practices and procedures, when required as reasonable accommodations to allow a person with a disability the opportunity to use and enjoy a HUD program. See 24 C.F.R. Part 8; 29 U.S.C. 794; 42 U.S.C. 3604(f)(3)(B); also HUD PIH Notice 2006-13 (HA) (App. D.). In drawing his conclusion, the ALJ ignored HUD regulations at 24 C.F.R. § 5.110 that allow HUD to waive any portion of Title 24 of the C.F.R. upon a showing of good cause.⁷

HCHA did not argue or present any evidence to show that granting the accommodation would involve any additional expense or administrative effort on their part, and the ALJ made no such findings of fact. The ALJ’s implication that HUD would defund HCHA’s entire program for making such an accommodation is

⁷ See 24 C.F.R. § 982.503 and HUD PIH Notice 2008-13(HA) for a description of HUD’s process for approving housing authorities requests for exceptions to the Section 8 payment standard for families with disabilities and giving housing authorities the discretion to approve exceptions up to a certain percentage of the standard.

speculative, without factual support in the record, and contrary to the law, considering that HUD regulations and Federal law *require* housing authorities to make such accommodations when necessary to allow a person with a disability to use and enjoy a Federal housing program. Therefore, the ALJ's conclusion that the requested accommodations would constitute a financial or administrative burden to HCHA fails as a matter of law.

The requested accommodations are reasonable and necessary to afford Ms. Troiano the opportunity to use and enjoy the Section 8 program. The applicable law supports a conclusion that HCHA discriminated against Ms. Troiano by denying her a reasonable accommodation. FCHR's final action is not supported by law and must be reversed.

c. The ALJ misapplied the law in failing to find that HCHA discriminated against Ms. Troiano by refusing to engage in an interactive process to determine how to accommodate her disability.

Once requested, housing providers have a duty to provide reasonable accommodations when they are aware that the requester is disabled, and that the requested accommodation is disability-related. *Jankowski Lee & Assocs. v. Cisneros*, 91 F.3d 891(7th Cir. 1996). If a provider is skeptical about its ability to provide an accommodation, it is the responsibility of the provider to open a dialogue with the tenant to avoid liability under the Fair Housing Act for refusing

to provide the accommodation. *Jacobs v. Concord Village Condominium Assoc.*, 2004 WL 741384 at *2 (S.D. Fla. Feb. 17, 2004), citing *Jankowski Lee & Assoc.*, 91 F.3d 891.

In the HUD/DOJ Joint Statement, HUD and DOJ advise that in any instances when a housing provider does not believe that a requested accommodation can be provided, the provider should discuss with the requester whether there is an alternative accommodation that would effectively address the requester's disability-related needs. Joint Statement of the U.S. Dep't of Housing and Urban Development and the Department of Justice, *Reasonable Accommodations Under the Fair Housing Act* at 7 (May 17, 2004), (App. C). If an alternative accommodation is reasonable and would effectively meet the requester's needs, the provider must grant it. *Id.* According to the HUD/DOJ Joint Statement:

Providers should be aware that persons with disabilities typically have the most accurate knowledge about the functional limitations imposed by their disability, and an individual is not obligated to accept an alternative accommodation suggested by the provider if she believes it will not meet her needs and her preferred accommodation is reasonable.

Id. at 8; (App. C).

HCHA ignored its duty under the law by denying Ms. Troiano's requested accommodation without engaging her in an interactive process to determine what accommodations could be made that would meet her needs as a person with a disability, after it notified her that it would be terminating the rental assistance at the Pomp Parkway home in thirty days, and that she had sixty days to find a new housing unit, and after she made clear that she was not able to leave her home due to her disability. In violation of the law, HCHA made no efforts to engage Ms. Troiano in a discussion to determine what, if any accommodation could allow her to continue to participate in the Section 8 program as a person with a disability. In violation of the Fair Housing Act, HCHA made no suggestions of possible alternatives for Ms. Troiano, such as participation in HCHA's homeownership program.

Because the failure to engage in the interactive process before denying an accommodation is, in itself, discrimination, the ALJ's conclusion that HCHA did not discriminate against Ms. Troiano is contrary to the law. FCHR's final action is not supported by law and must be reversed.

II. FCHR's final action is not supported by competent substantial evidence in the record. Ms. Troiano affirmatively proved that HCHA failed to respond to her request for accommodation, and HCHA failed to controvert that proof.

When an agency's action depends on a finding of fact, the standard of review is to determine whether the finding is supported by competent and substantial evidence. § 120.68, Fla. Stat. (2014).

The ALJ made multiple findings of fact that are in direct conflict with competent and substantial evidence in the record; however, these erroneous facts ultimately have little bearing on the issue of whether or not HCHA properly denied Ms. Troiano's requested accommodation. More significantly, the ALJ failed to make any findings regarding the multitude of uncontroverted evidence presented by Ms. Troiano regarding the needs created by her disability, the challenges she faces in finding suitable housing to meet her needs, or the challenges she faces in moving to a new home.

The ALJ included at paragraphs 29 in the findings of fact, a finding that "[t]he evidence does not support a finding that either Respondent or HUD waived or should otherwise be prevented from applying the limitations and requirements of the law that Section 8 participants cannot be a blood relative of the resident owner." (R. 174.). The ALJ made a similar finding at paragraph 27. This statement is a conclusion of law and is misplaced in the findings of fact. The conclusion of law stated in this finding is addressed in Section I(a) of this brief.

The competent and substantial evidence in the record showed that HCHA knew of Ms. Troiano's need for a live-in aide as early as May 6, 2014, and Ms.

Troiano's physician specifically named Julia as the live-in aide in a letter to HCHA on May 8, 2014. (R.394, 396-397, 438). The evidence in the record showed that Julia moved into the home at Pomp Parkway on or about June 1, 2014. (Tr.V1.195.) The ALJ did correctly find that a letter dated June 27, 2014, from Donald Stringer, Executive Director of the HCHA, stated "our office is approving Julia E. Williams as your live-in aide effective immediately." Yet, the ALJ found that Ms. Troiano first notified HCHA that Julia would be moving into the home on August 11, 2014 (paragraph 23 of the recommended order). (R. 153.) The ALJ also found that Ms. Troiano never specifically requested for Julia Williams to be her live-in aide, that HCHA never gave approval for Julia to move into the Pomp Parkway home, and that Julia moved into the home in May without notice to HCHA (paragraphs 13 through 17 of the Recommended Order), findings that are not supported by the evidence presented by HCHA itself. (R. 149-150.)

The ALJ made a finding at paragraph 13 of the Recommended Order, that Ms. Troiano filed her housing discrimination complaint on September 4, 2014. (R. 149.) However, the Determination issued by the investigator shows that the complaint was filed October 8, 2014. (R. 18.)

The ALJ made no findings regarding Ms. Troiano's daughter's reasons for purchasing a house for her mother to occupy, her specific reasons for moving into the home on Pomp Parkway, or what was involved in making the Pomp Parkway

house suitable for Ms. Troiano. The ALJ made no findings regarding the letters from Ms. Troiano's physician regarding her disability and needs. The ALJ made no finding on whether HCHA engaged Ms. Troiano in an "interactive process" to discuss possible alternative accommodations. These facts are highly relevant to an analysis of whether the accommodations requested by Ms. Troiano were necessary for her to participate in the Section 8 voucher program as a person with a disability, and whether HCHA properly terminated her voucher in denying the accommodations, but the ALJ made no findings.

The competent and substantial evidence in the record did show that Ms. Troiano was unable to relocate, due to her disability, within sixty days. (R. 65-67; App. F.) The evidence showed that on September 8, 2014, she made a request for an accommodation to remain in the house on Pomp Parkway, or in the alternative, for additional time to find another accommodation, so that she could continue to participate in the Section 8 program. (R. 611.) The evidence showed that HCHA did not respond to Ms. Troiano's request, and that her Section 8 voucher was terminated. The evidence supported a finding that HCHA failed to respond to Ms. Troiano's request for accommodations.

Because the ALJ's findings of fact are not supported by competent and substantial evidence in the record, FCHR's final action should be reversed.

CONCLUSION

For the foregoing reasons, Ms. Troiano requests that this Court reverse FCHR's Final Order and remand for entry of an order declaring that HCHA discriminated against Ms. Troiano and ordering that her request for an accommodation be granted by reinstatement of the Section 8 voucher at 15141 Pomp Parkway, with all payments since September, 2014 paid in arrears, and awarding any other relief deemed appropriate by this Court.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I CERTIFY that a copy of this *Appellant's Initial Brief* has been furnished electronically to LASHAWNDA K. JACKSON at ljackson@rumberger.com, Counsel for Respondent, Hernando County Housing Authority, on January 11, 2016.

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CERTIFICATE OF COMPLIANCE

I HEREBY CERTIFY that this *Appellant's Initial Brief* complies with the font requirements (Times New Roman 14-point font) of Rule 9.210(a)(2), Florida Rules of Appellate Procedure. Signed on January 11, 2016.

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