

**CEDAR RAPIDS CIVIL RIGHTS COMMISSION
MEETING MINUTES
April 15, 2009**

Commissioners met on April 15, 2009 at 4:30p.m.
Meeting location: Hindu Temple of Eastern Iowa, 1700 Naoma Dr SW Cedar Rapids, Iowa.

Commissioners Present: Ms. Miriam Amer, Chair
Mr. Eric Lam, Vice Chair (arrived 4:50 p.m.)
Mr. George Holmes
Ms. Nancy Ziese
Mr. Rick Zingher
Mr. Roy Porterfield
Mr. Bob Rush
Ms. Tara Youells
Mr. Kavi Parupally (arrived 5:05 p.m.)
Ms. Laura O'Leary

Commissioners Absent: Mr. Momodu Kamara

Staff Present: Mr. Karl Cassell, Executive
Mr. Darryl Lipscomb, Investigator
Ms. Michelle Olmstead, Investigator
Ms. Stefanie Robinson, Administrative Assistant

Guests: Mr. Robin Kash, Neighborhood News
Mr. Jude Pannell, U of I College of Law Student
Professor Leonard Sandler, U of I College of Law Clinical Professor
Mr. John Crees, U of I College of Law Student
Mr. Lax Chokkady, Hindu Temple
Mr. Gangadhar Rao Vemnganti, Hindu Temple
Ms. Kathy Potts, Linn County Partner on Substance Abuse

I. Call to Order

Noting a quorum, Miriam Amer, Chair, called the meeting to order precisely at 4:37p.m.

II. Roll Call

Commissioners, staff and guest related names.

III. Approval of Minutes

Nancy Ziese moved to approve the minutes from the March 18, 2009 regular meeting.
The motion was seconded by Tara Youells.
The minutes were passed unanimously.

IV. Old Business

Ordinance Revisions Status Report, and City Attorney Advisory (Eric Lam)
Table this issue until Eric Lam is in attendance.

Update on Offices Sublet (Bob Rush/Karl Cassell)

- Bob and Karl met with Todd Barker, representative of Arenson, one month ago to rewrite the lease to hopefully pay less. Todd Barker gave them a proposal and it was not quite the reduction we were hoping for, less than \$10,000. As a staff and commission, we will come with a counter offer.
- Landlord is prepared to reduce the monthly obligation in exchange he requires an extended lease.
- There are escalators in this lease.
- Karl and Bob continue to explore options but they do not have authority to commit for the Commission.
- George commented that it is not a reduction; it is just allocating the payments over more years
- Laura asked about the vacancy rate, what are the chances of getting it re-rented?
- Bob: Very slim chance of getting it leased. From a landlord standpoint, we are good tenants. Most of the 12th floor is still on the market.
- Miriam: it is basically the same offer given to her a few months ago.
- Landlord only owns the 9th floor.
- We are a quarter of the floor, other than his offices, the rest are empty.

Ordinance: (Jude Pannell, Professor Leonard Sandler, John Crees, Eric Lam)

- Professor Sandler believes that if we address areas of concern, Mr. Jim Flitz will then be willing to go forward to the city council.

Issues changed in this draft from Jim Flitz (changed from December draft)

1. Page 4 of draft: section 69, m 3

- (m) "Lawful Source of Income" means any lawful, verifiable source of money paid directly or indirectly to or on behalf of a renter or buyer of housing, including income derived from:
1. Any lawful profession or occupation.
 2. Any government or private assistance, subsidy, voucher, grant, or loan program [including the Housing Choice Voucher Program (Section 8).]
 3. Any gift, inheritance, pension, annuity, alimony, child support, or other consideration or benefit.
 4. Any sale or pledge of property or interest in property.
 - Option including housing choice voucher of section 8
 - Commission will discussion each issue as it is brought up.
 - Roy Porterfield asked if Laura O'Leary would comment on the Page 4 of draft: section 69, m 3.
 - Laura stated the Section 8 is voluntary and she is concerned it would become involuntary
 - ◆ Sandler responded that this is not strictly accurate: HUD has not made Section 8 mandatory, but States are able to make it involuntary.
 - There is lots of opposition to including Section 8 by the Linn County Landlords.
 - Option to leave vouchers in but not specify Section 8 vouchers
 - Point of order: Roy Porterfield, specific motion: Page 4 section m, deleting words within the brackets, Section 8
 - Bob Rush asked if any states currently mandate Section 8.
 - Response: Yes, 13 states currently mandate Section 8 and many municipalities and 10 states with pending bills.
 - Roy is in favor of removing words within brackets.

- Jude: if remove from that section, 69.19a82, page 34 has same language
- Roy made a motion to remove words in brackets
- NancyLee seconded
- Eric: suggest removing language wherever it appears
- Roy accepts friendly amendment to remove specific language wherever it appears in the current ordinance. NancyLee seconds.
- Discussion:
 - ♦ Laura: What is the intent of this to allow FEMA vouchers, Red Cross, etc? We are removing Section 8. This could still leave landlords open to a complaint.
 - ♦ Landlords can choose to not be a part of Section 8
- Vote is called and the motion is carried.

Page 6 69.05 (e) Powers and Duties

(e) **To direct the City Attorney to petition the District Court to seek a subpoena** for books, papers, records and any other material evidence necessary to the investigation of any complaint filed pursuant to this chapter. ~~To direct the Commission staff, City Attorney, subject to approval of the City Council, to petition the District Court to seek a subpoena for books, papers, records and any other material evidence necessary to the investigation of any complaint filed pursuant to this chapter.~~

- Direct city atty. to petition District to seek a subpoena; acting as the commissions' attorney.
- Roy Porterfield made a motion that 69.05 e be approved as per latest edition.
- Kavi Parupally second
- Michelle Olmstead said seek the commission seeks initial subpoena but city attorney seeks enforcement if complainants or respondents do not comply.
- City Attorney's issue with this is that the Civil Rights Commission does not have attorney on staff whose main job is to be an attorney for the commission.
- The State is advocating commissions have this power and other cities have this authority.
- Roy: depending on work load, is it a large issue? How often need to get a subpoena? Not many; it is usually signed by chair person. Once in the last 5 years. Issue at a commission level, four to five a year: it is really not enforceable.
- Bob: Under current city ordinance, commission does not have authority to issue a subpoena. This allows us to go directly to City Attorney for subpoena.
- Darryl: rarely get opposition to a "demand" for information during the course of an investigation.
- Roy: past practice, has issued a demand (request for documentation, appearance) if fail to comply, will issue Linn County subpoena.
- City atty. opposed the subpoena power by the Civil Rights Commission
- Section E is agreeable as written by the City Attorney.
- Vote: approved motion carried unanimously

Jude suggested the Commission Reject 69.05 (f) May direct the City Attorney

(f) To hold hearings upon any complaint made against a **Respondent**; to subpoena witnesses and compel their attendance at such hearings; to administer oaths and take the testimony of any person under oath and to compel such **person** to produce for examination any books and papers relating to any matter involved in such complaint. **Such hearing may be held by the Commission, a panel of the Commission, or any Commissioner, or any hearing examiner appointed by the Commission. If a witness either fails or refuses to obey a Commission demand, the Commission may direct the City Attorney to file a petition in the name of the Commission in the District Court to issue a subpoena for witnesses in the same**

manner and for the same purposes on behalf of the respondent, on respondent's request.

- Keeping Demand power and is a redundant phrase to be taken out.
- Roy stated that if we remove “direct the City Attorney to” then it implies the commission may file petition to court to issue subpoena.
- Jude responded that if the commission is comfortable with current language, it should be left in.
- Roy Porterfield made a motion that in 69.05 (f), page 7 “direct city attorney to” be left in.
- Kavi seconds
- Motion carries

Page 13: minor stylistic changes. Identified subsections specifically

- Bob moved to accept the stylistic changes
- Nancylee second
- Motion carries

Page 15: Brackets of date

- Roy Porterfield moved that in all places we find “insert date” we approve and know it will be filled in at a later date.
- Tara second
- Motion carries

Page 15, 16, 17 Use language of ADA:

(iv) **A failure to remove architectural barriers and communication barriers that are structural in nature in facilities constructed for first occupancy on or after[insert date that is one year after effective date of 2009 code revision], and transportation barriers in existing vehicles and rail passenger cars used by an establishment for transporting individuals (not including barriers that can only be removed through the retrofitting of vehicles or rail passenger cars by the installation of hydraulic or other lift), where such removal is readily achievable.**

(a) **Examples. Examples of steps to remove barriers include, but are not limited to, the following actions--**

- (1) **Installing ramps;**
- (2) **Making curb cuts in sidewalks and entrances;**
- (3) **Repositioning shelves;**
- (4) **Rearranging tables, chairs, vending machines, display racks, and other furniture;**
- (5) **Repositioning telephones;**
- (6) **Adding raised markings on elevator control buttons;**
- (7) **Installing flashing alarm lights;**
- (8) **Widening doors;**
- (9) **Installing offset hinges to widen doorways;**
- (10) **Eliminating a turnstile or providing an alternative accessible path;**
- (11) **Installing accessible door hardware;**
- (12) **Installing grab bars in toilet stalls;**
- (13) **Rearranging toilet partitions to increase maneuvering space;**
- (14) **Insulating lavatory pipes under sinks to prevent burns;**
- (15) **Installing a raised toilet seat;**
- (16) **Installing a full-length bathroom mirror;**
- (17) **Repositioning the paper towel dispenser in a bathroom;**

- (18) Creating designated accessible parking spaces;
 - (19) Installing an accessible paper cup dispenser at an existing inaccessible water fountain;
 - (20) Removing high pile, low density carpeting; or
 - (21) Installing vehicle hand controls.
- (v) Where the public accommodation can demonstrate that the removal of a barrier under this subsection is not readily achievable, a failure to make such goods, services, facilities, privileges, advantages, or accommodations available through alternative methods if such methods are readily achievable.
- (vi) **Priorities:** Barrier removal under this section should be accomplished in accordance with the following order of priorities.
- (a) First, a public accommodation should take measures to provide access to a place of public accommodation from public sidewalks, parking, or public transportation. These measures include, for example, installing an entrance ramp, widening entrances, and providing accessible parking spaces.
 - (b) Second, a public accommodation should take measures to provide access to those areas of a place of public accommodation where goods and services are made available to the public. These measures include, for example, adjusting the layout of display racks, rearranging tables, providing Brailled and raised character signage, widening doors, providing visual alarms, and installing ramps.
 - (c) Third, a public accommodation should take measures to provide access to restroom facilities. These measures include, for example, removal of obstructing furniture or vending machines, widening of doors, installation of ramps, providing accessible signage, widening of toilet stalls, and installation of grab bars.
 - (d) Fourth, a public accommodation should take any other measures necessary to provide access to the goods, services, facilities, privileges, advantages, or accommodations of a place of public accommodation.
 - (e) If the measures required to remove a barrier would not be readily achievable, a public accommodation may take other readily achievable measures to remove the barrier that do not fully comply with the specified requirements. Such measures include, for example, providing a ramp with a steeper slope or widening a doorway to a narrower width than that mandated by the alterations requirements. No measure shall be taken, however, that poses a significant risk to the health or safety of individuals with disabilities or others.

Examples of steps to remove barriers

- Priorities to barrier removal
- Roy likes it being spelled out. (Includes, but not limited to)
- Legal team, more information on “must” or “will”. How much force does “should” have?
- ADA uses “suggest”
- We can use the ADA language.
- Sandler stated that this gives business owner discretion to spend money on different priorities.
- Miriam is worried about order of priorities, people can refer back to the ordinance thinking it is “down on the list”?
- Laura does not see that this is an order of priorities
- Sandler stated it is only for construction places that did not meet guidelines. Recommend but do not require you do it in this order.

- Michelle Olmstead stated we need to look on the correct page. Examples are in not in any particular order.
- Bob Rush made a motion to accept changes on pages 15, 16, 17.
- Tara Youells second
- Motion carried

vii, cosmetic changes, page 17

(vi) A failure to design and/or construct facilities for first occupancy on or after [insert date that is one year after effective date of 2009 code revision] that are readily accessible to and usable by individuals with disabilities, which for the purposes of this section means A failure to design and/or construct facilities for first occupancy

- In the April 6 memo from City Attorney Flitz, it stated there was a concern with using “and/or”. Recommends it speaks to design and construct, not or.
- Sandler: FHA says discrimination relates to sale or rental of housing for which building is occupied. Does not mention who is not responsible. Recommend use “and/or”. Flitz agreed *after* the April 6 memo.
- For practice for enforcement we need to cast the widest possible net.
- Miriam asked if in design flaws are caught in the inspection process.
- Not always, Sandler response.
- George Holmes stated that using “and/or” leaves it open to the facts of the case.
- John Crees said this only applies to multi-family dwellings. (4 or more units)
- Roy Porterfield stated that the City Attorney’s concerns have been addressed and tends to go with leaving “and/or” in this ordinance.
- Roy Porterfield moved for approval of stylistic changes, page 17.
- Kavi Parupally second
- Motion carries

Roy Porterfield moved for approval of stylistic changes, page 18

For purposes of this subsection, the city hereby adopts by reference the Americans with Disabilities Act Accessibility Guidelines (Appendix A to 28 CFR Part 36--**Standards for Accessible Design**)

- Rick Zingher second
- Motion carries

Page 23, Section 2

2. An authorized member of the Commission staff shall make a prompt investigation of the alleged unfair or discriminatory practices. **The investigator shall review all of the evidence and complete the investigation. The investigator shall prepare a written report. The Executive Director shall review the report and make a recommendation of probable cause or no probable cause or other appropriate action to the assigned Commissioner who shall then consider the Executive Director’s recommendation and rule on whether probable cause exists for the complaint. The reviewing Commissioner will be assigned by the Chairperson or Vice-Chairperson.** ~~The investigator shall review all of the evidence and complete the investigation. The investigator shall prepare a written report. The Executive Director shall review the report and make a recommendation of probable cause or no probable cause or other appropriate action to the assigned Commissioner. A Commissioner assigned by the Executive Director on a rotating basis shall then consider the Executive Director’s recommendation and rule on whether probable cause exists for the complaint.~~

- The City attorney was concerned with “rotating basis”; he does not want it to appear as if the Executive Director directs the work of the commissioners.
- The Rules of practice can determine how cases are assigned.
- Roy Porterfield made a motion to adopt changes, page 23
- Nancy Lee Ziese second
- Bob Rush asked why need chair or vice chair specifically listed in here? The Rules of practice state that the vice operates when chair is not available.
- Roy Porterfield prefers to leave chair and vice chair in there.
- Miriam Amer is concerned that the chair could be bypassed.
- Karl Cassell said his main concern is time constraints for cases. Waiting on chair/vice chair to assign the cases.
- Bob Rush moves to remove vice chair designation on page 23.
- Rick Zingher stated that the new wording establishes relationship between director and commission.
- George seconds motion to remove vice chair designation on page 23.
- Roy said that staff could be hobbled by a poor chair person. Wants flexibility of staff being able turn to chair or vice chair as needed.
- Rick Zingher strongly endorses not moving in that direction, should deal with performance issues as they occur.
- Sandler suggested that the chair person create an order of commissioner reviewing cases.
- Motion carried to remove vice chair designation on page 23.
- Bob Rush: Call for question on accepting changes, page 23
- Motion carries

Page 24, strike “or is about to occur”

69.14 ADMINISTRATIVE HEARING.

(a) ~~If the Commission determines that probable cause exists to believe that a discriminatory practice has occurred or *is about to occur* and conciliation attempts have failed, the Commission shall provide an opportunity for a hearing on the record with respect to the complaint issued under this Chapter.~~

- This prevents commission from hearing complaint *before* complaint is ready to be heard. Commission needs to wait until a discriminatory practice occurred.
- Rick Zingher moved to accept this change.
- Tara Youells second
- Motion carries
- Roy Porterfield asked if this wording appears in more than one place?
- Yes, on page 24 and 26
- Roy Porterfield made a friendly amendment that phrase “or is about to occur” and “or is about to engage” shall all be stricken, on pages 24 and 26.
- Rick Zingher and Tara Youells accept friendly amendment.
- Motion carries

No legal basis for large fines on page 26 and 28

Page 26

~~4. To vindicate the public interest, assess a civil penalty against the entity in an amount (a) not exceeding \$55,000 for first violation occurring on or after January 1, 2008. Insert actual effective date of ordinance.~~

~~(b) not exceeding \$110,000 for any subsequent violation occurring in the last ten years starting on or after January 1, 2008. Insert actual effective date of ordinance.~~

Page 28

~~(xii) To vindicate the public interest, assess a civil penalty against the person or respondent in an amount~~

~~_____ (a) not exceeding \$55,000 for first violation occurring on or after Insert Effective Date of the Ordinance.~~

~~_____ (b) not exceeding \$110,000 for any subsequent violation occurring in the last ten years starting on or after Insert Effective Date of the Ordinance.~~

(xii) Other relief the Commission or Administrative Law Judge considers to be appropriate, including monetary damages, fines and penalties.

- Language in FHA that authorizes large fines for housing cases. Retained that language
- City of Cedar Rapids code restricts amount of civil penalties
- Eric Lam made a motion to remove language on page 26 and 28 regarding civil penalties.
- Nancy Lee second
- Motion carries

Page 19, section viii Continuing of violation

(vii) Any violation of 69.07(b)7(vi) shall be deemed to be a continuing violation of this chapter from the date a certificate of occupancy is issued for the facility until the date the violation is cured and the unfair or discriminatory practice is ceased.

- Discriminatory act was building the building
- City Attorney Flitz said he would support it as best he could but there could be a possible lawsuit and it could be struck down.
- Casts a very wide net with a continuing violation (until it is corrected)
- Eric Lam stated that we have already approved this, just reporting that it could be successfully challenged.
- Next step is to go to HUD.

Roy Porterfield made a motion to ratify and accept the ordinance as changed on this date.

- Eric Lam second.
- Motion carries.
- Professor Sandler said he will e-mail the updated ordinance to the commissioners and staff.
- Nancy Lee said thank you to Professor Sandler for championing this issue!

V. New Business

Commissioner Conflicts of Interest

- Commissioners need to fill out the Conflict of Interest form from training, needs to be signed and turned in as soon as possible to our office.
- If have a conflict of interest, send the case back to the Civil Rights Commission office immediately.

Kavi Parupally reported that there was a Diversity Event at Linn Mar High School last week and the Civil Rights Commission had a table and it was a good turn out.

VI. Committee Reports

Outreach (Tara Youells)

- Karl Cassell spoke at the Wellington Heights Neighborhood meeting.

- April 14, Town Hall meeting: good job staff putting that together.
- Moundview Meeting on April 11: important to have someone at this meeting.
- Tara Youells is off the commission after the June meeting.
- Attitude is becoming pervasive and seeing it as a black/white issue.
- Dealing with a specific area, have to look at demographics of specific area. Those communities/neighborhoods are still predominately white.
- What can Outreach committee do – to be seen as a working committee?
- Roy: Linn County Legislators, this Saturday 10:30 at Mercy

Personnel (Nancylee Ziese)

- Devise Board Self Assessment Tool.
- 6 month evaluation: June 15. Need to get an assessment of Karl to commissioners
- Kavi: before give assessment, did we ask for a self assessment?
- Nancylee: does not have copy with her
- Bob doesn't think we should discuss personnel issues, it is a private matter and not proper to discuss in this forum. Excuse other staff.
- We are only speaking of an existence of an assessment. We will not do the assessment of the Executive Director in an open meeting.

VII. Director's Report, Karl Cassell

Legislative Breakfast/Symposium

- Met w/Legislators and discussed issues
- Need to develop strategy to keep them involved w/Commission
- Symposium was very educational and dealt w/housing issues
 - CRCRC will deal w/these as well during our FH conference

Town Hall Meeting

- 300+ in attendance
- Panelists were very well received
- Moderators kept great control of the event
- All media outlets covered the event
- We need to figure out next steps in dealing with the issues
- Who will be facilitator of this? Commission? Other groups?
- Action plans are needed.
- Thank you to Stefanie Robinson for her work on this project.
- Tara Youells asked where we go from here about holding more town hall meetings.
- Workgroups, forums – need to have people go to neighborhood association meetings.
- Discuss progress at additional forums
- Miriam talked to Mayor about the possibility of having an open forum. Planning committees coming out of next forum. Start implementing discussed solutions.
- Rick Zingher asked what is the role of the Civil Rights Commission? He sees this commission as being the catalyst for this type of discussion. Have a forum 3-4 times a year on different topics.

Fair Housing Training - June 25, 2009

- Stella Adams and Jill Finner; speakers
- Landlords who need to fulfill training obligations can do that at this conference

- 2 Commissioners conduct break out session (role of commission and role of commissioner)
 - 8am - 5pm at the Crowne Plaza
- Possibility of additional funding to cover expenses
- Working on co-sponsors (United Way)
- Fees: \$25
- Did not cash checks for canceled December training
- We are in the planning phase still at this point.

Staff Evaluations

- Completed for each staff
- Very positive one-on-ones
- Formal evaluations will be done in June
- Have work to do in developing team atmosphere
 - We feel like we are in a very good place
- Will do follow up in June 2009

Educational Outreach (staff)

- Iowa League of Women Voters
- Rotary Breakout Session
- Multicultural Conference (Coe College)
- Landlords of Linn County
- Boards and Commission meetings/trainings
- Linn Mar Diversity Celebration
- Meeting with Dave Loeb sack (Prairie High School)
- ADA Training (Apr. 21) 2pm and 7pm
- Immigrant Concern Committee (17 participants)
- Letting folks know what and why we do what we do!

Proclamation for April as Fair Housing Month

- Presented by the Mayor and accepted by Bruce Ray and Karl at City Council meeting, April 8

Kavi Parupally wishes to thank the Hindu Temple Board of Trustees for the accommodations. Send Thank You notes to organizations for use of their facility.

VIII. Public Response

Chair: called for public response. There was none.

IX. Adjournment

The meeting was adjourned 7:00 p.m.

The next meeting will be held on May 20, 2009 at 5:30 p.m.

Respectfully submitted by Stefanie Robinson