

# **MINUTES OF THE COMMISSION FOR HUMAN RIGHTS**

**February 27, 2009**

**A regular meeting of the Commission for Human Rights was held in the agency conference room on Friday, January 30, 2009. Present at the meeting were Camille Vella-Wilkinson, Alberto Aponte Cardona, Rochelle Bates Lee and Iraida Williams. Absent were Commissioner John B. Susa, Chair, Nancy Kolman Ventrone and Alton W. Wiley, Jr. Commissioner Vella-Wilkinson called the meeting to order at 9:17 a.m.**

**A motion was made by Commissioner Williams to approve the minutes of January 30, 2009. The motion to approve was seconded by Commissioner Lee and carried.**

**Commissioner Lee moved to approve and keep the executive session minutes of January 30, 2009 closed pursuant to Rhode Island General Laws Sections 42-46-4 because the minutes relate to a matter allowed to be held in Executive Session under Rhode Island General Laws Section 42-46-5(a)(1) and the Commission finds it appropriate to maintain them as closed minutes. The motion was seconded by Commissioner Williams and carried unanimously.**

**Status Report: Michael D. Évora, Executive Director**

**A written report was handed out. All new information is in bold print.**

**Case Production Report – Attached**

**Aged Case Report - Attached**

**Outreach Report - Attached.**

**Commissioner Meeting -2- February 27, 2009**

## **STATUS REPORT - COMMISSIONERS-**

**GENERAL STATUS: Commissioner Ventrone's appointment as Commisisoner has been confirmed by the Senate for a term expiring in 2013. The April, 2009 Commissioner Meeting has been moved from Friday the 24th to Thursday the 23rd. The Commissioner meeting on July 31st has been cancelled and has been rescheduled to August**

**28th, 2009.**

**OUTREACH:** Commissioner Cardona reported that he attended the Rhode Island Hispanic Officer Association conference where they focused on helping the community with reporting crimes and police stops. Commissioner Cardona also reported that he spoke with Charles Newton, Acting Director of State EEO, on working with the Commission on some issues. Commissioner Vella-Wilkinson discussed her testimony on the Equal Marriage bill.

**STATUS REPORT - LEGAL COUNSEL** by Cynthia M. Hiatt and Francis Gaschen

**LITIGATION:** Report Attached.

**LEGISLATION:** Legal Counsel discussed pending legislation and Commission testimony. Commissioner Vella-Wilkinson gave the Commission a memorandum on other states that prohibit discrimination based on conviction status.

**Commissioner Meeting -3- February 27, 2009**

**REGULATIONS: No discussion at this time.**

**HEARING SCHEDULE: Discussed**

**DECISIONS: No discussion at this time.**

**The meeting adjourned at 11.00 a.m. The next regular meeting of the Commission is scheduled for Friday, March 27, 2009 at 9:00 am.**

**Respectfully Submitted,**

**Michael D. Évora**

## Executive Director

Notes taken by: B. Ross

### EXECUTIVE DIRECTOR'S REPORT TO COMMISSIONERS FEBRUARY 27, 2009

#### I. BUDGET

**S = State/General Revenue; F = Federal (EEOC/HUD); T = Total**

	<b>FY 2009</b>	<b>FY 2009</b>	<b>FY 2009</b>	<b>FY 2010</b>
	<b>(Gov. Rec.)</b>	<b>(Enacted)</b>	<b>(Final)</b>	<b>(Request)</b>
<b>S</b>	<b>991,659</b>	<b>991,659</b>	<b>932,418</b>	<b>868,444</b>
<b>F</b>	<b>391,309</b>	<b>391,309</b>	<b>472,455</b>	<b>406,615</b>
<b>T</b>	<b>1,382,968</b>	<b>1,382,968</b>	<b>1,404,873</b>	<b>1,275.059</b>

On September 23, the Commission's Revised FY 2009 and FY 2010 Budget Requests were submitted to the Governor. A shortfall of \$82,643 in federal revenue is anticipated for FY 2009; consultation with our Budget Analyst reveals that this anticipated shortfall is likely due to the "scooping" of excess federal revenue at the end of FY 2008 to cover general revenue shortfalls. The Commission has requested a general revenue supplemental appropriation in this amount for FY 09.

**The FY 2010 Request complies with the Governor's directive that general revenue funds be decreased by eight percent (8%), to a target amount of \$868,444. This amount is reached using the Budget Office's calculated current service cost for FY 2010 of \$943,961; in reality, to achieve the target amount, the agency must reduce its true current service cost for FY 2010 of \$1,008,196 by nearly 14%). In order to meet this target, the Commission would have to lay off two investigative staff members, or an equivalent thereof. We await word as to whether the Budget Office will recommend, and whether the Governor will adopt, the general revenue reduction for FY 2010.**

## **II. FEDERAL CONTRACTS**

**EEOC – For federal FY 2009 (ending 9/30/09), according to EEOC Project Director Marlene Toribio, we have closed 68 co-filed cases. We have been advised that our 2009 EEOC contract is for 256 cases; the contract has yet to be received and signed.**

**HUD – For FY 09, according to HUD Project Director Angela Lovegrove, we have taken in 37 new housing charges, 31 of which are co-filed with HUD. Within this same time period, we have processed 45 housing charges, 40 of which were co-filed with HUD.**

## **III. PERSONNEL**

**No new information to report.**

#### **IV. OUTREACH – Refer to attached report**

#### **V. GENERAL STATUS**

**&#9679;Meetings with staff members – I continue to meet with individual investigative staff members on a monthly basis to monitor case production.**

**&#9679;Case Closures – Refer to attached report.**

**&#9679;Aged Cases – Refer to attached report. Progress continues to be made on decreasing the aged caseload.**

**&#9679;Overall Case Inventory – The Commission had over 1000 cases in its inventory at the end of FY 98. We ended FY 08 with approx. 370 cases in inventory. As of 2/11/09, we had a total of 356 cases in inventory; 21 of those cases were pending assignment.**

**&#9679;Annual Report – The FY 2008 Annual Report has been sent to the printer.**

**&#9679;EEOC Visit – On Wednesday, February 18, Spencer Lewis, EEOC New York District Director, Joseph Alvarado, EEOC State and Local Programs Coordinator, and Robert Sanders, Director of the Boston EEOC Office, visited the Commission. They met with**

**Commission staff and discussed issues in respect to EEOC's budget, funds for FEPAs, contractual obligations and EEOC investigations. Cynthia, Frank, Marlene and I presented a review of Commission activities in the past fiscal year.**

**Respectfully submitted,**

**Michael D. Évora  
Executive Director**

**Attachments**

**To: Commissioners**

**From: Cynthia Hiatt and Frank Gaschen, Legal Counsels**

**Re: Litigation**

**Date: February 27, 2009**

**Recent developments are in bold.**

**Aquidneck Island v. RICHR, et al.**

**This suit was brought by the plaintiff against multiple parties, alleging that liens have been placed on its property improperly. All liens were against Norman Cardinale not Aquidneck. Case is moot now.**

### **Atturio et al v. Évora**

**This is an appeal of a Commission decision that granted in part and denied in part a motion to quash a Commission subpoena. Oral argument was heard on February 13 and we are awaiting a written decision.**

### **Babbitt v. Crescent Park Manor, et al.**

**The Commission intervened as a party plaintiff in this case. Discovery is ongoing. A discovery deposition was held. A motion to assign the case for trial has been filed.**

### **Bagnall v. RICHR and WLWC et al.**

**The complainant appealed the Commission Decision and Order. The Commission filed the administrative record on April 12, 2006. On April 22, 2008, the complainant's attorney filed his brief. The Commission's Brief was filed on August 27, 2008. The Commission received the respondent's brief on December 5, 2008. The parties plan to move to have the appeal assigned to a judge for decision.**

### **Gaffney v Town of Cumberland et al**

**The respondent appealed the Commission decision. In November, 2007, Judge Savage remanded the Commission Decision for the Commission to determine how the Commission would evaluate the evidence, given the conclusions reached in her decision. Judge Savage also asked the Commission to re-assess its Order. Justice Savage suggested that the parties consider whether Mrs. Gaffney**

should re-apply for subdivision of her property, following the proper procedure. Counsel wrote to the attorneys for the parties, given them several alternative steps and asked them how they would like to proceed. The respondent's attorney said that it would like Mrs. Gaffney to re-apply for subdivision under certain conditions. The complainant's attorneys, for various reasons, did not respond to the Commission for some time. On May 27, 2008, the Commission received a copy of a letter from the complainant's attorney to the respondents' attorney. The letter was a settlement proposal from Mrs. Gaffney. Settlement was not effected. Mrs. Gaffney's attorney indicated that she might withdraw as counsel. On September 2, 2008, Commission Counsel asked her for a formal decision on whether she will withdraw and she said that she would notify the Commission within two weeks. The Commission did not receive word from the complainant's counsel. On October 24, 2008, Commission Counsel notified the parties that on January 5, 2009, the Commission would commence reconsideration of the decision in light of Justice Savage's decision. The letter provided that the parties' counsel could submit memoranda on reconsideration on or before January 5, 2009. On October 27, 2008, the complainant's son informed the Commission of his mother's medical condition. On October 27, 2008, Commission Counsel confirmed that complainant's attorney was still representing the complainant, however on October 30, 2008, counsel's office indicated that they might file a motion to withdraw and a motion for extension of time. They did not do so. As requested, respondent's counsel sent in the relevant ordinances and

regulations in effect at the time in question and in effect at the present time. New counsel entered for the complainant on January 2, 2009. On January 5, 2009, Commission counsel sent a letter – if the complainant wants to submit additional ordinances or regulations or if either party wants to submit a brief, they must notify RICHR by January 12, 2009. Neither party requested an opportunity to submit additional materials or a brief by January 12. On Monday, January 26, 2008, the complainant's attorney requested a sixty day extension to submit a brief on Mrs. Gaffney's position. The request was granted by the hearing officer. The complainant's brief is due April 3.

#### **J.J. Gregory and Sons v. RI Commission for Human Rights and Brenda Zeigler**

The Commission found that J.J. Gregory and Sons discriminated against Brenda Zeigler because of her sex. J.J. Gregory and Sons filed an administrative appeal. Its appeal was amended to include an appeal of the Commission's Decision on Damages and Attorney's Fees. The Commission filed the administrative record with the Court on February 14, 2008. Respondent filed its brief on January 5, 2009. The complainant filed her brief on January 29, 2009. The Commission filed its brief on February 9, 2009. On February 10, 2009, the appeal was assigned to Judge Judith Savage for decision.

#### **Laboy v. Stat Health Services**

Counsel is trying to locate respondent's officers in order to ensure compliance with the Commission Decision and Order.

**MHRH v. Rhode Island Commission for Human Rights and the Estate of Dr. John Satti**

**MHRH has appealed the Commission decision that MHRH retaliated against Dr. Satti and discriminated against him on the basis of his age. MHRH filed its Brief on August 7, 2008. On October 21, 2008, the Commission filed the administrative record. On January 14, 2009, the Commission filed its brief. The complainant's brief is pending.**

**RICHR (E. and L. Breault) v. Elmhurst House, Phoenix Property Management et al.**

**In this Fair Housing Practices Act case, the respondents elected to have the case heard in Superior Court. Suit on behalf of the Breaults was filed against four respondents in Providence Superior Court on January 27, 2009. A motion to compel discovery is being drafted.**

**RICHR (Figueroa) v. Valley Affordable Housing**

**Respondents elected and did not return call to discuss settlement. Suit on behalf of the Figueras was filed against two respondents in Providence County Superior Court. Service has been effectuated on one respondent. The owner of the housing unit was voluntarily dismissed from the suit. Settlement offer was not accepted. Discovery has started. A motion to compel discovery is being drafted.**

**RICHR (Martin) v. Cardinale, et al.**

**A complaint alleging a transfer of real estate in violation of the Uniform Fraudulent Transfers Act was filed against Norman Cardinale, Mary Cardinale, Newport Developments LLC, AEGIS Lending and MERS. Suit against Aegis and Mers was voluntarily dismissed. Motions for Entry of Default were granted on January 21, 2009.**

**RICHR (Martin) v. Cardinale, et al.**

**A complaint alleging a transfer of partnership interests in real estate in violation of the Uniform Fraudulent Transfers Act has been filed against defendants. Discovery commenced. Motions to compel will be filed.**

**RICHR (Lovegrove) v. Escolastico**

**RI judgment was obtained and sent to FL lawyer for collection. Mortgage on property Escolastico owns in FL was foreclosed. Waiting for Lovegrove to forward funds to FL counsel to begin Supplementary Proceedings against Escolastico.**

**RICHR (Morin) v. Teofilo Silva, et al.**

**A complaint for enforcement was filed on 3-24-05. Service of the complaint will be made once respondent can be located.**

**RICHR (Robinson) v. Geruso, Flagship Management, et al.**

**A complaint against six defendants has been filed in Superior Court alleging racial discrimination in a failure to rent case that went probable cause. The complainant elected. The respondents answered the complaint. Their attorney never responded to an offer to discuss settlement so discovery will proceed. By agreement of counsel, one party was voluntarily dismissed as a defendant and the management company was allowed to remain as defendant. The case is settled in principle and we are working on the details.**

**RICHR (Switzer) v. Principe, et al.**

**The respondents elected in this housing case that went probable cause on the basis of familial discrimination. The file has been copied and given to the AG to review. It was decided that the Commission would bring the suit. Suit was filed in state court on January 27, 2009. Discovery will be commenced soon.**

**RICHR (Zeigler) v. Laura Sitrin, Finance Dir. of Newport**

**Case resolved. Commission must annually monitor City training. Notice sent to the city regarding the annual training. Training completed for 2007.**

## **Tucker v. Blue Cross**

**The complainant filed an administrative appeal of the Commission's finding of no probable cause. The administrative record was filed in Court. Nothing has been done since appeal filed in 2004.**