

COMMISSION MEETING MINUTES

May 11, 2010

The meeting of the Maryland Commission on Human Relations was called to order on Tuesday, May 11, 2010 at 10:00 a.m., in Baltimore, Maryland.

PRESENT Norman Gelman, John Hermina, Sambhu Banik, Doris Cowl, Joyce De Laurentis, Kanan Hudhud, Gary Norman and Shawn Wright.

APPROVAL OF THE MINUTES Commissioners Cowl, Hudhud and Wright will review the minutes of the April meeting and will let the Administrative Officer know of any changes.

CHAIRPERSON'S REPORT Commissioners received copies of the Chairperson's Report (See attached).

Chairperson Gelman informed Commissioners that his wife is still in a rehab center and explained that this is why he has done very little for the Commission for the past two months. Chairperson Gelman's wife is improving and he hopes that she will be going home soon.

EEOC Report The Chairperson thanked the General Counsel for drafting the EEOC report language. The report was sent to Jessica Berry, Senator's Mikulski's staff person on the Appropriations Sub-Committee. Ms. Berry acknowledged receipt of the report.

Meeting with Jessica Berry Commissioner Cowl inquired as to whether anyone met with Jessica Berry. Chairperson Gelman replied that he met with Ms. Berry. It was the Deputy Director's decision not to attend the meeting because the information that Ms. Berry requested was not available at the time of the meeting. Ms. Berry stated that she would arrange for MCHR to meet with the new Chairperson of EEOC.

Chairperson Gelman stated that he has had an email exchange with the Executive Director, the Deputy Director and the Mediation Coordinator regarding expanding the Mediation Program.

Mediation Chairperson Gelman stated that there was extensive discussion based on the mediation presentation by the Mediation Director. Commissioner Norman has

an idea he would like to explore about something that the Mediation Unit could do. Chairperson Gelman also has an idea he would like to explore regarding mediation as well.

Commissioner Norman would like mediation expanded in Maryland to resolve health care disputes and part of that is a civil rights complaint. Commissioner Norman would also like the Commission to continue to promote the Mediation Program and foster it and encourage parties to use it.

The Mediation Director would also like to see the Mediation Program expanded. The more the program is promoted the more services can be provided.

Chairperson Gelman is wondering if the Mediation Unit could provide training to groups, around the State, to help them resolve disputes that arise in their community. Chairperson Gelman does not want to add any burden to the Mediation Unit that it cannot handle. Chairperson Gelman would like to present this idea to the Governor's Office. This would be the Governor's program. MCHR would inform the Governor's office of the resources required to carry out this idea. Chairperson Gelman stated that if MCHR received the authorization and funding from the Governor's Office, MCHR would offer training to the counties and localities in the State. The counties and localities would designate people they would want to be trained for mediation and MCHR would help to train the people.

The Mediation Director stated that training is very different than offering mediation services to the public. Training is very time consuming and costly. The Mediation Director also stated that MCHR received a grant which was used to train MCHR mediators. There is a strong network of community mediation centers in Maryland that provide direct mediation services to the public - training, conflict resolution, helping people re-enter society after prison...the Mediation Unit would not want to replicate a service that is already available.

The General Counsel informed Commissioners that MCHR has to look at its statute to determine what authority MCHR has to undertake the above mentioned initiative of Chairperson Gelman. Some of the initiative would require legislation to change the statute, particularly if we are requesting funds from the Governor's office. Tracking and justification would be required if funding is granted. Parties have to be willing to buy into and be a participant in mediation. There is a lot of work involved in trying to get people to come to the table to mediate. Health care accessibility civil rights issues fall under public accommodations, accessibility in employment, and accessibility in the community for people with housing. When talking about benefits, facilities that fall under the health care law would fall under the Department of Health and Human Services. It might be better to find out what services they offer and encourage them to create a mediation system to mediate those issues that MCHR does not have statutory authority over. In health care there are a great deal of statutes, laws and mandates by both the federal and state government. MCHR does have involvement over accessibility issues in public accommodations. Most of the public accommodation cases deal with accessibility, denial or the ability to

access services that are provided by retailers and facilities. It is very difficult to get the opportunity to mediate because you have to have people that are going to negotiate and be willing to listen and facilitate to a resolution. Once people are at the table they see the benefit of mediation.

The Mediation Director stated that there is a possibility for MCHR to explore a way that it can offer training or partnership with other organizations to work on the preventive end of things. Community mediation tries to do this but they are still coming in after the fact most of the time. There are programs that are working to provide training for the public on awareness. There is also an Alternative Dispute Resolution branch of the judicial system in government that works on the front end.

The Mediation Director informed Commissioners that there are victim offender mediation programs within the court system that offer people an opportunity to sit across the table from their offender. These sessions are usually part of a plea agreement with perimeters. This is not like an open free-for-all mediation. There are certain things participants have to do and agree to. Part of this is often to restore something to the community. The Mediation Director feels that there are ways MCHR's Mediation Program can play a role to help communities heal or build bonds for the future. MCHR's Mediation Program could partner more with existing agencies and organizations and offering awareness training to the public. This requires time and money.

The Mediation Director stated that if there are some things Commissioners would like to target and decide that there are two or three priorities, Mediation could pilot the priorities and see how it goes and then talk about funding. The Mediation Director would need to research what is already available. Chairperson Gelman stated that more thought needs to be given to this idea.

Chairperson Gelman asked, in Commissioners' general authority to deal with human relations matters, if legislation would be necessary to carry out the above-mentioned idea. The Executive Director stated that he, the Deputy Director, the Mediation Director and Chairperson Gelman could meet and decide if this idea is worth undertaking.

Commissioner Norman inquired as to whether MCHR could obtain MACRO funding for expanding and promoting the mediation program. The Maryland Mediation and Conflict Resolution Office (MACRO) is part of the judicial system and has money earmarked to give grant monies for conflict resolution projects. Grant money for mediation has always come from MACRO. If requests are well written and well focused MACRO is willing to help.

The Deputy Director informed Commissioners that MACRO might provide funding through grants to originate a program but the agency would be responsible for the maintenance and effort of the program.

Chairperson Gelman thanked the Mediation Director for helping Commissioners get a better understanding of the Mediation Program.

**EXECUTIVE
DIRECTOR'S
REPORT**

The Executive Director had nothing to report this month. The Executive Director stated that his health is coming along very well.

Chairperson Gelman expressed condolences from all the Commissioners to the Executive Director during his time of bereavement.

**DEPUTY
DIRECTOR'S
REPORT**

Commissioners received copies of the Deputy Director's Report (See attached).

EEOC Conference

The Deputy Director informed Commissioners that the EEOC Conference will be held on June 8 – 11, 2010 in Philadelphia, Pennsylvania. The Executive Director will forward the email he received regarding the EEOC Conference to all Commissioners. If any Commissioner is interested in attending the conference please let him know.

Case Processing Report

Chairperson Gelman stated that there have been changes in the average age of all the cases in all the categories and asked the Deputy Director to explain this. The Deputy Director reported that the average number of days in processing of employment cases has increased because of the agency's staff level

The housing caseload has diminished in numbers but the staff level is "overstaffed". Housing case loads are half the size of other caseloads because we try to complete the cases completed within 100 days, which is the federal mandate. After 100 days there is a diminution in the fees that HUD will pay. The reporting period ends June 30th. There are 2 people and only 2 assigned housing cases. The caseload can be kept small and processing time low this way.

The number of public accommodation cases has remained constant, investigations have been completed on some of the older ones, probable cause finding have been written or cases have been forwarded to the General Counsel's office. The number of days in processing is about one year and a half on average. There are cases much older than that. The number of days in processing cases will continue to rise as long as MCHR remains at its current staff level.

The Deputy Director stated that during the agency's Senate Budget Hearing there was a question concerning the slight diminution in the participation level in the Mediation Program. This has continued into this year. MCHR does not know why, but the Mediation Director is spending more and more time trying to get people to participate in the program.

Awarding Damages

Commissioner Cowl inquired as to how monetary awards are determined. She also wanted to know what type of cases glean the largest award. The Deputy Director stated that 99.9 of the resolutions take place in either the mediation unit or the field unit. The resolutions are based on what a Respondent is willing to pay to resolve these cases.

The Executive Director informed Commissioners that the General Counsel could

conduct a training session which would inform Commissioners of how much is awarded when sitting on appeal panels, or when Commissioners are looking at what Administrative Law Judges award or how do we determine whether the award is right, wrong or indifferent. The award is different for employment cases, it is different for housing cases, and is very limited for public accommodation cases.

**ASSISTANT
DIRECTOR'S
REPORT**

Commissioners received copies of the Monthly Budget Status Report provided by the Assistant Director (See attached). MCHR is still waiting to receive the final FY 2011 appropriation from the Budget Analyst.

Budget FY 2012

MCHR is getting ready to start budgeting for FY 2012.

Information Technology
Unit

The Information Technology Manager reported that during the month of April there were 13,206 hits and 1,269 visitors to the Spanish web site.

There were 11,507 visitors and a total of 142,130 hits to the regular web site. There were 30 complaints filed through the website; 26 were employment, 3 public accommodations, zero housing and one commercial non-discrimination.

Commercial Non-
Discrimination

Chairperson Gelman asked whether this was the first commercial non-discrimination complaint. The General Counsel stated no. Chairperson Gelman stated that the last he knew MCHR was having rules drawn up and did not know MCHR had a case filed. The General Counsel stated that MCHR has had 2 legitimate cases, which were investigated. The other cases were persons not really understanding what commercial non-discrimination is. Legal redirected them to Intake, depending on the issue. Sometimes the issue was employment and other times they were cases MCHR has no jurisdiction over.

The two cases MCHR received were from the same person and against two different companies. They were no probable cause findings. The commercial non-discrimination cases are like systemic cases. Until there is an incentive for people to file a complaint, minority business is going to risk filing complaints in which they are not going to get any damages for.

Another problem is that MCHR does not have any funding to do any marketing to let people know about the law and who is the enforcement agency. MCHR is not the typical enforcement agency for business. When contractors have issues they go to the Governor's Office of Minority Affairs. MCHR is working with Minority Affairs to have access to their contacts, the law and the enforcement process. MCHR does not have the funding to advocate.

Commissioner Hudhud asked why has there been a lack of filing of commercial non-discrimination complaints. The General Counsel replied that people are not aware of the law and because there is a risk in filing complaints. The whistle blowing section, where the victim of discrimination would receive damages and a remedy, has been taken out of the law. A person will file a complaint, MCHR would investigate and the outcome for a violation of the law would be possible debarment from state contracts or the contract could be cancelled or Respondent

would be suspended for a period of time. The victim, who may have lost out on the job, denied payment or received less of a payment does not receive any remedy for the discrimination. The business is at risk because when word gets around that you filed a complaint, the other contractors may not hire you. Most minority businesses are sub-contractors, very few are general contractors and most are dependent on getting pieces of jobs.

**GENERAL
COUNSEL'S
REPORT**

Legislation

Commissioners received copies of the General Counsel's Report along with the Training/Education Campaign Report (See attached).

Commissioners also received copies of the Legislation Tracking Table (See attached).

House Bill 1382
Senate Bill 554

Rental Housing – Protection for Victims of Domestic Violence and Sexual Assault. This bill passed and allows persons who are victims of domestic violence the opportunity to change the locks on their units.

House Bill 1501
Senate Bill 68

State Govt-Human Relations-Closed-Captioning Activation Required. MCHR had input in drafting the language for this bill. This bill requires the owner who runs a public accommodation facility to turn on the closed caption feature on the television if requested.

Senate Bill 89
Name Change Bill

Commissioner Wright inquired as to the issue on the Name Change bill. The General Counsel stated that there was no opposition from the other side. This bill did not get out of the Senate Judicial Proceedings Committee. The vote was 6 to 4 unfavorable.

Commissioner Cowl suggested that maybe in December, after the election, Commissioners gather facts for a position statement, and in groups of two or three talk with delegates regarding the Name Change bill. This name change bill was to clarify the fact that the agency is not social services, is not human resources and not those other entities. If the bill comes out of the Judicial Proceedings Committee it would be okay. The Commission needs to talk to the members of the committee who did not vote for the bill.

Commissioner Rabbi
Adler's Resigning

It was decided that the Commission would request a proclamation from the Governor's office for Commissioner Adler.

The Commission meeting adjourned at 11:30 a.m.

Barbara Wilson