

COMMITTEE ON GOVERNMENT OPERATIONS
MINUTES: September 16, 2008

MEMBERS: Chair: Ken Jenkins; Legislators: Bronz, Burrows, Burton, Harckham, Myers, Pinto, Rogowsky, Spreckman

IN ATTENDANCE: **WRAID:** Karen Tenenbaum; Jennie Kim; Sarah Laws; **CLUSTER:** Jon Shenk; Althea James; **Law:** Mary Lynn Nicoles-Brewster, Stacey Dolgin-Kmetz, Marty Gleeson; Betty Luciano; **WCHRC:** Joshua Levin, Delores Brathwaite; Jas. Sahni; **LSHV:** Judy Studebaker; Trevor Eisenman; **CEO:** Bill Randolph, Andrew Neuman; **LS:** Delisa Miller; **WCPD:** Norma Drummond; **Builders Institute:** Albert Annunziata; **BRI:** Ken Nilsen, Kenneth Finger; **COALITION FOR FAMILY JUSTICE:** Renee Reberda, Ranee Robertor; Dean Capote; **MVUT:** Dennis Hanratty; **Staff:** Sally Schecter

The meeting was called to order at 1:12 p. m. with a quorum present. Albert Annunziata, a member of the Citizens Housing Advisory Board, was also present.

On the motion of Legislator Pinto, seconded by Legislator Spreckman, Items #69, correspondence from the Lewisboro Lakes Committee regarding the health and quality of the lakes in Lewisboro; #73, correspondence from D. Bertoline & Sons regarding alcoholic advertising at the County airport and #126, a resolution from the Town of Cortlandt requesting rock removal on County property were received and filed.

The next item was a discussion of legislation that has been proposed on source of income. Karen Tennenbaum made the first presentation pointing out that there are a number of low income renters who have Section 8, income from DSS, child support or Social Security and landlords refuse to take Section 8 vouchers or income from DSS. As a result, the voucher expires and the tenant loses the subsidy. New York City has passed a law making it illegal to discriminate on source of income and it has been very effective. Massachusetts also has a law that has been in existence for over twenty years. A study has been done indicating how effective the law in New York City has been since March. It hasn't been that effective in advertising yet. Enforcement in Westchester County could be done in one of three ways – through the Human Rights Commission, allowing private right of action in State Supreme Court and tenants can raise this kind of discrimination as a defense in an eviction case.

Legislator Burton asked under the present law what are the conditions which you may not discriminate against. Ms. Tennenbaum then listed all the conditions. He said it did not specifically list income from child support or income from alimony. She said it would be considered under group identity. She would request that the law be modified by not putting source of income under group identity but in the text of the law.

Legislator Bronz wanted to know if this would be a modification of a section of the Fair Housing Law or would it be a new section. Chair Jenkins said that this is what the discussion is about.

He then introduced Mr. Annunziata who in turn asked if Mr. Ken Nilsen, Chair of the Building and Realty Institute and a landlord in Yonkers be allowed to speak. Chair Jenkins invited Mr. Nilsen to the table and said the committee was interested in gathering input from tenants and landlords. Mr. Nilsen said he has been a landlord for twenty-five years and has dealt with Section 8 for twenty-five years. He feels this proposed legislation is ill informed, that it is addressing the wrong problems. The real problem is that there is not enough affordable housing. He went on to say it would not affect luxury housing, only low and moderate apartments. Chair Jenkins pointed out that he had received a phone call from someone living in luxury housing whose source of income changed and they were concerned that they would have to move from their present housing.

Mr. Nilsen feels this legislation would discriminate against a possible tenant who could afford an apartment vs. a possible tenant with a Section 8 voucher. If the person with the Section 8 voucher was turned down for the apartment, they had the option to address the Human Rights Committee with a complaint about discrimination. Mr. Jenkins cited a person living in a Mitchell Lama development for six years and that building is coming out of Mitchell Lama. The person has a Section 8 voucher and would like to continue living in his apartment but the landlord refused that person because of Section 8.

Ms. Tenenbaum pointed out that people on Section 8 work but do not make enough money to pay the rent which is why Westchester has Section 8.

Mr. Nilsen said last year there was a program in Yonkers for landlords advising them what they could not discriminate against. At the end they were told they could ask about money. Now they will be told they cannot ask about money. He would like to know on what basis can they select tenants. They will only be able to ask about their finances in a certain way, if not they could be accused of discrimination and brought up before Fair Housing under the Human Rights Committee. The landlord would have to hire an attorney, costing them \$5,000 to \$10,000 and could face a potential fine of \$100,000. The landlords also now document every telephone call from people looking for an apartment because they never know if a person would accuse them of discrimination and take them to court. Chair Jenkins disagreed with Mr. Nilsen's assessment of the situation. He said the Human Rights Commission would investigate a claim to determine whether or not it is true or false and if the landlord wins the decision, the party bringing the claim would pay.

Mr. Burton said the proposed law would remove source of income as a determining factor for obtaining an apartment. It would be on the then tenant's ability to pay. He also felt to document all the phone calls was not necessary.

Mr. Harckham said if a person has a voucher plus disposable income to pay the rent, it should not make a difference as long as the person has sufficient money to pay the rent.

Ms. Myers wanted to know why it matters where the money comes from. Mr. Nilsen said it is the terms and conditions that go along with Section 8. Section 8 originally was a voluntary

program. In the rest of the country, you can terminate a tenant at the end of the lease but because of ETPA in New York, you cannot because of the terms and conditions of Section 8 and ETPA requirements. This is not true in Massachusetts because they did away with ETPA about 10 years ago.

Mr. Pinto questioned the inspection of Section 8 and Mr. Nilsen said they inspect the apartment, the basement, roof and one time there was a bird's nest in an air conditioning port and the inspector found fault with that. Norma Drummond responded that the inspectors need to inspect the living conditions of a tenant including the basement, roof, etc.

Chair Jenkins thanked everyone for attending the meeting. Law said they would have a draft of the legislation in October and another meeting would be scheduled at that time for more discussion.

On the motion of Legislator Pinto, seconded by Legislator Myers, the Committee was adjourned at 2:53 p.m.