

City of Lincoln Commission on Human Rights News

Beatty Brasch Presented 2007 Gerald Henderson Human Rights Award

On November 14, Mayor Chris Beutler presented the 2007 Gerald Henderson Human Rights Award to Beatty Brasch, Executive Director of the Center for People in Need. The award is presented by the Lincoln Commission on Human Rights (LCHR) to recognize outstanding achievements in furthering human relations in Lincoln.



Mayor Chris Beutler presents Beatty Brasch with the 2007 Gerald Henderson Human Rights Award

"Beatty has been a force in Lincoln for many years, inspiring many with her energy, enthusiasm and hard work," said Mayor Beutler. "She has helped countless individuals and families meet their basic needs. Even more importantly, she has provided hope, helping those in need to see the opportunities that exist in their futures."

After serving 14 years as Director of the Lincoln Action Program (LAP), Brasch opened the Center for People in Need in 2003. The Center is a non-profit organization serving high-risk and low-income families. Its mission is to help families and young people address socio-economic barriers limiting their paths to success.

Helen Traudt nominated Brash for the award, calling her "woman of compassion and integrity." She wrote: "Beatty believes that all persons deserve the right to food, shelter and health care and to be valued as human beings. She is committed to providing care and support to at-risk populations, including low income, elderly, Native

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Mayor Thanks Commissioners for Service

The December 13 Commission meeting of the Lincoln Commission on Human Rights also saw the last meeting for Commissioners Linda Williard and Maisun Allahiq.

Prior to the start of the meeting, Mayor Chris Beutler thanked both Commissioners for their service and commitment to the LCHR, stating his great appreciation "of the community's willingness to volunteer for boards and commissions."

Commissioner Willard has the longest record of service for the Commission, serving from May of 1999 until the December 2007 meeting.



LCHR 2007 Commissioners: Bottom, R-L, Linda Willard, David Fikar, Karla Cooper; Top, R-L, Maisun Allahiq, Wendy Francis, Dick Noble, Sitaram Jaswal. Not pictured, Lori Lopez-Urdiales.

Commissioner Allahiq served on the Commission from December 2003 until December 2007.

Both Commissioners were presented with clocks by the Mayor and Director Larry Williams. Director Williams thanked both Commissioners for their work on the Commission and all of the continuing Commissioners for their

dedication to the work of the LCHR.

The LCHR staff wishes both Willard and Allahiq all the best in their future endeavors. They will be missed.



Lincoln Commission On HUMAN RIGHTS

Beatty Brasch Receives HR Award

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American, Black-African Americans, Hispanic/Latino and refugee populations."

"Beatty has had many roles in our community – Lancaster County Election Commissioner, LAP Director and now Director of the Center for People in Need," said LCHR Director Larry Williams. "In all those roles, she has committed herself to making this piece of the world a better place for everyone, especially those who are less fortunate."

LCHR established the annual Human Rights Award in 2000. In 2003, the award was named for the late Gerald Henderson, the first director of LCHR and a longtime civil rights activist. Nominees are judged on their achievements in improving human rights based on activities implemented, services performed, or programs operated in the City.

Previous award winners are Dan Williams; Cecilia Olivarez Huerta; José Soto and the Division of Affirmative Action, Equity and Diversity of Southeast Community College; Milo Mumgaard and the Nebraska Appleseed Center for Law in the Public Interest, Inc.; Judi M. gaiashkibos; and Florine Joseph.

LCHR is the primary City agency responsible for the remediation of discrimination complaints brought by individuals. The Commission also provides community education and technical assistance to help people know and understand their rights and responsibilities under the law.

Free Fair Housing Conference Set for March

Mark your calendars for the LCHR 2008 Fair Housing Conference. The conference will be Tuesday and Wednesday, March 25 and 26, at the Embassy Suites Hotel, 1040 P Street in Lincoln.

On Tuesday, March 25, from 1-4:30 p.m., specialty sessions have been planned for realtors and attorneys. Shanna Smith, President/CEO of the National Fair Housing Alliance in Washington, D.C., will present the realtors' workshop and Omaha attorney Scott P. Moore will present a Fair Housing Legal update for attorneys.

Wednesday's sessions will begin at 9 a.m. with a Fair Housing Legal update presented by attorney John Relman. Breakout sessions set for the

afternoon include: Predatory lending, Foreclosures and Home Ownership, Disability Law, Substandard Housing and Fair Housing Concerns, What Elected Officials Should Know About the Fair Housing Act, Landlord-Tenant Law, and Mobile Homes -- the Continuing Crisis.

Attendance at the conference is free. If you wish to attend the luncheon, the cost is \$20. Keynote speaker will be Myrtle Wilson, Hub Director for the U.S. Department of Housing and Urban Development's Region VII Office of Fair Housing and Equal Opportunity.

Registration brochures will be available in late January and you may request one by calling 441-7624 or by emailing mkniep@lincoln.ne.gov.

Our Mission

The administration of the Lincoln Commission on Human Rights supports the enforcement of all provisions of Title 11 of the Lincoln Municipal Code. To receive, settle, conciliate, investigate, issue findings, hold public hearings on complaints alleging discrimination based on race, color, religion, sex, disability, national origin, familial status, age, ancestry, marital status, and retaliation.

To perform functions and activities with community groups, businesses, schools, and governmental entities for the purpose of promoting understanding between races, cultures, and sexes, and to work to eliminate inequalities and sources of inter-racial friction.

Review all City of Lincoln procurement bids and awards in excess of \$10,000.

Review DBE (Disadvantaged Business Enterprises) program of minority and women-owned businesses and maintain directory.

Our Goals

To eliminate and prevent all forms of illegal discrimination, to assure and foster equal opportunity for all citizens of the City, and to act in all matters within its jurisdiction.

First Amendment Rights and Housing

First Amendment rights, the freedom to speak one's mind, have come into conflict with fair housing concerns throughout the years. Whether or not language which might be considered racist, sexist or insensitive is protected speech or a violation of the Fair Housing Act is an issue the U.S. Department of Housing and Urban Development (HUD) has reviewed and provided guidance to civil rights agencies.

The HUD rule provides that absent physical violence, physical harm, or threats of physical harm, speech-related activities are protected by the First Amendment that are directed toward motivating a change in the policies or regulations of state or local governments--even if the statements are hostile, offensive, distasteful, obnoxious, reprehensible or bigoted.

HUD is reluctant to investigate complaints where people are simply expressing their thoughts, their ideas and perceptions about a fair housing issue to a governmental body since it is an essential right of an individual to freely speak his or her mind and to organize and peacefully assemble.

However, First Amendment protections in Fair Housing do not exist if the speech involves physical violence, physical harm, threats of physical harm or in some ways prevents a person from peacefully enjoying their property. It is at that point, when Free Speech loses the First Amendment protections guaranteed by the Constitution.

The case which seems to have guided HUD's interpretation of the First Amendment and Fair Housing rights occurred in May of 1992 in California, when a nonprofit housing developer, Resources for Community Development, applied for a zoning permit from the Berkeley Zoning Board to convert a local hotel into housing for the homeless.

Three neighbors opposed these plans by writing a letter to the City Council, speaking out at public meetings and circulating a newsletter criticizing the project. They also formed an association opposing the conversion.

Naturally, housing advocates called upon the San Francisco Office of HUD to investigate the three neighbors for violating the Fair Housing Act, arguing that the neighbor's comments were discriminatory toward people with physical and mental disabilities.

The San Francisco HUD Office investigated the neighbors in July of 1994 and sent a letter to in Washington, D.C. HUD headquarters recommending charges be filed against the neighbors for violating the Fair Housing Act. However, the Washington, D.C. office determined there was not "reasonable cause" to issue charges.

The neighbors then filed a lawsuit in federal court in May 1995 alleging that the investigatory actions of the San Francisco HUD Office quelled their First Amendment free speech rights and free petition rights.

A three-member judge panel of the 9th Circuit Court of Appeals agreed with them and the lower court's decision that the actions of the neighbors were "paradigmatically protected by the First Amendment."

The judge further wrote: "the investigation that HUD officials conducted exceeded the bounds of reasonable governmental action and violated the plaintiff's First Amendment rights."

Since that decision, it has been the policy of HUD to not take complaints involving public free speech activities, "even where hostile, distasteful, or bigoted" comments are directed toward convincing a governmental body or an official to take action.

The only time HUD may consider taking such a complaint is when force, physical harm, or a clear threat is involved or is stated with such comments. Intemperate or some hostile statements made at a public meeting are not subject to coverage by the Fair Housing Act even though they might make people protected by the Fair Housing Act feel unwelcome in a neighborhood.

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Report Addresses Residential Segregation and Housing Discrimination

WASHINGTON, DC – December 11, 2007 – In preparation for an upcoming U.N. review of the United States' compliance with the international race discrimination treaty, the National Fair Housing Alliance has joined a coalition of more than 40 housing and civil rights organizations and scholars in a report detailing the continuing problem of racial discrimination and segregation in housing.

The report titled ***Residential Segregation and Housing Discrimination in the United States*** details the ways in which current U.S. policy continues to promote racial segregation in housing, and it also addresses recent cutbacks in fair housing enforcement and the government's role in the subprime lending crisis. According to U.S. Census data detailed in the report, whites and African Americans continue to live in communities where their race does not predominate. Indeed, African Americans are the most residentially segregated group in the United States, a condition that is exacerbated by racial

steering, which further perpetuates racial isolation within American cities and schools.

"April 2008 will mark the 40th Anniversary of the passage of the Fair Housing Act, an opportunity for this country to reclaim our civil rights and end illegal housing discrimination," said Shanna Smith, President and CEO of the National Fair Housing Alliance.

"Schools will be integrated when our neighborhoods are integrated. Our neighborhoods will be integrated when racial steering by real estate companies and redlining by banks and insurance companies stops. We must rededicate ourselves as a nation to the promises of equal housing opportunity embodied in the law," she added.

The report is available at www.nationalfairhousing.org. Smith will be a presenter at the Lincoln Fair Housing Conference March 25 and 26. See page 2 for more information.

First Amendment Rights and Housing

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Even verbal statements which are made by one neighbor to another, are First Amendment issues that are guaranteed by the United States Constitution and are not necessarily covered by the Fair Housing Act.

HUD does have the jurisdiction to investigate Fair Housing issues when a next door neighbor makes comments or takes actions against a person so as to prevent them from renting, buying a property and motivating them to move from their property. HUD has taken complaints against neighbors that conducted themselves in such a manner to disturb the peaceful enjoyment of the Complainant.

Several years ago, the American Socialist Movement held a rally at the Nebraska State Capitol. Many in our community found their message to be racist, sexist and homophobic and did not want them to be allowed to assemble at the State Capitol. However, to forbid them was

not possible since they, as others we may object to, have the right to peacefully assemble, to speak their minds, and peacefully advocate their positions.

For more information on this subject, you may find articles online at the Freedom Forum (freedomforum.org), the National Fair Housing Advocate (fairhousing.com) and the National Low Income Housing Coalition (hlhc.org).

Editorial Policy:

One Lincoln is a publication of the Lincoln Commission on Human Rights. Materials appearing in this publication shall be in accordance with the purposes, and goals of the LCHR. One Lincoln will be published on a quarterly basis in January, April, July and October.

Criteria for Publication:

Submissions by community groups and individuals are welcome. Deadlines are the first of the month preceding the month of publication. Articles are subject to editing, with the author's compliance. Specific opinions expressed are not necessarily the opinions held by LHRC employees or its Commissioners.

You Want to Know

Questions & Answers Regarding Employment & Fair Housing Issues

Q: My employer recently had a Reduction in Force where they eliminated nine employees who had the most years of service with the company. All of these employees are over the age of 40. Is this discrimination?

A: Yes, this could be illegal discrimination based on age. The Age Discrimination in Employment Act, as well as Title 11 of the Lincoln Municipal Code prohibits employers from taking action against an employee based on the employee being 40 years of age or older.

Q: Due to my religion, I have asked my employer to have Sunday mornings off to attend church services. My employer denied my requests, but has allowed another employee to have Saturday mornings off due to daycare issues. Is this religious discrimination.

A: An employer is required to accommodate your religious beliefs by allowing time off work or other accommodations unless the employer can show that it would cause an undue hardship. Since the employer is allowing someone else to have Saturdays off due to daycare issues, but will not allow you to have Sunday mornings off, it may be difficult for the employer to prove it will cause an undue hardship on the business.

Q: My landlord has refused to fix several things in my apartment including the air conditioner and a leaking faucet. Can I stop paying rent until the landlord fixes these things?

A: No. You must continue to pay rent. If the landlord is not following the lease agreement by not fixing these things, you can send a written notice to your landlord asking him/her to fix these things and give him/her 14 days to do so. If the landlord fails to make the repairs within 14 days, then you can terminate your lease in 30 days. If you do not pay rent then the landlord can evict you for failure to pay rent.

If you have a question you would like answered in regard to possible discrimination as it affects employment, fair housing or public accommodation, you can email them to mkniep@lincoln.ne.gov or mail them to LCHR, Attn: Margie, 440 S. 8th Street, Ste. 101, Lincoln, NE 68508.

Dr. Marilyn Johnson Farr to Speak on Racism

At the Tuesday, January 15 meeting of Citizens Against Racial Discrimination (CARD), Dr. Marilyn Johnson Farr will discuss her personal experiences with racism.

Dr. Johnson Farr will talk about understanding the need to identify attitudes

toward race and racism in Lincoln.

The meeting will begin at 7 p.m. and be held at the YWCA of Lincoln, 1432 N Street. CARD will also be discussing a survey prototype and is interested in garnering community input. For more information call 474 5801.

Is Your God the Same as My God? Religious Discrimination in the Workplace

A situation was brought to the LCHR's attention about a company in Lincoln communicating in a training manual that its main mission is to be a service to God, and that it frequently starts conference calls with a prayer.

The caller, who is an employee of the company, wanted to know if the company could do this since he was not comfortable with this professed mission or with the prayer sessions in particular. This article will attempt to answer this question and hopefully give the reader a better understanding of religious discrimination in the context of employment discrimination.

Title VII of the Civil Rights Act of 1964 is the Federal law that prohibits employers from discriminating against individuals because of their religion in hiring, firing, and other terms and conditions of employment, including harassing an employee based on their religion. The Act also requires employers to reasonably accommodate the religious practices of an employee or prospective employee, unless to do so would create an undue hardship upon the employer. Flexible scheduling, voluntary substitutions or swaps, job reassignments and lateral transfers are examples of accommodating an employee's religious beliefs.

Assuming the company who has made its mission a service to God is not a "religious organization" as defined by Title VII, the question is whether or not they can begin their conference calls with a prayer. Some unique fact patterns such as this one, limited as it may be, arise in religious discrimination or harassment cases, because sometimes the alleged harassment is the result of religious expression by a co-worker, supervisor, or even the owner of the company. Religious harassment in violation of Title VII typically occurs when employees are:

- required or pressured to abandon, alter, or adopt a religious practice as a condition of employment, or
- subjected to unwelcome harassing conduct that is based on religion and is so severe or pervasive that the individual being harassed reasonably finds the work environment to be hostile or abusive.

In the case of the caller, if the caller is able to show that this company's

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About the LCHR

What does the Lincoln Commission on Human Rights (LCHR) do?

The LCHR investigates complaints of discrimination within Lincoln that involves housing, employment, or discrimination in services provided to the public.

What is discrimination?

Illegal discrimination is to have an adverse action taken against you or being treated differently based on a protected class (i.e.: race, color, national origin, sex, religion, disability, age, marital status, familial status, retaliation).

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Housing Discrimination Complaints on the Rise Around the Country

Growing number of complaints allege unfair treatment in housing market

By DEBORAH BARFIELD BERRY and ROBERT BENINCASA, Gannett News Service

WASHINGTON — Nearly 40 years after a national law banned housing discrimination, an increasing number of complaints are alleging unfair treatment of minorities, the disabled, families and other groups.

The Department of Housing and Urban Development and housing assistance agencies logged 10,328 complaints last year, a 12 percent jump from 2005. That's the highest number since HUD started keeping track in 1990, when it included complaints from the disabled and families with children.

"Some people want to say these are things that happened in the old days," said Kim Kendrick, assistant secretary for HUD's Office of Fair Housing and Equal Opportunity. "It doesn't happen in the old days. It happens today."

A Gannett News Service analysis of 44,000

housing discrimination complaints filed between 2002 and 2006 with HUD and its contract agencies shows allegations of unfair treatment are widely dispersed across the nation.

In Worcester, Mass., a man with kidney disease said a landlord refused to rent to him because his disability was "too much baggage."

In San Jose, Calif., Hispanic families complained their apartment manager spoke disparagingly of Mexicans and gave their repair requests lower priority.

In Chesterfield, Va., a black woman said a white property owner told her the house she was interested in "will not be sold to coloreds."

"It was like he had just punched me," said Nealie Pitts, 59, whose eyes still fill with tears when she talks about the 2002 incident.

Between 2002 and 2006, seven states and the

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Is Your God the Same as My God?

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mission, coupled with the prayer sessions, are required of the employees or employees are pressured into attending these as a condition of employment, it could be unlawful harassment based on religion. In addition, the employee would have the right to request an accommodation to join in the conference call after the prayer session as a form of reasonable accommodation.

If the employer is unable to show that the requested accommodation would pose an undue hardship, then the employer must allow for this accommodation. If the employer refuses this accommodation, or retaliates against the employee for requesting it or for not following the company's "mission", then the caller would have the right

to file a religious discrimination complaint with the LCHR.

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Housing Complaints on the Rise

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District of Columbia averaged more than 10 housing discrimination complaints per 100,000 housing units, according to the GNS analysis. The average state rate was 7.6 complaints per 100,000 units.

The highest was Nebraska with 17, followed by Kansas, Iowa, Missouri, North Dakota, Hawaii and Wyoming. According to officials in some of those states, the reasons range from aggressive work by fair housing groups to longstanding racial tensions to an influx of immigrants.

Nebraska has a history of racial divisiveness and now faces a growing immigrant population, according to housing officials and lawmakers there.

"These things are part of the reality of the community we're in," said Gary Fischer, general counsel for Family Housing Advisory Services Inc. in Omaha. "They didn't get that way overnight. I do not think Nebraska is unique. That's the fabric here, but that's the fabric in many places."

States with the lowest average complaint rates were Alaska, Minnesota, West Virginia and Wisconsin. All had fewer than four complaints per 100,000 units.

The 1968 Fair Housing Act, amended in 1988, bans discrimination in the housing market based on disability, race, sex, national origin, religion, skin color or whether a family has children. The law covers rentals, purchases and financing.

Reasons for growing discrimination complaints vary, housing officials say. Some areas are dealing with new waves of immigrants. Others

have old houses that aren't readily accessible to the disabled.

Last year's record number of complaints also could result from stepped-up enforcement and efforts by HUD and other agencies to make people aware of their rights, housing officials say.

Agency's performance criticized

But critics of HUD say the agency is too slow to investigate complaints. And they note federal housing officials filed a civil discrimination charge in only 1 percent of the complaints they received last year.

HUD officials say the law requires them to work with both parties in a case to reach a settlement. Last year, 36 percent of the complaints to HUD were settled.

Federal officials and fair housing advocates say it's difficult to know whether housing discrimination is on the rise in a particular area. But they agree the problem is more pervasive than the number of complaints suggests.

Many victims believe filing a complaint isn't worth the trouble or don't know where to go, government studies show. And although the Fair Housing Act protects illegal immigrants, they're unlikely to complain for fear of being deported, civil rights groups say.

Private housing groups also get complaints that aren't included in the data.

The GNS analysis also found that:

- Counties in the top 20 percent for housing discrimination complaint rates over the past five

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**Fair Housing.
It's Not an Option.
It's the Law!**

Housing Complaints on the Rise

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years tend to be less racially and ethnically diverse than counties in the bottom 20 percent.

- Race-related complaints were most common in the South, where they accounted for nearly half of complaints last year. Race-related complaints made up 44 percent of cases in the Midwest, 32 percent in the North and 28 percent in the West.

Nationally, disability-related cases accounted for 40 percent of complaints filed with HUD and its contract agencies last year. Race-related complaints accounted for 39 percent.

Housing experts expect disability complaints to climb as the nation's population ages and older Americans better understand their housing rights.

Discrimination more subtle today

Even when complaints are filed, proving them can be difficult. Last year, HUD dismissed 40 percent of complaints, citing lack of evidence. One reason may be that housing discrimination today can be subtler.

"The days are gone when people say, 'We don't rent to you people,'" said John Simonson, who in 1977 led the first national study on racial discrimination in housing. "In rentals they treat

you nicely. They just don't give you the unit."

Still, some housing advocates say federal officials aren't doing enough to deter homeowners, real estate agents, landlords and others from breaking the law.

HUD must investigate discrimination complaints within 100 days. But a 2005 report by the Government Accountability Office found the agency missed that deadline in more than a third of cases.

HUD officials say they have boosted training to improve response time.

In addition, the agency has launched 15 high-profile investigations in the last two years, including two in Louisiana linked to events after Hurricane Katrina.

After the 2005 hurricane, New Orleans officials complained to HUD about Web sites that were offering emergency housing for "whites only."

"We all thought that kind of issue was over with," said James Perry, executive director of the Greater New Orleans Fair Housing Action Center. "It means we have a lot more work to do."



One Lincoln

**Addressing Discrimination
In Lincoln**

A City TV 5 monthly program addressing issues relating to discrimination as it affects Lincoln's citizens. December's program features Susan Scott and Vern Williams from Citizens Against Racism & Discrimination, its history, goals and objectives.

Program times vary but currently are Mondays, 9:30 p.m.; Tuesdays, 2:30 and 4:30 p.m., Wednesdays, 3:30 p.m.; and Saturdays, 10:30 a.m. You may also view current or past shows online through Video on Demand at: <http://www.lincoln.ne.gov/city/mayor/cic/5citytv/video.htm> - select Lincoln Commission on Human Rights.

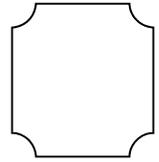
Mark Your Calendar!

LCHR 2008 Fair Housing Conference
March 25 & 26th ~ Embassy Suites ~ Lincoln, NE
See page 2 for details.

Need Help Making Sense of Discrimination Laws?

We're Here for You.

We provide free assistance and training to large or small businesses in understanding the discrimination laws and creating Human Resources' policies to help you avoid liability issues. Call us at 441-7624 for more information.



City of Lincoln
Human Rights Commission
440 S. 8th Street, Ste. 101
Lincoln, NE 68508
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Jurisdiction:

The City of Lincoln Human Rights Commission has jurisdiction to investigate alleged discrimination complaints in the areas of employment, housing, and public accommodation occurring within Lincoln’s city limits. We do not have jurisdiction to investigate alleged discrimination complaints involving City, County and State Government employees, offices or facilities, or state universities.

- Resources:**
- **Discrimination complaints outside of Lincoln City limits:** Nebraska Equal Opportunity Commission—402-471-2024 or the regional Equal Opportunity Commission office in St. Louis, MO (800) 669-4000
 - **City agency complaints**—City Ombudsman/Mayor’s Office (402) 441-7511
 - **University of Nebraska-Lincoln employment complaints** — UNL Affirmative Action (402) 472-3417
 - **Lincoln Police Department complaints**—Internal Affairs Division (402) 441-7204, Citizen Advisory Board (402) 441-6351, or Mayor’s office (402) 441-7511
 - **Jail complaints, not including the State Penitentiary**—Jail Standards Division of the Nebraska Crime Commission (402) 471-3988
 - **State Penitentiary**—Ombudsman at the State office for Corrections (402) 471-2035
 - **Landlord-Tenant disputes**—Lincoln Action Program Specialist (402) 471-4515
 - **Complaints about legal matters**—County Attorney (402) 441-7321, Southeast Nebraska Legal Services (402) 435-2161, Nebraska Attorney General (402) 471-2682, or Nebraska State Bar Association (402) 475-7091
 - **Advocacy Services for people with disabilities**—League of Human Dignity (402) 441-7891 or Nebraska Advocacy Services (402) 474-3183.