

**CITY OF LINCOLN, NEBRASKA
COMMISSION ON HUMAN RIGHTS
MINUTES**

Thursday, March 31, 2016
City County Building, 555 S 10th, Council Chambers

CALL TO ORDER:

The March 31, 2016, meeting of the Commission on Human Rights was called to order at 4:02 p.m. by Elizabeth Kennedy-King, Acting Chair.

ROLL CALL:

The roll call was called and documented as follows:

MEMBERS PRESENT:

Commissioners: Elizabeth Kennedy-King (Vice-chair), Amanda Baron, Susan Oldfield, Micheal Q. Thompson and Melanie Ways. Quorum present. Jon Rehm joined the meeting at 4:07 p.m.

MEMBERS ABSENT:

Commissioners: Bennie Shobe.

STAFF PRESENT:

LCHR: Kimberley Taylor-Riley, Margie Nichols, Abigail Littrell, Francisca Beltran, Jocelyn Golden and Peg Dillon.

APPROVAL OF FEBRUARY 25, 2016, MINUTES:

A motion was made by Ways and seconded by Oldfield to approve the minutes of the previous meeting.

Hearing no discussion, Acting Chairperson Kennedy-King, asked for the roll call. Voting "aye" was: Kennedy-King, Baron, Oldfield, Thompson, and Ways. Motion carried.

APPROVAL OF MARCH 31, 2016, AGENDA:

A motion was made by Thompson and seconded Baron to approve the meeting agenda.

Hearing no discussion, Acting Chairperson Kennedy-King, asked for the roll call. Voting "aye" was: Kennedy-King, Baron, Oldfield, Thompson, and Ways. Motion carried.

**Mandate from District Court Order to Dismiss
Simeus v. RGR Company, LLC**

A motion was made by Ways and seconded by Thompson to approve the dismissal of Simeus v. RGR Company, LLC.

Assistant City Attorney Jocelyn Golden updated the Commissioners regarding the Nebraska Supreme Court's decision in Simeus v. RGR, a case that originated with the Commission. Attorney Golden reminded the Commissioners that the Nebraska Supreme Court decision was not favorable as it reversed the decision of the Commission and the hearing officer's recommendations. The City was ordered to pay court costs. Golden reported RGR has not yet requested attorney's fees.

Kennedy-King asked if the Commission could take any further action. Golden replied that the case is now dismissed and the Commission will take no further action. Rehm asked if Golden believed the Court would make a different determination if any additional or different facts were in the record. Golden replied she could not speculate what the court would do with different information. Rehm asked why Golden believed the Court's decision was well reasoned. Golden replied that the Court looked at the record, applied the proper legal framework and determined that there was not enough evidence to affirm the Commission's order.

Golden stated that Simeus was a difficult case but a good experience for the Commission.

Hearing no further discussion, Acting Chairperson Kennedy-King, asked for the roll call. Voting "aye" was: Kennedy-King, Baron, Oldfield, Rehm, Thompson, and Ways. Motion carried.

CASE DISPOSITIONS:

LCHR #15-1009-035-E-R

A motion was made by Rehm and seconded by Thompson to recommend a finding of **no reasonable cause**.

Kennedy-King asked why the Complainant did not request a reasonable accommodation. Nichols said the Complainant could not articulate his specific disability and did not request a reasonable accommodation. Complainant never alleged he could not perform the essential functions of his position because of any disability.

Kennedy-King asked about the Respondent's written progressive discipline policy. She questioned whether the Respondent must move through each step of the disciplinary process or could move straight to discharge. Nichols replied most employers retain the discretion to skip steps on a disciplinary policy if the infraction is serious. In this case the Respondent showed it took several steps and documented its efforts to allow the Complainant opportunities to improve his performance.

Commissioners discussed the length of time the Respondent retained the Complainant even though his performance was poor from the beginning. Nichols said the turnover of property managers was high and the Respondent had an incentive to retain and train Complainant if possible.

Hearing no further discussion, Acting Chairperson Kennedy-King, asked for the roll call. Voting "aye" was: Kennedy-King, Baron, Oldfield, Rehm, Thompson, and Ways. Motion carried.

LCHR #15-1204-031-H

A motion was made by Oldfield and seconded by Baron to recommend a finding of **no reasonable cause**.

Thompson asked whether the police department's letter to Respondent regarding multiple police contacts with the subject property was justification for Complainant's eviction. Littrell replied that if Complainant caused multiple police contacts at the property, he was probably violating his duty under the lease to refrain from infringing on the peace and quiet of the other tenants.

Ways asked how often the police send these kinds of letters. Littrell said this is the first time this property manager had received this type of letter. There was discussion about multiple police calls by tenants concerning disturbances alleged to be caused by the Complainant. The Complainant first complained he was unfairly targeted by the police, he then alleged his neighbors made excessive police calls about him due to his race. Finally, Complainant alleged Respondents evicted him with discriminatory motive. Baron asked about Complainant's allegations that he was assaulted by the police. Littrell said there was no evidence in the Police records of any physical contact.

The evidence showed the prior owner addressed mold problems in Complainant's unit prior to Respondent's acquisition of the property. Ways asked if there was a current mold issue and Littrell said there was no evidence of a current mold problem.

Baron asked if police need to be present when a tenant goes back to the property after being evicted. Littrell said the police only appeared when another tenant reported Complainant was on the property, they were unaware that the Respondent gave Complainant permission to enter and collect his personal property.

Hearing no further discussion, Acting Chairperson Kennedy-King, asked for the roll call. Voting "aye" was: Kennedy-King, Baron, Oldfield, Rehm, Thompson, and Ways. Motion carried.

LCHR #15-1229-032-H

A motion was made by Thompson and seconded by Baron to recommend a finding of **no reasonable cause**.

Thompson asked about Complainant's employment. Nichols said the Complainant did not fully understand the strict income requirements to rent the Low Income Tax Credit property. He was

unemployed when he applied for the apartment, but started a new job while he was waiting for approval. His income then exceeded the level required to rent the unit. Nichols said she understood why he could have been confused because of the copious amount of paper work required for the tax credit program.

Thompson asked if it is the Respondent's policy to promise perspective tenants specific apartments. Nichols said Respondent had an available apartment that was reserved for Complainant, but when it was determined that his income was too high it was rented to another applicant.

Oldfield asked if Complainant had not rejected the first available apartment, would Respondent have rented to him. Nichols said it was impossible to determine that since he had not completed the required paperwork. Baron asked how an applicant could prove he was unemployed. Nichols responded normally they would submit it in a tax return. But in this case, Respondent required documentation from Complainant's employer. The employer could not confirm that Complainant's job was only seasonal, so the Respondent considered Complainant permanently employed.

Hearing no further discussion, Acting Chairperson Kennedy-King, asked for the roll call. Voting "aye" was: Kennedy-King, Baron, Oldfield, Rehm, Thompson, and Ways. Motion carried.

PRE-DETERMINATION AGREEMENTS:

LCHR #15-1222-046-E-R

A motion was made by Oldfield and seconded by Rehm to recommend approval of the pre-determination settlement agreement.

Hearing no discussion, Acting Chairperson Kennedy-King, asked for the roll call. Voting "aye" was: Kennedy-King, Baron, Oldfield, Rehm, Thompson, and Ways. Motion carried.

ADMINISTRATIVE CLOSURES:

LCHR NO.: 15-0814-024-E-R

A motion was made by Acting Chairperson Kennedy-King and seconded by Ways to recommend approval of the administrative closure.

Hearing no discussion, Acting Chairperson Kennedy-King, asked for the roll call. Voting "aye" was: Kennedy-King, Baron, Oldfield, Rehm, Thompson, and Ways. Motion carried.

LCHR NO.: 15-0827-029-E-R

A motion was made by Ways and seconded by Thompson to recommend approval of the administrative closure.

Hearing no discussion, Acting Chairperson Kennedy-King, asked for the roll call. Voting "aye" was: Kennedy-King, Baron, Oldfield, Rehm, Thompson, and Ways. Motion carried.

OLD BUSINESS:

2016 Civil rights Conference

Beltran presented an update on the April 19, 2016, Civil Rights Conference. Beltran encouraged the Commissioners to let her know if they will be attending or helping at the Conference.

Gerald Henderson Award

The Commissioners considered three nominees for the Gerald Henderson Human Rights Award to be presented at the 2016 Civil Rights Conference. The Commission selected Thomas Christie as the award recipient.

NEW BUSINESS:

Commissioner Appointment Update

Taylor-Riley told the Commissioners that the Mayor's office has not yet appointed two new Commissioners for the LCHR board. She is hopeful next month that the Mayor will appoint the new Commissioners and then they can be approved by the City Council. Ways asked how many applications are reviewed. Taylor-Riley said they use a running list of people that have expressed interest in the LCHR board.

Outreach

Taylor-Riley updated the Commissioners on outreach activities. Beltran and Taylor-Riley attended a networking dinner at the home of the President of the University of Nebraska Lincoln. The purpose of the dinner was to build community connections with the shared goal of increasing diversity in UNL's student body. Representatives from Community colleges were present and the Commission discussed efforts to assist minorities moving from Community colleges to four-year institutions.

Beltran has continued with her outreach activities. Littrell and Beltran were invited to speak to refugees about human rights issues.

PUBLIC COMMENT:

No public comment.

The meeting was adjourned at 4:45 p.m.

Next Meeting:

Thursday, April 21, 2016, at 4:00 p.m.
555 S. 10th Street, 3rd Floor, Conference Room 303.