

Minutes of the Cook County  
Commission on Human Rights – Open Session  
December 8, 2020

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Attendance:

Present: Chairperson K. Gunn; Commissioners J. Block, A. Hamada, C. Eatherton, G. Orr, A. Smock, C. E Harris II, H. Ratner,

Absent: Vice-Chairperson K. Ayala-Bermejo, Commissioners E. Clarke-Bey

Staff: Deputy Director G. Smith, Investigator A. Cahn, Investigator J. Jones, Investigator J. Brown, Investigator L. Fisher, Administrative Analyst K. Johns.

Members of the public: No members of the general public present

Chairperson Gunn called the meeting to order at 10:06 a.m.

**I. Adoption of Agenda**

The agenda was approved and adopted by unanimous voice vote.

**II. Statements by the General Public**

Tex Pasley, Shriver Center

Gianna Baker, Chicago Area Fair Housing Alliance and Just Housing Coalition

**III. Approval of the September 22, 2020 Regular Meeting Open Minutes**

The meeting minutes to the September 22, 2020 Regular Meeting Minutes were approved and adopted by unanimous voice vote.

**IV. Approval of the 2021 Meeting Schedule**

The proposed 2021 meeting schedule dates were read but not approved.

**V. Acting Director's Report**

Deputy Director Smith reported that N. Keith Chambers has retired and Emily Stewart is now employed with the States Attorneys' Office.

Deputy Smith reported that staff had to adopt new key performance indicators making sure to have completed at least 80% of human rights investigations within the 180-days allowed by the human rights ordinance.

Deputy Smith also reported that since the start of FY21, the office had twelve new investigations open; eight of those have settled. Staff expects to meet the 180-day close of investigation deadline for the newly opened case.

Deputy Smith pointed out that staff will submit its final report to the president's office, which will be included in the next meeting board package. She mentioned that since the September 2020 meeting, four cases have settled and that no cases have gone beyond the investigative stage. Chair Gunn questioned whether the landlords in the Just Housing cases have indicated they were unaware of the new law. Deputy Smith responded that most of the just housing cases were with larger organizations and she did not know whether those organizations claimed they were unfamiliar with the law.

Commissioner Block inquired if there are plans for staffing of commission or board. Deputy Smith responded that she was not aware of staffing plans for the board unless terms are expiring. She stated that she doesn't believe the president's office is looking to reconstitute the board. She further stated that the president's office has begun its search for a new director. The OUP had not provided any clear indication of when new legal counsel would be hired. She assumes legal counsel will be hired after the new director is identified.

Commissioner Block inquired what the status was of settling and mediating cases and if staff was still working the Center for Conflict Resolution. Deputy Smith responded that if cases did not settle by the end of the investigative period, the board does extend the opportunity to the parties to go through mediation but was not sure if the board is still using the Center for Conflict Resolution. Staff member Cahn confirmed the board has worked with the Center for Conflict Resolution in the past. Commissioner Block emphasized that due to COVID-19, the board should not conduct face to face mediations and that the Center for Conflict Resolution is available to conduct mediations virtually.

Commissioner Smock expressed her concern that the "digital-divide" may prevent individuals from filing cases during the pandemic and inquired if any cases have been reported to the board. Deputy Smith stated the issue has not been discussed or come up. Deputy Smith confirmed however that the office is set up to allow for individuals to make an appointment to meet with staff if they don't feel comfortable filing or discussing a case virtually.

## **VI. Just Housing Amendments and Implementation**

Deputy Smith read into record the public statement by Tex Pasley, Shriver Center.

## **VII. Proposed Landlord Tenant Amendments to the Human Rights Ordinance**

Deputy Smith reported that the original form the of the proposed amendments would have required Human Rights to enforce the new landlord tenant provisions. However, after Human Rights voiced concerns over our limited staffing capacity, responsibility for enforcement has been moved to the Sheriff's office. She noted that the commission would still be responsible for posting landlord/tenant provisions on the website.

Chairperson Gunn inquired to the status of the ordinance regarding legislation. Deputy Smith responded that there has been a public hearing; however, it has not been introduced to the full body of the Board of Commissioners.

**Statement of Tex Pasley, Shriver Center:** “My name is Tex Pasley. I am an attorney at the Shriver Center on Poverty Law, where my organization, as part of the Just Housing Coalition, lobbied the Cook County Commission to pass the Just Housing Amendment. As an attorney, I work to enforce the Just Housing Amendment now that it is in effect. I also monitor and investigate potentially discriminatory enforcement of “crime-free and nuisance property ordinances” throughout Illinois. As many of you are likely aware, these local ordinances penalize property owners (through fines or revocation of business licenses) if the owner allows certain “criminal activity” to occur on or near a property.

I am writing to express concern with the information the Commission provides to landlords on its website regarding crime-free and nuisance property ordinances. The Commission advises that “[i]f your municipality is a home-rule municipality and has a crime free or nuisance amendment that directly conflicts with the Just Housing Amendment, then your home-rule municipality’s law would govern. Please keep in mind that most nuisance laws do not apply to new applications for housing. These laws are focused on eliminating nuisances that already exist.”<sup>1</sup>

It is true that, under the Illinois constitution, when a home rule municipality and a home rule county (such as Cook County) have ordinances in conflict with one another, the municipal ordinance will prevail.<sup>2</sup> But the Illinois Supreme Court has held that while § 6(c) establishes a “preference” for municipal authority, it does not automatically have preemptive force whenever home-rule municipalities and counties legislate on the same subject.<sup>3</sup> § 6(c) merely “establishes a means of resolving conflicts and inconsistencies existing between a municipal ordinance and a home-rule county ordinance when both ordinances are in effect in the same territory.”<sup>4</sup> I am concerned that property owners in jurisdictions with crime-free and nuisance property ordinances may not recognize the subtlety of the narrow “direct conflict” standard. Owners may instead conclude from the Commission’s advice that they are exempt from the Just Housing Amendment whenever a municipal crime-free or nuisance property ordinance is in effect.

Further, while it is correct that many crime-free and nuisance property ordinances do not apply to new applications for housing, municipalities with crime-free housing programs often require landlords to participate in comprehensive trainings as a condition for receiving a business license. As part of these trainings, the municipality often encourages property owners to conduct criminal background checks on all rental applicants.<sup>5</sup> Thus, even though local ordinances may not technically require property owners and managers to screen rental applicants, property owners

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<sup>1</sup> <https://www.cookcountyil.gov/content/just-housing-amendment-information-landlords>

<sup>2</sup> Ill. Const. Art. VII, Sec. 6(c).

<sup>3</sup> *City of Evanston v. Cook County*, 53 Ill.2d 312, 317 (1972).

<sup>4</sup> *Id.* at 318.

<sup>5</sup> For example, South Chicago Heights says its ordinance “allows for screening potential tenants for a history of illegal behavior.” See <https://www.southchicagoheights.com/242/Crime-Free-Rental-Housing-Program>. Midlothian and Schaumburg require landlords to attend a training that focuses on, among other things, the “benefits of applicant screening.” See <https://www.villageofmidlothian.net/253/Crime-Free-Housing>; <https://www.villageofschaumburg.com/government/police/crime-free-housing>.

may be led believe that the ordinance in fact requires the landlord to adopt certain screening criteria.

I ask that the Commission clarify the language in its landlord training materials to ensure that property owners are do not adopt an overbroad reading of the law on municipal preemption and conclude that the Just Housing Amendment does not apply in these circumstances. In doing so, the Commission will help ensure that property owners make every effort to comply with the Just Housing Amendment across Cook County.

I look forward to working with the Commission to improve the language in its landlord guidance. I also hope to be a resource for the Commission on the Just Housing Amendment and its interaction with local crime-free and nuisance property ordinances. I am happy to answer any questions or concerns you may have. Thank you for your time.”

Gianna Baker, Chicago Area Fair Housing Alliance and Just Housing Coalition provided an update on the outreach and education the Just Housing Coalition has done. She stated that Just Housing Coalition along with Chicago Fair Housing Alliance, Safer Foundation and the Shriver Center have provided education to more than 3,000 people. Ms. Baker emphasized that these organizations would like to have its resources in Spanish, recommended section 11 to be included in the FAQs and inquired how many complaints have been filed and their status. Deputy Smith responded that the commission has received 4 just housing amendment complaints in FY20; two of those complaints have settled.

#### **VIII. Executive Session**

At 10:56 a.m., the Board adjourned into Executive Session

#### **IX. Open Session II**

At 11:09 a.m., the Board convened back into Open Session

By unanimous voice vote, the Board approved and adopted the September 22, 2020 regular meeting closed minutes.

By a unanimous voice vote, the meeting adjourned at 11:13 a.m.