

Fair Housing Task Force

Minutes of the November 10, 2020 Meeting

Present:

Legislator Sam Gonzalez, representing the 9th District.
Legislator Steven Flotteron, representing the 11th District.
Derek Stein (Office of the Presiding Officer)
Luann Dullojacona (Office of the Presiding Officer)
Natasha Marrero (Office of Legislator Gonzalez)
Dawn Lott (SC Human Rights Commission)
Cicely Harris (NYS Division of Human Rights)
V. Elaine Gross (Erase Racism)
Sharon Mullon (LIHP)
Nancy Vargas-Johnson (Central Islip Civic Council)
Mitchell H. Pally (Long Island Builders Institute)
Ashely Alvarado (Long Island Hispanic Bar Association)
Hon. Frank Schellace (Long Island Hispanic Bar Association)
Liza Milgrim (Long Island Hispanic Bar Association)
Mitchell H. Pally (Long Island Builders Institute)
Dr. Georgette Grier-Key (NAACP)
Pilar Moya-Mancera (LIHBA)
Ian Wilder (Long Island Housing Services)
Lynda Perdomo-Ayala (SC Human Rights Commission)

Absent:

Johnathan Smith (NYS Division of Human Rights)
Bo Patten (LIBOR)

The meeting was called to order at 1:05 p.m.

1. Minutes

Legislator Gonzalez made a motion to approve the September 21, 2020 meeting Minutes. Hon. Frank Schellace made a correction that Liza Milgrim will assume the Presidency of the Long Island Hispanic Bar Association and not the Long Island Builders Institution. He also asked if the minutes can reflect Pilar Moya-Mancera as part of the Task Force. Dawn Lott stated that she believes Pilar was added to the Task Force after September when Ian Wilder was added. Legislator Gonzalez agreed to make those changes.

2. Discuss Public Hearing

Legislator Gonzalez stated he received recommendations from Pilar Moya-Mancera and Dr. Georgette Grier Key for the Task Force.

Dr. Grier-Key recommended that we provide a stronger format for our public meetings and we need to have better outreach announcement and layout our expectation for the hearing. Legislator Gonzalez agreed and said we need to provide better outreach to reach certain individuals and to reach out to organizations hurt. He noted that he has spoken to a couple organizations including the

NAACP about promoting a future public hearing. Legislator Gonzalez stated he has reached out to the Spanish radio station, like La Fiesta so they can reach out to the Latino community. He wants to put this out to Spanish language media, such as La Noticia and La Tribuna. He wants to reach out to News 12 and Newsday.

Dawn Lott stated that the purpose of this Task Force is to hear from the public. She understands that the people who scheduled to speak may have questions to members of the task force, but we need to be mindful to hear from them and that is what the public hearing is all about. Legislator Gonzalez agrees and understands we had individuals sign up the same day just to vent about their problems and other issues however, while the Task Force should instead focus on listening. Elaine Gross agreed, and that the Task Force should focus on hearing speaker's voices.

Dr. Georgette Grier-Key stated she agreed with Elaine Gross and Dawn Lott however, she felt that the Task Force should have asked less question and let the public speak. She pointed out the Task Force had a lot of deliberations among themselves that should have been separate. She suggested that we needed to look more organized and provide a framework when putting out information. Dr. Georgette said many people do not know what discriminations is so the Task Force should put out a definition of what discrimination is. She stated that we should contact local libraries to share information on the Public Hearings and on information concerning discrimination. She added that the Public Hearing needed more structure.

Hon. Frank Schellace stated that the purpose of this task force is fair housing not affordable housing. He said many of the individuals that signed up for the hearing had legitimate questions about affordable housing which is put of the purview of this task force. Hon. Frank Schellace began to read the Legislation about the task force. Legislator Flotteron agreed with Hon. Frank Schellace. He stated that the purpose of the task force is to analyze the language of the Human Rights Law, which should be advertised as that so we will not get the wrong type of speakers coming. Legislator Steve Flotteron agreed, noting that the job of the Task Force is to examine the Human Rights Law, and while other speakers may come to speak, they would be discussing topics outside the purview of the Task Force. Nancy Vargas-Johnson asked if when an individual sign up could we ask them what topic they were looking to speak on to ensure they are on appropriate topics. Legislator Gonzalez agreed.

Elaine Gross stated that there were broad discussions going on and some individuals talked about things that had nothing to do with what the task force is about. However, some discussions were too narrow. Dawn Lott agreed with Elaine and the narrow interpretation needs to be taken into account of the final recommendations to the Legislature and based on the resolution itself.

Pilar Moya-Mancera stated that the news day article was made primarily for people who are purchasing homes however she stated when it comes to fair housing the task force should keep in mind it's also the renters and buyers and tenants. Especially the Latino community there are many tenants that don't know their rights or when their rights are being violated. She stated when sending the information out, the task force should provide the meaning of discrimination and that in doing outreach for the Police Reform hearings they did video outreach explaining the work of the Task Force specifically in order to invite the community into the meeting.

Ian Wilder asked Hon. Frank Schellace what affirmative changes to the law the Latino Bar Association would like to see made to the Human Rights Law.

3. Task Force Recommendation

Legislator Gonzalez stated that he had received only a handful of recommendations so far from the Task Force.

Hon. Frank Schellace stated that his group's proposal would be presented in writing. He spoke with the president of the organization and their proposal will focus on education and enforcement. He noted that laws surrounding restaurant enforcement could prove to be a model, and if the State cooperates with the County they could take a harder stand against discrimination.

Ashely stated that she feels that the task force should enforce staying on track. She noted that people may of turned in to the Public Hearing in order to learn. She also stated not only direction individuals on the flyer but also have a short description about what discriminations or housing discrimination is about. Legislator Gonzalez agreed. She proposed having some questions prepared in advance to encourage individuals to speak up.

Ian Wilder and Long Island Housing Services' recommendations read as follows:

1. The county can add Criminal conviction as a protected class under county Human Rights law. New York State has already made arrest without conviction a protected class in New York. This was partially done in the recognition of the racially discriminatory nature of the criminal justice system. That bias within the criminal justice system also jails person of color at a higher rate despite their having equal or lower rate of committing crimes than Whites. Already existing ordinances in Seattle (14.09.025(A)(1)), Portland (30.01.86), and Cook County, IL (42-38(b)(8), (c)(5)) can be used as models to provide an appropriate balancing test.
2. We support the recommendations from Dawn Lott including increasing the budget of the Suffolk County Human Rights Commission (SCHRC), so that they have additional funds to do testing on complaints; to provide enough hours for Administrative Law Judges (ALJ); to do an intensive outreach and education campaign. In addition, they should have funding to provide appropriate services to person who are Limited English Proficient when making complaints and having hearings; to hire ALJs who reflect the demographics of Suffolk County
3. The county needs to fast track the hiring of ALJs within the SCHRC. My understanding is that none of the ALJs hired have been fully onboarded yet.
4. The county needs to look to see if it is meeting its duty under the community Development Block Grant (CDBG) funds that it receives to meet the requirement of the 1968 Fair Housing Act to use those funds in a manner that Affirmatively Furthers Fair Housing. The Analysis of Impediments that the county is undertaking need to directly addresses the continuing effect of segregationist policies in the county by government at all levels and by private individuals, the accompanying Consolidated Plan for the next 5 years needs to lay out HUD funds will be used to directly address and remediate that segregation
 - a. For example, the towns of Smithtown, Riverhead, Shelter Island, Southold, Southampton, and East Hampton are subgrantees under the Suffolk County CDBG funds. The county may also provide funding to villages within those town. Those municipalities should provide proof to Suffolk that they have corrected their zoning

to be inclusionary, instead of exclusionary. This would include the ability to build affordable housing in high opportunity areas with these town as of rights.

- b. Furthermore, the county should look at any preferences for housing that these municipalities have. Even if the preferences are facially neutral, they must be investigated to determine if their effect is to discriminate against a protected class. For instance, if the municipality is less diverse than the surrounding county and it has preference that favor current resident (such as favoring existing Emergency Services personnel within the municipality), then there is a good chance that it is discriminatory. The Westchester decision provides more examples of how these funds can be used by a county to Affirmatively further Fair Housing.
- c. The municipalities should remind their affiliated housing providers to follow county, state, and federal fair housing law, and provide evidence of auditing their procedures to ensure that those laws are followed.
- d. These municipalities should more directly address homelessness. Resources must be redirected to identifying and creating safe, affordable places to live thereby directly addressing the needs of the homeless. Building alternative housing, such as legal accessory dwelling units, should be explored and encouraged by the municipalities in an effort to combat homelessness. Additionally, the municipalities should investigate the feasibility of implementing rent control for properties available for rent.
- e. The Towns and Villages need to correctly calculate income for Service Connected veterans who receive or could be eligible for a Section 8 Housing Choice Vouchers from municipalities and PHA's. Nationally must be made according to Federal Regulation 24 CFR 5.609(c) (14). Disability income from the Veterans Affairs made on behalf of a Service Connected Veteran is an Income Exclusion: "Disability compensation is a monetary benefit paid to Veterans who are determined by Veterans Affairs to be disabled by an injury or illness that was incurred or aggravated during active military service. These disabilities are considered to be "Service Connected." To be eligible for compensation, the Veteran must have been separated or discharged under conditions other than dishonorable. Monthly disability compensation varies with the degree of disability and the number of eligible dependents. Veterans with certain severe disabilities may be eligible for additional special monthly compensation (SMC). Disability compensation benefits are not subject to federal or state income tax." Also, the regulation reads, "any deferred Veterans Affairs disability benefits that are received in a lump sum amount or in prospective monthly amounts" is an exclusion from the calculation of the total annual income. The exclusion of the Department of Veterans Affairs disability benefits in the calculation of the annual income for Section 8 incorrectly inflates the total annual income of Service Connected veteran applicants and Section 8 Housing Choice Voucher recipients. By including the income which should be an exclusion, it reduces the amount of the Service Connected Veteran's from being eligible for a Section 8 Housing Voucher and Service Connected Veterans who participates in the Section 8 Housing Voucher Program are paying more of their income in rent than what is actually allowed. Additionally, it may have a disparate impact on disabled veteran men and may violate federal, state and local laws. The town should review all past and present applications and recertification to adjust the annual income levels

for Veterans who are Service Connected and have disability income from the Veterans Affairs. Application and eligibility for Service Connected Veterans who were previously ineligible for a Section 8 Housing Choice voucher after May 2014 should be recalculated. The municipalities should immediately conduct an audit from time period beginning May 2014 to the present to determine if reimbursement for overpayment is owed to Veterans due to miscalculations. Once determined, Service Connected Veterans should be reimbursed for overpayment appropriately. Failure to exclude income may constitute discrimination on the basis of Source of Income, Veterans Status, Sex (gender) and Disability.

- f. Compliance with Title VI prohibition against National Origin Discrimination affecting persons with Limited English Proficiency (LEP). The municipal websites should have a language translator. They should make sure that any uploaded documents needed for service are available in the appropriate languages since a language translator will not translate upload, e.g. applications for services.
 - g. It would be good if both the Analysis of Impediments and Consolidated Plan are easily available on the county website and that the hearings for these documents are targeted to get input from underserved communities
5. Also, the county should require that all its vendors that are involved with real estate affirmatively further fair housing.
- a. For instance, the county must deposit substantial sums of money in banks. Those funds could be directly to financial institutions that have a strong record of Community Reinvestment.
 - b. Similarly, there are insurance companies with a history of not insuring properties that have tenants with Housing choice Vouchers. They should not receive the county's business.
6. We support Jim Morigo's concept of a rating system for real estate firms with two caveats. First, the idea would seem to be better placed within state law since the state regulates real estate agents. Second, no one should receive a tax break for not breaking the law. Similar to the NYC Board of Health ratings for restaurants, being able to display a high rating will be a reward in itself as a way to attract business.

Nancy talked about her Recommendations to the task force:

- Increase public awareness- helping to educate the public, and service professionals, about their rights and how they can help protect those rights by being aware, informed and knowing where to go if one feels their rights may have been violated is very important.
- Public service announcements in short video clips illustrating the different ways discrimination can be enacted- these can be shared through social media outlets and TV with a focus on two goals:
 1. Illustrating examples of how one can be impacted by both covert and overt discrimination when purchasing a home. Boost on all social media platforms
 2. How to get in touch with the SC Human Rights Commission for counsel and guidance.

- Giving back to the community- there are many ways that those Real Estate Practitioners who are found guilty of discriminating against the public can be held accountable and make amends that go beyond monetary restitution.
- Community service- Real Estate Practitioners who are convicted of an act of discrimination may be asked to perform community service in the community negatively impacted by their harmful and unlawful practices.
- “Change of Heart” letters- demonstrating their understanding of the harm caused in writing may be another way of putting on record their sincere acknowledgment of the damage caused to the person(s)/ community directly affected. This may not only help heal but help make the learning experience more indelible.
- Focused professional development- this topic is worthy of even more focused education for all real estate professionals and other related professionals (counselors, lenders, appraisers, title, legal, etc.)
 - Local historical context- there should be a requirement to learn history of discrimination on the segregation on Long Island.
 - Real Estate education- this should be a practical and hands on learning program rather than just theory to better gain of concepts and the impact of discrimination.
 - Broader enrollment- all non- profit housing agencies should be required to take the recommended education mentioned above so that all players are aware of the implications of discrimination.
- Diversify the housing stock- a more even distribution of a variety of housing stock can help provide more options in housing choices by type and location. Essential to make sure housing is available everywhere.
 - Multi- Generational, Affordability, Handicap, 2 to 3 family homes and geographically.

Ian Wilder noted that Suffolk County had historically led the way on certain legislation and had an opportunity to do so once again through fair housing. He noted his agency has regularly put up suggestions for Long Island’s different towns. Legislator Gonzalez noted he is doing some research on these issues. Ian Wilder noted that if the Human Rights Commission is unable to bring action against a Town or municipality, his organization could second any actions taken against another municipality.

Nancy Vargas-Johnson read her recommendations, she recommended education through short video clips, perhaps showing instances of housing discrimination. She noted it would be helpful to have more people be aware of available resources as well. She noted as a real estate agent she has taken a number of courses and that understanding the background and having a mandate for realtors would be helpful. She felt a lot of current education is more theoretical and is less based on practical application. Legislator Gonzalez suggested a certain number of hours may be required. She noted that while she takes more than two hours of training it is not required. Legislator Gonzalez noted

there have been situations where instructors say things that are inappropriate. Sharon Mullon noted the hours were supposed to be three hours long and when she last taught the Department of State was there to supervise the training. Pilar Moya-Mancera asked if there was a test at the end of the course. Nancy Vargas-Johnson noted there are questions throughout the course, but not a true final test. Legislator Gonzalez asked if independent, certified teachers would help, and who is responsible for teaching. Nancy Vargas-Johnson replied they are from many different areas, they are certified to teach but may not have real estate licenses.

Lynda Perdomo-Ayala asked if there were any lessons Nancy had not gotten from training, and that it is one way to look at these issues to see She noted that everyone's experience will be different and that it would be helpful to have what Nancy learned written down. Legislator Gonzalez noted it would be helpful to have more realtors who speak Spanish or the language they are comfortable in.

Pam Bierria (intern of SC Human Rights Commission) recommended that the task force should have flyers in different languages, including Haitian Creole and Spanish

Derek Stein mentioned that Jim Morgo, former County Legislator and Deputy County Executive Recommendation submitted to the task force, which read:

I am Jim Morgo. I reside at 141 Northwood Court in Bayport. I was the founding President and CEO of the Long Island Housing Partnership, Inc. as well as a Suffolk County Legislator and Suffolk County Chief Deputy County Executive. Throughout my career, I advocated for and created hundreds of for-sale and rental affordable homes that were equally and affirmatively available to low-and moderate-income households.

Further, throughout my career I saw the tangible public good created by the federal Community Investment Act (CRA), the Home Mortgage Disclosure Act (HMDA) and the Financial Institution Reform, Recovery and Enforcement Act (FIRREA).

Following Long Island Newsday's landmark investigative expose of discriminatory racial steering on Long Island, I realized that the principles of these three federal statutes could be adapted to combat racial steering and to hold residential real estate agents accountable.

Methods to combat racial steering have focused on punishing individual agents who get caught through paired testing. And the punishment has been incredibly ineffective the argument against systemic reform always is, "Agents are private contractors, so they have to be caught and treated individually for discriminatory offenses."

However, when hard evidence emerged in the 1970s that individual bankers were denying home mortgage loans to minorities and women because of racial and sexual biases, Congress passed the Community Reinvestment Act to combat bigoted lending. Banks that scored poorly on CRA tests could not add branches or merge with other banks, and their CRA scores were public. HMDA and FIRREA strengthened the ability to end racial and gender discrimination in home-mortgage lending as well as making other advances.

A residential Realtor may be a private contractor, but he or she needs to be affiliated with a broker to sell homes. Most work for real estate firms. Why couldn't an anti-discrimination, CRA-like rating system be applied to those firms? Low ratings could be imposed on firms that don't advance fair housing and weed out racist agents. The penalties for low scores could include a prohibition on firms expanding or taking on new agents. The firms would consider their public scores crucial to their reputations. Tax benefits could be provided to those with good scores.

If the members of the Suffolk County Legislature's Fair Housing Task Force really want to combat racial steering, I strongly suggest they examine the above proposal. I would, of course, work with others.

Dawn Lott spoke about her Recommendation to the Task Force and noted there would not be an overnight change. Their focus was on providing amendments to strengthen the Human Rights Laws as they currently exist based on the wording from Resolution 1210-19 itself:

“As you are aware, Resolution No. 1210-19, mandates that the Fair Housing Task Force “conduct a comprehensive analysis of the Suffolk County Human Rights Law as it pertains to housing discrimination and determine how it can be improved and strengthened to reduce the incidence of such discrimination and recommend additional opportunities to improve the County’s enforcement of housing discrimination law;...to further submit a written report of its analysis, findings and determinations together with its recommendations for action...to each member of the County Legislature and the County Executive....”

Fair Housing Task Force members Elaine Gross, Sharon Mullon, Ian Wilder and I submit the following recommendations for review and consideration:

- Suffolk County Human Rights Law, §528-9

During the Task Force's initial meetings, the general consensus was that the language of Suffolk County’s fair housing laws, specifically, § 528-9 (Unlawful discriminatory practices in the sale, lease or rental of housing accommodations or commercial property) is sufficient at this time.

- Funding for Paired Testing

To strengthen the County’s enforcement of its housing discrimination laws, funding of approximately \$12,000 annually for paired testing with analysis in the area of rentals is recommended. On average, the cost of a test is \$2,000. They average about 6 paired tests per year currently.

- Increased Funding for Administrative Law Judges (“ALJs”)

To strengthen the Human Rights Commission’s **enforcement** ability, it is recommended that a \$50,000 budget be established for ALJs. The HRC currently employs 3 Administrative Law Judges, there is a two-year contract for the three ALJs (\$25,000), which expires in 2021 and there is no provision for them to continue to employ these ALJs. They propose a \$50,000 budget in order to better process caseload and to provide more capacity for HRC to conduct testing.

- Outreach and Education

Would ask community organizations, other County agencies and County Legislators to educate and conduct outreach to residents, a countywide outreach and education campaign is recommended that would include video displayed in county offices (i.e. DSS, Labor Dept)

and on all social media platforms. The videos would be of everyday people (varying in race, age, familial status, language, etc.) providing a brief statement such as, “Housing discrimination is illegal. They can’t deny you housing because you have children. Do you think you’ve been denied housing unfairly? Call Suffolk County Human Rights Commission (631) 853-5480.”

Outreach and education efforts to include the creation and distribution of a “Bill of Rights”/”Know Your Rights” to tenants facing eviction via the Sheriff’s Department. Suffolk County Legislators could include share this information in their newsletter. Other potential allies include banking institutions, local businesses along with utility companies such as PSEG, SCWA who would distribute informational inserts with the monthly bill.

Legislator Gonzalez asked if it was a one-year contract for the Administrative Law Judges (ALJ), Dawn Lott confirmed it was only until 2021. Pilar Moya-Mancera asked if the ALJ’s had experience working with the minority community. Dawn Lott replied that information is available in their annual report, she noted the number of cases in no way represents the amount of discrimination that is going on. She noted all of the ALJ’s are women of color and are lawyers, but securing ALJ’s is a challenge. Initially they worked on a pro-bono basis but are now able to pay them. Dawn Lott notes they have Spanish speaking investigators but no specific data, all of the complaints they’ve received are in English. Dawn Lott noted that there would also need to be follow up after paired testing is complete to see if improvements have been made. Lynda Perdomo-Ayala noted that if the word starts to get out they would not have the investigators to do the work.

Hon. Frank Schellace asked if the Task Force can have the public hearing live. Legislator Gonzalez noted only one person has been allowed to speak at a given time and there is a limit for how many people can be in the auditorium at a given time. Lynda Perdomo-Ayala noted she had participated in an event with about 40 people out of a firehouse. Derek Stein replied that meetings are being hosted out of the Hauppauge Legislative building, and that he would look into potential options for their next Public Hearing.

1. **Next Meeting:** Thursday, December 17th at 1:00 p.m.
2. **Public Hearing:** Wednesday, December 16th at 6:30 p.m.

Meeting was adjourned at 2:55 p.m. Meeting Minutes prepared by Natasha Marrero & Derek Stein.

CC: NM, JH, DS