



DEPARTMENT OF FAIR EMPLOYMENT & HOUSING
FAIR EMPLOYMENT & HOUSING COUNCIL
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FAIR EMPLOYMENT AND HOUSING COUNCIL

Meeting of January 13, 2015

Minutes

Elihu M. Harris State Building
1515 Clay Street, Room 12
Oakland, CA 94612

and

22 Rue de Longchamp 92200
Neuilly-sur-Seine, France
(Teleconference location)

Councilmembers Present

Chaya Mandelbaum, Chairperson
Dale Brodsky, Councilmember
Patricia Perez, Councilmember
Andrew Schneiderman, Councilmember
Chanee Franklin Minor, Councilmember (telephonic appearance)
Annmarie Billotti, Acting DFEH Director and Ex Officio member

DFEH Staff Present

Nelson Chan, DFEH Chief of Public Policy and Education, Legislative and Regulatory Affairs
Brian Sperber, DFEH Legislative and Regulatory Counsel
Mathew Jackson, DFEH Civil Rights Fellow
Christopher Paredes, DFEH Civil Rights Fellow

Others Present

Noah Lebowitz, Attorney, California Employment Lawyers Association
Rachel Langston, Staff Attorney, Legal Aid Society – Employment Law Center
Kelly Richardson, Richardson Harman Ober PC, Partner
Leah Simon-Weisberg, Tenants Together, Legal Director
Brian Geiser, Oakland Tenants Union, Volunteer
Nadia Aziz, Law Foundation of Silicon Valley, Fair Housing Law Project, Senior Attorney
Paul Dumont, The Sober Living Network, Housing Advocate
Barbara Dickey, Disability Rights California, Associate Managing Attorney

I. Call to Order and Roll Call

Chair Mandelbaum called the meeting to order at 10:33 a.m. and DFEH Civil Rights fellow, Mathew Jackson, conducted roll call.

II. Welcome and Introduction of Guests

Chair Mandelbaum introduced the Council.

III. Review of the Agenda

Chair Mandelbaum reviewed the proposed Agenda.

IV. Review of the Minutes

Chair Mandelbaum reviewed the minutes of the December 8, 2014 meeting, and the Council moved, seconded, and approved the minutes by a roll call vote.

Attachment A: Minutes from December 8, 2014 Meeting of the Fair Employment and Housing Council

V. Councilmembers' Reports

Chair Mandelbaum announced that he will be on a panel at the San Francisco Bar Association's Yosemite conference where he will be discussing momentous employment law decisions of 2014.

VI. Department of Fair Employment and Housing Report

A. DFEH Update

Acting Director Billotti discussed matters currently being handled by the Department and announced the start dates for the new Director, Kevin Kish, and new Chief Deputy Director, Joan Keegan.

B. Legislative Update

Acting Director Billotti reported on pending legislation, including AB 52 and AB 54, which each seek to amend the California Disabled Persons Act, and SB 67, which seeks to amend sections 55.54 and 55.56 of the Civil Code.

VII. Unmodified Text of Proposed Amendments to the California Family Rights Act Regulations

A. Discussion

Chair Mandelbaum and Councilmember Brodsky discussed the post-15-day comments and their rationale for concluding that no further revisions were necessary. They also discussed the timing for the adoption process.

Attachment B: Text of Proposed Amendments to the California Family Rights Act Regulations

B. Public Comment

The Council heard public comment on the proposed amendments to the CFRA regulations from:

Noah Lebowitz, Attorney, California Employment Lawyers Association
Rachel Langston, Staff Attorney, Legal Aid Society – Employment Law Center

Both commenters reiterated the written comments they submitted during the 15-day comment period.

C. Action by Council

The Council moved, seconded, and on a unanimous roll-call vote approved a motion to approve the Unmodified Text of Proposed Amendments to the California Family Rights Act Regulations and to authorize the Department to submit the rulemaking package to the Office of Administrative Law.

VIII. Report of FEHA Employment Regulations Subcommittee

Councilmembers Brodsky and Perez reported on the process of reviewing public comments received during the 45-day comment period.

IX. Report of the Education and Outreach Subcommittee

Chair Mandelbaum and Councilmember Perez reported on the progress of the Education and Outreach Subcommittee. Chair Mandelbaum reported on a recent appearance on a public radio program, Your Legal Rights, to address proposed amendments to the CFRA regulations. He suggested a similar outreach appearance during the FEHA employment regulations rulemaking process.

Councilmember Brodsky announced that she will be discussing the CFRA on a panel on January 30, 2015.

X. Revised Conflict of Interest Code Regulation

A. Discussion

Acting Director Billotti introduced the draft prepared by the Fair Political Practices Commission (FPPC) and recommended repealing the existing regulation and renumbering the new regulation so that it was relocated to the Administration subchapter of the regulations, adding to the consistency and clarity of the regulations.

Attachment C: Fair Employment and Housing Council Conflict of Interest Code Regulation (FPPC Revised Draft)

B. Public Comment

None.

C. Action by Council

The Council moved, seconded, and passed on a unanimous roll-call vote a motion to repeal the previously adopted Fair Employment and Housing Council Conflict of Interest Code Regulation and adopt the newly proposed Code.

The Council adjourned for lunch at 11:50 a.m. and reconvened at 1:03 p.m.

XI. Text of Proposed Fair Employment and Housing Act Housing Regulations

A. Discussion by Council

Councilmembers Schneiderman and Franklin Minor reported on the Housing Regulations Subcommittee and the working draft of the text, and led a discussion on how to proceed in the process of drafting the text.

Attachment D: Text of Proposed Fair Employment and Housing Act Housing Regulations (Draft)

B. Public Comment

The Council heard public comment on the text of the proposed Fair Employment and Housing Act Housing Regulations from:

Kelly Richardson, Richardson Harman Ober PC, Partner

- The goal should be to attempt to define existing law – not create new law. Recommends working on the draft one piece at a time. Likes the concept of the interactive process and believes there should be some requirement that a tenant participate in the process. Concerned about interjecting the idea of sexual harassment in housing as it is different from the employment setting. Concerned over the handling of medical marijuana smoke intrusion to adjacent neighbors. Would like to tie a health care professional's area of expertise to the reason for a comfort animal. Would love to see temporary disability addressed in the regulations.

Leah Simon-Weisberg, Tenants Together, Legal Director

- Concerned with occupancy standards. Believes the Council lacks the necessary housing expertise and should turn to housing groups like her own for their expertise. Sexual harassment in housing desperately needs to be addressed. The Council should start anew with the housing regulations once the new Director begins.

Brian Geiser, Oakland Tenants Union, Volunteer

- Concerned with occupancy standards as it will give landlords the ability to evict people who struggle to meet the two plus one requirement given rent affordability concerns.

Nadia Aziz, Law Foundation of Silicon Valley, Fair Housing Law Project, Senior Attorney

- Affirmed the Foundation's intent to provide formal comments during the rulemaking process and offered to participate in any working groups formed during the process.

Paul Dumont, The Sober Living Network, Housing Advocate

- Concerned with occupancy standards.

Barbara Dickey, Disability Rights California, Associate Managing Attorney

- Sought clarification regarding the timing of formal comment periods for the housing regulations and encouraged the Council to utilize a working group.

XII. Future Meeting

Chair Mandelbaum announced that there is a tentative telephonic meeting scheduled for February, 17, 18, 19, or 20, 2015, and another in person meeting planned for March.

XIII. Further Public Comment

None.

XIV. Adjournment

Chair Mandelbaum adjourned the meeting at 3:31 p.m.

Date: April 23, 2015

CHAYA MANDELBAUM

Chair

MATHEW JACKSON

DFEH Civil Rights Fellow