FAIR HOUSING REGULATORY REVIEW COMMITTEE MEETING

MINUTES

Members of the Fair Housing Regulatory Review Committee met on February 12, 2008 at the Department of Professional and Occupational Regulation, 9960 Mayland Drive, Richmond, Virginia, with the following members present·

Marjorie Clark, Member, Real Estate Board
Florence Daniels, Chairman, Fair Housing Subcommittee, Real Estate Board
Tonye Epps, Member, Fair Housing Board
Stephen McMaster, Member, Fair Housing Board
David Rubinstein, Chairman, Fair Housing Board

Staff present for all or part of the meeting were:

Lizbeth Hayes, Fair Housing Administrator
Christine Martine, Executive Director, Real Estate Board and Fair Housing Board
Deanda Shelton, Assistant Fair Housing Administrator

R. Thomas Payne, II, Assistant Attorney General and counsel for the Fair Housing Board and Real Estate Board was present.

Call to Order

Ms. Hayes called the meeting to order at 2:08 p.m. Ms. Hayes distributed an agenda for the meeting.

Public Comment

There was no attendance by the public.

Welcome and Introduction

Members of the committee introduced themselves. Ms. Hayes thanked them for agreeing to serve on the committee and explained that the committee was convened to review fair housing regulations. Ms. Hayes explained that the regulations were effective in 2003 and the requirement to review regulations every four years.

Nomination of Committee Chairman

Ms. Daniels nominated Marjorie Clark as chairman. Mr. Rubinstein seconded the motion. Ms. Clark agreed to serve as chairman. Ms. Hayes offered assistance to chair the committee.

Discussion of Committee Meeting Schedule

Ms. Hayes suggested the committee schedule meetings the day prior to Real Estate Board and Fair Housing Board meetings scheduled for the months of March, April and May. The committee adopted the following meeting schedule:

Wednesday, March 19, 2008, 2:00 p.m.
Tuesday, April 15, 2008, 1:00 p.m.

Wednesday, May 7, 2008, 2:00 p.m.

The committee agreed to schedule future meetings as needed.

Discussion of Regulatory Review Process

Ms. Martine described the regulatory review process. Ms. Martine explained that Executive Order 36 requires all agencies to review regulations every four years. Ms. Martine stated that the Fair Housing regulations were last reviewed in 2003, at its inception. She explained that Boards can conduct a periodic review or general review of its regulations. Ms. Martine stated that both Boards elected to conduct a general review of its regulations. Ms. Martine explained that once the Notice of Intended Regulatory Action (NOIRA) is published timeframes will apply where the committee has to complete its review and the Boards have to adopt the regulations.

Meeting Goals

Ms. Hayes suggested the committee set goals for each of its meetings. Ms. Hayes suggested the following schedule for reviewing the regulations:

- First Meeting Review Part I
- Second Meeting: Part II, 18 VAC 135-50-70 thru 135-50-190
- Third Meeting: Complete review of Part II, 18 VAC 135-50-200 thru 50-290
- Fourth Meeting: Review Part III, Procedures, 135-50-300 through 135-50-420.
- Fifth Meeting: Complete Review of Part III, 135-50-430 through 135-50-550.

The committee agreed to the above schedule.

The committee agreed to reserve the last meeting for reviewing its notes on the regulatory review.

Discussion of Previous Changes to Regulations

Ms. Hayes explained previous changes made under the fast track regulatory process, including adding "Fair Housing Board" to the definition of Board, adding "Fair Housing Board" in the first paragraph of 18 VAC 135-50-20, Purpose, and language to the same regulation regarding the jurisdiction of each of the Boards. Ms. Hayes also explained that language was added back to 135-50-220, specifically, paragraph 5, which includes language regarding intimidation, coercion and harassment when during residency. Ms. Hayes explained that the language was taken out in 2003.

Ms. Martine provided a copy of the Fair Housing Regulations,

effective September 22, 2007, to members of the committee and staff.

Discussion of Part I, General Provisions

Members of the committee and staff discussed the wording in (iv) of the definition of "Authorized representative." Committee members and staff suggested changes that will be drafted and reviewed at its next meeting.

Ms. Hayes stated that she would discuss the requirements for an authorized representative to make an oral or written appearance in a conciliation conference with Carol Mitchell, Director, Alternative Dispute Resolution.

Members of the committee and staff discussed the definition of "Person in the business of selling or renting dwellings." Ms. Martine informed the committee that the fair housing certification regulation defines regulant as person in the business of selling or renting dwellings. Ms. Martine suggested that Mr. Payne consult Emily Wingfield, former Board counsel, on why the Board included the definition in its regulations.

Committee members and staff discussed the requirements for providing notice to parties. Mr. Rubinstein suggested language to clarify 135-50-30, General construction. A draft revision of the regulation will be reviewed by the committee at its next meeting.

Mr. McMaster suggested rewording or reconstructing regulation 135-50-50, Scope, to add "any other prohibited conduct" and moving the protected classes to the end of the sentence. Ms. Hayes suggested doing the same in 18 VAC 135-50-20, Purpose. A draft revision of the regulation will be reviewed by the committee at its next meeting.

Open Discussion

Ms. Martine explained that nothing precludes the committee from going back over the regulations if the code should change before the Boards adopt its final regulations. Ms. Martine cautioned that the committee should be able to explain and justify why changes are being made to the regulations, and that the regulations do not supercede the statute.

Adjourn

There being no further business, the meeting was adjourned at 3:43 p.m.

Marjorie Clark

Marjorie Clark, Chair