FAIR HOUSING REGULATORY REVIEW COMMITTEE MEETING

MINUTES

Members of the Fair Housing Regulatory Review Committee met on May 7, 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, Committee Chairman
Carol Clarke, Chairman, Real Estate Board
Florence Daniels, Member, Real Estate Board
David Rubinstein, Chairman, Fair Housing Board

Staff present for all or part of the meeting were:

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

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

Call to Order

Ms. Clark called the meeting to order at 2:00 p.m.

Public Comment

There was no attendance by the public.

Review of Meeting Minutes

The committee reviewed the minutes of the April 15, 2008 meeting. No changes or corrections were noted.

Discussion of Previous Recommended Changes

Ms. Clark questioned the removal of the good faith defense regulation. Mr. Payne explained that the regulation appears as stated verbatim in the federal fair housing regulations. The committee agreed to retain the regulation.

Mr. Payne suggested including a statement that the Boards have adopted the Department of Housing and Urban Development and Department of Justice's Joint Statement on Reasonable Accommodations under the Fair Housing Act, rather than rewriting the regulation regarding reasonable accommodation. The committee agreed that the joint statement should be adopted. The committee agreed with Ms. Hayes' suggestion to having a link to the statement on the Fair Housing Office's website.

The committee also agreed to Ms. Martine's suggestion of including language that the Board is adopting the statement in effect. The committee also agreed to adopt the Joint Statement on Reasonable Modifications under the Fair Housing Act and agreed to include language that the Board is adopting the statement in effect.

Discussion of Part II, Regulated Conduct

Ms. Daniels suggested adding "gated community" to the list of catch words in 135-50-270.3. The committee agreed to add the word to the list of catch words.

Ms. Hayes suggested adding "White," "African American" and "Asian" to race (135-50-270.2.a); "Muslim" to religion (135-50-270.2.c) and "Asian" to national origin (135-50-270.2.d). The committee agreed to the additions to race, national origin and religion. The committee discussed and agreed to also add "Middle Eastern" and "Arabic" to national origin.

Mr. Rubinstein suggested adding a statement for protection of group home advertising to 135-50-270.2.f, Handicap. Mr. Payne agreed to research the federal fair housing regulations to determine if there is a reference to group home advertising.

Discussion of Part III, Investigation and Conciliation of Complaints

Mr. Rubinstein expressed concern about the wording of regulations 135-50-340, Form and content of a complaint, and 135-50-350, Date of filing of a complaint. Mr. Rubinstein questioned whether a complaint can be considered filed if the complaint, after reduced to writing by staff, is not signed by the complainant. Ms. Hayes explained circumstances under which a complaint can be accepted and filed without the complainant's signature. Ms. Hayes also explained that the complaint can be signed at any time during the investigation.

After discussion the committee agreed to reword 135-50-350.B to read as follows: "The administrator may determine that a complaint is filed for the purposes of the one-year period for filing of complaints upon submission of written information identifying the parties and describing generally the alleged discriminatory housing practice. Written information includes information provided by telephone and reduced to writing by an employee of the board." The committee also agreed with Ms. Hayes' suggestion to add a statement that the complaint can be signed at any time during the investigation.

Mr. Rubinstein stated that 135-50-400 reads that the administrator makes determinations of reasonable cause on

behalf of the Board. After discussion, the committee agreed to change subpart A.3 from "To develop factual data necessary for the administrator on behalf of the board to make a determination whether reasonable cause exists . . ." to "To develop factual data necessary for the administrator *to make a recommendation to the Board* whether reasonable causes exists . . ."

Ms. Hayes explained that 135-50-540 does not include language on whether the investigation of a matter involving local zoning and land use is complete when it is referred to the Office of the Attorney General. The committee discussed adding language that the investigation is complete when the Board determines that the matter involves the legality of a zoning issue. Ms. Martine suggested adding a sentence that a matter involving local zoning or land use laws is open until the Board determines that it involves the legality of a local zoning or land use law. The committee agreed to add the language.

Ms. Hayes reported to the committee that Carol Mitchell, Director, Alternative Dispute Resolution, reviewed Article 4, Conciliation, and did not see where any changes were needed. The committee made no suggestions for changes in Article 4.

The committee reviewed Article 5, Issuance of a Charge. The committee did not see where changes are needed.

Open Discussion

The committee agreed that it has completed its review of the fair housing regulations. Fair Housing Office staff will begin to draft the proposed changes to the regulations. Ms. Martine will begin the paperwork for the Notice of Intended Regulatory Action. The committee agreed to meet again to review the draft of the proposed regulations before submitting them to the Real Estate Board and Fair Housing Board for approval.

Adjourn

There being no further business, the meeting was adjourned at 3:57 p.m.

Marjorie M. Clark

Marjorie Clark, Committee Chair