

BEFORE THE STATE OF INDIANA
CIVIL RIGHTS COMMISSION

- - -

PUBLIC MEETING OF JULY 24, 2009

ORIGINAL

- - -

PROCEEDINGS

in the above-captioned matter before the Indiana
Civil Rights Commission, taken before me, Dana S. Miller,
RPR, CRR, Notary Public in and for the County of
Hendricks, State of Indiana, at the Indiana Government
Center South, Conference Center, Room A, 402 West
Washington Street, Indianapolis, Indiana, on
July 24, 2009, at 11:30 a.m.

- - -

William F. Daniels, Propr., RPR/CP and CM d/b/a
ACCURATE REPORTING OF INDIANA
12922 Brighton Avenue
Carmel, Indiana 46032
(317)848-0088

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APPEARANCES

COMMISSION MEMBERS:

David C. Carter
Barry Baynard
Charles D. Gidney

~~INDIANA CIVIL RIGHTS COMMISSION~~

By Tony A. Kirkland, Director/Secretary
Indiana Government Center North
100 N. Senate Avenue, Room N103
Indianapolis, IN 46204
On behalf of the Commission

OTHER COMMISSION STAFF PRESENT:

Joshua Brewster
Robert Lange
Joan T. Essex
Tawanda Sharp
Ruby Bowman

11:30 a.m.
July 24, 2009

2 - - -
3 COMM. CARTER: Good morning, it still is. The
4 July meeting of the Indiana Civil Rights Commission
5 will come to order. The first item on the agenda
6 is the chair convenes a meeting and then
7 establishes a quorum, which we do not have, once
8 again.

9 So we won't be able to vote on voting matters,
10 but we will go through the agenda in any case. We
11 can't approve of the minutes. We can, however,
12 listen to Joan Essex when she gives the financial
13 report.

14 MS. ESSEX: Good morning. This is going to be
15 really short and sweet. We came through the end of
16 the 2008-2009 fiscal year very well. The Budget
17 Agency and the powers that be had asked that we
18 revert back to the general fund \$310,000. We
19 actually gave them back \$310,610. And I was just
20 telling the Director if I could have found another
21 invoice to put through against that \$600, I would
22 have done so.

23 We did meet our mark, and we are happy to do
24 so. And we are now in new money. We do have a new
25 budget. And this year the reversion target is

1 currently 5 percent. There are no indications that
2 that percentage rate will increase, but, again, it
3 just depends on what the economy does, and we will
4 know as the year progresses.

5 So I'll take any questions you have on the
6 financial statement if you have any.

7 COMM. CARTER: Any questions?

8 (No response.)

9 COMM. CARTER: All right. Thank you,
10 Ms. Essex.

11 Old business. Ms. Ray, is she here? Did you
12 want to address the Commission?

13 MS. RAY: Yes, I did.

14 COMM. CARTER: Please do so.

15 MS. RAY: I just have some questions with a
16 case Twanna Ray v. Princeton Lake Apartments, how
17 the handling of the case was performed, because I
18 was not notified that the case was dismissed,
19 No. 1.

20 And what constitutes discrimination? I mean,
21 can you ask someone for their race when applying
22 for an apartment complex or any housing?

23 COMM. CARTER: I'm not familiar with the case,
24 and I'm not a lawyer, but we have people perhaps
25 who are both familiar and lawyers.

1 Would someone care to speak to that?

2 MR. BREWSTER: Ms. Ray, I'm somewhat familiar
3 with the case. I was just given the actual file
4 this morning. And I see that you were sent a
5 notice of no reasonable cause in your case back in
6 September of 2008. And it's indicated that you did
7 receive that notice of our finding. And that you
8 did appeal that finding within the 15 days that you
9 were allowed to appeal.

10 That appeal was entertained by this commission
11 at some point between September and December. And
12 a decision was entered by the Commission upholding
13 the finding in December of 2008.

14 While I understand there was some mixup with
15 the postal service --

16 MS. RAY: Correct.

17 MR. BREWSTER: -- and you did not receive
18 notice of the date and time -- place of the
19 hearing, or I should say the public commission
20 meeting, I will say that it is not our normal
21 procedures to inform complainants of that.

22 MS. RAY: I called, and I did -- let me
23 interject. I did call the office several times to
24 get posted on this, and nobody seemed to know.
25 They just kept telling me it's going to be a long

1 time, just wait, be patient.

2 MR. BREWSTER: Okay. But it is my
3 understanding you were informed of the date and
4 place of the Commission meeting at some point?

5 MS. RAY: No, I was not.

6 MR. BREWSTER: Okay. Well, I understand,
7 though, previously you have -- you have had a case
8 previous to this; did you not?

9 MS. RAY: Uh-huh, that's correct.

10 MR. BREWSTER: And you did attend the public
11 meeting?

12 MS. RAY: I did.

13 MR. BREWSTER: So I'm not sure what the mixup
14 was about not knowing when the meeting was. And if
15 we failed to inform you of that, we apologize for
16 that.

17 MS. RAY: Yeah, because I did send in a change
18 of address, which was stamped up by your office.
19 And it ended up going to a Travis Ray in Beech
20 Grove. And I obtained the certified copy
21 information from the post office that that's what
22 happened.

23 So, no, I did not get informed. And I'm just
24 curious as to why I've been routed through so many
25 people, you know. I tried to get Tony Kirkland to

1 call me back. I left a message with his secretary
 2 Paula. I've spoken with Ms. Poindexter. I've
 3 spoken with Michael Johnson, Melissa Dearing. I
 4 mean, how many people does it take to get an
 5 answer?

6 MR. BREWSTER: Well, you understand that
 7 during the time this was occurring, there were
 8 several changes in position. Melissa Dearing went
 9 from being an investigator to an intake supervisor.

10 MS. RAY: Okay.

11 MR. BREWSTER: Michael Johnson, while I
 12 understand he originally took your complaint, he
 13 was not investigating the complaint.

14 Henrietta Poindexter is the supervisor of the
 15 housing unit. That's probably why you spoke with
 16 her.

17 I understand you spoke with Barbara Malone.
 18 She was the deputy director, she no longer is. And
 19 Paula is the executive assistant for our Director,
 20 Tony Kirkland.

21 I don't know why you were not told of when and
 22 where the Commission meeting would be held, but I
 23 will reiterate that it is not our normal policy to
 24 inform complainants of that time and date. If it
 25 is requested, again, I don't know why it wasn't.

1 Sometimes we don't have forums.

2 MS. RAY: Okay.

3 MR. BREWSTER: So, you know, we might not have
4 the meeting.

5 MS. RAY: Right. You might not have it that
6 month, right.

7 MR. BREWSTER: It might get changed. I don't
8 know why you weren't told the specific date and
9 place of the hearing.

10 MS. RAY: I've even spoken with Cynthia Hayes,
11 Barbara Malone. I mean, this just goes to show how
12 many people that I've called to just get this
13 information.

14 MR. BREWSTER: Right. But in regard to your
15 previous question, or your other question about
16 whether or not it is okay to ask the race on an
17 application for rental, yes, it is. That is not in
18 violation of the Civil Rights Law.

19 MS. RAY: You can ask someone's race? I
20 thought it was against the law. I thought you guys
21 had commercials on TV that even say you cannot ask.

22 MR. BREWSTER: It's not against the law to
23 ask. It would be against the law for them to deny
24 you rental because of your race, but it's not
25 against the law to ask. In fact, it's required by

1 some federal laws to keep information such as that.

2 MS. RAY: So if there is a form that's saying
3 it's optional, and I check optional, and when I
4 take the application back I'm told I can't turn it
5 in because I didn't check my race, then they don't
6 process it, that's what happened here.

7 MR. BREWSTER: I don't know. I can't get into
8 your case. We're not here to re-hear the facts of
9 your case. All I can say is I apologize that you
10 didn't have an opportunity to be here in person to
11 appeal your case. But do know that one of these
12 commissioners, or maybe one of the other four that
13 aren't here, did take this case and review it and
14 determined that they would uphold the finding of
15 the Agency.

16 That's all I can say about your case in
17 particular.

18 MS. RAY: Okay. So what can we get into
19 today? What type of questions can I ask you, then?

20 MR. BREWSTER: What question? Go ahead. What
21 question do you have, and I'll tell you if I can
22 answer it.

23 MS. RAY: What is the normal procedure for,
24 you know, filing an application, because they sent
25 it off to -- the assistant manager is the main

1 person that dealt with it. And then it got sent to
2 the leasing agent for approval, which to me is
3 backwards.

4 MR. BREWSTER: Well, let me put it this way,
5 Ms. Ray, if you have questions about these general
6 procedures of processing applications, it would
7 probably be better that we discuss that after this
8 meeting.

9 MS. RAY: Okay.

10 MR. BREWSTER: I would welcome you to come
11 back to my office, and we can discuss that. The
12 purpose here is for you to address the Commission
13 with any questions you have about the appeal.

14 MS. RAY: Okay. Well, who did the final
15 investigation report? Who came up with that?

16 MR. BREWSTER: It would have been your
17 investigator.

18 MS. RAY: Melissa?

19 MR. BREWSTER: I assume that's who was the
20 investigator, I'm not sure. Yes, it was signed
21 Melissa Dearing. So I assume she did that.

22 MS. RAY: Is there a certain criteria that you
23 guys follow? Do you just get the paperwork and
24 file --

25 MR. BREWSTER: Ms. Ray, if you want to discuss

1 that, we can discuss that after.

2 MS. RAY: Sure.

3 MR. BREWSTER: We have the commissioners here,
4 and their time is limited today.

5 MS. RAY: Okay.

6 MR. BREWSTER: So if you have any questions
7 for the commissioners, then go ahead and ask them.

8 MS. RAY: Sure, we'll take it out. Nope,
9 that's it. I'll talk to you in private.

10 MR. BREWSTER: Okay.

11 COMM. CARTER: Thank you for coming in. I'm
12 glad you made it to one of our meetings.

13 MS. RAY: Thank you for inviting me.

14 COMM. CARTER: There is nothing listed under
15 new business. And we can't vote on consent
16 agreements, nor can we vote on findings of fact,
17 etc., nor the complainant appeals.

18 Can we assign -- no, we can't even assign
19 appeals.

20 MR. LANGE: Yeah, I think you can. It's
21 something the chair does. It's not only the
22 Commission that signs.

23 COMM. CARTER: Okay.

24 MR. LANGE: You in her stead will sign.

25 COMM. CARTER: Well, I don't, since there are

1 so few of us, I don't think it's fair to us to try
2 to take the whole slate. I already have two
3 assigned to me, Watkins v. Ivy Tech and Rafia, M.D.
4 v. IUPUI Police. And I will take those.

5 Commissioner Baynard, if you would take Wade
6 v. Griswold Estates Management, that's all one
7 thing.

8 And Commissioner Crenshaw, Gonzales v. CVS
9 Pharmacy. Well, also, I guess Millman v. Indiana
10 Horse Racing.

11 Commissioner Gidney -- I think we can, might
12 be able to do the whole slate. Commissioner
13 Gidney, if you would take the one that's assigned
14 to you here, Lee v. Tool Dynamics, plus Garcia
15 Boggs v. Sherie Proctor, David Fisher, DSI
16 Properties and Williams v. Belgarde Property
17 Services, Inc.

18 And I will take in addition to the ones I've
19 said, Jefferson, Blackburn, Gordon v. Your Friends
20 and Neighbors, and Palma v. Kesler Schaefer Auto
21 Auction, and hope I can carry all those. Which
22 brings us to the administrative update.

23 MR. KIRKLAND: Okay. Commissioners, we've
24 been real busy here over the last couple of weeks
25 making some definite changes.

1 One, let me give you some reorg changes.
2 Currently right now, Joshua Brewster will serve as
3 the new deputy director for our department.

4 I also have here with us a new ADR person,
5 Ms. Ruby Bowman. Ruby comes from state personnel,
6 so she's going to be on the team.

7 We also have in the audience with us our
8 interns. If you would stand, please. David Hall,
9 Dianna, Kelly and Jacob. And we do have one more,
10 Ashley, who's not here with us today. So that's
11 some of the things that we're doing.

12 Of course, we attended, some of the staff did
13 attend the Human Relations statewide conference in
14 Evansville. I attended, along with another staff
15 member, Marco Deckard, went to Baltimore to keep a
16 contract where we signed contracts that were
17 related to our EEOC contract. And I leave Sunday
18 for the required EEOC Excel Conference, which is
19 going to be held in New Orleans.

20 So with that on the agenda, we have our plate
21 full. We still are generating cases. The
22 mediation department is -- I think if you all don't
23 have, you should have a copy of the report. I
24 didn't review, but I think that you will see some
25 of the progression that we are making.

1 Next month you will have an operation report,
2 which I'll be submitting, will kindly give all the
3 commissioners a brief update of things we've done,
4 things that we're looking forward to doing to
5 complete the rest of the year.

6 COMM. CARTER: Is that it? Okay. Thank you.
7 And are there any other announcements besides the
8 next dates, August 28, September 25 and
9 October 23rd? Does anyone else have anything?

10 I'll just mention that on, I believe it's next
11 Tuesday in Bloomington, we're going to have one of
12 two trainings. The first one is for inspectors,
13 state inspectors, building inspectors and other
14 people involved in code enforcement for
15 accessibility. And then the one -- there's one in
16 August, in mid-August, for people in the building
17 trades and real estate having to do with
18 accessibility and instruction and that.

19 And they are going to be given by the Great
20 Lakes DBTAC, what is it, Disability Business
21 Training something.

22 MR. LANGE: Something Council.

23 COMM. CARTER: They're federally funded to
24 know about the ADA. And Robin Jones is the
25 executive director there, and she's very good. She

1 knows -- if anyone knows everything about the ADA,
2 she's the one. So that ought to be useful.

3 We learned years ago that a problem with
4 getting a new business, say, that opens in a
5 community inspected as to whether they're
6 accessible or not, is that the building inspectors
7 are employees of the local government. They're
8 supposed to enforce the Building Code, the Indiana
9 Build Code, but they are not agents of the Building
10 Commission. And, consequently, there's a wild
11 degree of training or lack of training from one
12 inspector to the next.

13 And so we thought this would be kind of a
14 proactive way of rather than going in and
15 penalizing the business owner after the fact, get
16 the people who are supposed to be doing it to do
17 their job properly.

18 Anyone else have a comment?

19 (No response.)

20 COMM. CARTER: If not, we can adjourn. I
21 would hear a motion to adjourn if one were made.

22 COMM. GIDNEY: So moved.

23 COMM. CARTER: Okay. That adjourns us.

24 Thereupon, the proceedings were

25 concluded at 11:54 a.m.)

1 STATE OF INDIANA)
2) SS:
3 COUNTY OF HENDRICKS)

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I, Dana S. Miller, RPR, CRR, a Notary Public in and for the County of Hendricks, State of Indiana, do hereby certify that the foregoing transcript is a true, full and accurate record of the aforementioned proceedings.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my notarial seal this 8th day of August, 2009.

Dana S. Miller
Dana S. Miller, RPR, CRR
Notary Public

County of Residence: Hendricks
My Commission Expires: January 17, 2016