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## VERMONT HUMAN RIGHTS COMMISSION

### MINUTES

**June 25, 2020**

PRESENT: Commissioners: Kevin Christie, Chair, Nathan Besio, Donald Vickers, Joan Nagy, Dawn Ellis (after 1:30pm). Alternate Commissioner: Charles Kletecka. Staff: Bor Yang, Executive Director; Nelson Campbell, Supervising Attorney; Melissa Horwitz and Cassandra Burdyslaw, Staff Attorney/Investigators; John McKelvie, Executive Staff Assistant (minutes).

Commissioner Christie called the meeting to order at 9:09am.

#### **EXECUTIVE SESSION:**

Commissioner Nagy made a motion to go into executive session to hear confidential cases at 9:10am. The motion was seconded by Commissioner Vickers. Vote 5-0.

Commissioner Christie brought the VHRC out of executive session at 12:47pm.

HRC Case No: PA18-0026

Commissioner Vickers moved to accept the recommendation of no reasonable grounds that discrimination occurred. The motion was seconded by Commissioner Nagy. Vote 4-1 (Commissioner Besio opposed).

HRC Case No: E17-0007

Commissioner Nagy moved to accept the recommendation of reasonable grounds that discrimination occurred on the basis of race, color, or national origin. The motion was seconded by Commissioner Besio. Vote 5-0.

Commissioner Besio moved to accept the second recommendation of no reasonable grounds. The motion was seconded by Commissioner Nagy. Vote 5-0.

#### **BUSINESS MEETING**

MINUTES: Commissioner Nagy moved to accept the minutes of the May 28, 2020 meeting as written. The motion was seconded by Commissioner Vickers. Vote 5-0.

PRE-DETERMINATION CONCILIATION AGREEMENTS (by staff)

HRC Case No. PA19-0007

## EXECUTIVE DIRECTOR REPORT:

### **UPDATES & ACTIVITIES**

#### COVID-19 Response:

Executive Director Yang described how in light of recent events across the country, the HRC has shifted gears to re-focus on social equity issues. The Townhalls that were previously planned around COVID-19 have stalled until further notice so that the HRC can decide how to distribute limited staff resources. The month of July, during which the Legislative will be on break, will be an opportunity to strategize next steps.

#### The Budget:

ED Yang noted that the state of the HRC budget is as previously reported in the May 2020 Commission meeting. As she explained in that meeting, HUD received \$1.5 million dollars from the CARES Act to distribute to enforcement organizations such as the HRC. The HRC submitted its proposal to incentivize Vermonters to attend HRC trainings on fair housing and implicit bias and this proposal was denied by HUD.

HRC staff are currently considering whether to develop another proposal for submission to HUD, such as a collaboration with AALV to create informational video and audio content for New Americans related to COVID-19 and housing discrimination.

Commissioner Besio supported the idea of collaborating with AALV and noted that language barriers have likely contributed to the wider spread of COVID-19 in the state and that the HRC should try to provide or facilitate as much education in this area as possible.

Commissioners engaged in a broader discussion about educational resources for New American and immigrant communities related to preventing or mitigating the spread of COVID-19.

Commissioner Ellis advocated the development of leadership within the communities themselves and enabling community groups and members both to distribute knowledge and information, and to inform the HRC of where additional resources are needed. By lifting up and empowering the voices of youth and family leaders, she noted that it may encourage their involvement in other areas of social justice and community development.

Commissioner Ellis, Director of Policy Garcés, and others discussed the necessity for individuals who participate in this and other efforts – such as the Multilingual Coronavirus Task Force – to be compensated for their time so that participation is not restricted by those individuals' personal finances, childcare, etc.

#### Outreach & Training:

ED Yang described how outreach and training events continue through remote meetings:

- Fair housing trainings continue on the second Mondays of the month and are hosted by Staff Attorney Melissa Horwitz.

- ED Yang conducted a virtual Deep Dive Implicit Bias training for the Vermont Bar Association on June 24, 2020 from 3-5 p.m.
- ED Yang was invited to the Town of Johnson's weekly emergency meeting on Friday, June 12, 2020, to assist members in processing the events across the country, specifically the murder of George Floyd. At the request of Commissioner Ellis, ED Yang described in more detail how the event came about, and the types of conversations and questions that were addressed during the discussion.
- ED Yang was invited to be a panelist on a Racial Justice Townhall, hosted by Senator Debbie Ingram on Friday, June 19, 2020 at 4:30 p.m.
- Staff Attorney Melissa Horwitz is partnering with the Champlain Valley Office of Economic Opportunity (CVOEO) on a data collection project specific to fair housing.

#### Taskforces and Committees:

To advance the mission of the HRC, staff also serve on various taskforces and committees; some of which have been more active than others during the pandemic.

- Hazing, Harassment, Bullying Advisory Panel – Horwitz  
Investigator Horwitz described recent activity by the Advisory Panel and how the panel is attempting to review and refocus its aim in coming months.
- Ethnic and Social Standards Advisory Working Group – Garcés (Chair)  
The Act 1 Working Group has submitted the work plan to the legislature. Director of Policy Garcés described how the work will now move forward in sub-committees that will reconvene in early July.
- Governor's Workforce Equity and Diversity Council – Yang  
ED Yang attended the annual retreat for the Governor's Workforce Equity and Diversity Council on May 12, 2020. The second half of the retreat is soon to be re-scheduled. The Council continues to discuss future projects.
- Fair and Impartial Policing – Yang  
ED Yang continues to work with state and community partners including law enforcement, to improve the Fair and Impartial Policing Policy and the associated trainings. Meetings are every Friday or every other Friday.
- Vermont Multilingual Communication Task Force – Garcés  
Policy Director Amanda Garcés has joined the Vermont Multilingual task force which is comprised of a range of partners. The taskforce meets twice a week to talk about issues and ideas to support communities. All COVID-19 information is translated into videos and audio in ten languages and distributed to communities on the ground. Some taskforce

members are considering a legislative push for a state law that will mandate translation of documents for emergencies such as this pandemic. All videos can be found here on the Task Force's YouTube page.

- Immigrant Relief Fund Coalition – Garcés

The Coalition's work has been focused on getting relief for communities left out of the federal stimulus package. The Coalition is working closely with Legislators on a possible bill.

- Farmworker Health & Service Providers – Garcés

This taskforce continues to work towards health access for farm workers and refugees.

- Refugee and Immigrant Service Providers Network – Yang and Garcés

- Thriving Communities Steering Committee – Horwitz and Garcés

- Affordable Housing Coalition – Horwitz

- Montpelier-Roxbury School District, Equity Committee – Garcés

## **POST-CASE UPDATES**

### Francois v. Department of Mental Health (DMH)

Commission Meeting Determination: January 25, 2018

Settlement Agreement Date: July 17, 2018

*Latest:* The status remains unchanged since the last commission meeting. DMH rolled out a new training program in March that would have satisfied the terms of the agreement. However, the last scheduled training was cancelled due to COVID-19.

### Hay v. University of Vermont Medical Center

Commission Meeting Determination: May 25, 2017

Settlement Agreement Date: December 7, 2017

*Latest:* The status remains unchanged since the last commission meeting. UVMC requested an extension to provide their report which was due in February. The HRC and DOJ granted that extension.

### McGurl v. Agency of Transportation

Commission Meeting Determination: January 24, 2019

Settlement Agreement Date: May 17, 2019

*Latest:* The status remains unchanged since the last Commission meeting. ED Yang met with DHR General Counsel to discuss a Memorandum of Understanding around the sharing of data and information pertaining to discrimination claims at DHR and the Hire-Into-Range policy. DHR is reviewing the recommended changes and MOU submitted by ED Yang.

### Larivee v. Anderson

Commission Meeting Determination: April 23, 2020

*Latest:* This matter is in negotiations.

### Bradford v. Travelodge

Commission Meeting Determination: April 23, 2020

*Latest:* The matter is in negotiations.

## **LITIGATION**

### Congress v. Department of Corrections (DOC) & Centurion

Commission Meeting Determination: April 18, 2019

Statute of Limitations Expires: December 31, 2019

Settlement Agreement Date: TBD

*Latest:* ED Yang filed a lawsuit in Washington Superior Court before March 31, 2020. Centurion filed an Answer. The State requested a 60-day extension to file their Answer and waived their right to file any preliminary motions to dismiss. The HRC granted the request. Disability Rights Vermont filed a motion to join the lawsuit and the HRC consented.

## **LEGISLATIVE REPORT**

The 2020 Legislative session comes to an end on June 26, 2020. There may be a special session called for August and September.

ED Yang and Director of Policy Garcés described their recent efforts on the following bills, all of which are currently in the House:

- S.119 - An act relating to a statewide use of deadly force policy for law enforcement
- S.219 - An act relating to addressing racial bias and excessive use of force by law enforcement
- S.124 - An act relating to miscellaneous law enforcement amendments

Staff and Commissioners discussed the importance of making progress while legislative and public momentum are in support of these bills, rather than waiting until the beginning of the next session to pass these or similar measures.

ED Yang discussed the possibility of a working group coming together over the summer to define pieces of legislation that could be rapidly adopted in August or early September, while also determining what bills could be introduced later in the session. Such a working group would consist primarily of community members rather than legislators.

Director of Policy Garcés emphasized that a broader range of individuals need to be encouraged to testify on issues related to racial equity, rather than relying on the same small group of voices. She also noted that the divergent messages of racial equity advocates might be more effective if there were better coordination between them, which stands in comparison to the more unified messages presented by voices in law enforcement.

Commissioner Ellis suggested that seeking input from and collecting data on individuals who support racial equity work could also give those individuals the opportunity to get more involved and potentially sign up to testify before the Legislature.

Both Commissioner Ellis and Director of Policy Garcés circled back to the importance of compensating individuals who invest their time and energy into these efforts, and mentioned the necessity of protecting people who choose to testify or contribute to working groups in such a heated and potentially dangerous social environment.

#### **EXECUTIVE SESSION:**

Commissioner Nagy made a motion to go into executive session at 3:05pm to discuss a confidential legal matter where premature general public knowledge would clearly place the HRC or a person involved at a substantial disadvantage. The motion was seconded by Commissioner Ellis. Vote 5-0. Commissioner Ellis recused herself from participating in the legal discussion.

Commissioner Christie brought the VHRC out of executive session at 3:33pm.

#### **NEXT MEETING August 27, 2020.**

The meeting was adjourned at 3:33pm.

Dated at Brookfield, Vermont this 25<sup>th</sup> day of June 2020.

Respectfully submitted:

/s/Bor Yang

Bor Yang

Executive Director