



**Human Rights Commission**  
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## VERMONT HUMAN RIGHTS COMMISSION

### MINUTES

**March 24, 2022**

PRESENT: Commissioners: Kevin Christie, Chair, Nathan Besio, Donald Vickers, Dawn Ellis, and Joan Nagy. Staff: Bor Yang, Executive Director; Cassandra Burdyshaw and Abigail Hartman, Staff Attorneys; Amanda Garcés, Director of Policy, Education, and Outreach; John McKelvie, Executive Staff Assistant (minutes).

Commissioner Christie called the meeting to order at 9:18 a.m.

### **BUSINESS MEETING**

MINUTES Commissioner Vickers moved to accept the minutes of the January 27, 2022 meeting as written. The motion was seconded by Commissioner Nagy. Vote 5-0.

### EXECUTIVE DIRECTOR'S REPORT

Executive Director Yang provided her report to Commissioners, which included updates on the following topics:

#### COVID-19 & MISCELLANEOUS

Pursuant to the Governor's latest press conference, the universal mask mandate in Vermont has been lifted. Staff continue to work in the office under the remote work plan. At least two or three staff members are in the physical office in Montpelier, Monday through Friday.

Buildings and General Services (BGS) plans to repaint the building and replace the roof of 12 Baldwin in late Spring or Summer. BGS recommends HRC staff plan to work remotely during this time because of noise.

ED Yang reminded staff and commissioners that they are scheduled to revisit their respective remote work plans in May 2022.

Newly-appointed HRC Commissioner Bruce Wilson has yet to be appointed by the Senate but ED Yang spoke with the Governor's Office to ensure that the confirmation is scheduled promptly.

#### BUDGET

ED Yang testified in the House Committee on Appropriations. As last reported, the HRC was operating over-budget due to an increase in retirement rates, changes in benefits, and failure by the State to account for the 27<sup>th</sup> payroll in FY2022. The HRC hopes to access its carryforward, vacancy savings, and possibly Pay Act to fill this gap.

ED Yang requested funding to hire another staff attorney investigator but the House Committee on Appropriations declined this request.

## HIRING

The HRC issued a job posting for a Staff Attorney but received a low number of applicants compared to the previous search, likely because the application window was significantly shorter and the HRC was not hiring at all staff attorney levels. ED Yang mentioned that hiring across state government has yielded similar results with small applicant pools. The HRC is extending the time-frame and will begin reviewing application materials thereafter.

Commissioner Ellis asked where the HRC advertised for the position and Executive Assistant McKelvie described those details. Commissioner Ellis suggested a wider approach, including reaching out to ‘sister-agencies,’ posting on LinkedIn, and sharing with law schools regionally and as far as the mid-Atlantic region.

Commissioners Vickers and Besio described a trend of hiring issues occurring nationwide.

Commissioner Besio asked about caseloads for current staff attorneys since the HRC is short-staffed. ED Yang explained that the HRC has not stopped processing intakes although it is exercising some discretion over which cases to accept at this time. ED Yang re-assigned some of former staff Eli Kriv’s cases to the two staff attorneys and kept a few on her desk to move conciliation forward or collect information for the file while it waits for a new attorney.

Commissioner Vickers asked about staff turnover during the previous year. ED Yang explained that Eli Kriv’s departure was due to their decision to relocate to another country as they publicly shared with Commissioners and Staff upon their departure.

Commissioners and ED Yang engaged in a brief discussion about the importance of work-life balance, and the pandemic-era trend of individuals reassessing their values and priorities.

## HUD GRANT

ED Yang explained that the HRC executed a contract with Juniper Creative Arts to design and implement a mural focused on fair housing in the City of Burlington. A community paint day is forthcoming and HRC will keep the Commissioners posted.

In addition, the HRC is expected to receive additional funds from HUD for having filed three lawsuits this year in housing cases.

Commissioner Ellis suggested engaging Juniper Creative Arts in HRC trainings to align the missions of both organizations, specifically trainings that can connect accessibility and disability inclusion with the physical work of creating murals.

ED Yang and Director of Policy, Education, and Outreach Amanda Garcés shared that they believed Juniper Creative Arts to be advanced in their understanding and appreciation of issues of diversity, equity, and inclusion and the HRC was really lucky to have Juniper Arts lead the effort. Nevertheless, they would invite all contractors to HRC trainings and conferences.

## OUTREACH & TRAINING

ED Yang continues to conduct monthly Fair Housing trainings. She described several other training and outreach events completed by herself and by Director of Policy, Education, and Outreach Amanda Garcés.

Director of Policy Garcés provided a description of the upcoming 2<sup>nd</sup> HRC Civil Rights Conference, which will focus on equity in education. She mentioned that further details about the schedule and the content of may be found on the HRC's website.

Director of Policy Garcés went on to note the unexpected passing of lifelong disability rights advocate Deborah Lisi-Baker, with whom she collaborated frequently. Chair Christie shared heartfelt condolences on behalf of Commissioners and Staff.

### **EXECUTIVE SESSION**

Commissioner Nagy made a motion to go into executive session to hear confidential cases at 9:50 a.m. The motion was seconded by Commissioner Vickers. Vote 5-0.

Commissioner Christie brought the VHRC out of executive session at 2:56 pm.

### **BUSINESS MEETING CONTINUED**

*HRC Case No: HV22-0012*

Commissioner Vickers moved to accept the recommendation of no reasonable grounds to believe discrimination occurred on the basis of disability. The motion was seconded by Commissioner Nagy. Vote 5-0.

Commissioner Vickers moved to accept the recommendation of no reasonable grounds to believe retaliation occurred. The motion was seconded by Commissioner Besio. Vote 5-0.

*HRC Case No: HV21-0001*

Commissioner Vickers moved to accept the recommendation of no reasonable grounds to believe the first-named Respondent in the complaint, discriminated against Complainant on the basis of disability. The motion was seconded by Commissioner Besio. Vote 4-1. (Commissioners Christie, Besio, Vickers, and Nagy in favor, Commissioner Ellis opposed)

Commissioner Vickers moved to accept the recommendation of no reasonable grounds to believe the first-named Respondent in the complaint, discriminated against Complainant on the basis of race or skin color. The motion was seconded by Commissioner Nagy. Vote 4-0. (Commissioners Christie, Besio, Vickers, and Nagy in favor, Commissioner Ellis abstained)

Commissioner Vickers moved to accept the recommendation of no reasonable grounds to believe the second-named Respondent in the complaint, discriminated against the Complainant on the basis of disability. The motion was seconded by Commissioner Nagy. Vote 4-1. (Commissioners Christie, Besio, Vickers, and Nagy in favor, Commissioner Ellis opposed)

Commissioner Vickers moved to accept the recommendation of no reasonable grounds to believe the second-named Respondent in the complaint discriminated against Complainant, on the basis of race or skin-color. The motion was seconded by Commissioner Nagy. Vote 4-0. (Commissioners Christie, Besio, Vickers, and Nagy in favor, Commissioner Ellis abstained).

Commissioner Vickers suggested that Commissioner Ellis provide a brief explanation, on the record, as to why she abstained in part since she was present for the hearing and deliberation of the entire case. ED Yang concurred and added that an explanation on the record would be helpful to the parties and further the HRC's interest in furthering transparency and public accountability. Commissioner Ellis stated that she would consider the recommendation but declined to provide a basis for abstaining.

*HRC Case No: E21-0007*

Commissioner Besio moved to accept the recommendation of no reasonable grounds to believe discrimination on the basis of race, color, or age occurred. The motion was seconded by Commissioner Nagy.

Commissioner Ellis asked if it was possible to make separate motions on the basis of each protected category. As such, Commissioner Vickers made a motion to amend the motion on the floor so that it only included race. The motion to amend was seconded by Commissioner Nagy. Vote on motion to amend (5-0). Vote on the amended motion to accept the recommendation of no reasonable grounds to believe discrimination on the basis of race occurred. Vote 5-0.

Commissioner Vickers moved to accept the recommendation of no reasonable grounds to believe discrimination on the basis of skin color occurred. The motion was seconded by Commissioner Besio. Vote 4-1. (Commissioners Christie, Besio, Vickers, and Nagy in favor, Commissioner Ellis opposed)

Commissioner Vickers moved to accept the recommendation of no reasonable grounds to believe discrimination on the basis of age occurred. The motion was seconded by Commissioner Nagy. Vote 4-1. (Commissioners Christie, Besio, Vickers, and Nagy in favor, Commissioner Ellis opposed)

#### PRE- AND POST- DETERMINATION CONCILIATION AGREEMENT:

Staff sought and received permission from Commissioners to approve conciliation or settlement agreements in the following cases:

HRC Case No: HV22-0003

HRC Case No: E22-0001

HRC Case No: PA20-0017

#### TASKFORCES & COMMITTEES

Director of Policy Garcés gave a brief overview of her recent work with the Act 1 Ethnic and Social Standards Advisory Working Group, and with the Criminal Justice Council's Fair and Impartial Policing Committee.

#### POLICY

Director of Policy Garcés and ED Yang updated Commissioners on the latest news from the legislative session, particularly with the following cases:

- H.320, an act relating to prohibiting agreements that prevent an employee from working for the employer following the settlement of a discrimination claim.
- H.329, an act relating to amending the prohibitions against discrimination.
- H.96, an act relating to creating the Truth and Reconciliation Commission Development Taskforce

#### POST-CASE UPDATES

Due to time constraints, ED Yang deferred to her report for an update on post-determination cases in the monitoring stage. The other matters were to be discussed in executive session.

## **EXECUTIVE SESSION**

Commissioner Vickers made a motion at 3:47 p.m. to go into executive session to discuss pending civil litigation, to which the public body is or may be a party, pursuant to 1 V.S.A. §313(a)(1)(E). The motion was seconded by Commissioner Nagy. Vote 5-0.

Commissioner Ellis recused herself from the discussion in Executive Session.

Commissioner Christie brought the VHRC out of executive session at 4:31 p.m.

## **NEXT MEETING April 28, 2022.**

The meeting was adjourned at 4:32 p.m.

Dated at Montpelier, Vermont this 24th day of March, 2022.

Respectfully submitted:

*/s/ Bor Yang*

Bor Yang

Executive Director