

MICHIGAN CIVIL RIGHTS COMMISSION MEETING

Monday, March 25, 2019 - 1:00 P.M.

Lorenzo Cultural Center, Building K, Room K-130
Macomb County Community College, 44575 Garfield
Clinton Township, MI 48039

MINUTES

PRESENT: Commission Chair Alma Wheeler Smith
Commission Vice Chair Stacie Clayton
Commission Secretary Laura Reyes Kopack
Commissioner Ira Combs, Jr.
Commissioner Rasha Demashkieh
Commissioner Denise Yee Grim
NEW COMMISSIONER Regina Gasco-Bentley

EXCUSED: Commissioner Jeffrey Sakwa

CALL TO ORDER / ROLL CALL

The meeting was Called to Order at 1:09 p.m. by Chair Alma Wheeler Smith. Roll call of the Commissioners was taken to determine a quorum. Commission Chair Smith, Commissioner Clayton, Commissioner Kopack, Commissioner Grim, Commissioner Combs, Commissioner Demashkieh, Commissioner Gasco-Bentley. With seven of eight commissioners present, quorum requirements were met.

INVESTITURE OF NEW COMMISSIONER

Regina Gasco-Bentley took the Oath of Office, sworn-in by Chair Alma Wheeler Smith.

APPROVAL OF MEETING AGENDA

MOTION: Move to Approve the Meeting Agenda. Following discussion, the Motion was brought forth: **On Motion duly made (Commissioner Demashkieh) and supported (Commissioner Combs), the Agenda was Approved.** *Motion carried unanimously.*

ADOPTION OF CONSENT AGENDA

MOTION: To Amend Consent Agenda by removing Approval of Minutes, Executive Director Report, Enforcement Report, Hearing and Policy Report and Legal Affairs Report from Consent Agenda. Following discussion, the Motion was brought forth: **On Motion duly made (Commissioner Demashkieh) and supported (Commissioner Kopack), the above reports were removed from the Consent Agenda.** *Motion carried unanimously.*

APPROVAL OF MINUTES FROM FEBRUARY 1, 2019 MEETING

MOTION: To Amend the Meeting Minutes by correctly listing the ethnic commission names on page 5 to reflect the Hispanic Latino Commission of Michigan, Asian Pacific American Affairs Commission and Commission on Middle Eastern American Affairs. Following discussion, the following Motion was brought forth: **On Motion duly made (Commissioner Combs) and supported (Commissioner Clayton), the Minutes were approved.** *Motion carried unanimously.*

PUBLIC COMMENT

- Kimberly Grech brought concerns regarding the non-existence of a disability concern commission.
- Attorney Diana Marin brought concerns regarding minimum wage, sick time laws for migrant farmworkers.
- Attorney Anna Hill brought concerns regarding migrant farmworkers ability to obtain state identification cards so they can access essential public services.
- Attorney Kara Moberg brought concerns regarding migrant farmworkers in Michigan.
- Susan Pugh brought concerns regarding inequities in special education.
- Audra Fuentes brought concerns regarding migrant farmworker's lack of access to state identification cards.
- Lesly Morales shared their support for protections against discrimination of gender identity and sexual orientation.

Public comment closed at 1:43 p.m.

DIVISION REPORTS

Executive Director Agustin Arbulu provided status updates on the Department's activity.

Lori Vinson, Director of Civil Rights Operations, Dan Levy, Director of Law and Policy, and Sylvia Elliott, Managing Attorney of the Office of Legal Affairs also provided updates on their Division's activities.

COMMISSION MATTERS

- **ATTORNEY GENERAL REPORT**
This agenda item was waived.
- **CHAIR REPORT**
Commission Chair Smith discussed the next Education Hearing and asked about possible dates and locations. Director Arbulu suggested one more hearing from the perspective of People of Color or Special Needs students. Suggested dates were May 18, June 8 or June 15 in Wayne County. Next steps regarding a comprehensive report were discussed; Chair Smith indicated that sufficient testimony and materials have been received to begin a report, and if a gap is discovered with Communities of Color, the Commission can revisit the idea of a future hearing.

The matter regarding an additional Education hearing is tabled.

ONGOING BUSINESS

Chair Smith stated the Commission received the Migrant and Seasonal Farm Worker (MSFW) Progress Report. Director Arbulu indicated that the Department has worked closely with the Interagency Migrant Service Committee (IMSC) and their subcommittees which generates this report annually. He indicated that Mariza Gamez-Garcia serves as the Department's MSFW Liaison and is tasked with attending all IMSC meetings. Director Arbulu introduced Dale Freeman, Chair of the IMSC to provide an update and request support for items relating to the living conditions and the status of MSFWs in Michigan. Mr. Freeman also serves as Director of Migrant Affairs with the Michigan Department of Health and Human Services and Chair of the IMSC. He indicated that not having state ID's available for MSFWs leaves them vulnerable to labor exploitation and trafficking because they are forced to rely on others to get to their jobs. He emphasized that the Agriculture

industry is the second largest economic sector in the State and it relies on MSFWs. Mr. Freeman shared statistics regarding language barriers between MSFWs and state agencies, lack of bilingual staff at state agencies, and the importance of communicating critical press releases in other languages. He also discussed MSFW housing and the discriminatory and overly restrictive ordinances on agricultural housing, and that single-gender housing is discriminatory under the Elliot Larsen Civil Rights Act. Mr. Freeman indicated that an updated enumeration study is needed to eliminate the speculation and conjecture regarding the current MSFW population, and further stated it would be an invaluable resource for allocation to state agencies as well as research, grant writing and other business purposes. It would improve access to health care benefits as well as additional services to farmworkers. The IMSC's Data Task Force has been laying the groundwork for this new study with an estimated cost of \$200,000. Mr. Freeman asked for MCRC to reaffirm support for the 2010 MSFW Report and the 15 recommendations, including fair housing and wages for all farmworkers, support for fair housing that does not discriminate against domestic workers and their families, and support of the issuance of an updated enumeration study.

MOTION: To reaffirm support for the 2010 Farmworker Report and the 15 recommendations. Following discussion, the following Motion was brought forth: **On Motion duly made (Commissioner Combs) and supported (Commissioner Grim) that the Commission receives the March 2019 progress report on the 15 Recommendations submitted by the Interagency Migrant Services Committee (IMSC) and related to the Department's 2010 Report to the Commission on Conditions of MSFWs in Michigan; that the Commission acknowledges some significant progress in the areas identified in the update addressing the 15 Recommendations; that the Commission acknowledges that farmworkers continue to face challenges and therefore, reaffirms support for continued work by the IMSC and updates to the 15 Recommendations outlined in the March 2019 progress report, including achieving both fair housing and wages for all farmworkers; and that the Department continue providing support and resources to the IMSC and continue taking such other appropriate action to achieve effective and efficient program alignment to meet and address the updates addressed in the March 2019 progress report.** *Motion carried unanimously.*

MOTION: To reaffirm support for migrant fair housing. Following discussion, the following Motion was brought forth: **On Motion duly made (Commissioner Combs) and supported (Commissioner Demashkieh) that the Civil Rights Commission reaffirm its commitment to assure that housing policy and practices in this state do not discriminate against domestic MSFWs and their families; that the Commission and Department, possibly jointly with other departments or agencies and particularly the Department of Agriculture and Rural Development (MDARD), notify municipalities that we take a firm stance against aggressive zoning policies or restrictive ordinances (such as single adult or single gendered housing) that discriminate based on familial status, age or other provisions under the ELCRA; that the Commission and Department, if possibly jointly with the MDARD, legal service agencies and other interested parties collaborate to overcome such existing policies and practices; and finally, that the Department, and where possible with others, undertake a campaign to put on notice municipalities, builders and growers interested in construction of migrant labor housing of potential discriminatory practices based on aggressive zoning policies or restrictive ordinances that results in construction of single-gendered housing at the expense of family housing.** *Motion carried unanimously.*

MOTION: To reaffirm support for an updated Enumeration Profiles Study. Following discussion, the following Motion was brought forth: **On Motion duly made (Commissioner Kopack) and supported (Commissioner Clayton) that the Michigan Civil Rights**

Commission views it essential that the MSFW Enumeration Profiles Study (“Enumeration Study”) be updated in order to inform both resource allocation by state agencies and research, grant writing, and business purposes by non-profit organizations, academia and the agricultural community; that the Commission directs the Department of Civil Rights to take all necessary steps to support that the Interagency Migrant Services Committee (IMSC) undertake the updating of the Enumeration Study as part of its 2019-2020 responsibilities; that the Department set aside at least \$75,000 to demonstrate our commitment to this study update and to continue updating at least every other year through 2030; and, that the Department encourage other departments, agencies and foundations engaged with the IMSC to make a match or provide funding proportionate with their budgets to update the Enumeration Study. *Motion carried unanimously.*

Tom Thornburg, a leading farmworker legal expert, discussed three requests of the Commission on different issues. He first indicated that the Commission should start thinking about panning resources for investigating and issuing a new decennial report for 2020, as this Commission was instrumental in assisting with the 2010 report. Request 1: To consider scheduling a hearing on the issue of conditions of farmworkers in Michigan in an area of the state where farmworkers and their service providers could participate, preferably on the West side of the State. He volunteered to consult with the Department on logistics. Request 2: To move the State Monitor Advocate from the Talent Investment Agency (TIA) to MDCR. He said housing it in TIA is an inherent conflict of interest. Request 3: For the Commission to make a request to the AG to reconsider AG Opinion 7301 regarding the minimum wage issue with farmworkers. Mr. Thornburg provided written information to the Commission and highlighted two points: 1) The AG opinion in question concluded and acknowledged that its construction of the law had the effect of leaving some employees without the right to a minimum hourly wage under either the State or Federal Minimum Wage Labor Act. 2) The federal act contains loopholes and does not cover Agriculture, whereas State law does cover Agriculture, and was meant to be a stop gap.

MOTION: Request for AG to Reconsider AG Opinion 7301. Following discussion, the following Motion was brought forth: **On Motion duly made (Commissioner Demashkieh) and supported (Commissioner Combs), the Commission requests Attorney General Dana Nessel to reconsider AG Opinion 7301 and that we authorize Chair Smith, Vice-Chair Clayton, Commissioner Kopack and possibly one other commissioner to work with Director Arbulu, the Department’s legal/policy staff, the Assistant AG assigned to the Department, and Tom Thornburg to prepare a reflecting “The Solution” as developed in the issue documents included in the Commission’s background information for the 3/25/19 meeting and related documents submitted for consideration by the Commission, and send the completed letter to the AG on behalf of the Commission no later than April 12, 2019. *Motion carried unanimously.***

MOTION: Request for Governor Whitmer to transfer the State Monitor Advocate from TIA to MDCR. Following discussion, the following Motion was brought forth: **On Motion duly made (Commissioner Demashkieh) and supported (Commissioner Kopack) that Governor Gretchen Whitmer transfer the functions and duties of the State Monitor Advocate (SMA) from the Talent Investment Agency (TIA) to the Department of Civil Rights (MDCR). The Commission authorizes Chair Smith to work with the director, the department’s legal/policy staff, and Tom Thornburg to prepare a letter to the Governor as developed in the information and documents provided to the Commission pertaining to the SMA functions and duties in preparation for the Commission’s March 25, 2019 meeting, along with related documents submitted for consideration to the Commission. The completed letter should be sent to the**

Governor on behalf of the Commission no later than April 12, 2019. *Motion carried unanimously.*

NEW BUSINESS

Discussion (raised by Chair Smith and Commissioner Kopack) regarding convening a future Commission meeting near MSFW housing to visit and assess living conditions, and to possibly convene a hearing.

Discussion of two new Agenda items for the June 3, 2019 meeting: 1) Commissioner Grim indicated under Recommendation #8 in the MSFW Progress Report, there was a comment regarding challenges with House Bills 4083 and 4090– the anti-sanctuary bills aimed to prohibit local government and law enforcement for limiting communication or cooperation with ICE would have a chilling effect on MSFWs. She requested that the Department prepare a statement on behalf of the Commission, comment or letter to oppose these House bills. 2) Commissioner Combs expressed interest in Director Arbulu's thoughts on the restoration of Executive Order 2009-40.

ADJOURNMENT

On Motion duly made and supported, the meeting of the Michigan Civil Rights Commission adjourned at 3:36 p.m. *Motion carried unanimously.*

The next meeting is scheduled for June 3, 2019.