

# Memorandum



**Date:** April 6, 2010

Agenda Item No. 1(F)7

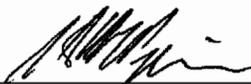
**To:** Honorable Chairman Dennis C. Moss and  
Members, Board of County Commissioners

**From:** George M. Burgess  
County Manager

**Subject:** Sunset Review of County Boards for 2010 – Commission on Human Rights Advisory  
Board

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In accordance with the provisions of Section 2-11.40 of the Code of Miami-Dade County, I am transmitting the 2010 Sunset Review of County Boards Report for the Commission on Human Rights. The Board approved the attached report at its meeting on December 21, 2009 and has recommended the continuation of its board.

  
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Irene Taylor-Wooten  
Special Assistant, Social Services

cno07610

# Memorandum



**Date:** December 23, 2009  
**To:** George M. Burgess, County Manager  
**From:** Erigene Belony  
Chairperson, Commission on Human Rights  
**Subject:** Sunset Review of County Boards for 2010 - Commission on Human Rights

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Pursuant to Section 2-11.40 of the Code of Miami-Dade County, I am submitting the 2010 Sunset Review of County Boards Report for the Commission on Human Rights for transmittal to the Board of County Commissioners (BCC). The Board approved the attached report at its meeting of December 21, 2009.

## **BACKGROUND**

The Commission on Human Rights was originally established as the Fair Housing Commission by Ordinance 69-25 passed June 18, 1969, later renamed Fair Housing and Employment Appeals Board. Subsequent amendments added more protections from discrimination for residents of Miami-Dade County and defined case processing and enforcement authority. In April 1990 the Fair Housing and Employment Appeals Board was reestablished as the Equal Opportunity Board (EOB). In June of 2009, the Equal Opportunity Board was reestablished as the Commission on Human Rights (CHR).

The purpose of the CHR is to enforce Miami-Dade County's anti-discrimination ordinance, also known as the Human Rights Ordinance. It is a quasi-judicial board charged with receiving, mediating, investigating and adjudicating on cases of discrimination in employment, housing, public accommodations, family leave and domestic violence leave on the basis of a person's race, color, religion, ancestry, national origin, sex, pregnancy, age, disability, marital status, familial status, sexual orientation and source of income.

## **RECOMMENDATION**

The CHR should continue to function because it provides a vital direct service to the public. Besides providing relief for victims of discrimination, the CHR works with local employers and housing providers to help create harmonious and productive work environments and equal housing opportunities.

The attached report explains in more detail the work of the staff and board members in implementing Miami-Dade County's commitment to equal opportunity in housing, employment, public accommodations and credit and financing practices for all residents in our community.

*Erigene Belony*

Erigene Belony  
Commission Chairperson

Miami-Dade County  
Commission on Human Rights  
Office of Community Advocacy



# 2010 Annual Sunset Report

*Submitted by Erigene Belony, Esq., Chairperson  
Miami-Dade County Commission on Human Rights*

## **I. General Information**

### **1. Board Reporting**

#### ***The Miami-Dade County Commission on Human Rights (CHR)***

### **2. Board members, terms of office, and number of vacancies**

The CHR is comprised of twenty-six (26) board members. Each County Commissioner appoints two members to the board.

#### **Terms of Office**

4 years.

#### **Vacancies**

The CHR currently has five (5) vacancies.

### **3. Meetings, Hearings and Attendance**

Because of its quasi-judicial and enforcement mission, the CHR does not meet as would a typical "advisory board". Section 11A-4(6) of the Human Rights Ordinance requires in part that meetings "... be held monthly or as needed to hear and dispose of the pending cases." Currently the CHR schedules public hearings on a weekly basis to hear and dispose of pending appeals. A hearing panel may consist of three (3) or more members. Five (5) or more members are required to constitute a quorum to hold a meeting for any other purpose. The commission members, who may meet in hearing panels of three or more, may uphold, modify or overturn the determination issued by the CHR director. After a finding of discrimination, the chairperson, or his or her designee, issues an adjudicative final order which may include, but is not limited to: 1) hiring, reinstatement or promotion; 2) taking affirmative action and making corrections; 3) requiring reasonable accommodations; 4) awarding costs and attorney's fees to a prevailing party; and 5) awarding any other quantifiable relief for costs to a prevailing complainant incurred as a result of an act prohibited by the Human Rights Ordinance. If no discrimination is found, a final order is issued dismissing the case. The commission's final order may be appealed by the parties in circuit court.

## Meetings/Hearings in 2008 and 2009

Scheduled hearings may be cancelled or continued for the following:

1. The respondent or charging party requests a continuance which is approved by the Chair or Vice Chair; or
2. Case settled prior to hearing; or
3. A hearing panel could not be secured.

In calendar year 2008, twenty-eight (28) appeal hearings and/or meetings were held.

For the calendar year 2009, twenty-six (26) appeal hearings and/or meetings were held.

(Refer to Attachment "A", Board Member Attendance Sheet for 2008 and 2009).

### **4. Source of Funding**

The CHR is funded by general fund and federal sources. The CHR is a designated deferral agency to the United States Equal Employment Opportunity Commission (EEOC). The EEOC contracts with the CHR to investigate employment, age and disability cases.

The following is a breakdown of the funding for Fiscal-Years 2007-2008 and 2008-2009:

<b>FY 2007-2008</b>	
General Fund	\$479,000
US EEOC (Federal)	\$ 95,900
OCED	\$ 97,000
<b>FY 2008-2009</b>	
General Fund	\$445,000
US EEOC (Federal)	\$ 95,900
OCED	\$ 97,000

### **5. Date of Board Creation**

June 17, 1968. Resolution No. R-719-68 established the Equal Employment Opportunity Board.

June 18, 1969. Ordinance No. 69-35 reestablished the Equal Employment Opportunity Board as the Fair Housing and Employment Commission.

## Amendments

- Ordinance No. 69-41, adopted June 25, 1969 amended Section 9 of Ordinance No. 69-35.
- Ordinance No. 70-22, adopted March 11, 1970, added prohibition against public accommodation discrimination;
- Ordinance No. 72-96, adopted December 19, 1972, prescribed the powers of the Fair Housing and Employment Commission and procedures for the processing of complaints, among other things;
- Ordinance No. 73-97, adopted December 4, 1973, added marital status as a protected category;
- Ordinance No. 74-59, adopted July 30, 1974 established further procedures for complaint filing and processing;
- Ordinance No. 75-46, adopted June 18, 1975 re-established the Fair Housing and Employment Commission as the Fair Housing and Employment Appeals Board, and added additional protected categories, among other things;
- Ordinance No. 76-23, adopted February 3, 1976 provided for the transition and transfer of cases from the Fair Housing and Employment Commission to the Fair Housing and Employment Appeals Board;
- Ordinance No. 76-29, adopted March 16, 1976 provided for requests for hearings;
- Ordinance No. 77-4, adopted January 18, 1977 added protection from discrimination based on affection or sexual preference;<sup>1</sup>
- Ordinance 78-29, adopted April 18, 1978 created three member hearing panels;
- Ordinance No. 80-82, adopted July 15, 1980 provided additional powers to the Fair Housing and Employment Appeals Board in housing matters;
- Ordinance No. 82-25, adopted April 6, 1982 gave agency authority to award damages, including costs and attorney's fees, and to issue and apply for injunctive relief;
- Ordinance No. 86-28, adopted April 1, 1986 allowed for bona fide discount programs based on age;
- Ordinance No. 90-32, adopted April 3, 1990 re-established the Fair Housing and Employment Appeals Board as the Equal Opportunity Board, added familial status and disability to existing protected categories, among other things;
- Ordinance 95-67, adopted April 18, 1995 repealed Chapter 11A and enacted new Chapter 11A;
- Ordinance 98-170, adopted December 1, 1998, added sexual orientation as a protected category to Articles I, II, III, and IV of Chapter 11A.
- Ordinance No. 06-179, adopted December 5, 2006 increased board membership from 13 to 26, and added the volunteer position of hearing officer, among other things.

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<sup>1</sup> This ordinance was later repealed by referendum.

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6. **Attach a copy of the ordinance creating the board. (include all subsequent amendments)**

**(Refer to Attachment B for current Chapter 11A and amendments).**

**7. *Mission Statement***

**Reduce discrimination in Miami-Dade County and promote equal treatment of all persons in the work place, in housing accommodations and in public accommodations.**

8. **Attach the Board's standard operating procedures.**

**(Refer to Attachment C for CHR Hearing Procedures)**

9. **Attach a copy of the Board's By-Laws.**

**(Refer to Attachment D for CHR By-Laws)**

**10. *Attach a copy of the Board minutes approving the 2010 Sunset Review Questionnaire, including a vote of the membership.***

**(Refer to Attachment E for Minutes of Meeting)**

**II. Evaluation Criteria**

**1. *Is the board serving the purpose for which it was created?***

Yes. The CHR is meeting its stated goals and purpose. The CHR is a quasi-judicial agency and Code Enforcement board charged with the enforcement of Miami-Dade County's Human Rights Ordinance, codified as Chapter 11A of the Miami-Dade County Code, as amended, Articles I, II, III and IV. The Human Rights Ordinance makes it unlawful to discriminate against any person in Miami-Dade County in employment, public accommodations, credit and financing practices and housing accommodations on the basis of race, color, religion, ancestry, national origin, sex, pregnancy, age, disability, marital status, familial status and sexual orientation and source of income. The CHR also enforces the Miami-Dade County Family Leave Ordinance (Article V of Chapter 11A) and the Domestic Violence Leave Ordinance (Article VIII of Chapter 11A). No municipality, with the exception of the City of Miami Beach, currently has a fair employment or fair housing ordinance.

## **Investigations Processed**

For the last nine years alone, the CHR has processed and completed 3,516 investigations of discrimination cases. Monetary benefits to discrimination victims reached a total of \$6,863,539.

### ***2. Is the board serving current community needs?***

Yes, the exercise of the CHR's regulatory authority, through the enforcement of the Human Rights Ordinance (Chapter 11A) has improved the quality of life for the protected groups, who continue to struggle with discrimination.

## **Provision of Direct Services**

Any individual can file a discrimination complaint with the CHR if the claim is based upon one or more of the protected categories under the Human Rights Ordinance. The CHR staff provides a direct service to the public through the following activities:

- Intake;
- Mediation;
- Investigation;
- Conciliation;
- Administrative hearings;
- Technical assistance; and
- Education and outreach.

In addition to providing direct relief to discrimination victims, the CHR through its technical assistance service works with local employers and housing providers to help create harmonious and productive work environments and equal housing opportunities. The staff provides training workshops to employers with respect to policies and procedures. This service is offered mainly to small businesses that for the most part, do not have the resources to maintain an in-house human resources program. Additionally, approximately 600 housing providers have received technical assistance from the CHR on fair housing issues.

### ***3. What are the Board's major accomplishments?***

#### ***(a). Board's major accomplishments for last 12 months***

- Obtained \$683,822 in back wages and other benefits for discrimination victims.
- Completed 305 investigations between 01/01/2009 and 12/21/2009.
- Alternative Dispute Resolution Program (ADR) maintained a 80% settlement rate.

**8. Describe the board's performance measures developed to determine its own effectiveness in achieving its stated goals.**

The board meets prescribed performance measures by holding public hearings, communicating with the Board of County Commissioners, and conducting public forums, informational and educational outreach activities through radio, television and high school lectures. CHR performance measures meet the terms and conditions of the federal contracts and cooperative agreements with the Equal Employment Opportunity Commission (EEOC). The CHR team meets weekly to address how to best provide an effective level of service to clients and help the agency in meeting its contractual obligations with the federal funding sources, given a reduced staff facing unreduced demands. Currently, the County's system tracks, per quarter, the number of CHR Hearings/Meetings, Successful Mediations and Conciliations and Investigations Completed.

**Process Integrity Performance Measures**

1. Is everyone, CHR clients and potential clients as well as co-workers, treated with respect?
2. Are CHR members and staff alert to perceived discrimination?
3. Does the CHR command respect in the community for its efforts to enforce current anti-discrimination laws?
4. Does CHR staff take care to listen, report fairly and look out for injustice based on discrimination from multiple socio-cultural perspectives?
5. Are investigations of powerful alleged wrongdoers pursued like others less powerful?
6. Are respondents provided unbiased feedback on how to help prevent discrimination complaints?
7. Is discrimination code compliance training proactively offered?
8. Are public resources efficiently and effectively utilized?
9. Are fact-finding and dispute resolution meetings held at times convenient to the parties?
10. Is the public well informed of CHR process availability?

The answers to these questions may be depicted in a variety of ways at different times, but what is most important is that they be frequently asked and answered by CHR members and staff. For now, the overall assessment

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of the currently constituted Commission is indicated underlined on the scale that follows:

1	2	3	4	5
NEVER	HARDLY EVER	SOMETIMES	<u>ALMOST ALWAYS</u>	ALWAYS



**Miami-Dade County Commission on Human Rights  
Attendance Record  
January 2008 - December 2008**

Board Member	1/10	1/11	1/15	1/17	1/30	2/6	2/20	2/22	3/6	3/13	4/24	5/9	5/30	6/13	7/9	7/25	8/6	9/3	9/19	10/10	10/16	10/23	10/31	11/5	11/13	11/21	11/24	12/2
Roman, Rosario	APPOINTED 4/8/08																											
Romano, Victor																												
Sepulveda, Yvonne																												
Sharpton, Denise																												
Stephens, Dionne																												
Tellechea, Esther																												

Miami-Dade County Commission on Human Rights  
 Attendance Records  
 January 2009 - December 2009

Board Member	1/15	1/28	2/6	2/26	3/18	3/31	4/3	4/14	4/28	5/7	5/13	5/21	5/29	6/18	6/26	7/16	7/24	8/13	8/21	9/18	9/30	10/22	10/28	11/9	12/2	12/21	
Bassil, Alexandra	P	P	E	P	E	E	E	E	E	E	E	E	E	P	E	E	E	E	E	P	P	A	P	E	E	E	P
Belony, Erigene	P	E	E	P	E	P	E	P	P	E	E	P	P	P	E	P	E	P	P	P	E	E	E	E	P	E	A
Brutto, Vanessa	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
Cobiella, Lorenzo	E	E	E	P	P	E	E	E	E	E	E	E	E	P	E	A	A	A	P	A	A	A	A	A	A	A	A
Crawford, Emily	E	E	E	A	A	E	A	E	E	E	E	E	E	A	E	P	A	E	A	A	E	E	E	A	E	A	A
Davis, Faye	P	E	E	P	E	P	E	P	E	E	E	E	E	E	P	P	E	P	P	P	E	P	E	E	E	E	E
Duenas-Aragon, Karina	E	E	E	A	E	P	E	P	P	P	E	P	E	E	E	E	E	E	P	E	E	P	E	P	E	P	A
Ford, Patricia	E	E	E	E	E	P	P	P	P	E	P	E	E	E	E	P	P	E	P	E	E	P	E	E	P	P	A
Fuller, Rosemary	E	E	E	A	E	E	E	E	E	P	E	E	E	E	E	E	E	E	E	E	E	E	P	P	E	P	E
Gonzalez-Llorens, Rene	P	E	E	E	P	E	E	E	E	E	E	P	E	E	E	E	E	A	P	E	E	E	E	E	E	E	P
Hernandez, Eduardo	E	E	E	A	A	P	E	P	E	E	E	E	E	E	E	E	E	A	E	A	A	E	A	A	A	A	A
Jean-Francois, James	E	E	E	E	E	E	E	E	P	E	E	E	E	E	E	E	E	E	E	E	E	E	E	E	E	E	E
Kilpatrick, Kenneth	P	E	P	A	A	P	E	P	E	E	E	E	E	E	E	E	P	E	A	A	A	A	A	A	A	A	A
Lieberman, Ronald	APPOINTED 9/30/09		E	E	E	E	E	E	E	E	E	E	P	E	E	P	E	E	E	E	E	P	E	P	E	P	E
Lorenzo, Yara	E	E	E	P	P	P	E	E	E	E	P	E	E	E	E	E	E	E	E	A	A	A	A	A	E	E	E
Marti, Lizette	E	E	E	E	E	E	E	E	E	E	E	E	E	E	E	E	E	E	E	E	E	E	E	E	E	E	E
Navarro, Marta	E	E	E	E	E	P	A	A	E	E	E	E	E	E	E	E	E	E	E	P	E	E	P	E	E	A	E
Pardo, Damian	P	E	E	P	E	E	E	A	E	E	P	E	E	E	E	E	E	A	A	A	E	A	E	E	A	A	A

Miami-Dade County Commission on Human Rights  
 Attendance Records  
 January 2009 - December 2009

Board Member	1/15	1/29	2/6	2/26	3/18	3/31	4/3	4/14	4/28	5/7	5/13	5/21	5/29	6/18	6/26	7/16	7/24	8/13	8/21	9/18	9/30	10/22	10/28	11/9	12/2	12/21	
Riley, John	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	A
Roman, Rosario	E	P	E	P	E	E	E	P	E	E	E	E	E	E	E	E	E	E	E	E	E	E	E	E	P	E	P
Romano, Victor	P	P	E	P	E	P	E	P	P	P	E	E	P	E	E	E	E	P	P	E	P	E	E	P	E	A	A
Sepulveda, Yvonne	E	E	E	P	E	P	E	E	P	E	E	E	E	E	E	E	E	P	E	E	E	P	E	P	E	E	P
Sharpton, Denise	P	E	E	A	A	A	A	E	A	E	E	E	E	E	E	E	E	E	A	A	A	A	A	A	A	A	A
Stephens, Dionne	E	E	P	E	P	A	E	A	E	E	E	E	E	E	E	E	A	E	E	A	A	A	A	A	A	A	A
Tellechea, Esther	E	P	E	A	A	A	A	A	E	P	E	E	E	E	E	E	E	A	P	E	E	E	A	A	RESIGNED 10/22/09		

**ARTICLE I. GENERAL PROVISIONS****Sec. 11A-1. Declaration of policy and scope.**

(1) *Policy.* It is hereby declared to be the policy of Miami-Dade County, in the exercise of its police power for the public safety, health and general welfare, to eliminate and prevent discrimination in employment, family leave, public accommodations, credit and financing practices, and housing accommodations because of race, color, religion, ancestry, national origin, sex, pregnancy, age, disability, marital status, familial status or sexual orientation. It is further hereby declared to be the policy of Miami-Dade County to eliminate and prevent discrimination in housing based on source of income.

(2) *Jurisdiction and area of application.*

(a) The provisions of this chapter shall not apply to any complaint naming Miami-Dade County, the State of Florida, the federal government, or any of their agencies or employees as a respondent.

(b) This chapter is applicable in both the incorporated and unincorporated areas of Miami-Dade County, Florida.

(c) All violations shall be prosecuted in the court of appropriate jurisdiction of Miami-Dade County, Florida.

(d) The provisions of this chapter shall be cumulative and in addition to and not in derogation of any and all other provisions or laws prohibiting discrimination in employment, family leave, public accommodations, credit and financing practices and housing.

(3) *Preservation of substantive rights.* Any substantive rights created by Chapter 11A as it existed prior to the enactment of Ordinance Number 90-32 are preserved as to any cases pending on the effective date of the creation of the Miami-Dade County Commission on Human Rights.

(4) *Deferment by other enforcement agencies.* The Director of the Commission on Human Rights, subject to approval by the County Commission, and upon written agreement with the United States Department of Housing and Urban Development, the United States Equal Employment Opportunity Commission or any other federal, state or local agencies may accept written, sworn and signed complaints of violations of this chapter deferred to the Commission on Human Rights by such agency for investigation and resolution; however, the Director of the Commission on Human Rights may waive such deferment.

(5) *Ex parte communications.* Except for ex parte applications for subpoenas pursuant to this chapter, no person shall make any ex parte communication, relative to any pending case before the Commission on Human Rights, to any Commission member, or at any stage of a proceeding after the filing of a charge or complaint, by any party to the proceeding, or by any person who has a direct or indirect interest in the proceeding, or by any authorized representative or counsel. Any violation of this section shall be reported, in writing, by the Commission member affected; and the report, which shall include a description of the substance of the communication, any response, and a copy of any written communication, shall be part of the record.

(Ord. No. 97-17, § 1, 2-25-97; Ord. No. 98-170, § 1, 12-1-98; Ord. No. 06-179, § 1, 12-5-06; Ord. No. 09-53, § 1, 6-30-09)

**Sec. 11A-2. Definitions.**

The definitions set out herein shall apply to articles II, III, IV and V:

- (1) *Age* shall mean the chronological age of any individual who is eighteen (18) years or older.
- (2) *Commission* shall mean the Miami-Dade County Commission on Human Rights or its successor.
- (3) *Complaint* shall mean any written allegation of a discriminatory act or practice prohibited by this chapter.
- (4) *Complainant* shall mean any person or persons alleging a discriminatory act or practice prohibited by this chapter that has occurred or is about to occur and who has filed a written complaint.
- (5) *Conciliation Agreement* shall mean a written agreement resolving or otherwise disposing of a complaint and which is entered into by the parties and the Director prior to a hearing in front of the board.
- (6) *County* shall mean Miami-Dade County.
- (7) *Director* shall mean the Director of the Miami-Dade County Commission on Human Rights or his or her designee.
- (8) *Discrimination* shall mean any difference, distinction or preference in treatment, access or impact because of race, color, religion, ancestry, national origin, sex, pregnancy, age, disability, marital status, familial status, sexual orientation, or source of income.
- (9) *Familial status* is established when:
  - (a) An individual who has not attained the age of eighteen (18) years is domiciled with a parent or other person having legal custody of such individual; or
  - (b) An individual who has not attained the age of eighteen (18) years is domiciled with a designee of a parent or other person having legal custody of such individual with the written permission of such parent or other person; or
  - (c) An individual becomes pregnant or is in the process of securing legal custody of any individual who has not attained the age of eighteen (18) years.
- (10) *Family* shall include a single individual.
- (11) *Finding related to probable cause* shall mean the conclusion reached by the Director after completion of an investigation as to whether or not the discriminatory act or practice alleged in the complaint occurred and shall consist of the final investigative report and recommended order.
- (12) *Marital status* shall mean the state of being married, unmarried, single, divorced, separated or widowed, and the conditions that may be associated therewith, including pregnancy or parenthood.
- (13) *National origin* shall include citizenship status, ancestry, place of birth, and language characteristics thereof.
- (14) *Person* shall mean one (1) or more natural persons, individuals, employees,

employers, employment agencies, owners, businesses, government, government agencies, government departments, unions, joint apprenticeship committees, firms, associations, joint ventures, partnerships, estates, trusts, trustees, trustees in bankruptcy, legal representative, mutual companies, joint-stock companies, receivers, syndicates, fiduciaries, corporations, unincorporated organizations, and all other groups or combinations.

(15) *Person with a disability*

(a) "Person with a disability" shall mean:

- (i) An individual with a physical or mental impairment which substantially limits one (1) or more of that individual's major life activities;
- (ii) An individual who has a record of such impairment; or
- (iii) An individual who is perceived or regarded as having such an impairment.

(b) "Physical or mental impairment" shall include:

- (i) Any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one (1) or more of the following body systems: neurological, musculo-skeletal, special sense organs, cardiovascular, reproductive, digestive, genitourinary, hemic or lymphatic, skin, and endocrine;
- (ii) Any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities; or
- (iii) Any degree of paralysis, epilepsy, lack of physical coordination, blindness or visual impairment, deafness or hearing impairment, muteness, speech impediment or persons who rely upon a seeing eye dog, wheelchair or other remedial method, appliance or device.

(c) "Major life activities" shall include functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, learning and working.

(d) A "record of such impairment" shall include having a history of, or having been misclassified as having a history of, physical or mental impairment which substantially limits one (1) or more major life activities.

(e) "Individual who is perceived as or regarded as having a disability" shall mean any individual who:

- (i) Has a physical or mental impairment that does not substantially limit one (1) or more major life activities but such impairment is treated by others as constituting such a limitation;
- (ii) Has a physical or mental disability that substantially limits one (1) or more major life activities only as a result of the attitude of others toward such impairment; or
- (iii) Has no impairment defined in this subsection but is treated by another as having such an impairment.

(f) "Disability" does not include current, illegal use of or addiction to a

controlled substance as defined in Chapter 893, Florida Statutes, as amended.

(16) *Religion* shall mean any belief protected by the free exercise clause of the First Amendment of the United States Constitution.

(17) *Respondent* shall mean person or persons alleged to have engaged in a discriminatory act or practice prohibited by this chapter.

(18) *Sexual orientation* shall mean heterosexuality, homosexuality or bisexuality whether such orientation is real or perceived.

(19) *Mediation* shall mean an informal conference held with a neutral third party to help the parties resolve their disputes prior to the investigation of the complaint, or at any time during the investigation of the complaint.

(20) *Hearing officer* shall mean an employee of the Division of Administrative Hearings within the State of Florida, Department of Administration, employed to conduct hearings pursuant to F.S. chapter 120, or other person selected by the Chairperson of the Commission on Human Rights, or his or her designee, to conduct a hearing pursuant to this chapter from a pool of hearing officers, who are members of the Florida Bar in good standing. The hearing officers shall serve for a term of two (2) years and shall not be entitled to compensation; however, they shall receive reimbursement for parking in county garages and for mileage for any hearing-related business. Such reimbursement shall be consistent with County policy.

(21) *Prevailing party* shall have the same meaning as such term has in section 722 of the Revised Statutes of the United States (42 U.S.C. 1988).

(Ord. No. 97-17, § 1, 2-25-97; Ord. No. 98-170, § 1, 12-1-98; Ord. No. 06-179, § 2, 12-5-06; Ord. No. 09-53, § 2, 6-30-09)

### **Sec. 11A-3. Office of Director established.**

(1) The position of Commission on Human Rights Director is hereby created and established. The Director shall be appointed by and serve at the will of the County Manager. The position shall be exempt from the classified service of the County.

(2) The duties, functions, powers and responsibilities of the Director include but are not limited to, the following:

(a) Enforcing the provisions of this chapter and any rules and regulations promulgated thereunder;

(b) Receiving, initiating, investigating, mediating, dismissing, waiving, and determining complaints received under this chapter;

(c) Facilitating settlement or conciliation of a complaint alleging a discriminatory act or practice prohibited by this chapter;

(d) Completing investigative reports on complaints filed under this chapter.

(e) Issuing a finding related to probable cause which may include findings, conclusions and recommendations addressing liability, reasonable accommodation, affirmative action, quantifiable relief, costs, attorney's fees, interest and such other appropriate remedies as in the judgment of the Director shall carry out the purposes of this chapter. The remedies may include the remedies enumerated in Section 11A-5(6)-(11);

(f) Providing assistance and direction in all matters relating to discrimination in housing, credit and finance, public accommodations, employment, family leave and domestic violence leave;

(g) Publishing and disseminating information and educational materials relating to discrimination in housing, credit and finance, public accommodations, employment, family leave and domestic violence leave;

(h) Issuing notice of a complainant's private right to sue under Article II, III, IV, V and VIII of this chapter upon a written request from complainant received not sooner than one hundred eighty (180) days after the filing of a charge or amended charge of a violation of this chapter;

(i) Performing such other administrative duties as may be assigned by the County Manager.

(3) When necessary to vindicate the public interest, the Director may, with the approval of the County Attorney, have the County designated as a party in any proceeding under this chapter, and in connection therewith, shall be governed by the same procedures applicable to any other party to a charge of violation of this chapter. In any proceeding in which the County participates as a party, the Director, with the approval of the County Attorney, may hire special counsel.

(Ord. No. 97-17, § 1, 2-25-97; Ord. No. 06-179, § 3, 12-5-06; Ord. No. 09-53, § 3, 6-30-09)

#### **Sec. 11A-4. Commission on Human Rights established.**

(1) *Creation of the Commission.* The Miami-Dade County Commission on Human Rights is hereby created and established. The Commission shall consist of twenty-six (26) members appointed by the Board of County Commissioners. Each member of the Board of County Commissioners may appoint two persons to the Commission on Human Rights.

(2) *Qualifications of members.* Members of the Commission on Human Rights shall be permanent residents and electors of Miami-Dade County, Florida. Of at least one of the two appointments by each County Commissioner, consideration for membership may be given to representatives from the following fields:

- (a) an attorney who is a member in good standing of the Florida Bar;
- (b) a member of the business community;
- (c) a representative of the real estate industry;
- (d) a member of a non-profit civil rights organization;
- (e) a small business owner;
- (f) a representative of municipal government;
- (g) a representative of an employee organization;
- (i) a representative of persons with disabilities; and (j) a representative of the banking industry.

Membership shall be made on the basis of civic pride, integrity, experience and interest in the area of equal opportunity, and be representative of the County's population and reflective of the racial and ethnic make-up of Miami-Dade County, in addition to geographic, economic and gender considerations.

(3) *Term of office.* The term of office of members of the Board shall be as specified in Section 2-11.38.2 of the Code of Miami-Dade County.

(4) *Organization of the Commission.* The members of the Commission shall elect the Chairperson, and such other Officers as may be deemed necessary, who shall serve a term of two (2) years with the possibility of reelection. At least three (3) members of the Commission shall constitute a hearing panel for the purposes of conducting a hearing and approving final orders on complaints. At least five (5) members of the Commission shall constitute a quorum to hold a meeting for any other purposes. A majority vote of those present at a duly constituted meeting shall be sufficient for all actions.

(5) *Compensation.* Members shall serve without compensation but shall be entitled to reimbursement for necessary expenses including but not limited to, training and travel, subject to approval by the County Commission. Training in equal opportunity shall be provided to all Commission Members at least once each year.

(6) *Meetings.* Meetings of the Commission shall be held monthly or as needed to hear and dispose of the pending cases. Notice of the time and place of meetings shall be given to all members of the Commission and to all parties scheduled to be heard. The Chairperson may call an emergency meeting of the Commission. Three (3) members may also call an emergency meeting upon written request to the Director.

(7) *Minutes.* Minutes shall be kept of all meetings of the Commission. All meetings shall be public and all minutes shall be subject to public inspection except where prohibited by law.

(8) *County Manager.* The County Manager shall provide such adequate and competent administrative, technical and clerical personnel as may be reasonably required by the Commission for the proper performance of its duties. The County Manager shall provide a regular meeting place for the Commission.

(9) *County Attorney.* The County Attorney shall provide counsel to the Commission.

(Ord. No. 97-17, § 1, 2-25-97; Ord. No. 06-179, § 4, 12-5-06; Ord. No. 09-53, § 4, 6-30-09)

#### **Sec. 11A-5. Duties and powers of the Commission.**

The Commission on Human Rights shall have the following duties, functions, powers and responsibilities:

(1) To apply to the appropriate court on behalf of the County for such temporary or permanent injunctive relief as the Commission, or a Hearing Panel thereof, believe is necessary to preserve the status quo or to prevent irreparable harm and to carry out the purposes of this chapter;

(2) To adopt, promulgate, amend and rescind rules and regulations necessary to effectuate the purposes and provisions of this chapter following a public hearing and subject to approval by the County Commission;

(3) To issue an adjudicative final order upon the authority of the Chairperson following approval by the appropriate Hearing Panel. Such an adjudicative final order may review and uphold, modify or reverse recommended final orders issued by the Director or his or her designated representative in accordance with the provisions of this chapter;

(4) To administer oaths;

(5) To compel, by subpoena issued by the Chairperson of the Commission, the

attendance of witnesses and the production of evidence for discovery, investigation, hearing or deposition for the preservation of testimony;

- (6) To issue remedial orders requiring cessation of violations of this chapter;
- (7) To issue such other final orders as, in the judgment of the Hearing Panel, will carry out the purposes of this chapter, including but not limited to:
  - (a) Hiring, reinstatement or promotion of employees with accrued seniority, with accrued benefits and with back pay;
  - (b) Taking affirmative action and making corrections; and
  - (c) Requiring reasonable accommodation;
  - (d) Awarding of front pay, to the extent that the calculation of any such front pay is quantifiable and reasonably definite.
- (8) To issue final orders dismissing the complaint;
- (9) To award quantifiable relief to a prevailing complainant for injuries incurred as a proximate result of an act prohibited by this chapter or to apply to the appropriate court for such an award, provided that such damages are not prohibited by state or federal law;
- (10) To award costs and Attorney's fees to a prevailing party or to apply to the appropriate court for such an award; provided, however, that such an award is not contrary to the purposes of this chapter.
- (11) To award prejudgment interest to a prevailing party upon a finding of employment discrimination and post judgment interest to a prevailing party upon a finding of any type of discrimination, or to apply to the appropriate court for such an award;
- (12) At the conclusion of a hearing and upon a finding of housing discrimination in violation of Article II of this chapter, to recommend that the County Attorney commence a civil action on behalf of the County for fines pursuant to Section 11A-17.

(Ord. No. 97-17, § 1, 2-25-97; Ord. No. 06-179, § 5, 12-5-06; Ord. No. 09-53, § 5, 6-30-09)

#### **Sec. 11A-6. Discretionary review; request for rehearing.**

- (1) Within fifteen (15) days following the issuance of the final adjudicative order, a party may file a written request for rehearing of a case or amendment of a final order by the Commission on Human Rights. A request for rehearing shall state with particularity the factors overlooked or misapprehended by the original hearing panel, and shall not reargue the merits of the case. The nonmoving party may file a written response within ten (10) days of receipt of the written request for rehearing.
- (2) At the first regularly scheduled meeting following the receipt of such a request, the members of the original Hearing Panel shall vote on whether to grant the request for rehearing.
- (3) If the request for rehearing is granted, the Commission shall expeditiously schedule a hearing. At least five (5) members shall constitute a Hearing Panel for the purpose of such rehearing.
- (4) Upon the conclusion of rehearing, the rehearing panel shall issue a new adjudicative final order which may affirm, modify, rescind or reverse the final adjudicative order issued

by the original Hearing Panel.

(5) The filing of a request for rehearing shall toll the time for commencing an appeal pursuant to Section 11A-8.

(6) No appeal to the Commission shall be had from a denial of a request for rehearing.

(Ord. No. 97-17, § 1, 2-25-97; Ord. No. 06-179, § 6, 12-5-06; Ord. No. 09-53, § 6, 6-30-09)

#### **Sec. 11A-7. Enforcement of final order.**

If the Commission determines that any respondent has committed an unlawful act prohibited by this chapter, and said respondent refuses to comply with or obey the final order of the Commission or Director, the Commission on behalf of the County or the complainant may petition the court of competent jurisdiction for enforcement of the final order.

(Ord. No. 97-17, § 1, 2-25-97; Ord. No. 06-179, § 7, 12-5-06; Ord. No. 09-53, § 7, 6-30-09)

#### **Sec. 11A-8. Appeals.**

(1) The Commission's final order shall be subject to review in accordance with the Florida Rules of Appellate Procedure. For purposes of such review, any original jurisdictional notices required to be filed under the Florida Rules of Appellate Procedure shall be filed with the Director. The Commission shall provide the index and record on appeal when required by, and in accordance with, the Florida Rules of Appellate Procedure. A fee may be charged by the Commission for the preparation and transmission of the record on appeal to the court of competent jurisdiction. Such fee may be waived by the Director if the party requesting the record is indigent.

(2) Costs or fees may not be assessed against the Commission in any appeal from a final order issued by the Commission pursuant to this chapter.

(3) Miami-Dade County shall be named a party to any judicial proceeding involving a challenge to the validity of this chapter. Services of process upon Miami-Dade County shall be accomplished as provided by Section 48.111, Florida Statutes.

(4) Unless specifically ordered by the Commission or by a court of competent jurisdiction, the commencement of an appeal does not suspend or stay a final order of the Commission.

(Ord. No. 97-17, § 1, 2-25-97; Ord. No. 09-53, § 8, 6-30-09)

#### **Sec. 11A-9. Remedial action.**

If at any time after a complaint has been filed, the Director or the Commission upon conferring with the County Attorney, has reasonable cause to believe that appropriate civil action to preserve the status quo or to prevent irreparable harm appears advisable, the Director or the Commission shall refer the complaint to the County Attorney, who may, at his or her discretion and a determination that the complaint raises a matter of great public importance, commence a civil action to preserve the status quo or to prevent irreparable harm. Any temporary restraining order or other order granting preliminary or temporary relief shall be issued in accordance with the Florida Rules of Civil Procedure. The commencement of a civil action under this chapter shall be in addition to all remedies otherwise available under federal and state law, municipal ordinances and this chapter.

(Ord. No. 97-17, § 1, 2-25-97; Ord. No. 06-179, § 8, 12-5-06; Ord. No. 09-53, § 9, 6-30-09)

**Sec. 11A-10. General unlawful practices.**

It shall be an unlawful practice to:

(1) Retaliate or discriminate in any manner against a person because he or she has opposed a practice declared unlawful by this chapter, or because he or she has supported a person or persons protected by this chapter or because he or she has filed a complaint, testified, assisted or participated in any manner in any investigation, proceeding, hearing, or conference conducted under the authority of this chapter; or

(2) Aid, abet, incite, compel or coerce any person to engage in any of the practices prohibited by this chapter or obstruct or prevent any person from complying with the provisions of this chapter.

(Ord. No. 97-17, § 1, 2-25-97)

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Main body of handwritten text, organized into several columns. The text is very faint and difficult to read, but appears to be a list or a set of notes.

## ARTICLE II. HOUSING\*

\*Cross references: Housing generally, Ch. 17.

### Sec. 11A-11. Definitions.

The definitions set out in Section 11A-2 shall apply to this article in addition to the definition set forth below. As used in this article:

- (1) *Dwelling or dwelling unit* shall mean any building, mobile home, trailer, structure or portion thereof which is occupied, designed, arranged or intended for occupancy as a home, residence or sleeping place of one (1) or more persons, or vacant land which is offered for sale or lease for the construction or location of any building, mobile home, trailer or structure or portion thereof.
- (2) *Financial institution* shall include any bank, insurance company, savings and loan association, credit union, mortgage company or any other person or organization engaged in the business of lending money, guaranteeing loans, or extending credit.
- (3) *Mortgage broker* shall mean an individual who is engaged in or performs the business or services of a mortgage broker as defined in Chapter 494, Florida Statutes, as amended.
- (4) *Owner* shall include a lessor, lessee, sublessee, co-tenant, assignee, managing agent, manager or other person having the right to sell, rent, lease or control any housing or office accommodation.
- (5) *Premises* shall mean the interior or exterior spaces, parts, components or elements of a building including individual dwelling units and the public and common use areas of a building.
- (6) *Real estate broker or real estate salesperson* shall include any individual or agent thereof who is engaged in or performs the business or the services of a real estate broker or salesperson as defined in Chapter 475, Florida Statutes, as amended.
- (7) *Real property* includes buildings, portions of buildings, structures, lands, tenements, leaseholds, cooperatives, condominiums or any interest therein.
- (8) *Single-family dwelling* shall include a single-family home, mobile home, apartment, townhouse unit, cooperative unit or condominium unit.
- (9) *To rent* shall mean to lease, sublease, let or otherwise grant for consideration the right to occupy premises not owned by the occupant.
- (10) *Conciliation* shall mean the attempted resolution of issues raised by a complaint or by the investigation of such complaint, through informal negotiations involving the complainant, the respondent, and the Director.
- (11) *Person* shall mean one or more individuals, corporations, partnerships, associations, labor organizations, legal representatives, mutual companies, joint-stock companies, trusts, unincorporated organizations, trustees, trustees in cases under Title 11 [of the United States Code], receivers, and fiduciaries.

(12) *Source of income* shall mean the lawful, verifiable income paid directly to a tenant or paid to a representative of a tenant, including, but not limited to, Section 8 Housing Choice Vouchers, Supplemental Security Income, Social Security, pensions and other retirement benefits.

(Ord. No. 97-17, § 1, 2-25-97; Ord. No. 06-179, § 9, 12-5-06; Ord. No. 09-53, § 10, 6-30-09)

## **Sec. 11A-12. Unlawful housing practices.**

(1) *Discrimination in sale or rental of housing and other prohibited practices.* It shall be unlawful for any person, owner, financial institution, real estate broker, real estate agent or any representative of the above to engage in any of the following acts because of race, color, religion, ancestry, national origin, age, sex, pregnancy, disability, marital status, familial status or sexual orientation of a prospective buyer, renter, lessee or any person associated with a prospective buyer, renter or lessee:

- (a) To refuse to sell, purchase, rent, lease, finance, negotiate or otherwise deny to or withhold any dwelling or to evict a person; or
- (b) To discriminate against a person in the terms, conditions, or privileges of the sale, purchase, rental or lease or any dwelling, or in the furnishing of facilities or services in connection therewith; or
- (c) To refuse to receive or transmit a bona fide offer to sell, purchase, rent or lease any dwelling; or
- (d) To represent to a person that any dwelling is not available for inspection, sale, purchase, rental or lease when in fact it is so available, or to refuse to permit a person to inspect any dwelling; or
- (e) To refuse to lend money, whether or not secured by mortgage, or otherwise refuse to make funds available for the purchase, acquisition, construction, alteration, improvement, repair or maintenance of any dwelling, to impose different terms or conditions of such financing or refuse to provide title or insurance relating to the ownership or use of any interest in any dwelling, or to refuse to provide appraisal or brokerage services; or
- (f) To refuse to purchase loans, debts, or securities which support the purchase, construction, improvement, repair or maintenance of a dwelling or which are secured by residential real estate or to impose different terms or conditions for such purchases; or
- (g) To make, publish, print, circulate, post, mail, or cause to be made, published, printed, circulated, posted or mailed, any notice, statement or advertisement, or to announce a policy, or to sign or to use a form of application for the sale, purchase, rental, lease or financing of any dwelling, or to make a record of inquiry in connection with the prospective sale, purchase, rental, lease or financing of any housing accommodation which indicates any discrimination, any discriminatory preference, any intent to discriminate or any intent to make a discriminatory preference; or
- (h) To discriminate in any financial transaction involving real property because of its location, or to "red-line"; or
- (i) To offer, solicit, accept or use a listing of any dwelling for sale, purchase, rental or lease with the understanding that a person may be subjected to discrimination in connection with such sale, purchase, rental, lease, or the furnishing of facilities or services in connection therewith; or
- (j) To directly or indirectly induce or attempt to induce for profit, the sale, purchase,

submitted for building permit on or after January 13, 1990 to fail to design and construct those housing accommodations in such a manner, that:

(i) The public use and common use portions of such dwellings are readily accessible to and usable by disabled persons;

(ii) All the doors designed to allow passage into and within all premises within such housing accommodations are sufficiently wide to allow passage by persons in wheelchairs; and

(iii) All premises within such accommodations contain the following features of an adaptive design:

(I) An accessible route into and throughout the dwelling, unless it is impracticable to do so because of the terrain or unusual characteristics of the site;

(II) Light switches, electrical outlets, thermostats and other environmental controls in accessible locations;

(III) Reinforcements in the bathroom walls to allow later installation of grab bars; and

(IV) Usable kitchens and bathrooms such that an individual in a wheelchair can maneuver about the space.

(iv) As used in this section, "covered multifamily dwelling" means a building which consists of four (4) or more dwelling units and has one (1) or more elevators; or the ground floor dwelling units of a building which consists of four (4) or more dwelling units and does not have an elevator.

(v) Compliance with the appropriate requirements of the American National Standards Institute for buildings and facilities providing accessibility and usability for physically handicapped persons, commonly cited as "ANSI A117.1 (1986)" suffices to satisfy the requirements of this Subsection (c). Public areas shall also comply with the standards set forth in the Americans with Disabilities Act Accessibility Guidelines.

(d) Nothing in this subsection requires that a dwelling be made available to an individual whose tenancy would constitute a direct threat to the health or safety of other individuals or whose tenancy would result in substantial physical damage to the property of others.

**(3) *Parking accessibility for disabled.***

(a) If parking is provided at the dwelling site then designated accessible parking at the dwelling unit or parking most convenient to the entrance served, shall be provided on request of residents with disabilities on the same terms and with the full range of choices (for example surface parking or garage) that are provided for other residents of the dwelling site. Accessible parking on a route accessible to wheelchairs shall be in a number at least equal to one (1) and not less than two (2) percent of the total number of covered dwelling units. Accessible visitor parking shall be provided sufficient to provide access to grade level entrances of covered multifamily dwellings and accessible parking at facilities (for example, swimming pools) that serve accessible buildings shall also be provided.

(b) To meet the requirements of this chapter, those accessible resident spaces required in new construction must meet the width requirements specified for accessible spaces under Section 316.1955, Florida Statutes, as amended, or its successor and be adjacent to a five-foot access aisle on the same level. The slope of the spaces, and the portion of the access aisles adjacent to the spaces, shall not exceed two (2) percent in any

rental, lease or the listing for any of the above, of any dwelling by representing that the presence or anticipated presence of a person of a particular race, color, religion, national origin, age, sex, disability, familial status, marital status or sexual orientation will or may result in blockbusting, such as but not limited to:

- (i) The lowering of property values in the area;
  - (ii) An increase in criminal or anti-social behavior in the area; or
  - (iii) A decline in the quality of the schools or other services or facilities in the area; or
- (k) To make any representations concerning the listing for sale, purchase, rental, or lease, or the anticipated listing of any sale, purchase, rental, or lease of any dwelling for the purpose of inducing or attempting to induce any such listing for any of the above transactions; or
- (l) To engage in or hire to be done, or to conspire with others to commit acts or activities of any nature, the purpose of which is to coerce, cause panic, incite unrest, or create or play upon fear with the purpose of either discouraging or inducing, or attempting to induce, the sale, purchase, rental, lease or listing of any dwelling on any basis prohibited by this chapter; or
- (m) To aid, abet, incite, compel or coerce any person to engage in any of the practices prohibited by this chapter, or to obstruct or prevent any person from complying with the provisions of this chapter or any other issued thereunder; or
- (n) To resist, prevent, impede or interfere with the Commission on Human Rights, its members and/or representatives in the lawful performance of their duties under this chapter; or
- (o) To canvas to commit any unlawful practice prohibited by this chapter; or
- (p) To deny or withhold any dwelling from a person on any basis prohibited by this chapter; or
- (q) To deny any qualified person access to or membership in or participation in any multiple-listing service, real estate brokers' organization, or other service, organization, or facility relating to the business of selling or renting dwellings, or to discriminate against such person in the terms or conditions of such access, membership, or participation on any basis prohibited by this chapter; or
- (r) To coerce, intimidate, make threats, or harass people who have aided or encouraged any other person in the exercise or enjoyment of any right granted or protected by this article.

(2) *Reasonable modification and reasonable accommodation for disabled.* It shall be a discriminatory housing practice to:

- (a) Refuse to permit, at the expense of a disabled person, reasonable modifications of existing premises occupied or to be occupied by such disabled person if such modifications may be necessary to afford such persons full enjoyment of the premises; except that in the case of a rental a landlord may, where it is reasonable to do so, condition permission for a modification on the renter agreeing to restore the interior of the premises to the condition that existed before the modification, reasonable wear and tear excepted;
- (b) Refuse to make a reasonable accommodation in rules, policies, practices or services, when such an accommodation may be necessary to afford a disabled person equal opportunity to use and enjoy the dwelling unit;
- (c) In connection with the design and construction of covered multifamily dwellings

(2) *Religious organization.* Nothing in this article shall prohibit a religious organization, association, society or any non-profit institution or organization operated, supervised or controlled by or in conjunction with a religious organization, association, or society, from limiting the sale, rental, or occupancy of dwellings which it owns or operates for other than a commercial purpose to persons of the same religion, or from giving preference to such person, unless that religious organization, association or society restricts membership based on race, color, national origin, ancestry, or disability. Furthermore, nothing in this article relating to unlawful housing practices based on sexual orientation shall pertain to any religious organization, association, society or any non-profit institution or organization operated, supervised or controlled by or in conjunction with a religious organization, association or society.

(3) *Private club.* Nothing in this article shall prohibit a private club not in fact open to the public, which as an incident to its primary purpose or purposes, provides lodgings which it owns or operates for other than a commercial purpose, from limiting the rental or occupancy of such lodgings to its members or from giving preference to its members.

(4) *Maximum occupancy laws.* Nothing in this article limits the applicability of any reasonable state law, County ordinance or municipal ordinance or restriction regarding the maximum number of occupants permitted to occupy a dwelling.

(5) *Housing for older persons.* Nothing in this article regarding familial status shall apply to housing for older persons. As used in this article, "housing for older persons" means housing:

(a) Under any state or federal government program that the Secretary of the United States Department of Housing and Urban Development or his or her designee or successor determines is specifically designed and operated to assist elderly persons as defined in the state or federal program; or

(b) Intended for and solely occupied by persons sixty-two (62) years of age or older; or

(c) Intended and operated for occupancy by persons fifty-five (55) years of age or older; and

(i) At least eighty (80) percent of the occupied dwelling units are occupied by at least one (1) person who is fifty-five (55) years of age or older; and

(ii) The dwelling facility or community complies with rules issued by the Secretary of Housing and Urban Development or his or her designee for verification of occupancy.

(d) A dwelling facility shall not fail to meet the requirements for "housing for older persons" by reason of:

(i) Persons residing in such housing as of October 1, 1989 who do not meet the age requirements of Section 11A-13(5)(b) or (c) provided that new occupants of such housing shall meet the age requirements of Section 11A-13(5)(b) or (c); or

(ii) Unoccupied units, provided that such units are reserved for occupancy by persons who meet the age requirements of Section 11A-13(5)(b) or (c).

(6) *Furnishing appraisals.* Nothing in this article prohibits a person engaged in the business of furnishing appraisals of real property from taking into consideration factors other than race, color, religion, sex, disability, familial status, marital status, national origin or sexual orientation.

(7) *Conviction for illegal manufacture or distribution of controlled substance.* Nothing in this chapter prohibits conduct against any person because such person has been convicted by any court of competent jurisdiction of the illegal manufacture or distribution of a controlled substance as defined in Section 893.03, Florida Statutes, as amended, or its successor statute.

(Ord. No. 97-17, § 1, 2-25-97; Ord. No. 98-170, § 1, 12-1-98)

direction. It shall not be required that the spaces be outlined in blue nor is it required to have a sign stating "parking by disabled permit only," unless such signs and striping are necessary to effectively reserve those spaces for the individuals to whom they are assigned. The spaces may be temporarily assigned to persons who do not have disabilities. A written policy must be provided to all residents who purchase or rent dwelling units stating that those spaces will be assigned or reassigned as a reasonable accommodation to residents with disabilities on the basis of need.

(c) When the space is assigned to a resident with a disability the space must be marked in a manner that will effectively reserve that space for the individual to whom it is assigned. Where visitor or guest parking is provided at a residential building, parking for persons with disabilities shall be provided in the same numbers and with the same configuration and specifications as required in Section 316.1955, Florida Statutes, with the following exceptions. Where all of the spaces provided for visitors provide relatively equal convenience to the building served, are level, meet the width requirements specified for accessible spaces under Section 316.1955, Florida Statutes, are on an accessible route to the building, and have an adjacent access aisle at least five (5) feet wide on the same level, then no visitor spaces need to be marked or signed or otherwise reserved for visitors with disabilities.

(Ord. No. 97-17, § 1, 2-25-97; Ord. No. 98-170, § 1, 12-1-98; Ord. No. 06-179, § 10, 12-5-06; Ord. No. 09-53, § 11, 6-30-09)

### **Sec. 11A-13. Exceptions to unlawful housing practices.**

(1) *Private individual owner.*

(a) Dwelling site. The provisions of this article shall not apply to the rental, lease or sale of rooms or units in a dwelling containing living quarters occupied or intended to be occupied by no more than four (4) families living independently of one another, if the owner actually maintains and occupies one (1) of the living quarters as his or her residence.

(2) The provisions of this article shall not apply to any private individual owner who sells or rents a single-family dwelling when the following conditions exist:

(i) The private individual owner does not own more than three (3) such single-family dwellings at any one (1) time; and

(ii) In the case of the sale of any such single-family house by a private individual owner not residing in such house at the time of the sale, the exemption granted by this subsection shall apply only with respect to one such sale within any twenty-four-month period; and

(iii) The private individual owner does not own any interest in, title to or any right to all or a portion of the proceeds from the sale or rental of, more than three (3) such single-family houses at any one (1) time; and

(iv) The sale or rental of any such single-family residence occurs without the use of sales or rental facilities or services of any real estate agent, broker or salesperson or his or her employee or agent or any person in the business of selling or renting dwellings and without the publication, posting or mailing, after notice of any advertisement or written notice in violation of this article.

However, nothing in this subsection shall prohibit the use of attorneys, escrow agents, abstractors, title companies and other such professional assistance as necessary to perfect or transfer the title.

**Sec. 11A-14. Procedures for housing discrimination complaint..**

(1) *Filing a housing discrimination complaint.* Any person aggrieved by an unlawful housing practice prohibited by this article must file a written, signed complaint with the Director within one (1) year after the alleged unlawful practice has occurred or terminated. The complaint shall set forth the facts upon which it is based with sufficient specificity to identify the respondent. Such complaint may be amended; however, the amended complaint must be filed within one (1) year after the alleged unlawful practices occurs.

(2) *Director's actions upon receipt of housing discrimination complaint.* Upon the filing of such complaint, the Director shall serve notice upon the complainant acknowledging such filing and advising the complainant of the time limits provided under this article including procedural rights and obligations. In a case of a housing discrimination complaint filed under Title VIII of the Civil Rights Act of 1968, as amended, the complainant shall also be advised of the choice of forums provided under the Act.

(3) *Respondent.*

(a) Within ten (10) days of the filing of the complaint, the Director shall serve a copy of the complaint and a written notice on the respondent identifying the alleged discriminatory housing practice and setting forth the rights and obligations of the parties including, but not limited to the right to a fair and full hearing on the matter before the Commission on Human Rights or a Hearing Officer. Such service shall be by certified mail.

(b) A person who is not named as a respondent in a complaint, but who is identified as a respondent in the course of an investigation, may be joined as an additional or substitute respondent upon written notice to such person from the Director. Notice shall be served upon such additional or substitute respondent within ten (10) days of such joinder or substitution and shall explain the basis for the Director's belief that the person to whom the notice is addressed is properly joined as a respondent.

(c) The respondent may file an answer to the complaint, not later than ten (10) days after receipt of the complaint and notice from the Director.

(4) *Investigation of housing discrimination complaint.*

(a) The Director shall commence the investigation of a housing discrimination case within thirty (30) days of the filing of the complaint.

(b) In conducting an investigation of any housing complaint, the Director shall have access at all reasonable times to premises, records, documents, individuals, and other evidence or possible sources of evidence relevant to the complaint and may examine, record, photograph and copy such materials and take and record the testimony or statements of such persons and issue such interrogatories as are reasonably necessary for the furtherance of the investigation. The Commission may enter an order compelling answers to interrogatories. The Commission may issue subpoenas to compel access to or the production of materials, or appearance of persons, to the same extent and subject to the same limitations as all other subpoenas issued by the County Court of Miami-Dade County, Florida.

(5) *Subpoenas.*

(a) Witnesses summoned by subpoena of the Commission shall be entitled to the same witness and mileage fees as are witnesses in proceedings in the County Court of Miami-Dade County, Florida. Fees payable to a witness summoned by subpoena issued at the request of a party shall be paid by the party, or where the party is unable to pay due to

indigence, shall be paid by the Commission.

(b) Within ten (10) days after service of a subpoena upon any person, such person may petition the Commission to revoke or modify the subpoena. The Commission shall grant the petition if it finds that the subpoena requires appearance or attendance at an unreasonable time or place, that it requires production of evidence which does not relate to any matter under investigation, that it does not describe with sufficient particularity the evidence to be produced, that compliance would be unduly onerous, or for other good reason.

(c) In the case of the contumacy or refusal to obey a subpoena, the Commission or any party may seek enforcement of a subpoena issued under the authority of this chapter by filing a petition for enforcement in the County Court of Miami-Dade County, Florida.

(d) In any enforcement proceeding authorized by this chapter, the court may award to the prevailing party all or part of the costs and Attorney's fees incurred in obtaining the court order as authorized by the Florida Rules of Civil Procedure;

(e) Any person who willfully fails or neglects to attend and testify or to answer any lawful inquiry or to produce records, documents or other evidence, if in his or her power to do so, may be fined by the County Court of Miami-Dade County, Florida, not more than five hundred dollars (\$500.00) or imprisoned not more than sixty (60) days or both.

(f) Any person who, with intent thereby to mislead the Commission or the Director, makes or causes to be made any false entry or statement of fact in any report, account, record or other document submitted to the Commission pursuant to its subpoena or other order or shall willfully neglect or fail to make or cause to be made full, true and correct entries in such reports, accounts, records or other documents, or shall willfully mutilate, alter or by any other means falsify any documentary evidence, may be fined by the County Court of Miami-Dade County, Florida, not more than five hundred dollars (\$500.00) or imprisoned not more than sixty (60) days or both.

(6) *Applicability of Florida Rules of Civil Procedure; applicable to all complaints.*

(a) The provisions of Rule 1.090, Florida Rules of Civil Procedure, shall govern the computation of any period of time prescribed or allowed by this article or by rules, regulations or orders adopted pursuant to this article.

(b) All papers or pleadings required by this chapter to be served may be served by certified mail or in accordance with Rule 1.080, Florida Rules of Civil Procedure.

(7) *Finding related to probable cause.*

(a) The Director shall make a finding related to probable cause not later than one hundred (100) days from receipt of the complaint or amended complaint; provided, however, if the Director is unable to make a finding related to probable cause within one hundred (100) days after the filing of the complaint, the Director shall notify the complainant and the respondent in writing of the reasons for not doing so.

(b) At the end of any investigation under this chapter, the Director shall prepare a finding related to probable cause consisting of a final investigative report and recommended order. The Director's final investigative report and recommended order shall contain:

- (i) The names and dates of contacts with witnesses;
- (ii) A summary and the dates of correspondence and other contracts with the complainant and the respondent;
- (iii) A summary description of other pertinent records;
- (iv) A summary of witness statements;

(v) Any responses to requests for discovery; and

(vi) Recommendations including, but not limited to the issues of liability for a violation of this article, affirmative action, reasonable accommodation, quantifiable damages, costs, attorney's fees, interest and civil fines.

(c) The Director's recommended order shall become final twenty (20) days after issuance, unless a hearing is requested in writing as provided in 11A-14(9)(a). The investigative report and final order may be amended if additional evidence is later discovered and if amended shall become final ten (10) days thereafter.

(d) If the Director determines that no probable cause exists to believe that a violation of this chapter has occurred or is about to occur, the Director shall promptly dismiss the complaint. The Director shall publicly disclose each such dismissal.

(8) *Conciliation.*

(a) It is the policy of the Director and the Commission to encourage conciliation of complaints. The Director will work with the parties in an attempt to conciliate the complaint. A conciliation agreement arising out of such conciliation shall be an agreement between the respondent and the complainant and shall be subject to approval by the Director. Consistent with federal fair housing laws, a conciliation agreement shall be made public unless the complainant and respondent otherwise agree and the Director determines that disclosure is not required to further the purpose of the federal Fair Housing Act or this article.

(b) Whenever the Director has reasonable cause to believe that a party has breached a conciliation agreement, the Director shall refer the matter to the County Attorney with a recommendation that a civil action be filed in a court of competent jurisdiction for enforcement of such agreement.

(c) Nothing said or done in the course of attempting conciliation under this chapter may be used as evidence in any subsequent proceeding under this chapter or otherwise without the written consent of the parties to the underlying complaint of unlawful conduct.

(9) *Hearing in front of Commission on Human Rights or Hearing Officer.*

(a) If within twenty (20) days after receipt of the Director's finding related to probable cause under Title VIII of the Civil Rights Act of 1968 as amended, the complainant or respondent does not elect to have the findings decided in a civil action by a court of competent jurisdiction as prescribed in 11A-16 and a conciliation agreement has not been reached, then the Director shall provide an opportunity for a hearing before the Commission or a Hearing Officer.

(b) The written request for a hearing shall be made by the complainant or respondent within twenty (20) days after receipt of the Director's determination. A written request for a hearing submitted more than twenty (20) days after receipt of the Director's determination may be granted only upon showing of good cause. The Director shall have the final authority in deciding whether a good cause has been shown. No hearing may be had from a Director's decision that good cause has not been shown. No hearing may be had from the Director's finding of lack of jurisdiction.

(c) The hearing shall commence no later than one hundred twenty (120) days after the issuance of the Director's finding related to probable cause, unless it is impracticable to do so. If the Commission is not able to commence the hearing within one hundred twenty (120) days after the issuance of the Director's finding, the Commission shall notify the complainant and respondent in writing of the reasons for not doing so.

(d) The Commission shall make findings of fact and conclusions of law within sixty (60) days after completion of the hearing, unless it is impracticable to do so. If the

Commission does not make findings of fact and conclusions of law within sixty (60) days, then the Commission shall notify the complainant and respondent in writing of the reasons for not doing so.

(e) The Commission shall not continue to conduct a hearing after the commencement of a trial of civil action by the complainant seeking relief with respect to the discriminatory housing practice which was the basis of the hearing.

(f) In any hearing before the Commission or Hearing Officer pursuant to this section, the respondent may file a written answer to the complaint. All parties shall appear at the hearing in person, with or without counsel, and may submit evidence, cross-examine witnesses, obtain issuance of subpoenas and otherwise be heard. Testimony taken at the hearing shall be under oath. Upon written application to the Commission, a party shall be entitled to the issuance of a reasonable number of subpoenas to compel the attendance of witnesses and/or the production of documents at a hearing or at a deposition in connection with a hearing. Subpoenas issued at the request of a party shall show on their face the name and address of such party, shall state that they were issued at the party's request and shall be subject to the same limitations as subpoenas issued by the County Court of Miami-Dade County, Florida.

(g) Discovery shall be permitted upon motion of any party and shall proceed in the manner provided by the Florida Rules of Civil Procedure.

(h) The Chairperson may direct that the parties to submit a pre-hearing statement addressing the issues of law and fact that will be involved in such hearing, identify the witnesses that will testify, and provide a list of all documents or other types of exhibits that will be submitted.

(i) Upon the conclusion of the hearing, an adjudicative final order shall be issued and serviced upon the parties.

(j) In any proceeding under this article, the burden of proof rests upon the complainant.

(k) Copies of current rules of procedures shall be available at the office of the Director.

(10) *Final administrative disposition.* The Commission or Director shall make a final administrative disposition of a complaint within one (1) year of the date of receipt of the complaint, unless it is impracticable to do so. If the Commission or Director is unable to do so, it shall notify the complainant and respondent in writing of the reasons for not doing so.

(Ord. No. 97-17, § 1, 2-25-97; Ord. No. 06-179, § 11, 12-5-06; Ord. No. 09-53, § 12, 6-30-09)

### **Sec. 11A-15. Enforcement by private persons.**

(1) A complainant may file a civil action in a court of competent jurisdiction no later than two (2) years after the alleged discriminatory housing practice has occurred or terminated or after a breach of a conciliation agreement. A person aggrieved by an alleged housing discrimination practice or breach may file a civil action regardless of whether he or she has filed a complaint under this article and regardless of the status of any complaint filed under this article.

(2) Any sale, encumbrance or rental consummated prior to the filing of a complaint of discrimination pursuant to this chapter, and involving a bona fide purchaser, encumbrance or tenant without actual notice of the existence of the filing of a complaint or civil action under the provisions of this chapter shall not be affected.

(3) If, in a private enforcement proceeding under this chapter, the court finds that a discriminatory practice has occurred or is about to occur it may issue an order prohibiting the practice and providing affirmative relief from the effects of the practice, including temporary or permanent injunctive and other equitable relief, temporary restraining order, actual and punitive

damages, reasonable Attorney's fees, interest, costs or other order.

(4) Upon request of the Commission, the County Attorney may intervene on behalf of the County in an action brought under the provisions of this article, if the Commission certifies that the case is of public importance to the citizens of Miami-Dade County.

(Ord. No. 97-17, § 1, 2-25-97; Ord. No. 06-179, § 12, 12-5-06; Ord. No. 09-53, § 13, 6-30-09)

### **Sec. 11A-16. Election of judicial determination.**

(1) This section shall pertain only to those housing discrimination complaints filed under Title VIII of the Civil Rights Act of 1968, as amended that result in the Director issuing a finding that probable cause exists to believe that a discriminatory act has occurred or is about to occur.

(2) When the Director issues a finding that probable cause exists to believe that a discriminatory act has occurred or is about to occur under Title VIII of the Civil Rights Act of 1968, as amended, the complainant may elect to have the discrimination findings decided in a civil action by a court of competent jurisdiction in lieu of a hearing by the Commission as prescribed in Section 11A-14(9).

(3) The decision to elect a civil action in lieu of a hearing by the Commission or a Hearing Officer must be made not later than twenty (20) days after the receipt of the Director's finding related to probable cause. The person who elects to pursue a civil action shall give notice of this election to the Commission, and to all other complainants and respondents to whom the complaint relates.

(4) If the decision to elect a civil action is made, then the Commission shall authorize the election, and the Director shall provide complainant with an Attorney without cost to the complainant. Such Attorney shall commence a civil action on behalf of the complainant not later than thirty (30) days after election for civil action is made.

(5) Any person aggrieved by the alleged discriminatory housing practices to be determined in the civil action may intervene as of right in that civil action.

(6) If the court finds that a discriminatory housing practice has occurred or is about to occur, the court may award to the complainant actual and punitive damages, court costs and reasonable Attorney fees and may grant any relief such as permanent or temporary injunction, temporary restraining order, or other order as may be appropriate.

(Ord. No. 97-17, § 1, 2-25-97; Ord. No. 09-53, § 14, 6-30-09)

### **Sec. 11A-17. Civil fines.**

(1) At the conclusion of a hearing and upon a finding of housing discrimination in violation of Title VIII of the Civil Rights Act of 1968 as amended, the Board may recommend that the County Attorney commence a civil action for fines without cost to the complainant. Such civil action shall be commenced within ninety (90) days of the issuance of the final order by the Board. If such civil action is brought the court may impose the following fines:

(a) Up to ten thousand dollars (\$10,000.00) if the respondent has not previously been found guilty of a violation of this article;

(b) Up to twenty-five thousand dollars (\$25,000.00) if the respondent has been found guilty of one (1) prior violation of this article within the preceding five (5) years prior to filing of a complaint;

(c) Up to fifty thousand dollars (\$50,000.00) if the respondent has been found guilty of two (2) or more violations of this article within the preceding seven (7) years prior to filing

of a complaint.

(2) In imposing a fine under this section, the court shall consider the nature and circumstances of the violation, the degree of culpability, the history of prior violations of this article, the financial circumstances of the respondent and the goal of deterring future violations of this article.

(3) All fines imposed pursuant to this article shall be paid to the Board of County Commissioners.

(Ord. No. 97-17, § 1, 2-25-97)

**Sec. 11A-18. Real Estate Salespersons and Brokers, report to Real Estate Commission.**

If a Real Estate Broker or any representative or employee thereof fails to comply with any order issued by the Director or Board or a designated representative thereof, or has been found to have committed an unlawful practice in violation of this chapter, the Director shall, in addition to the other procedures and penalties set forth herein, report the Real Estate Broker to the Real Estate Commission of the State of Florida.

(Ord. No. 97-17, § 1, 2-25-97)

## ARTICLE III. PUBLIC ACCOMMODATIONS

### Sec. 11A-19. Unlawful public accommodations practices.

It shall be an unlawful practice for any person to engage in any of the following acts because of the race, color, religion, ancestry, national origin, age, sex, pregnancy, disability, marital status, familial status or sexual orientation of any individual or of any person associated with that individual:

- (1) To refuse, withhold or deny to a person any services, access, advantages, goods, facilities or privileges of a public accommodation including the extension of credit; or
- (2) To publish, circulate, issue, display, post or mail any communication, notice or advertisement to the effect that accommodations, services, goods, advantages, facilities or privileges of a public accommodation shall be refused, withheld or denied to a person or that the patronage of such person is unwelcome, objectionable, or unacceptable; or
- (3) To fail to make reasonable accommodation for the disabled which includes:
  - (a) The imposition or application of eligibility criteria that screen out or tend to screen out an individual with a disability or any class of individuals with disabilities from fully and equally enjoying any goods, services, facilities, privileges, advantages or accommodations, unless such criteria can be shown to be necessary from the provision of the goods, services, facilities, privileges, advantages or accommodations being offered;
  - (b) Failure to make reasonable modifications in policies, practices or procedures, when such modifications are necessary to afford such goods, services, facilities, privileges, advantages or accommodations to individuals with disabilities, unless the entity can demonstrate that making such modifications would fundamentally alter the nature of such goods, service, facilities, privileges, advantages or accommodations;
  - (c) Failure to take such steps as may be necessary to ensure that no individual with a disability is excluded, denied services, segregated or otherwise treated differently than other individuals because of the absence of auxiliary aids and services, unless the entity can demonstrate that taking such steps would fundamentally alter the nature of the good, service, facility, privilege, advantage or accommodation being offered or would result in an undue burden;
  - (d) Failure to remove architectural barriers, and communication barriers that are structural in nature, in existing facilities, and transportation barriers in existing vehicles and rail passenger cars used by an establishment for transporting individuals (not including barriers that can only be removed through the retrofitting of vehicles or rail passenger cars by the installation of a hydraulic or other lift), where such removal is readily achievable; and
  - (e) Where an entity can demonstrate that the removal of a barrier under clause (iv) is not readily achievable, a failure to make such goods, services, facilities, privileges, advantages or accommodations available through alternative methods if such methods are readily achievable. The term "readily achievable" means easily accomplishable and able to be carried out without much difficulty or expense. In determining whether an action is readily achievable, factors to be considered include:

- (A) The nature and cost of the action needed under this chapter;

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(B) The overall financial resources of the facility or facilities involved in the action; the number of persons employed at such facility; the effect on expenses and resources, or the impact otherwise of such action upon the operation of the facility;

(C) The overall financial resources of the covered entity; the overall size of the business of a covered entity with respect to the number of its employees; the number, type and location of its facilities; and

(D) The type of operation or operations of the covered entity, including the composition, structure, and functions of the workforce of such entity; the geographic separateness, administrative or fiscal relationship of the facility or facilities in question to the covered entity;

(f) In determining responsibility for reasonable accommodation, the landlord shall be held responsible for making readily achievable changes and providing auxiliary aids, and services in common areas and for modifying policies, practices or procedures applicable to all tenants. The tenant shall be responsible for readily achievable changes, provision of auxiliary aids, and modification of policies within its own place of public accommodation. The responsibility for particular obligations may be determined by contract.

(4) To segregate any public accommodation except where such segregation is caused by barriers to accessibility which are not required to be eliminated through reasonable accommodation.

(Ord. No. 97-17, § 1, 2-25-97; Ord. No. 98-170, § 1, 12-1-98)

### **Sec. 11A-20. Places of public accommodation.**

*Places of public accommodations* shall mean any establishment, service, place or building which offers, sells or otherwise makes available to the public any good, service, facility, privilege or advantage. Each of the following establishments which services the public is a place of public accommodation within the meaning of this article:

- (a) An inn, hotel, motel or other place of lodging, except for an establishment located within a building that contains not more than five (5) rooms for rent or hire and that is actually occupied by the proprietor of such establishment as the residence of such proprietor;
- (b) A restaurant, bar or other establishment serving food or drink;
- (c) A motion picture house, theater, concert hall, stadium, or other place of exhibition or entertainment;
- (d) An auditorium, convention center, lecture hall or other place of public gathering.
- (e) A bakery, grocery store, clothing store, hardware store, shopping center, or other sales or rental establishment;
- (f) A laundromat, dry-cleaner, bank, barber shop, beauty shop, travel service, shoe repair service, funeral parlor, gas station, office of an accountant or lawyer, pharmacy, insurance office, professional office of a health care provider, hospital or other service establishment;
- (g) A terminal, depot or other station used for specified public transportation including but not limited to taxis, limousines and buses.
- (h) A museum, library, gallery or other place of public display or collection;

- (i) A park, zoo, amusement park or other place of recreation;
- (j) A nursery, elementary, secondary, undergraduate or postgraduate private school, or other place of education;
- (k) A day care center, senior citizen center, homeless shelter, food bank, adoption agency or other social service center establishment; and
- (l) A gymnasium, health spa, bowling alley, golf course, or other place of exercise or recreation.
- (m) any area or structure provided for the purpose of storing personal property.

(Ord. No. 97-17, § 1, 2-25-97; Ord. No. 06-179, § 13, 12-5-06)

### **Sec. 11A-21. Fair pricing.**

In any place of public accommodation as defined in Section 11A-20(c), the distribution of ticket prices for seating reserved for persons with a disability, wherever located, shall be equal in proportion to the distribution of ticket prices available in the facility as a whole, provided, however, that the maximum price for tickets for disabled seating shall be no greater than the maximum price charged for other types of seating in the same area of the facility.

(Ord. No. 97-17, § 1, 2-25-97; Ord. No. 06-179, § 14, 12-5-06)

### **Sec. 11A-22. Exceptions to unlawful public accommodations practices.**

(1) The provisions of this article shall not apply to a club or other establishment not in fact open to the public which proves it is in its nature distinctly private except as provided below.

(2) An institution, club facility or place of accommodation shall not be considered in its nature distinctly private if it has more than four hundred (400) members, provides regular meal service and regularly receives payment for dues, fees, use of space, facilities, services, meals or beverages directly or indirectly from or on behalf of nonmembers for the furtherance of trade or business.

(3) Any place of accommodation which is required as a result of this section to construct or reconstruct locker room, shower, or other facilities shall be allowed until October 1, 1990 to complete such work, and prior to such date shall not be found guilty of sex discrimination. The board, for good cause shown, may grant an extension not to exceed an additional ninety (90) days after the date allowed such place of accommodation to complete such work.

(4) The foregoing provisions notwithstanding, this article shall not apply, with respect to sex, to places of public accommodation where the Board of County Commissioners grants an exemption based on bona fide considerations of public policy.

(5) Nothing in this article shall apply with respect to a religious organization, association, society or any non-profit institution or organization operated, supervised or controlled by or in conjunction with any such group, from limiting its goods, facilities, services, privileges or advantages to persons of the same religion or from giving preference to any such person, however, that religious organization, association or society shall not restrict membership based on race, color, national origin, ancestry, sex, pregnancy, age, marital status, familial status or disability. Furthermore, nothing in this article relating to unlawful public accommodation practices based on sexual orientation shall pertain to any religious organization, association, society or any non-profit institution or organization operated, supervised or controlled by or in conjunction with a religious organization, association or society.

(6) It is not the policy of Miami-Dade County to prohibit bona fide discount programs based on age classification so long as such programs are not designed, intended or used to deny an individual or group either access to the premises, the right to reside on the premises, or the right to patronize the premises.

(Ord. No. 97-17, § 1, 2-25-97; Ord. No. 98-170, § 1, 12-1-98; Ord. No. 06-179, § 15, 12-5-06)

### **Sec. 11A-23. Procedures for public accommodations complaint.**

(1) *Filing a public accommodations complaint.* Any person aggrieved by an unlawful public accommodation prohibited by this article must file a written, signed complaint with the Director within one hundred eighty (180) days after the alleged unlawful practice occurs. The complaint shall set forth the facts upon which it is based with sufficient specificity to identify the respondent. Such complaint may be amended; however, the amended complaint must be filed within the one hundred and eighty (180) days after the alleged unlawful practice occurs.

(2) *Director's action upon receipt of complaint of public accommodations discrimination.* Upon the filing of any complaint, the Director shall send notice upon the complainant acknowledging such filing and advising the complainant of the time limits provided under this article.

(3) *Respondent.*

(a) Upon the filing of any complaint, the Director shall promptly serve the complaint and a written notice on the respondent or person charged with the commission of a discriminatory practice, setting forth the rights and obligations of the parties including, but not limited to the right to a fair and full hearing on the matter before the Commission on Human Rights or a Hearing Officer. Such service shall be by certified mail.

(b) A person who is not named as a respondent in a complaint, but who is identified as a respondent in the course of investigation, may be joined as an additional or substitute respondent upon written notice to such person from the Director. Notice shall be served upon such additional or substitute respondent within ten (10) days of such joinder or substitution and shall explain the basis for the Director's belief that the person to whom the notice is addressed is properly joined as a respondent.

(c) Each respondent may file an answer to the complaint, not later than ten (10) days after receipt of the complaint and notice from the Director.

(4) *Investigation of public accommodations discrimination complaint.* In conducting an investigation of a complaint, the Director shall have access at all reasonable times to premises, records, documents, individuals and other evidence or possible sources of evidence relevant to the complaint and may examine, record, photograph and copy such materials and take and record the testimony or statements of such persons and issue such interrogatories as are reasonably necessary for the furtherance of the investigation. The Board may enter an order compelling answers to interrogatories. The Board may issue subpoenas to compel access to or the production of materials, or appearance of persons, to the same extent and subject to the same limitations as all other subpoenas issued by the County Court of Miami-Dade County, Florida.

(5) *Subpoenas.*

(a) Witnesses summoned by subpoena of the Board shall be entitled to the same witness and mileage fees as are witnesses in proceedings in the County Court of Miami-Dade County, Florida. Fees payable to a witness summoned by subpoena issued at the request of a party shall be paid by the party, or where the party is unable to pay due to indigence, shall be paid by the Board.

(b) Within ten (10) days after service of a subpoena upon any person, such person may

petition the Board to revoke or modify the subpoena. The Board shall grant the petition if it finds that the subpoena requires appearance or attendance at an unreasonable time or place, that it requires production of evidence which does not relate to any matter under investigation, that it does not describe with sufficient particularity the evidence to be produced, that compliance would be unduly onerous, or for other good reason.

(c) In the case of the contumacy or refusal to obey a subpoena, the Board or any party may seek enforcement of a subpoena issued under the authority of this chapter by filing a petition for enforcement in the County Court of Miami-Dade County, Florida;

(d) In any enforcement proceeding authorized by this chapter, the court may award to the prevailing party all or part of the costs and Attorney's fees incurred in obtaining the court order as authorized by the Florida Rules of Civil Procedure;

(e) Any person who willfully fails or neglects to attend and testify or to answer any lawful inquiry or to produce records, documents or other evidence, if in his or her power to do so, may be fined by the County Court of Miami-Dade County, Florida, not more than five hundred dollars (\$500.00) or imprisoned not more than sixty (60) days or both.

(f) Any person who, with intent thereby to mislead the Board or the Director, makes or causes to be made any false entry or statement of fact in any report, account, record or other document submitted to the Board pursuant to its subpoena or other order, or shall willfully neglect or fail to make or cause to be made full, true and correct entries in such reports, accounts, records or other documents, or shall willfully mutilate, alter, or by any other means falsify any documentary evidence, may be fined by the County Court of Miami-Dade County, Florida, not more than five hundred dollars (\$500.00) or imprisoned not more than sixty (60) days or both.

**(6) *Applicability of Florida Rules of Civil Procedure.***

(a) The provisions of Rule 1.090, Florida Rules of Civil Procedure, shall govern the computation of any period of time prescribed or allowed by this chapter or by rules, regulations, or orders adopted pursuant to this chapter.

(b) All papers or pleadings required by this chapter to be served may be served by certified mail or in accordance with Rule 1.080, Florida Rules of Civil Procedure.

**(7) *Finding related to probable cause.***

(a) The Director shall make a finding related to probable cause, so far as practicable, no later than one hundred eighty (180) days after receipt of the complaint or amended complaint.

(b) At the end of the investigation under this chapter, the Director shall prepare a finding related to probable cause consisting of a final investigative report and recommended order. The Director's finding shall be served upon the complainant and the respondent. The Director's final investigative report and recommended order shall contain:

(i) The names and dates of contacts with witnesses;

(ii) A summary and the date of correspondence and other contacts with the complainant and the respondent;

(iii) A summary description of other pertinent records;

(iv) A summary of witness statements;

(v) Any responses to requests for discovery; and

(vi) Recommendations including, but not limited to the issues of liability for a violation of this chapter, affirmative action, reasonable accommodation,

quantifiable damages, costs, Attorney's fees, interest and civil fines.

(c) The Director's recommended order shall become final ten (10) days after issuance, unless a hearing is requested pursuant to Section 11A-23(9)(a). The final investigative report and final order may be amended if additional evidence is later discovered and if amended shall become final ten (10) days thereafter.

(d) If the Director determines that no probable cause exists to believe that a violation of this chapter has occurred or is about to occur, the Director shall promptly dismiss the complaint. The Director shall publicly disclose each such dismissal.

(8) *Conciliation.*

(a) It is the policy of the Director and the Board to encourage conciliation of charges. The Director will work with the parties to in an attempt to conciliate the complaint. If possible, a written conciliation agreement resolving the dispute between the complainant and the respondent shall be executed prior to determination. Any time until final hearing by the Board, the Director will work with the parties in an attempt to conciliate the complaint.

(b) A conciliation agreement arising out of such conciliation shall be an agreement between the respondent and the complainant and shall be subject to approval by the Director.

(c) Whenever the Director has reasonable cause to believe that a party has breached a conciliation agreement, the Director shall refer the matter to the County Attorney with a recommendation that a civil action be filed in a court of competent jurisdiction for enforcement of such agreement.

(d) Nothing said or done in the course of attempting conciliation under this chapter may be used as evidence in any subsequent proceeding under this chapter or otherwise without the written consent of the parties to the underlying charge of unlawful conduct.

(9) *Hearing in front of Commission on Human Rights or Hearing Officer.*

(a) Within fifteen (15) days after receipt of the Director's finding related to probable cause the respondent or the complainant may submit a written request for a hearing before the Commission, or before a Hearing Officer. In conducting any hearing to determine whether a violation of this chapter has occurred, the Hearing Officer shall have the power to administer oaths, issue subpoenas, compel the production of and receive evidence. The determination of the Hearing Officer shall be subject to appeal to a court of competent jurisdiction in the same manner as a Final Order issued by the members of the Commission on Human Rights. If a hearing before the Commission on Human Rights is requested, such hearing shall be held in accordance with Section 11A-23 of this chapter, and the Commission's Hearing Procedures. A written request for a hearing submitted more than fifteen (15) days after receipt of the Director's finding may be granted only upon a showing of good cause. The Director shall have the final authority in deciding whether good cause has been shown. No hearing may be had from the Director's decision that good cause has not been shown. No hearing may be had from the Director's finding of lack of jurisdiction.

(b) In any hearing before the Commission pursuant to this section, the respondent may file a written answer to the complaint. All parties shall appear at the hearing in person, with or without counsel, and may submit evidence, cross-examine witnesses, obtain issuance of subpoenas and otherwise be heard. Testimony taken at the hearing shall be under oath and a transcript shall be made available at cost to any interested party.

(c) Discovery shall be permitted upon motion of any party and shall proceed in the manner provided by the Florida Rules of Civil Procedure.

(d) The Chairperson may direct that the parties submit a pre-hearing statement

addressing the issues of law and fact that will be involved in such hearing, identify the witnesses that will testify, and provide a list of all documents or other types of exhibits that will be submitted.

(e) Upon the conclusion of the hearing, an adjudicative final order shall be issued and served upon the parties.

(f) In any proceeding under this article, the burden of proof rests upon the complainant.

(g) Copies of current rules of procedures shall be available at the office of the Director.

(Ord. No. 97-17, § 1, 2-25-97; Ord. No. 06-179, § 16, 12-5-06; Ord. No. 09-53, § 15, 6-30-09)

### **Sec. 11A-24. Enforcement by private persons.**

(1) If within one hundred eighty (180) days after a complaint is filed alleging discrimination, the Director has been unable to obtain voluntary compliance with the provisions of this chapter, the complainant may demand a notice of right-to-sue from the Director, the issuance of which shall terminate the jurisdiction of the Director and the Board over such complaint. Not later than ninety (90) days following receipt of the notice of right-to-sue, the complainant may commence a civil action in a court of competent jurisdiction against the respondent named in the complaint.

(2) If, in a private enforcement proceeding under this chapter, the court finds that a discriminatory practice has occurred or is about to occur it may issue an order prohibiting the practice and providing affirmative relief from the effects of the practice, including temporary or permanent injunctive and other equitable relief, temporary restraining order, actual and punitive damages, reasonable Attorney's fees, interest, costs or other order.

(3) Upon request of the Board, the County Attorney may intervene on behalf of the County in an action brought under the provisions of this article, if the Board certifies that the case is of public importance to the citizens of Miami-Dade County.

(Ord. No. 97-17, § 1, 2-25-97; Ord. No. 06-179, § 16, 12-5-06)

### **Sec. 11A-24.1. Civil Fines.**

(1) At the conclusion of a hearing and upon a finding of public accommodations discrimination, the Board may consider fines without cost to the complainant. The Board may impose the following fines:

(a) Up to then thousand dollars (\$10,000.00) if the respondent has not previously been found guilty of a violation of this article;

(b) Up to twenty-five thousand dollars (\$25,000.00) if the respondent has been found guilty of one (1) prior violation of this article within the preceding five (5) years prior to filing of a complaint;

(c) Up to fifty thousand dollars (\$50,000.00) if the respondent has been found guilty of two (2) or more violations of this article within the preceding seven (7) years prior to filing of a complaint.

(2) In imposing a fine under this section, the Board shall consider the nature and circumstances of the violation, the degree of culpability, the history of prior violations of this article, the financial circumstances of the respondent and the goal of deterring future violations of this article.

(3) All fines pursuant to this article shall be paid to the Board of County Commissioners.

(Ord. No. 06-179, § 18, 12-5-06)



## ARTICLE IV. EMPLOYMENT

### Sec. 11A-25. Definitions.

The definitions set out in Section 11A-2 shall apply to this article in addition to the definitions set forth below. As used in this article:

- (1) *Employee* shall mean an individual employed by an employer.
- (2) *Employer* shall mean any person who in the regular course of business has five (5) or more employees in Miami-Dade County in each of four (4) or more calendar weeks in the current calendar year and any agent, acting manager, contractor or subcontractor of such person, but such term does not include:
  - (a) The United States or a corporation wholly owned by the government of the United States;
  - (b) The State of Florida;
  - (c) Miami-Dade County;
  - (d) An Indian Tribe; or
  - (e) A bona fide private membership club.
- (3) *Employment agency* shall mean any person or agent thereof, regularly undertaking, with or without compensation, to recruit for prospective employees, opportunities to work for an employer on any basis, including, full-time, part-time, temporary, permanent or any combination thereof.
- (4) *Labor organization* shall include any union, association, joint committee, board or other combination, or any agent thereof, which bargains or deals with employers concerning grievances, labor disputes, wages, rates of pay, hours or other terms or conditions of employment.

(Ord. No. 97-17, § 1, 2-25-97)

### Sec. 11A-26. Unlawful employment practices.

- (1) It shall be unlawful for any employer to engage in any practices described below on account of the race, color, religion, ancestry, sex, pregnancy, national origin, age, disability, marital status, familial status or sexual orientation of any individual or any person associated with such individual:
  - (a) To fail or refuse to hire or to otherwise discriminate against any individual;
  - (b) To print or circulate or cause to be printed or circulated, any advertisement, statement or publication or to use an application form or to make an inquiry in connection with prospective employment which expresses a limitation, preference, specification or to otherwise discriminate against an individual on any of the grounds specified in this article, or because of any such reason to discharge an employee or to discriminate with respect to training, hire, tenure, promotion, transfer, terms, conditions, wages, benefits or privileges of employment or in any other matter related to employment;
  - (c) To utilize any employment agency or company providing employees which the

prospective employer knows or has reasonable cause to know discriminates against individuals on any basis prohibited by this article;

(d) To fail or refuse to make reasonable accommodation for a disabled individual. "Reasonable accommodation" in employment shall require every employer to make necessary adaptations to the known physical or mental limitations of an otherwise qualified applicant or employee with a disability unless the employer can demonstrate that the adaptation would impose an undue hardship on the operation of its business.

(i) Reasonable accommodation may include:

(I) Making facilities used by employees readily accessible to and usable by persons with a disability; and

(II) Job restructuring, part-time or modified work schedules, reassignment to a vacant position, acquisition or modification of equipment or devices, appropriate adjustment or modifications of examinations, training materials or policies, the provision of readers or interpreters, and other similar actions.

(ii) In determining whether an accommodation would impose an undue hardship on an employer, factors to be considered include:

(I) The overall size of the employer with respect to number of employees, number and type of facilities, and size of budget;

(II) The type of the employer's operation, including the composition and structure of the employer's work force; and

(III) The nature and cost of the accommodation needed.

(iii) An employer may not deny any employment opportunity to a qualified disabled employee or applicant if the basis for the denial is the need to make reasonable accommodation for the physical or mental limitations of the employee or applicant.

(e) To limit, segregate, advertise, recruit or classify any employee or applicant for employment in any way which would deprive any individual of employment opportunities or otherwise adversely affect the individual's employment opportunities or status as an employee on any basis prohibited by this article.

(2) It shall be unlawful for any employment agency or company providing employees to engage in any of the practices described below on account of any individual's race, color, religion, ancestry, national origin, age, sex, pregnancy, disability, marital status, familial status or sexual orientation:

(a) To fail or refuse to hire or refer for employment or to otherwise discriminate against any individual;

(b) To comply with an employer's request which directly or indirectly indicates a preference or any discrimination against any individual;

(c) To classify or to refer for employment any individual;

(d) To print or circulate or cause to be printed or circulated, a statement, advertisement or publication, to use a form of application or to make an inquiry in connection with prospective employment, which expresses directly or indirectly a limitation, specification or otherwise to discriminate against any individual.

(3) It shall be an unlawful employment practice for a labor organization to engage in any of the practices described below on account of any individual's race, color, religion, ancestry, national origin, age, sex, pregnancy, disability, marital status, familial status or sexual orientation:

- (a) To exclude, to expel from its membership, or otherwise to discriminate against any individual;
- (b) To limit, or segregate or classify its membership, or applicants for membership, or to fail or refuse to refer for employment any individual, in any way which would deprive or tend to deprive any individual of employment opportunities or otherwise to discriminate against any member or applicant for membership or otherwise to adversely affect his or her status as an employee or as an applicant for employment;
- (c) To cause or attempt to cause an employer to discriminate against an individual in violation of this article;
- (d) To fail or refuse to reasonably accommodate an individual's disability.

(4) It shall be unlawful employment practice for any employer to discriminate against any of his or her employees or applicants for employment, for an employment agency or similar organization to discriminate against any individual, or for a labor organization to discriminate against any member or applicant for membership because he or she has opposed any practice made unlawful by this article or because he or she has testified, assisted, or participated in any manner in an investigation, proceeding or hearing under this article.

(5) Exemptions to unlawful employment practices.

(a) Notwithstanding any other provision of this article it shall not be an unlawful employment practice:

(i) For a school, college, university, or other educational institution or institution of learning to hire and employ individuals of a particular religion if: such school, college, university, or other educational institution or institution of learning is, in whole or in substantial part, owned, supported, controlled or managed by a particular religion or by a particular religious corporation, association or society, or if the curriculum of such school, college, university or other educational institution of learning is directed toward the propagation of a particular religion and; the employment opportunity sought by the employee or applicant is directly or indirectly related propagating that religion.

(ii) For an employer to hire and employ individuals, for an employment agency to classify or refer for employment any individual, for a labor organization to classify its membership or to classify or refer for employment any individual, or for an employer, labor organization, or joint labor-management committee controlling apprenticeship or other training or retraining programs to admit or employ any individual in any such program, on the basis of his or her religion, sex or national origin in those certain instances where religion, sex, or national origin is a bona fide occupational qualification reasonably necessary to the normal operation of that particular business or enterprise. Additionally, nothing in this article shall apply with respect to a religious organization, association, society or any not for profit institution or organization operated, supervised or controlled by or in conjunction with any religious organization from limiting its employment to persons of the same religion or from giving preference to any such person; however, that religious organization, association or society shall not restrict membership based on race, color, national origin, ancestry or disability. Furthermore, nothing in this article relating to unlawful employment practices based on sexual orientation shall pertain to any religious organization, association, society, or any non-profit institution or organization operated, supervised or controlled by or in conjunction with a religious organization, association or society.

(iii) For any employer to apply different standards of compensation, or different terms, conditions, benefits, privileges of employment pursuant to a bona fide,

written seniority or merit system or piece-work system or a system which measures earnings by quantity provided that such difference does not discriminate because of race, color, religion, ancestry, national origin, age, sex, pregnancy, disability, marital status, familial status or sexual orientation.

(iv) For an employer or employment agency or representative of either to give or to act upon the results of any professionally validated ability test provided that such test, its administration or action upon the result is not designed, intended or used to discriminate because of race, color, religion, ancestry, national origin, age, sex, pregnancy, disability, marital status or sexual orientation.

(b) Nothing contained in this article shall apply to any business or enterprise on or near an Indian Tribe reservation with respect to any publicly announced employment practice of such business or enterprise under which a preferential treatment is given to any individual because he or she is an Indian living on or near a reservation.

(c) Nothing contained in this article shall be interpreted to require any employer, employment agency, labor organization, or joint labor-management committee subject to this chapter to grant preferential treatment to any individual or to any group because of the race, color, religion, sex, pregnancy, national origin, ancestry, age, disability, marital status, familial status or sexual orientation of such individual or group on account of an imbalance which may exist with respect to the total number or percentage of persons of any race, color, religion, sex, pregnancy, national origin, ancestry, age, disability, marital status, familial status or sexual orientation in any community, section or other area of the county or in the available work force in any community, section or other area of the county.

(Ord. No. 97-17, § 1, 2-25-97; Ord. No. 98-170, § 1, 12-1-98; Ord. No. 06-179, § 19, 12-5-06)

### **Sec. 11A-27. Exception to jurisdiction; Miami-Dade County employees.**

(1) Any employee of Miami-Dade County who believes he or she has been aggrieved by a violation of this article may file a complaint with the Fair Employment Practices Director.

(2) The Fair Employment Practices Director shall have exclusive jurisdiction to resolve any complaint or amended complaint of violation of this article filed by or on behalf of an employee of Miami-Dade County, and in connection therewith, may exercise any and all powers granted to him or her by Article VI of this chapter.

(Ord. No. 97-17, § 1, 2-25-97)

### **Sec. 11A-28. Procedures for employment discrimination complaints.**

(1) *Filing an employment discrimination complaint.* Any person aggrieved by an unlawful employment action prohibited by this article must file a written, signed complaint with the Director within one hundred eighty days (180) after the alleged unlawful practice occurs.

(2) *The complaint shall set forth the facts upon which it is based with sufficient specificity to identify the respondent.* Such complaint may be amended; however, the amended complaint must be filed within the period one hundred and eighty (180) days after the alleged unlawful practice occurs.

(3) *Respondent.*

(a) Upon the filing of any complaint, the Director shall promptly serve the complaint and a written notice on the respondent or person charged with the commission of a discriminatory practice, setting forth the rights and obligations of the parties including,

but not limited to, the right to a fair and full hearing on the matter before the Commission on Human Rights or a Hearing Officer. Such service shall be by certified mail.

(b) A person who is not named as a respondent in a complaint, but who is identified as a respondent in the course of investigation, may be joined as an additional or substitute respondent upon written notice to such person from the Director. Notice shall be served upon such additional or substitute respondent within ten (10) days of such joinder or substitution and shall explain the basis for the Director's belief that the person to whom the notice is addressed is properly joined as a respondent.

(c) Each respondent may file an answer to the complaint, not later than twenty (20) days after receipt of the complaint and notice from the Director.

(4) *Investigation of employment discrimination complaint.*

(a) In conducting an investigation of a complaint, the Director shall have access at all reasonable times to premises, records, documents, individuals and other evidence or possible sources of evidence relevant to the complaint and may examine, record, photograph and copy such materials and take and record the testimony or statements of such persons and issue such interrogatories as are reasonably necessary for the furtherance of the investigation. The Board may enter an order compelling answers to interrogatories. The Board may issue subpoenas to compel access to or the production of materials, or appearance of persons, to the same extent and subject to the same limitations as all other subpoenas issued by the County Court of Miami-Dade County, Florida.

(5) *Subpoenas.*

(a) Witnesses summoned by subpoena of the Board shall be entitled to the same witness and mileage fees as are witnesses in proceedings in the County Court of Miami-Dade County, Florida. Fees payable to a witness summoned by subpoena issued at the request of a party shall be paid by the party, or where the party is unable to pay due to indigence, shall be paid by the Board.

(b) Within ten (10) days after service of a subpoena upon any person, such person may petition the Board to revoke or modify the subpoena. The Board shall grant the petition if it finds that the subpoena requires appearance or attendance at an unreasonable time or place, that it requires production of evidence which does not relate to any matter under investigation, that it does not describe with sufficient particularity the evidence to be produced, that compliance would be unduly onerous, or for other good reason.

(c) In the case of the contumacy or refusal to obey a subpoena, the Board or any party may seek enforcement of a subpoena issued under the authority of this chapter by filing a petition for enforcement in the County Court of Miami-Dade County, Florida;

(d) In any enforcement proceedings authorized by this chapter, the court may award to the prevailing party all or part of the costs and Attorney's fees incurred in obtaining the court order as authorized by the Florida Rules of Civil Procedures;

(e) Any person who willfully fails or neglects to attend and testify or to answer any lawful inquiry or to produce records, documents or other evidence, if in his or her power to do so, may be fined by the County Court of Miami-Dade County, Florida, not more than five hundred dollars (\$500.00) or imprisoned not more than sixty (60) days or both.

(f) Any person who, with intent thereby to mislead the Board or the Director, makes or causes to be made any false entry or statement of fact in any report, account, record or other document submitted to the Board pursuant to its subpoena or other order, or shall willfully neglect or fail to make or cause to be made full, true and correct entries in such reports, accounts, records or other documents, or shall willfully mutilate, alter or by any other means falsify any documentary evidence, may be fined by the County Court of

Miami-Dade County, Florida, not more than five hundred dollars (\$500.00) or imprisoned not more than sixty (60) days or both.

(6) *Applicability of Florida Rules of Civil Procedure.*

(a) The provisions of Rule 1.090, Florida Rules of Civil Procedure, shall govern the computation of any period of time prescribed or allowed by this chapter or by rules, regulations, or orders adopted pursuant to this chapter.

(b) All papers or pleadings required by this chapter to be served may be served by certified mail or in accordance with Rule 1.080, Florida Rules of Civil Procedure.

(7) *Finding related to probable cause.*

(a) The Director's finding related to probable cause shall be made, so far as practicable, no later than one hundred eighty (180) days after receipt of the complaint or amended complaint.

(b) At the end of the investigation under this chapter, the Director shall prepare a finding related to probable cause consisting of a final investigative report and recommended order. The Director's determination shall be served upon the complainant and the respondent. The Director's final investigative report and recommended order shall contain:

(i) The names and dates of contracts with witnesses;

(ii) A summary and the dates of correspondence and other contacts with the complainant and the respondent;

(iii) A summary description of other pertinent records;

(iv) A summary of witness statements;

(v) Any responses to requests for discovery; and

(vi) Recommendations including, but not limited to the issues of liability for a violation of this chapter, affirmative action, reasonable accommodation, quantifiable damages, costs, attorney's fees, interest and civil fines.

(c) The Director's recommended order shall become final fifteen (15) days after issuance, unless a hearing is requested pursuant to Section 11A-28(9). The final investigative report and final order may be amended if additional evidence is later discovered and if amended shall become final fifteen (15) days thereafter.

(d) If the Director determines that no probable cause exist to believe that a violation of this chapter has occurred or is about to occur, the Director shall promptly dismiss the complaint. The Director shall publicly disclose each such dismissal.

(8) *Conciliation.*

(a) It is the policy of the Director and the Board to encourage conciliation of charges. The Director will work with the parties in an attempt to conciliate the agreement. If possible, a written conciliation agreement resolving the dispute between the complainant and the respondent shall be executed prior to a finding related to probable cause. Any time until final hearing by the Board, the Director will work with the parties in an attempt to conciliate the complaint.

(b) A conciliation agreement arising out of such conciliation shall be an agreement between the respondent and the complainant and shall be subject to approval by the Director.

(c) Whenever the Director has reasonable cause to believe that a party has breached a conciliation agreement, the Director shall refer the matter to the County Attorney with a

recommendation that a civil action be filed in a court of competent jurisdiction for enforcement of such agreement.

(d) Nothing said or done in the course of attempting conciliation under this chapter may be used as evidence in any subsequent proceeding under this chapter or otherwise without the written consent of the parties to the underlying charge of unlawful conduct.

(9) *Hearing in front of Equal Opportunity Board or Hearing Examiner.*

(a) Within fifteen (15) days after receipt of the Director's finding related to probable cause the respondent or the complainant may submit a written request for a hearing before the Board or a Hearing Officer. In conducting any hearing to determine whether a violation of this chapter has occurred, the Hearing Officer shall have the power to administer oaths, issue subpoenas, compel the production of and receive evidence. The determination of the Hearing Officer is subject to appeal in a court of competent jurisdiction in the same manner as a Final Order issued by the members of the Equal Opportunity Board. If a hearing before the Equal Opportunity Board is requested, such hearing shall be held in accordance with Section 11A-28 of this chapter, and the Board's Hearing Procedures. A written request for a hearing submitted more than fifteen (15) days after receipt of the Director's finding may be granted only upon a showing of good cause. The Director shall have the final authority in deciding whether good cause has been shown. No hearing may be had from the Director's decision that good cause has not been shown. No hearing may be had from the Director's finding of lack of jurisdiction.

(b) In any hearing before the Board pursuant to this section, the respondent may file a written answer to the complaint. All parties shall appear at the hearing in person, with or without counsel, and may submit evidence, cross-examine witnesses, obtain issuance of subpoenas and otherwise be heard. Testimony taken at the hearing shall be under oath and a transcript shall be made available at cost to any interested party.

(c) Discovery shall be permitted upon motion of any party and shall proceed in the manner provided by the Florida Rules of Civil Procedure.

(d) The chairperson may direct that the parties submit a pre-hearing statement addressing the issues of law and fact that will be involved in such hearing, identify the witnesses that will testify, and provide a list of all documents or other types of exhibits that will be submitted.

(e) Upon the conclusion of the hearing, an adjudicative final order shall be issued and served upon the parties.

(f) In any proceeding under this article, the burden of proof rests upon the complainant.

(g) Copies of current rules of procedures shall be available at the office of the Director.

(10) *Enforcement by private persons.*

(a) If within one hundred eighty (180) days after a complaint is filed alleging discrimination, the Director has been unable to obtain voluntary compliance with the provisions of this Article, the aggrieved person may demand a notice of right-to-sue from the Director, the issuance of which shall terminate the jurisdiction of the Director and the Board over such a complaint. Not later than ninety (90) days following receipt of the notice of right-to-sue, the aggrieved person may commence a civil action in a court of competent jurisdiction against the respondent named in the complaint.

(b) If, in a private enforcement proceeding under this Article, the court finds that a discriminatory practice has occurred or is about to occur it may issue an order prohibiting the practice and providing affirmative relief from the effects of the practice, including temporary or permanent injunctive and other equitable relief, temporary restraining order, actual and punitive damages, reasonable attorney's fees, interest, costs or other appropriate relief.

(c) Upon request of the Board, the County Attorney may intervene on behalf of the County in an action brought under the provisions of this Article, if the Board certifies that the case is of great public importance to the citizens of Miami-Dade County.

(Ord. No. 97-17, § 1, 2-25-97; Ord. No. 06-179, § 20, 12-5-06; Ord. No. 09-53, § 16, 6-30-09)

## ARTICLE V. FAMILY LEAVE

### Sec. 11A-29. Legislative findings and purpose.

(1) The County Commission finds that the number of families within the County in which both parents or a single parent is employed outside the home has increased significantly within recent years. Due to a lack of employment policies designed to accommodate working parents, many individuals are forced to choose between job security and parenting or providing care for ill family members. The Commission further finds that it is necessary to promote the economic security of families by guaranteeing jobs to wage earners who choose to take a period of leave upon the birth or placement for adoption of a child or serious health condition of a family member. The Commission also recognizes that unrestricted leave by an employee may interfere with an employer's legitimate business needs. The Commission, therefore, declares that it is the policy of the County to balance the demands of the workplace with the needs of families, to promote stability and economic security in families and to entitle employees to take reasonable leave for medical reasons, for the birth or adoption of a child, and for the care of a child, spouse or other close relative who has a serious health condition. The County further declares that employees should be entitled to take such leave without risk of termination of employment or retaliation by employers.

(2) The County Commission finds that the enactment of the Family and Medical Leave Act of 1993, Public Law No. 103-3 (29 U.S.C. § 2611 et seq.) fulfills many of the purposes for which this chapter was originally intended. In order to avoid imposing possibly conflicting burdens on employers and unduly confusing employees about their family leave rights, the Commission believes it appropriate to make the County ordinance consistent with the federal act and intends that the ordinance be so interpreted. In enacting this revised chapter, the County Commission intends to provide employees in the County with an efficient alternative means of enforcing their rights to family medical leave through the Commission on Human Rights.

(Ord. No. 97-17, § 1, 2-25-97; Ord. No. 09-53, § 17, 6-30-09)

### Sec. 11A-30. Definitions.

As used in this article:

- (1) *Commission* shall mean the Miami-Dade County Commission on Human Rights.
- (2) *Director* shall mean the Director of the Miami-Dade County Commission on Human Rights or his or her designee.
- (3) *Employer* shall mean a person as defined in Section 11A-2(9) of this chapter which has in the regular course of business fifty (50) or more employees working in Miami-Dade County for each working day during each of twenty (20) or more calendar work weeks in the current or preceding calendar year.
- (4) *Employee* shall mean a person who has been employed in Miami-Dade County by the employer with whom leave is requested for at least twelve (12) months and for at least one thousand two hundred and fifty (1,250) hours of service with such employer during the previous twelve-month period.
- (5) *Grandparent* shall mean any grandparent of an employee for whom the employee has assumed primary financial responsibility.
- (6) All other terms shall be defined as in the Family and Medical Leave Act of 1993,

Public Law No. 103-3 (29 U.S.C. § 2611 et seq.) and any amendments thereto.  
(Ord. No. 97-17, § 1, 2-25-97; Ord. No. 06-179, § 21, 12-5-06; Ord. No. 09-53, § 18, 6-30-09)

**Sec. 11A-31. Entitlement to leave.**

Employees, as defined in this article, shall be entitled to take leave on the same terms and conditions as are provided in Sections 102, 103, 104 and 108 of the Family and Medical Leave Act of 1993, Public Law No. 103-3, any amendments thereto, except:

(1) An employee may also take leave under this chapter to care for a grandparent with a serious health condition on the same terms and conditions as leave is permitted under the Family and Medical Leave Act to care for a parent with a serious health condition.

(2) Nothing in this chapter shall be construed to affect any employee benefit plan that the employer may otherwise provide.

(Ord. No. 97-17, § 1, 2-25-97)

**Sec. 11A-32. Exemption for governmental employers that provide equivalent leave rights.**

This article shall not apply to any municipality, special district, or other local government entity that maintains a leave policy that:

(a) Provides employees with at least the same rights to leave as are provided by this article; and

(b) Includes an administrative procedure for its employees to enforce such rights.

(Ord. No. 97-17, § 1, 2-25-97)

**Sec. 11A-33. Procedures for family leave complaint.**

The procedures for a family leave complaint shall be the same as the procedures outlined in Section 11A-28.

(Ord. No. 97-17, § 1, 2-25-97)

**COMMISSION ON HUMAN RIGHTS  
HEARING PROCEDURES**

**I. REQUEST FOR HEARING**

A charging party or respondent aggrieved by the director's recommended final order may request a hearing before a panel of the Commission on Human Rights by writing to the director of the Commission on Human Rights, 111 N.W. 1<sup>st</sup> Street, Suite 620, Miami, FL 33128-1994, not later than ten (10) days after service of the director's findings. Service of the request for a hearing shall be made in person or by certified mail.

**II. GOVERNMENT IN THE SUNSHINE**

All hearings, deliberations and decisions of the Commission on Human Rights shall be open to the public in accordance with Section 186.011 et seq., Fla. Stat., as amended.

**III. NOTICE OF HEARING**

A. The hearings of the Commission shall be held at such time and in such place as shall be designated by the director of the Commission on Human Rights.

B. At least twenty (20) days prior to the hearing, the director of the Commission on Human Rights shall deliver a notice of hearing to the respondent and the charging party by personal service or certified mail. Such notice shall include the time and place at which the hearing is to be held, and shall inform the parties that any appellate review will require a verbatim record of the proceedings.

**IV. SUBPOENAS AND DISCOVERY**

A. A party may pursue discovery only through the methods set forth in the Florida Rules of Civil Procedure and shall be bound by the limitations set forth in those rules.

B. Any party to a hearing before the Commission may request a reasonable number of subpoenas to be issued upon the authority of the chairperson of the Commission to compel the appearance of any person to testify before the Commission or testify at deposition. Any request for subpoenas shall be in writing and shall be received by the director not less than fifteen (15) days prior to the hearing or deposition. Such a request shall state the time and place at which the witness is to appear, and the name of the party on whose behalf the witness is called to testify. Where a subpoena duces tecum is requested, the request shall describe with

particularity any material to be produced.

C. The requesting party is responsible for service of any subpoenas issued pursuant to this section. Service shall be accomplished as provided in Chapter 48, Fla. Stat., as amended.

D. Within ten (10) days after service of a subpoena upon any person, but in no event later than the time specified in the subpoena for compliance, such person may petition the Commission to revoke or modify the subpoena. The Commission shall grant the petition upon a finding that the subpoena requires appearance or attendance at an unreasonable time or place, that it requires production of evidence which is not relevant to the proceeding before the Commission, that it does not describe with sufficient particularity the evidence to be produced, that compliance would be unduly onerous, or for other good cause.

E. All discovery shall cease six months after submission of a request for hearing or 15 days prior to the hearing whichever is earliest. Any party may request an extension of discovery for good cause shown.

F. All procedural issues, including but not limited to issues regarding subpoenas or discovery shall be decided by the chairperson of the Commission with advice from the county attorney. Any person aggrieved by the chairperson's decision may appeal that decision to a panel of three Commission members which shall be convened solely to resolve the issue of procedure or discovery. The decision of the panel shall be final as to an issue regarding procedure, discovery or the issuance of subpoenas.

## **V. EVIDENCE**

A. Any party, member of the Commission or the director may call, examine and cross-examine witnesses, and introduce documentary and other evidence into the record. Upon offering an exhibit into evidence at a hearing, a party shall provide an original and four copies to the Commission, and simultaneously furnish copies to all other parties.

B. All relevant and material evidence, oral or written, may be received. Hearsay evidence shall be accorded such weight as the circumstances warrant. In its discretion, the Commission may exclude irrelevant, immaterial or unduly repetitious evidence. A party is entitled to present his or her case by oral and or documentary evidence, to submit rebuttal evidence, and to conduct cross-examination. Both parties may appear in person or through any duly authorized personal representative.

C. The burden or persuasion, or the duty of producing evidence to

substantiate an allegation of discrimination, remains with the charging party in all hearings before the Commission.

D. Final orders of the Commission shall be supported by competent substantial evidence.

## **VI. ADMINISTRATIVE NOTICE**

Upon request the Commission shall take administrative notice of provisions of federal law, state law, local ordinances, decisions of other administrative agencies and other matters subject to judicial notice; PROVIDED, HOWEVER, that matters so noticed shall be specified on the record. Either party shall be afforded an opportunity, on the record, to rebut such matters.

## **VII. MOTIONS OR OBJECTIONS**

A. Any preliminary motions or objections shall be heard and disposed of by the hearing panel before proceeding to the merits of the case. Upon its own motion the hearing panel may defer ruling on any such motion until the conclusion of the evidentiary portion of the hearing.

B. After the charging party has completed the presentation of his or her evidence, an opposing party may move for dismissal on the ground that on the facts and the law the charging party has shown no prima facie violation of Chapter 11A, Code of Metropolitan Dade County, without waiving the right to offer evidence if the motion is not granted. The hearing panel may grant the motion and enter a final order against the charging party upon a specific finding that the charging party has failed to establish a prima facie case or may decline to enter its final order until the conclusion of the evidentiary portion of the hearing. A final order granting such a motion to dismiss shall operate as an adjudication on the merits.

C. Upon approval of a proper motion by any member of the hearing panel, the director's recommended final order shall be entered as the final order of the Commission if the party requesting the hearing fails to appear after proper notice or fails to establish good cause for such failure to appear.

## **VIII. THE HEARING**

A. The chairperson shall open the hearing at the time and place specified in the notice of hearing, or as soon thereafter as a hearing panel of the Commission can be obtained. After a reasonable time, if the chairperson determines that no hearing panel can be obtained, the hearing shall be continued until such time as a hearing panel can be

obtained. At least three members of the Commission on Human Rights shall be sufficient to constitute a hearing panel.

B. Either the charging party or the respondent may request a continuance to obtain counsel or a duly authorized representative. At the commencement of the hearing, the chairperson shall ask whether both parties are prepared to proceed.

C. The director's recommended final order and complete investigation file shall be entered into the record as an exhibit of the Commission.

D. Judicial rules of procedure, including rules of evidence and civil procedure need not be strictly applied to these quasi-judicial administrative hearings.

E. Each party shall have the right to present an opening statement. After opening arguments from each party, the charging party shall have the opportunity to call witnesses and present any evidence. Following the presentation of the charging party's case, the respondent shall have the right and opportunity to present a defense by offering testimony and documentary evidence. The charging party shall then have the right to present any rebuttal testimony or other evidence. The director may then present any additional evidence deemed relevant or material. Upon request from any party, the chairperson may provide a reasonable amount of time for oral argument at the conclusion of the hearing.

## **IX. RENDERING THE DECISION**

A. The final decision of a hearing panel of the Commission on Human Rights may be reserved or the decision may be rendered immediately. All decisions shall include a statement of (1) findings and conclusions with respect to all material issues of fact or law presented on the record, and (2) the appropriate order for sanction, relief or denial thereof.

B. All decisions shall be deemed final and effective when rendered by the hearing panel. For purposes of this subsection, the term "rendered" shall mean a written final order which addresses the issues of liability, damages and attorney fees which is ratified by the hearing panel and signed by the chairperson.

## **X. ATTORNEY FEES, EXPERT WITNESS FEES AND COST OF LITIGATION**

A. A motion for attorney fees, expert witness fees or costs of litigation in a proceeding before the Commission may be filed with the Commission or the director by any party prior to the close of the evidentiary hearing or prior to adoption of a final order by the hearing panel. All evidence

supporting or contravening the claim that attorney fees, expert witness fees or costs should be awarded shall be presented at the final evidentiary hearing. The evidence presented should address the threshold question of whether fees should be awarded to any party and need not specify the amount of fees claimed.

B. If the Commission determines that an award to the prevailing party of attorney fees, expert witness fees or costs of litigation is appropriate, the director shall notify the parties of that determination by certified mail or personal service. Within twenty (20) days of the service of such notification, the prevailing party shall file with the Commission, and serve on all opposing parties, a written proposal for the amount of fees to be awarded. The proposal shall be sworn and shall be supported by affidavit on any individual having personal knowledge of the facts contained therein. The proposal shall include:

1. The name and business address of the attorney performing the services for the prevailing party;
2. The experience, reputation and background of each of the attorneys listed, including the number of years of practice, experience in the field of civil rights and discrimination litigation, specialized academic background, professional associations and any other pertinent experience;
3. The number of hours or portions thereof expended by each of the above attorneys in this matter, identifying the date, description of each service performed and time expended on that matter from contemporaneously kept time records which must be produced upon request;
4. The hourly rate for the attorney for whom the fee is claimed, including the hourly rate normally charged by that attorney, as supported by affidavits attesting to the hourly rate prevailing in the community for similar work by attorneys of similar experience and competence;
5. Whether this case was contingent in nature or whether compensation was certain and whether the lodestar fee, which consists of the hourly rate multiplied by hours expended, should be adjusted based on contingency;
6. Whether there has been a delay in the receipt of payment for services rendered, and if so, the nature, length and cause of the delay, and whether the lodestar fee should be adjusted to reflect this factor;

7. Whether the lodestar fee should be adjusted because of the quality of representation and the reason therefore;

8. Whether the prevailing party believes that issues presented in this case were particularly novel or difficult and, if so, the reasons for that belief;

9. Whether the acceptance of employment in the particular case involved the loss of employment with other clients while employed in the particular case, and if so, why;

10. The nature of the attorney-client relationship, stating whether this case was performed for a casual client or an established and constant client;

11. Whether an agreement with respect to fees existed between the attorney and client, and, if so, a copy of that agreement must be attached to the fee proposal, or if the agreement was oral, the terms thereof;

12. The amount actually billed to the client for the case, attaching to the fee request copies of all bills to the client for the case. If the amount billed differs from the amount requested, the prevailing party must explain the reasons therefore;

13. Any other relevant factors to be considered by the Commission in the determination of an appropriate fee, including the amounts of awards in similar cases;

14. The amount of costs and expert witness fees incurred in this proceeding, itemizing each such cost and attaching documentation to support the request.

C. An opposing party who disagrees with any aspect of the proposal filed by the prevailing party shall file a counterproposal within fifteen (15) days after the filing of the proposal. The counterproposal shall specify the items with which the opposing party agrees, the items with which the party disagrees and the reasons for the disagreement. All counterproposals shall be supported by affidavit where appropriate, or if the information supporting the claim is exclusively in the possession of the attorney for the prevailing party, the opposing party may move the Commission for an order seeking discovery of the information. In such a motion, the moving party must state that the information sought could not be obtained elsewhere and that the prevailing party has refused to cooperate voluntarily. If no timely counterproposal is filed, the prevailing party's

proposal shall be deemed accepted.

D. An evidentiary hearing shall not be held on the issue of attorney's fees, expert witness fees and costs. A final award of attorney fees, expert witness fees and costs may be issued by either the hearing panel or by the Commission at any regular business meeting. In issuing its final order the hearing panel or the Commission shall consider the proposals and counter proposals filed by the parties. A request for attorney's fees, expert fees and costs which is not supported by appropriate documentation shall be denied.

E. In determining an award of attorney fees, the Commission shall be guided by the considerations set forth by the Florida Supreme Court in Standard Guaranty Insurance Co. v. Quanstrom, 55 So.2d 828 (Fla. 1990).

## XI. INTEREST

A. Prejudgment interest shall accrue on back-pay from the date of demand for remedy of discrimination or the date of filing of the complaint whichever occurred first and shall accrue at the rate provided in Section 687.01, Fla. Stat., as amended.

B. Interest shall accrue on awards of the Commission at the rate provided in Section 55.03, Fla. Stat., as amended.

## XII. DISCRETIONARY REVIEW

A. Within fifteen (15) days following the issuance of the written final order by the Commission, a party or any member of the Commission may file a written request for rehearing of a case or amendment of a final order by the Commission on Human Rights. A request for rehearing shall state with particularity the factors overlooked or misapprehended by the original hearing panel and shall not reargue the merits of the case.

B. At the first regularly scheduled meeting following the receipt of such a request, the members of the Commission shall vote on whether to grant the request for review.

C. If the request for rehearing is granted, the Commission shall expeditiously schedule a hearing. At least five (5) members shall constitute a hearing panel for the purposes of such review.

D. Upon the conclusion of rehearing, the rehearing panel shall issue a written final order which may modify, rescind or reverse the final order issued by the original hearing panel.

E. No appeal to the Commission shall be had from a denial of a request for rehearing.

### **XIII. JUDICIAL REVIEW**

A. The Commission's final order shall be subject to judicial review in accordance with the Florida Rule of Appellate Procedure. For the purposes of such review, any notices required to be filed with the lower tribunal pursuant to the Florida Rules of Appellate Procedure shall be filed with the director. The Commission shall provide the index and record on appeal when required by, and in accordance with, the Florida Rules of Appellate Procedure. A fee may be charged by the Commission for the preparation and transmission of the record on appeal to the court of appropriate jurisdiction.

B. All proceedings before the Commission on Human Rights shall be recorded through the use of a tape/digital recorder or by live court reporter. Should any party desire to appeal from any final order rendered by the Commission, a record of the proceedings is required. For appellate purposes, the party desiring to appeal must personally ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based.

C. Any party desiring the service of a live court reporter, in lieu of Commission tape/digital recordings of the proceedings before the Commission shall provide for the same.

D. Unless specifically ordered by the Commission or a court of competent jurisdiction, the commencement of an appeal does not operate to suspend or stay a final order of the Commission or the director.

**Miami-Dade County  
Commission on Human Rights  
Office of Community Advocacy**

**By-Laws**



**BYLAWS**  
**OF THE**  
**MIAMI-DADE COUNTY COMMISSION ON HUMAN RIGHTS**

**ARTICLE I**

**AUTHORITY AND SCOPE**

Section 1. Authority. The Miami-Dade County Commission on Human Rights ("CHR") is quasi-judicial board and agency of the government of Miami-Dade County, Florida, having been established by Miami-Dade County Ordinance No. 69-25, adopted by the Board of County Commissioners on June 8, 1969, and codified as Chapter 11A of the Code of Miami-Dade County ("Chapter 11A").

Chapter 11A established the purposes of the CHR, qualifications for membership, set forth the powers of the CHR and the investigative and appellate process.

These Bylaws are adopted pursuant to the authorization contained in Section 11A-5, Paragraph (2) of Chapter 11A which authorizes the CHR "To adopt, promulgate, amend and rescind rules and regulations necessary to effectuate the purposes and provisions of this chapter ... ."

Section 2. Scope. These Bylaws are intended to supplement the matters covered by Chapter 11A and not to supersede or modify any provision of Chapter 11A. In the event of any conflict between anything contained in the Bylaws and anything contained in Chapter 11A or any other applicable ordinance or law, the latter shall govern.

## ARTICLE II

### MEETINGS OF THE CHR

Section 1. Public Meetings. All meetings, hearings and business of the CHR shall comply with all of the requirements of Florida Statute §286.011 and any amendments thereto.

Section 2. Regular Meetings and Appeal Hearings. Regular meetings of the CHR may be held at such time, not less frequently than monthly, and at such place within Miami-Dade County as shall be from time to time determined by the CHR. Appeal hearings shall be held as frequently as necessary to effectuate the purposes and provisions of Chapter 11A.

Section 3. Special Meetings. Other meetings of the CHR may be held upon notice by letter, telegram or in person, delivered for mailing transmission or in person as the case may be, not later than during the fifth day immediately preceding such meeting, upon the call of the Chairperson or any five board members.

Section 4. Notices and Waivers and Notice. Notice of any meeting of the CHR may be waived in writing signed by the members entitled to such notice, whether before or after the time of such meeting. Attendance of a member at such meeting shall constitute waiver of notice thereof.

The purpose or purposes of such meeting shall be specified in the notice or waiver of notice of such meeting.

Section 5. Agenda. The Agenda for all regular meetings of the CHR shall be determined by the Chairperson in consultation with the staff and with regard to the

recommendations of the members. The agenda for appeal hearings shall be determined by staff in consultation with the designated Chairperson of the hearing panel.

Section 6. Voting. Each member shall be entitled to one vote, if present, on each matter coming before a meeting of the CHR. No member may vote by proxy.

Section 7. Conduct of Meetings and Hearings. All meetings shall be open to the public but participation in discussion by members of the public shall be at the sole discretion of the Chairperson of the meeting. In the conduct of all meetings, the agenda shall be followed to the extent practicable, but the matters considered and the procedure to be followed shall be within the sole discretion of the Chairperson, subject to any requirements of applicable County ordinance or other laws. The Commission on Human Rights Hearing Procedures shall govern the conduct of appeal hearings. In the absence of the Chairperson at a regular meeting or an appeal hearing, the 1<sup>st</sup> Vice Chairperson shall serve as the Chairperson. The 2<sup>nd</sup> Vice Chairperson shall serve in the absence of the Chairperson and 1<sup>st</sup> Vice Chairperson. In the absence of the Chairperson and the 1<sup>st</sup> and 2<sup>nd</sup> Vice Chairs, the most senior board member shall serve as the Chairperson of the meeting and/or hearing panel.

Section 8. Attendance: CHR members shall participate in at least one hearing panel per month and one regular meeting per month. In the event that an appeal hearing to which a member has committed his or her attendance is cancelled or continued, the member is encourage but not required, to participate in another hearing panel during that same month.

Section 9. Public Requests. Any Miami-Dade County resident or organization concerned with issues of discrimination shall be entitled to request

consideration for a hearing before the CHR. Such request shall be made in writing and shall be delivered to the CHR Director. The Director in consultation with the Chairperson may schedule the request at a regularly scheduled meeting of the CHR, provided that the requesting party is notified in writing at least fifteen (15) days prior to the scheduled meeting. The request shall include all relevant facts concerning the subject of the request, including, if possible, the solution the requesting party believes the CHR should consider. The CHR will not consider a request which deals directly or indirectly with matters pertaining to a case under investigation by staff.

### ARTICLE III

#### VACANCIES

Section 1. Appointment. For the purposes of filling vacancies of those whose terms are expiring, the CHR shall submit not more than three (3) names of candidates per vacancy to the appointing Commissioner.

Section 2. Resignation. Any member may resign at any time by delivering written notice of such resignation to the Chairperson and the Director of the CHR.

### ARTICLE IV

#### OFFICERS

Section 1. Number. The officers of the CHR shall be a Chairperson and first and second Vice-Chairperson, and other such officers as may be determined from time to time by the CHR to be necessary or desirable for the efficient administration of CHR business.

Section 2. Removal. Any officer may be removed from office upon a 2/3 vote of the remaining members of the CHR at a regular meeting or a special meeting

called for that purpose, provided that in the case of the special meeting the notice of the meeting shall specify the purpose thereof.

Section 3. Duties.

- (a) The Chairperson of the CHR shall preside at all full CHR meetings. The Chairperson shall appoint members to serve on standing and special committees of the CHR. The Chairperson shall have the right to vote at all meetings.
- (b) First Vice-Chairperson. The First Vice-Chairperson shall act in the absence of the Chairperson in the conduct of meetings and/or appeal hearings and shall perform such duties as may be delegated to him or her by the Chairperson from time to time.
- (c) Second Vice-Chairperson. The Second Vice-Chairperson shall act in the absence of the Chairperson and First Vice-Chairperson in the conduct of meetings and/or appeal hearings and shall perform such duties as may be delegated to him or her by the Chairperson from time to time.

Section 4. Term of Office. Each Officer shall be elected for a two (2) year term, and may be re-elected for an additional two (2) year term.

ARTICLE V

CONFLICT OF INTEREST

Section 1. Policy. CHR members and employees should not be disqualified from participation in organizations or projects endorsed or supported by the CHR except as otherwise provided herein. Nevertheless, CHR members and

employees should avoid any action that could possibly be interpreted as a use of CHR membership or employment for direct or indirect financial gain through the furthering of the economic interests of an organization or project with which they are affiliated.

CHR members shall publicly disclose any possible conflict of interest regarding a case brought before them prior to the commencement of an appeal hearing.



## MIAMI-DADE COUNTY COMMISSION ON HUMAN RIGHTS

## Minutes

December 21, 2009

Stephen P. Clark Center  
111 NW 1 Street  
Conference Room 18-4

**MEMBERS PRESENT:** Alexandra Bassil, Acting Chairperson; Yvonne Sepulveda; Rosario Roman; Rene Gonzalez Llorens; Ronald Lieberman

**MEMBERS EXCUSED:** Faye Davis; Rosemary W. Fuller; Yara Lorenzo

**MEMBERS ABSENT:** Erigene Belony, Chairperson; John B. Riley, 1<sup>st</sup> Vice Chair, Karina Dueñas-Aragon 2<sup>nd</sup> Vice Chair; Lorenzo Cobiella; Emily Crawford; Ed Hernandez; Kenneth Kilpatrick; Marta Navarro; Damian Pardo; Victor Romano; Denise Sharpton; Dionne Stephens

**STAFF:** Dr. Larry D. Capp, Director, Dr. Eduardo Diaz, ADR Coordinator; Bennie Barnes, Mediator/ADR Specialist; Tracie Bryant, Administrative Secretary; Azucena Dilley, Mediator/ADR Specialist

CALL TO ORDER
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Acting Chairperson Alexandra Bassil, who noted for the record that a quorum was present, called the meeting to order at 10:30 a.m. The Chairperson welcomed the members and asked them to present themselves for the record.

REMARKS
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Dr Diaz informed the panel that there was an additional item on the agenda and deferred to staff for further information. Ms. Bryant informed the panel that Ms. Marta Sanchez was present to present a verbal motion to ask that the commission request the county attorney to enforce the final order in the case of Marta Sanchez v. 1194 Miami Corp. Mr. Gonzalez offered a motion to approve the agenda with the amendments. The motion was seconded by Mr. Lieberman and passed unanimously. Ms. Bryant asked if the charging party spoke English and she replied that she did not. Ms Yvonne Sepulveda interpreted for Ms. Sanchez and informed the panel that Ms. Sanchez was a disabled and indigent person and could not afford to pay an attorney or to pay the filing fees to enforce the final order issued by the board on August 13, 2009.

At this point, Ms. Bassil informed the panel that she had a conflict. She advised the panel that she is an employee of the Miami-Dade County Choice Voucher Program. Ms. Bassil recused herself and passed the gavel to Ms. Sepulveda to serve as the chair on this issue. There was discussion by the panel members and Mr. Gonzalez offered a motion that the Respondent has committed an unlawful act and that the commission instruct the county attorney to enforce the final order on behalf of Ms. Sanchez pursuant to Sec. 11A-7 of Chapter 11A.

The motion received a second by Mr. Lieberman and unanimously carried. Ms. Bassil then resumed chairing the meeting.

There were no remarks from the chair or panel members.

Ms. Bassil called upon the Director, Dr. Larry Capp for his remarks. Dr. Capp informed the panel that the department overall was still dealing with the budget issues and that Chairman Moss has agreed to continue funding the four Program Officer positions until January 22, 2010. He informed the panel that the budget issues do not impact any of CHR staff. In terms of the CHR staff operations and following the last meeting of the CHR commission, Dr. Capp indicated that he would meet with Mr. Regalado regarding his availability to assist CHR in the future in order to close cases under the EEOC contract. He has met with Mr. Regalado and Mr. Regalado agreed to assist and be compensated at the hourly rate he was receiving as a county employee and work up to twenty hours per week. Dr. Capp will be meeting with his assistant county manager in the afternoon and asked for the commission's support to bring Mr. Regalado back to assist with the closing of Federal and housing cases to maintain the contract. There was a motion offered by Mr. Lieberman and was seconded by Mr. Gonzalez and carried unanimously.

#### APPROVAL OF MINUTES

The next item on the agenda was the approval of the minutes of September 18, 2009 and October 22, 2009. Ms. Sepulveda offered a motion to approve. The motion received a second by Mr. Gonzalez and carried unanimously. The next set of minutes was for October 28, 2009 and Mr. Lieberman moved the adoption of the minutes, and was seconded by Ms. Sepulveda and carried unanimously.

#### APPROVAL OF FINAL ORDERS

The next item on the agenda was the approval of the Final Order in the cases of *Robert McKane v. Homestead Rex Tire and Automotive MDCCHR No. E070907075* and *Sherian Palmer v. Good News Care Center MDCCHR No. PA080328011*. Ms. Bryant informed the panel that these items would need to be tabled due to both of the acting chairs of those meetings being absent. Ms. Bassil called for a motion to table. Ms. Sepulveda offered a motion to table the minutes. Her motion received a second from Mr. Gonzalez and carried unanimously.

#### 2010 SUNSET REVIEW

Mrs. Sepulveda offered a motion to accept the report as is. The motion received a second from Mr. Lieberman and carried unanimously.

The vote was 5-0.

#### ADJOURNMENT

There being no further business the meeting was adjourned at 11:00 a.m.

Dr. Larry D. Capp, for the Commission on Human Rights