

Memorandum



Date: March 6, 2012

Agenda Item No. 1F8

To: Honorable Joe A. Martinez, Chairman
and Members, Board of County Commissioners

From: Carlos A. Gimenez
Mayor

A handwritten signature in black ink, appearing to read "Carlos A. Gimenez".

Subject: Sunset Review of County Boards for 2012 – Commission on Human Rights

In accordance with the provisions of Section 2-11.40 of the Code of Miami-Dade County, I am transmitting the 2012 Sunset Review of County Boards Report for the Commission on Human Rights. The Board approved the attached report at its meeting of December 20, 2011 and has recommended the continuation of its board.

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Deputy Mayor

mayor05112

Date: December 20, 2011
To: Carlos A. Gimenez
Mayor
From: Eduardo Hernandez
Chairperson, Miami Dade Commission on Human Rights
Subject: Sunset Review of County Boards for 2012 – Commission on Human Rights

Pursuant to Section 2-11.40 of the Code of Miami-Dade County, I am submitting the 2012 Sunset Review of County Boards Report for the Miami Dade County Commission on Human Rights for transmittal to the Board of County Commissioners (BCC). The Board approved the attached report at its meeting of December 20, 2011.

It is recommended that the BCC approve the continuation of the Commission on Human Rights.

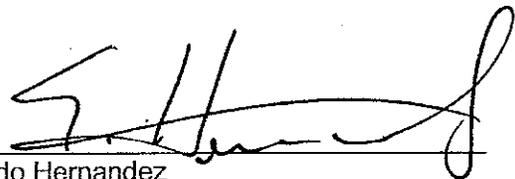
BACKGROUND

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 or sexual orientation.

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.



Eduardo Hernandez
Board Chairperson

Miami-Dade County
Commission on Human Rights
Office of Human Rights and Fair
Employment Practices



2012 Annual Sunset Report

*Submitted by Eduardo Hernandez, Chairperson
Miami-Dade County Commission on Human Rights*

**SUNSET REVIEW QUESTIONNAIRE
MIAMI-DADE COUNTY BOARDS
2012**

I. GENERAL INFORMATION

1. Name of Board reporting: Miami-Dade County Commission on Human Rights (CHR)

2. Indicate number of board members, terms of office, and number of vacancies:

Number of Board Members: 26

Terms of Office: Section 2-11.38.2 of the Code of Miami-Dade County governs the term of office of the members of the board

Number of Vacancies: Six

Section 2-11.38.2 of the Code of Miami-Dade County governs the term of office of the members of the board.

Listed below are the current board members, appointing commissioner, commencement of term and term expiration.

BOARD MEMBER	APPOINTING COMMISSIONER	TERM COMMENCED	TERM EXPIRES/EXPIRED
John B. Riley	Hon. Barbara J. Jordan	April 13, 2005	November 30, 2012
Patricia Wright	Hon. Barbara J. Jordan	April 5, 2011	November 30, 2014
Kenneth M. Kilpatrick	Hon. Jean Monestime	April 24, 2007	November 30, 2014
Sabrina Salomon	Hon. Jean Monestime	June 7, 2011	November 30, 2014
Patricia Ford	Hon. Audrey Edmonson	June 9, 2007	November 30, 2012
Faye T. Davis	Hon. Audrey Edmonson	April 8, 2008	November 30, 2012
Rene Gonzalez-Llorens	Hon. Sally A. Heyman	April 8, 2008	November 30, 2014
Victor Romano	Hon. Sally A. Heyman	September 16, 2008	November 30, 2014
Yvonne Welcker. Sepulveda	Hon. Bruno A. Barreiro	May 21, 2009	November 30, 2012
Marta Navarro	Hon. Rebeca Sosa	April 4, 2007	November 30, 2014
Rob Collins	Hon. Rebeca Sosa	December 6, 2011	November 30, 2014
Ronald Lieberman	Hon. Carlos A. Gimenez	March 30, 2009	November 30, 2012
Judy Jackson Chorlog	Hon. Linda Bell	May 3, 2011	November 30, 2014
Kionne McGhee	Hon. Dennis C. Moss	January 20, 2011	November 30, 2012
Eduardo Hernandez (Chairperson)	Hon. Javier D. Souto	May 22, 2007	November 30, 2014
Lorenzo Cobiella	Hon. Javier D. Souto	December 9, 2008	November 30, 2010
Karina Duenas-Aragon (2 nd Vice Chair)	Hon. Joe A. Martinez	April 10, 2007	November 30, 2012
Rosario Saavedra-Roman	Hon. Joe A. Martinez	February 17, 2009	November 31, 2012
Dionne Stephens	Hon. Jose "Pepe" Diaz	June 11, 2007	November 30, 2010
Yara Lorenzo	Hon. Natasha Seijas	December 15, 2008	November 30, 2012

3. Identify number of meetings and members' attendance (Attach records reflecting activity from **Jan. 1, 2010** through **December 31, 2011**):

Number of Meetings: 43

Number of Meetings with a Quorum: 43

Attendance Records: See Attachment A

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

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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.¹ The board members, who may meet in hearing panels of three or more, may uphold, modify or overturn the determination issued by the CHR director.

Meetings/Hearings in 2010 and 2011

In calendar year 2010, 46 hearings and/or meetings were scheduled; 18 were held; 10 were cancelled and rescheduled at the request of one of the parties; one was cancelled because the parties settled; nine were cancelled and rescheduled because a hearing panel was not available; seven hearings were removed from the docket because the charging party did not adhere to the hearing procedures and one was removed because the charging party filed suit in court. During calendar year 2011, 52 hearings and/or meetings were scheduled; 25 were held; 14 were cancelled and rescheduled at the request of one of the parties; two were cancelled because the parties settled; six were cancelled and rescheduled because a hearing panel was not available; two hearing requests were withdrawn and three were administratively cancelled. (Refer to Attachment "A", Board Member Attendance Sheet for 2010 and 2011).

In accordance with the provisions of the board's bylaws, hearing procedures and Chapter 11A, scheduled hearings may be cancelled or continued for the following reasons:

1. The respondent or charging party requests a continuance which is approved by the Chair or Vice Chair;
 2. Case settled prior to hearing;
 3. Case is removed from docket due to lack of cooperation;
 4. The case is withdrawn by the appealing party;
 5. Charging Party files suit in court; and/or
 6. A hearing panel could not be secured.
4. What is the source of your 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). This means that the EEOC contracts with the CHR to investigate employment, age and disability cases. The following is a breakdown of the funding:

FY 2009-2010

General Fund	\$718,000
US EEOC (Federal)	\$120,000
OCED	\$91,000

FY 2010-2011

General Fund	\$993,000
US EEOC (Federal)	\$135,000
OCED	\$97,000

5. Date of Board Creation: June 17, 1968 - Resolution No. R-719-68 established the Equal Employment Opportunity Board.

¹ Section 11A-4(4), *Ibid.*

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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 reestablished 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;²
 - 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.
 - Ordinance No. 09-53, adopted June 30, 2009, added source of income as a category and changed the agency name to Commission on Human Rights.
6. Attach a copy of the ordinance creating the Board (Please include all subsequent amendments). See Attachment B
7. Include the Board's Mission Statement or state its purpose: Reduce discrimination in Miami-Dade County and promote equal treatment for all persons in the work place, in housing accommodations and in public accommodations.

² This Ordinance was later repealed by referendum.

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8. Attach the Board's standard operating procedures, if any. See attachment C
9. Attach a copy of the Board's By-Laws, if any. See attachment D
10. Attach a copy of the Board minutes approving the Sunset Review Questionnaire, **including a vote of the membership.** See Attachment E

II. EVALUATION CRITERIA

1. Is the Board serving the purpose for which it was created? (Please provide detailed information) Yes, the CHR is meeting its stated goals and purpose. The CHR is a quasi-judicial agency 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 completed 3,574 investigations of discrimination cases. Monetary benefits to discrimination victims reached a total of \$6,593,279.

2. Is the Board serving current community needs? (Please provide detailed information) 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

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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). Last 24 months

- Obtained \$595,153 in back wages and other benefits for discrimination victims.
- 80.91% of resolutions were written determinations on the merits of the case.
- Completed 390 investigations between January 1, 2010 and December 16, 2011.
- 19.09% of resolutions were settlements agreements.
- Alternative Dispute Resolution Program (ADR) maintained a 75% settlement rate.
- Conducted seminars and training workshops with local employers and housing providers to provide information regarding best practices in the workplace, as well as their rights and responsibilities under anti-discrimination laws.

(b). Since established

- Ordinance No. 69-35, adopted June 18, 1969, re-established the Dade County Equal Employment Opportunity Board as the Dade County Fair Employment and Housing Commission. Ordinance created the first Fair Housing Law in the State of Florida.
- In June of 1974, the U.S. Equal Employment Opportunity Commission granted "706 deferral status" to the Fair Housing and Employment Appeals Board.
- In October of 1987, Resolution No. 5 (e) (10) authorized an on-going Memorandum of Agreement with the U.S. Department of Justice (DOJ), which provides for a referral mechanism for pattern and practice housing discrimination charges for possible litigation in Federal District Court by the DOJ.
- Since its establishment, the CHR has investigated and adjudicated approximately 27,000 formal cases of discrimination.
- Over \$5,000,000 has been received in federal contracts to address employment and housing discrimination in Miami-Dade County.
- More than 300,000 persons have benefited from direct services provided by the CHR
- Developed guidelines for employers in Miami-Dade County as to rules and regulations concerning the requirement and the speaking of other languages in the workplace.
- In 1987, the agency received a \$100,000 grant from the U.S. Department of HUD to conduct community outreach and establish a non-profit fair housing center. In August 1988, the agency established H.O.P.E., Inc. This organization is currently an independent, non-profit fair housing center.
- More than \$10,000,000 has been obtained in back pay and other benefits for victims of discrimination in Miami-Dade County.
- In 1999, the CHR was recognized by the U.S. Equal Employment Opportunity Commission (EEOC) as one of the most effective civil rights enforcement agencies in the State of Florida.
- The CHR staff has hosted and cosponsored five (5) major national civil rights conferences in South Florida. Among them, the International Association of Official Human Rights Agencies (IAOHRA), National Association of Human Rights Workers (NAHRW), Florida Association of Community Relations Professionals (FACRP), and State of Florida Annual Civil Rights Conference.

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- In 2003, the Dispute Resolution/Mediation Program expanded to include pro-bono mediators from Florida International University's Center for Labor and Research.
 - The CHR received a 2002 NACo Achievement Award for the Dispute Resolution/Mediation Program.
4. Is there any other board, either public or private, which would better serve the function of this board? No. There is no other board, either public or private, in Miami-Dade County with the authority, scope and mission of the CHR.
5. Should the ordinance creating the Board be amended to better enable the Board to serve the purpose for which it was created? (If "Yes", attach proposed changes) No. Miami-Dade County's anti-discrimination ordinance is subject to periodic reviews by the CHR staff and the County Attorney's Office. These reviews are necessary in order to maintain the funding relationships with the federal agencies, and to keep current with new developments in the areas of employment and housing discrimination.
6. Should the Board's membership requirements be modified? No modification is necessary. The board's membership was increased from 13 to 26 in December 2006 to help expedite the backlog of appeal hearings.
7. What is the operating cost of the Board, both direct and indirect? (Report on FY 2010 and FY 2011) In FY 2010-2011, approximately \$200,000 of the agency's budget was spent on board support, mainly on the preparation of hearings and other board activities (this amount is based on administrative costs, such as the time spent by staff preparing for and attending hearings and copying files, when appropriate).
8. Describe the Board's performance measures developed to determine its own effectiveness in achieving its stated goals. The board meets the prescribed performance measures by holding regular meetings and appeal hearings and conducting informational and educational outreach. These performance measures are also met by the terms and conditions of the federal contracts and cooperative agreements with the Equal Employment Opportunity Commission (EEOC). Currently, the CHR tracks, daily the number of intakes conducted, charges filed, hearings/meetings held, successful mediations and conciliations, completed investigations and outreach and training activities attended.

Miami-Dade County Commission on Human Rights
2010 Board Member Attendance

Attachment A

Board Members	1/28	2/5	2/25	3/25	4/8	5/25	6/29	7/27	8/6	8/26	9/28	10/20	10/26	11/3	11/10	11/30	12/9	12/16
Alexandra Bassil		X	X	X	X	X	X	X			X	X	X		X	X	X	X
Erigene Bejony					X	X	X	X										
Lorenzo Cobiella					X			X										
Emily Crawford																		
Faye Davis		X	X		X	X	X	X			X	X	X		X	X	X	X
Karina Aragon	X				X			X			X	X	X		X	X		
Patricia Ford			X					X		X	X	X	X		X	X		
Rosemary Fuller	X								X						X			
Rene Llorens					X	X				X	X	X			X	X		X
Eduardo Hernandez					X					X	X	X	X		X	X	X	
Kenneth Kilpatrick					X			X		X								TERM EXPIRED
Ronald Lieberman	X					X		X		X	X	X	X					
Yara Lorenzo		X																
Marta Navarro											X	X	X			X		
Damian Pardo																		
John Riley		X			X	X	X	X	X	X	X							
Rosario Roman							X		X				X			X		
Victor Romano			X									X						X
Yvonne Sepulveda			X				X		X			X	X					
Denise Sharpton					X													
Dionne Stephens																		

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)

**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 at 111 NW 1st Street, Suite 2220, Miami, Florida 33128, and received by the Commission on Human Rights not later than fifteen (15) days after service of the director's findings.¹ In a housing discrimination case the request for hearing must be received not later than twenty (20) days. 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 Chapter 286.011 et seq., Florida Statutes, as amended.

III. NOTICE OF HEARING

A. The hearings of the commission shall be held at such time and at 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

¹ Amended by Ordinance 06-179, passed by Commission of Miami-Dade County Commissioners on December 5, 2006.

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 of 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 grounds 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 of 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 Rules 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 competent jurisdiction.

B. All proceedings before the Commission on Human Rights shall be recorded through the use of a tape 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 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 Human Rights
and
Fair Employment Practices**



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 commission and agency of the government of Miami-Dade County, Florida, having been established by Miami-Dade County Ordinance No. 69-25, adopted by the Commission 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 commission 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 1st Vice Chairperson shall serve as the Chairperson. The 2nd Vice Chairperson shall serve in the absence of the Chairperson and 1st Vice Chairperson. In the absence of the Chairperson and the 1st and 2nd Vice Chairs, the most senior commission 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 20, 2011
Stephen P. Clark Center
111 NW 1st Street
6th floor (front conference room)

MEMBERS PRESENT: Rene Gonzalez-Llorens; **Ed Hernandez, Chair;** Judith Jackson Chorlog; Kenneth Kilpatrick; Ronald Lieberman; Martha Navarro; John Riley; Victor Romano; Yvonne Welcker-Sepulveda;

STAFF: Lucia Davis-Raiford, Director; Sharon Smith, Asst. to the Director; Tracie Bryant Administrative Secretary

CALL TO ORDER

The meeting was called to order at 10:06 am by Ed Hernandez, Chair who asked that the members and staff announce themselves for the record.

APPROVAL OF AGENDA

A motion to approve the agenda was entered by Mr. John Riley, seconded by Mr. Kenneth Kilpatrick and unanimously passed.

CHAIR'S REPORT

There was no report from the chair.

STAFF REPORT

Ms. Lucia Davis-Raiford reviewed the 2012 Sunset Review report with the members. Ms. Raiford also discussed the potential move of the department as per the 2011-2012 budget process.

Ms. Raiford provided the following report on the status of the appeals docket and board appointments:

- 31 appeals were on the docket when the offices merged, 30 appeals have been resolved; 26 new appeals have been added and eight of those have been finalized; 18 appeals are currently pending hearings before the commission.
- There are currently 20 members on the Commission

MIAMI-DADE COUNTY COMMISSION ON HUMAN RIGHTS

Minutes
December 20, 2011
Stephen P. Clark Center
111 NW 1st Street
6th floor (front conference room)

OLD BUSINESS

Mr. Riley requested that the Commission on Human Rights (CHR) hold another public forum to address the treatment of tenants involved in a raid at an apartment complex in Miami Gardens. Mr. Hernandez asked Mr. Riley to provide additional information for the members regarding this issue. After Mr. Riley updated the members, there was lengthy discussion on this subject and Mr. Hernandez directed Ms. Raiford to ask Mr. Terrence Smith, Assistant County Attorney to send him an email regarding his opinion on the CHR getting involved in this issue.

NEW BUSINESS

Next on the agenda was the approval of the 2012 Sunset Review Report. There was a motion by Mr. Riley to approve the Sunset Review report as written. Prior to the motion being seconded, Mr. Kilpatrick asked that his attendance record be amended to reflect that his term expired on November 30, 2010 and he was reappointed on April 4, 2011. Mr. Kilpatrick further indicated that he was not in attendance at meetings during this period pending his reappointment. After further discussion by the members, the motion was amended by Mr. Riley to approve the Sunset Review to include the change to Mr. Kilpatrick's attendance record. The motion received a second from Mr. Rene Gonzalez-Llorens and passed unanimously with a vote of 8-0.

Mr. Riley reminded the members that the position of 1st Vice-Chair person was vacant and requested that an election be held to fill the position. There was discussion by the members regarding the procedure for filling vacant officer positions and Mr. Hernandez directed Ms. Raiford to send an email to Mr. Smith regarding the process for filling vacant officer positions.

ADJOURNMENT

There being no further business, Mr. Riley entered a motion to adjourn and there was a second by Mr. Llorens. The meeting was adjourned at 11:05 am.