

CITY OF SOMERVILLE, MASSACHUSETTS  
FAIR HOUSING COMMISSION

*Joseph A. Curtatone*

*Mayor*

Staff

Bryant Gaspard

Commissioners

Claudia DeAndrade

Patrice Faulkner

Dennis Fischman

Rona Fischman

Natasha Sierra

**Meeting Minutes**

August 22, 2019

Auditorium room-Central Library  
79 Highland Avenue, Somerville, MA  
4:00 pm

The meeting began at: 4:06 pm.

Attending: FHC members, Patrice Faulkner, Dennis Fischman, Rona Fischman and Natasha Sierra; City staff, Bryant Gaspard.

Minutes distribution (upon acceptance) to: FHC members and others attending; also posted to City website

*I. Standing Agenda Items*

Meeting Minutes: Members reviewed draft minutes from the June 27th meeting that had been prepared by Bryant Gaspard and reviewed by Mike Feloney. Dennis Fischman made a *motion* to accept the minutes which was seconded by Patrice Faulkner and unanimously *approved*.

Facebook page update: Dennis shared that two particular Facebook posts in the month of July and August were the most popular and had the most engagement (shares). One of the Facebook posts discussed discrimination and lack of quality care for seniors (age 65 and up) who identify as LGBTQ. The LGBTQ seniors faced discriminatory treatment in elder care facilities and retirement homes; in some cases they were denied the opportunity to live in these long term homes because of their sexual orientation. The second article provided readers basic information on protected classes and how it relates to the enforcement of Fair Housing laws.

Review of Calls/Issues/Complaints: Bryant provided an update to the commissioners on a previous fair housing complaint he discussed in the June meeting regarding a tenant whose lease was not renewed because she has a service dog. Bryant communicated with the Massachusetts Office on Disability (MOD) about this matter and they provided some feedback about the tenant submitting a complaint. MOD also brought up potential issues of not having any evidence (oral or written) that the landlord decided not to renew the lease solely because the tenant has a service dog.

*II. Update on Specific Activities*

AFFH (Affirmatively Furthering Fair Housing)-Bungalow. Bryant informed the commissioners about Bungalow, a company that operates nationally and owns several properties in the Greater Boston area.

Bungalow renovates houses and then rents out individual rooms where tenants share a communal space (similar to a dorm suite). Bungalow came to Bryant's attention based on an inquiry from a Somerville City Councilor who raised a possible fair housing issue based on content observed on their website. In the Frequently Asked Question (FAQ) section of Bungalow's website a question is posed: "does Bungalow accept government housing coupons?" The answer was "Bungalow does not accept housing coupons at this time."

Bryant inferred that the reference to government housing coupons may be referring to some sort of housing subsidy or voucher. He spoke with Catherine LaRaia at Suffolk University's Housing Discrimination Testing Program and they agreed to do an initial phone test. (Under Massachusetts' Anti-discrimination law, households that receive some sort of public assistance are members of a protected class and any possible mistreatment or discrimination against a protected class violates Massachusetts law.) Bryant noted that once he finds out how the phone test went he would update the commissioners.

The Department of Housing and Urban Development (HUD) new interpretation of Disparate impact: Bryant shared that HUD has recently changed the interpretation of the disparate impact rule in the Fair Housing Act. HUD's reasoning for doing so is based on the Supreme Court's ruling in Texas Department of Housing and Community Affairs v. Inclusive Communities Project, Inc. In that case the question(s) the Supreme Court considered was (1) Whether disparate-impact claims are cognizable under the Fair Housing Act, (2) If disparate-impact claims are cognizable under the Fair Housing Act (FHA), what are the standards and burdens of proof that should apply. (The legal definition of the word cognizable is that the claim or controversy is within the power or jurisdiction of a particular court to make a formal decision.) The court emphasized that disparate impact claims are cognizable under the FHA. However, the Court also emphasized that the plaintiff bears the burden to establish a "robust" causal connection between the challenged practice and the alleged disparities.

Bryant shared a New York Times article titled "Who's to blame when Algorithms discriminate?" that responds to HUD's move to change the interpretation of disparate impact and raise the bar for housing discrimination claims. In the article, civil rights groups mention that if disparate impact becomes a less viable legal tool, it will be almost impossible to curb policies and decisions that reinforce segregation and widen the racial gap. By raising the bar for discrimination claims, the new rule would make it harder to hold banks accountable if their underwriting algorithms repeatedly deny mortgages to seemingly qualified black families, or if city zoning laws that make no mention of race still have the effect of racially segregating neighborhoods.

Rona shared that in her opinion some algorithms are directly discriminatory even if the intent was not discriminatory. She also added that the vast majority of subprime mortgages were taken out by blacks and Latinos and that an underwriting algorithm can still have a disparate impact.

### *III. Announcements/Updates*

Bryant informed the commissioners that there has been a meeting among City staff about holding a housing forum series. He did not have any details to share at that time, but that he would provide more information to the commissioners when he received it.

Bryant passed out applications for the housing lottery at 3 Ward St. to the commissioners and informed them of the deadlines.

A *motion* to adjourn was introduced by Dennis and seconded by Natasha and *approved* unanimously. The meeting was adjourned at 5:09 pm.

Documents distributed at meeting:

- New York Times article-“Who’s to blame when algorithms discriminate?”
- 3 Ward St. Housing lottery application