

These minutes contain materials which paraphrase and/or summarize statements made during this session. Only text enclosed in quotation marks

report a speaker's exact words. For complete contents of the proceedings, please refer to the tapes.

HOUSE COMMITTEE ON HOUSING AND URBAN DEVELOPMENT

February 7, 1991 Hearing Room D 8:00 a.m. Tape 22 - 24

MEMBERS PRESENT: Rep. Bob Repine, Chair Rep. Judy Bauman, Vice-Chair
Rep. Marie Bell Rep. Rod Johnson Rep. Dave McTeague Rep. Gail Shibley
Rep. Ron Sunseri

STAFF PRESENT: Janet McComb, Committee Administrator Kimberly
Burt, Committee Assistant

MEASURES CONSIDERED: LC 664

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TAPE 22, SIDE A

005 CHAIR REPINE: Calls the hearing to order. (8:00 a.m.)

Roll Call: Representatives Shibley, Sunseri & Repine answer "present".

REP. BELL arrives 8:03 a.m.

REP. JOHNSON arrives 8:04 a.m.

INFORMATIONAL HEARING Witnesses: Phillip Yates, Portland Attorney, & Project Administrator, Fair Housing Project, Portland, Oregon Cecil Pitts, Community Development Director, Multnomah County & City of Gresham Leroy Patton, Chairman, Community Housing Resource Board Ira Zarov, Director, Oregon Legal Services Michael Keeny, Director, Marion/Polk Legal Aid Services James Wrigley, Staff Attorney, Multnomah County Legal Aid

015 PHILLIP YATES, PORTLAND ATTORNEY & PROJECT ADMINISTRATOR, FAIR HOUSING PROJECT, PORTLAND, OREGON: Submits and summarizes written testimony and informative information regarding the Fair Housing Law, (EXHIBIT A).

REP. MCTEAGUE arrives 8:07 a.m.

060 YATES: Summarizes testimony regarding the Fair Housing Project and the Oregon Legal Services Corporation, Exhibit A.

YATES: The highest percentage of complaints has come from families, the second highest from hispanics; about 10% were on the basis of race and 5% on the basis of sex.

Of the 25 tests we have done, about 8 have produced strong evidence of discrimination and of those 1 has resulted in a federal law suit and a number have been referred to HUD or BOLI.

We think that this project will have a beneficial affect on compliance with the Fair Housing Law; landlords will know that if they violate the law they have a chance of being caught now, whereas before there was very little chance.

125 YATES: The Supreme Court has held this kind of information gathering to be an integral part of the Fair Housing Law and it has been supported every time it's been challenged in federal court.

YATES: In response to Rep. Shibley; HUD has, in the past, contracted with BOLI to conduct investigations and do enforcement activities and as part of the 1988 amendments they could continue to receive HUD sub-contracts for enforcement funds if your state law was in compliance with the federal laws but very few states have come into compliance.

175 REP. SHIBLEY: On page four of your testimony you talk about the number of testers in areas around the state; why does Eugene have more than Portland?

YATES: The Portland area has more than Eugene; there were some geographical problems in the beginning and so we started later in the Portland area.

CHAIR REPINE: When someone calls your 1-800 number, do you prompt people to make their case?

YATES: Federal regulations require a bona fide allegation of discrimination and we don't really know what that means, but we have set up standards.

We do probe to find what has caused the problem.

210 CHAIR REPINE: If someone found that there were no blacks or children in an area, would that constitute discrimination?

YATES: That is sort of the absolute minimum; if the person is a member of a protected class but for all intents and purposes was qualified to rent the unit, that might be good enough for us to investigate.

CHAIR REPINE: Someone can make those statements on the phone, do they have to demonstrate that they do in fact qualify?

YATES: No.

CHAIR REPINE: What if the party you were testing for truly didn't qualify; is there responsibility for you to verify?

YATES: Not under federal regulations; explains process.

267 CHAIR REPINE: When there is an income question, would you go with testers that look at the income and then also look at the discrimination aspect?

YATES: It is legal to discriminate on the basis of income; if we do get a bona fide allegation, we try to make our protected class tester

slightly more economically attractive.

308 REP. SUNSERI: Do the testers use erroneous information when applying?

YATES: Yes; they give false names, false incomes, false employment histories, but we rarely actually fill out applications.

REP. SUNSERI: The person who owns the property will be subject to be investigated on the basis of a phone call without any hard data?

YATES: Yes, a landlord is subject to tests even without complaints; this is a permissible and protected activity under federal law.

353 REP. BELL: Adult only housing is not legal?

YATES: No; singles only housing is illegal, but it is legal to have senior housing.

There are some exceptions to the law and it is hard to look at it from afar.

REP. BELL: Would you investigate if a family is asked to leave because of noisy children or another complaint?

400 YATES: Yes we can and do; we did have five hispanic families evicted from the same area in Portland and we tested that complex.

REP. BELL: When can a landlord evict a family on the basis of a child's behavior or noise level?

YATES: You can't apply special or differential rules for children than you would apply to adults, that is the rule.

430 REP. JOHNSON: Is there a minimum number of units a landlord must have to be required to follow all of these rules?

YATES: There is; our program is limited to testing and responding to bona fide allegations and discrimination, illegal under the Federal Fair Housing Act, which does have some exemptions.

There is a four-plex exemption for landlords that own and live in the four-plex so those rules wouldn't apply, but they must own it and live there.

If you own less than three single family houses and you don't advertise in the newspaper or hire a rental agency or sales agent you aren't covered by the Federal Fair Housing Act.

475 YATES: There is a 1966 civil right act that applies to religious, or basically race discrimination which has no exemption so you would still be subject to federal law jurisdiction under this 1966 civil rights act for discriminating for racial or religious reasons.

TAPE 23, SIDE A

035 YATES: While we aren't allowed to investigate anything except the violation of federal law, that is very little comfort for a landlord who wants to discriminate in their duplex or one single family dwelling they own.

REP. JOHNSON: When was the state law enacted and what statute is it?

YATES: 1989 session; I don't know the number.

CHAIR REPINE: Do you test mobile home parks and public housing projects?

YATES: Yes.

048 REP. SUNSERI: The landlord tenant law allows a landlord to terminate a lease with a tenant with 30 days written notice for no reason at all.

YATES: Only a month to month lease can be terminated with written notice in 30 days; it is legal to evict for no reason, but there can't be discrimination.

REP. SUNSERI: How would you address a landlord that felt there was drugs begin sold from the apartment?

YATES: If there was a complaint we would investigate; if they are evicting them because of drugs, not race, then it would show when our testers when out.

090 REP. SHIBLEY: Is it legal for a complex to advertise "the place for adults", without saying "adults only" to actively recruit folks?

YATES: It is basically illegal to advertise in a discriminatory way.

REP. SHIBLEY: Does this apply to vacation housing?

YATES: It has to be a residence; resorts fall under another statute.

115 CECIL PITTS, COMMUNITY DEVELOPMENT DIRECTOR, MULTNOMAH COUNTY & CITY OF GRESHAM: Submits informative material, (EXHIBIT B).

I am confronted with evidence of discrimination in my community.

The purpose of our educational program is to provide an equal playing field for consumers and businesses so everyone knows the rules.

Regulation establishes the fair playing field and education trains people as to what that regulation means and how to go beyond that.

160 PITTS: It is our hope today that as we present to you how this works, you will have a sense of how your decisions play into what we do in the field.

Regulation sets a public standard for what constitutes good behavior and fair treatment for others.

REP. BAUMAN: You are talking about protecting landlords in the sense of educating them on the law so that they don't run afoul of it and are aware of what the penalties are?

PITTS: Yes.

REP. BAUMAN: Are people discouraged from becoming landlords because of the laws?

PITTS: In our training programs there has been frustration with figuring out what they law requires.

195 CHAIR REPINE: Does the industry have knowledge of the rules and do they feel more comfortable after education?

PITTS: They come with some knowledge of the laws, but they have changed.

270 REP. JOHNSON: If there was a person interested in renting, but doesn't want to deal with kids, what is your impression on the impact of losing resources?

PITTS: My experience has been with groups of property owners and that group has been working hard to apply those rules.

300 LEROY PATTON, CHAIRMAN, COMMUNITY HOUSING RESOURCE BOARD: We were created in 1979, but weren't funded for two years, but we held together a volunteer staff.

In 1983 we got our first grant to look at fair housing to help citizens be treated fairly in housing.

We had a program called "New Horizons" and we published a book that had a listing of all the resources available in the state.

325 PATTON: In 1986 we didn't receive funding but stayed together until 1987 when we got funding again; one of our major advantages was our resources in pulling together the voluntary market agreement with the realtors in the community.

In 1988 we had a poster contest for fair housing and we able to do that because of a partnership with Portland public schools and we gave awards to the children and also savings bonds.

405 PATTON: Minorities in the early days were confined to small areas to live and discrimination still exists.

The laws that are being amended are more needed than most people recognize; it is the practice that counts, so enforcement needs to be broad.

70% of the minorities in Portland live in a four mile area and it is difficult for them to get out of that area.

TAPE 22, SIDE B

035 REP. SUNSERI: Realtors can't force people to buy.

PATTON: I didn't mean they weren't willing to sell, or list the property, but the banks have unrealistic qualifications to purchase the property.

REP. SUNSERI: I would say that the gang activity there has the most to do with that than realtors.

Deed restrictions from years ago are obsolete and no longer valid and most people are aware of that.

PATTON: If people living in the community think that they can't do something they aren't going to try and that is the problem and that is why I brought up the history that hasn't been overcome yet.

073 CHAIR REPINE: What is the funding mechanism you refer to?

PATTON: The Community Housing Resource Board is HUD funded.

090 REP. SHIBLEY: History is important; realizing that the discriminatory provisions are no longer legal, has there been discussion of updating neighborhood covenants to today's legal standards?

PATTON: Not to my knowledge.

115 REP. BELL: Do either of you have suggestions we could follow through to help the process of urbanization of farm worker's move forward?

PITTS: Getting the right group representatives around the table is what has worked for us; marketing the information.

CHAIR REPINE: How do you find the resources?

PITTS: We have always given continuing education credit for realtors and that helps get them out; our alignments over the fair housing initiatives program partnerships will give us access to other meetings or conferences.

170 CHAIR REPINE: Have you thought of the Oregon Housing Agency as a link?

PITTS: In the past we have worked with Oregon Community Development; they administer the community development block grant program for smaller communities.

190 PATTON: One impediment to larger audiences is funding; if there was publicity or publications people would be enlightened.

If you could formally address that state wide it would help.

215 PITTS: The National Affordable Housing Act of 1990 established a new housing block grant called "HOME" but we don't expect to see money on the street until July of 1992.

That is supported by a planning document called a Comprehensive Housing Affordability Strategy and it is going to try to be jurisdiction sensitive and effective and be a working document.

250 REP. BELL: I would like to request that you add our committee members to your mailing list.

PATTON: I have a letter written by the Community Housing Resource Board sent to BOLI about substantial equivalency, see Exhibit B.

WORK SESSION ON LC 664 - (EXHIBIT C) Witnesses: Bruce Anderson, Oregon State Homebuilders Association

285 BRUCE ANDERSON, ASSISTANT DIRECTOR, GOVERNMENTAL AFFAIRS, OREGON STATE HOMEBUILDERS ASSOCIATION: LC 664 is at our request; basically the problems are the housing crisis and affordable housing.

The two primary cost areas of homebuilding and housing have to do with land development and governmental regulation; we need to do what we can to reduce to cost of constructing homes.

315 ANDERSON: This bill would provide that a cost impact statement be prepared for administrative rules by state agencies; local county and other governmental units must also prepare the statement on ordinances pertaining to a comprehensive plan for zoning, land preparation for residential construction or the availability or supply of land for residential development.

Section 3 is basically what that statement would be based on, analyzing the affect of the proposed rule or ordinance on the cost of developing a 6000 square foot lot and the construction of a 1200 detached single family dwelling on it.

335 REP. BELL: Each agency would prepare one for each lot in the jurisdiction?

ANDERSON: They would prepare a housing cost impact statement similar to what is prepared for fiscal analysis preformed currently for various administrative rules proposed.

REP. BELL: Just for new rules?

ANDERSON: New rules only.

353 REP. SHIBLEY: Is it possible that any of the agencies listed in part 1 of section 2 might propose adoption of a rule that wouldn't have an impact on housing costs?

ANDERSON: Not all rules that they enact or propose have an impact.

REP. SHIBLEY: Even if there would be no impact they would have to come up with a housing cost impact statement?

373 CHAIR REPINE: We will make a note to have this amended making it more descriptive.

ANDERSON: Section 3(2) does say "to which it applies", but you may want further clarification language in section 2.

REP. SUNSERI: Who would be the recipients of this report?

ANDERSON: It would be made a part of the rule when proposed; any rule proposed by an agency must have a statement of need fiscal impact and it would be a part of the overall issuance of the rule.

397 REP. BELL: It will be available for public hearings?

ANDERSON: Yes.

REP. JOHNSON: What would the cost be for these statements?

CHAIR REPINE: We will look into that when the draft is in bill form.

415 MOTION: REP. SHIBLEY moves that LC 664 be sent to LC to be made a committee bill.

419 VOTE: Hearing no objection the motion carries.

422 CHAIR REPINE: Recess the hearing for purposes of a break. (9:27 a.m.)

426 CHAIR REPINE: Calls the hearing back to order. (9:40 a.m.)

INFORMATIONAL HEARING

450 IRA ZAROV, DIRECTOR OF OREGON LEGAL SERVICES, MICHAEL KEENY, DIRECTOR, MARION POLK LEGAL AID SERVICES, JAMES WRIGLEY, STAFF ATTORNEY, MULTNOMAH COUNTY LEGAL AID: Introduce themselves.

462 ZAROV: Submits and summarizes written testimony, (EXHIBIT D), describing their services.

TAPE 23, SIDE B

045 ZAROV: We only see low income people; we have priorities set by the community and by our board and housing is one of those priorities.

We will take cases referred to us after a good test in our office and represent people if they are eligible for our services and no private attorney in the area will take the case; we will not take cases unless we are the last resort or there is a need to do so immediately because of some kind of injunctive relief necessary.

058 CHAIR REPINE: How many people do you serve?

ZAROV: Legal Services state wide sees about 31,000 people per year, but that isn't all litigation, the majority is people wanting advise and information and we give that.

Probably 10% of the cases are actually ever litigated and approximately 5% actually end up with a court decision deciding them.

REP. BELL: Are you the counterpart to Mr. Yates?

ZAROV: No, Mr. Yates works for us, basically.

079 REP. SHIBLEY: Does the 31,000 served include the quasi separate Multnomah County?

ZAROV: It includes all of Legal Services.

CHAIR REPINE: Is there a number that those cases represent; housing discrimination vs. migrant housing issues or is it a combination of all?

ZAROV: It is a combination; our migrant program doesn't do much housing litigation, mostly protective labor issues.

090 MICHAEL KEENY, DIRECTOR, MARION/POLK LEGAL AID SERVICES: We are the smallest of the four legal services programs in the state, our client population is approximately 30,000 and we service about 3600 cases per year and out of those, at least 25% would be characterized as housing cases.

We have approximately a 1% vacancy rate in both counties and that has raised several matters, including discrimination in our area, particularly against people with children.

125 KEENY: We have also seen discrimination with the hispanic population; that is our largest minority population and the one we see the most.

Our role with the Oregon Fair Housing Project was that we volunteered when they applied for the HUD grant to serve as a litigation back-up for any cases for low income individuals which they tested and sought referrals in Marion and Polk County; that doesn't necessarily mean we take all cases.

We use the Fair Housing Project as a referral source.

We have used discrimination when the 30 day no cause notice was given if we saw that as a viable defense; that has mainly been families with children.

170 KEENY: ORS 659 sets forth the state exemptions; in 1989 the legislature did pick up the elderly citizen exclusion, but it doesn't appear to have picked up the "ma & pa" exemptions and from our standpoint, we look to the federal legislation when thinking about discrimination.

225 CHAIR REPINE: In litigation is the "ma & pa" situation the majority of the cases?

KEENY: We have more problems with the larger landlords from the standpoint of our business; "ma and pa" landlords aren't a big problem, but they do discriminate.

Most of our cases in Marion and Polk Counties are against the same 15 or 20 landlords.

ZAROV: That is our experience also, people with only one rental often have good relationships with their renters if they are careful about who they rent to.

250 CHAIR REPINE: Do you find repeat offenders?

KEENY: Yes.

255 REP. BELL: Would it be illegal to design a living unit for single parent families?

ZAROV: You can't exclude people for not having children, or for having them.

267 JAMES WRIGLEY, STAFF ATTORNEY, MULTNOMAH COUNTY LEGAL AID SERVICE: Our clients and procedures are basically the same, we envision ourselves as a litigation back up for the Fair Housing Testing Project also.

In a 1983 survey the Housing Integration Task Force found that 39% of white residents expressed a preference for a mainly or all white neighborhood while 53% were in favor of integrated neighborhoods and 7% were undecided.

The blacks surveyed responded differently; only 5% expressed a preference for all black or mainly black neighborhoods and 93% expressed a preference for integrated neighborhoods.

290 WRIGLEY: Submits and summarizes written testimony, (EXHIBIT E).

We will be holding "round tables" trying to get information out.

In 1981 1/2 of all landlords in Portland said "no kids"; landlords are used to being able to legally discriminate.

340 REP. SHIBLEY: To what extent does Multnomah County Legal Aid help coordinate with other organizations in doing education outreach?

WRIGLEY: We are working with the testing project and we have engaged in radio appearances and then we will be involved with the "round table" effort.

REP. SHIBLEY: Do you work with neighborhood associations?

WRIGLEY: We have submitted articles to local neighborhood association newsletters, but I think that there is more that we can and should do in that regard.

We don't think that we are getting the number of complaints we should be given the extent of the problem and it is clear to us that there has to be a significant outreach effort to start to address the needs here.

366 REP. SHIBLEY: In rental advertisements, isn't the first advertisement a statement of the nondiscrimination policy in the state and if it isn't there is it possible to create a newspaper policy of specifying the protected classes in that section of the paper?

ZAROV: It is against the Fair Housing Law for newspapers to publish discriminatory advertisements and they are aware of that and we will try to educate those that aren't aware.

WRIGLEY: It would be helpful for them to print the protected classes.

395 YATES: I think you could discriminate in favor of children; the law doesn't call families with children a protected class, it protects families with kids, not families without kids.

Unlike racial discrimination, that protects whites as well as blacks, under the Fair Housing Law, the people protected are families with children.

WRIGLEY: I believe that Oregon law includes marital status and that would be an issue.

425 EMILY CEDARLEAF, EXECUTIVE DIRECTOR, MULTI-FAMILY HOUSING COUNCIL OF OREGON & THE MANUFACTURED HOUSING COMMUNITIES OF OREGON: I have submitted written testimony and also two booklets, (EXHIBIT F).

TAPE 24, SIDE A

030 CEDARLEAF: Continues summarizing written testimony, Exhibit F.

We are the rental housing suppliers and we are urging you to acknowledge the fact that all the impact is affecting the group we are trying to help the most, the low income.

The more regulation and the more fear, the more those people choose to close up their property, board it up or sell it for owner occupied or

sell it and it gets rehabilitated and moved up in the rental scale market.

065 REP. BAUMAN: How responsive are your people to this information and how responsive is legal aid in mediation?

CEDARLEAF: At first there were many phone calls from angry people; as far as landlords are concerned, it has been an education process and they view it as a right that they lost.

120 REP. BAUMAN: The Multi-Family Housing Council doesn't have any liability with regard to members who might violate the law?

CEDARLEAF: In the investigation process I found that I could be liable since we did publish a document or if I verbally said something that was taken out of context or misunderstood; I would have to have an attorney to get me through the process.

REP. BAUMAN: So the lesson for you there is not to do any more training?

CEDARLEAF: It was for a period, but then the question was who would teach landlords anything if the industry isn't going to, so we "beefed" up our insurance and I took more training and tried to do it some more.

135 REP. SUNSERI: In the last 6 - 8 years I have seen more landlords get out of renting and I would say it is a result of so many regulations and so much loss of rights; it is to such an extreme that in Oregon we are in the middle of an immense housing crisis.

We are trying to solve one problem while creating another.

CEDARLEAF: That is an issue I deal with on a regular basis; because of the 198 6 tax act, most of the building going on has been on the high end of the moderate level and the high end of the properties.

We need to stimulate the lower income market by putting in tax incentives, create an education process, create occupancy levels, add incentives for investment in low income housing and work with landlords to get them to understand that the process isn't totally to their detriment.

195 CHAIR REPINE: I am going to suggest that on item 6 we add education, (EXHIBIT G).

REP. BELL: What is the difference between an interim committee and a task force if we were to continue work beyond this session?

REP. BAUMAN: If you pass a statute you can have a task force and if it passes the speaker you can have an interim committee.

CHAIR REPINE: The meeting is adjourned. (10:27 a.m.)

Submitted by: Reviewed by:

Kimberly Burt Janet McComb Assistant Administrator

EXHIBIT SUMMARY:

A - Written testimony and informative material submitted by YATES, pp 10
B - Informative material submitted by PITTS & PATTON, pp 7 C - LC 664
submitted by STAFF, pp 2 D - Written testimony submitted by ZAROV, pp 1
E - Written testimony submitted by WRIGLEY, pp 4 F - Written testimony
and informative material submitted by CEDARLEAF, pp 44 G - Committee
goals submitted by staff, pp 2