

Testimony of the Howard County Human Rights Commission Regarding Bill

CB4-2015

Good evening. My name is Genevieve Walker-Lightfoot. I currently serve as Chairperson of the Howard County Human Rights Commission (HRC). Tonight I am here to present the Commission's views and recommendations regarding proposed changes to the Commission's working relationship with the Office of Human Rights (OHR), its duties and responsibilities, and the production of a report to be submitted by September 2015.

We appreciate the County Executive's (CE) desire to examine the operations of the Commission, expand its educational role, and facilitate resolution of the cases filed by county residents. The HRC stands ready to cooperate fully with the County Executive and the OHR in conducting this examination to determine what changes, if any, may be appropriate and necessary to achieve the goals identified in this proposed legislation. That said, we believe that it is necessary to voice our concerns regarding some of the substantive changes being proposed and the nature of the task being assigned to the HRC in producing the September 2015 report. For the reasons I am about to discuss, the HRC would recommend that the hearing on the proposed bill be postponed so that the relevant parties may have the opportunity to craft a well-designed review of both the OHR's and HRC's operations. In particular, we feel that a postponement of the bill would be appropriate in this case as David Lee of the County Executive's staff informed me via phone late on Friday, February 13th that amendments to the proposed bill were being drafted. Additionally, the County Executive released a press release on February 13, 2015, announcing the appointment of Dr. Barbara Sands as the new OHR administrator. Given the HRC only learned of this new appointment from the publicly released press release, and the amendments to be proposed have not yet been shared with the HRC, a postponement is warranted so that the HRC may work with both the County Executive and the new OHR administrator on the details of the amended bill. My comments on the bill as currently proposed, without amendments, will focus on three areas.

Relationship with the OHR Administrator

The proposed bill provides for two changes that the HRC believes could have a negative impact on its working relationship with the OHR. The code currently provides that the HRC “shall” assist the County Executive on the appointment of the Human Rights Administrator and that the incumbent in that position shall serve as the Executive Secretary of the Commission. The bill proposes to change the code to provide that the HRC “may” assist the CE in appointing the administrator and that the CE shall designate the Executive Secretary to the HRC. We understand that this will likely be someone not a member of the OHR.

*****As of February 13, 2015, a publicly disseminated press release announced that the County Executive has already appointed a new administrator of the OHR. As the chairperson of the HRC, I was unaware of this appointment and the HRC was never consulted regarding potential candidates.***

The reasons for these two proposals are not explained by the CE’s testimony on the bill. At this point, the HRC believes that it should continue to have input in the designation of the OHR Administrator. The current language “shall” imposes an obligation on the HRC to assist but by no means operates to prevent the County Executive from naming the person of his choice. The current language “shall” is a strong indication that HRC involvement is deemed beneficial and appropriate. We believe that involvement with the designation of the OHR Administrator facilitates the HRC’s understanding of the priorities set by the County Executive and also provides a mechanism for the HRC to establish a direct connection to the OHR.

Historically, the OHR Administrator has served as the Executive Secretary for the HRC. This is a powerful reason to ensure that the proposed candidate meets with, at a minimum the HRC Chairman. We note that the OHR Administrator traditionally meets with candidates for commissioner positions and has input in the nomination process. This two-way input process has operated well in the past. There is no apparent need to implement potentially negative changes.

In addition, Commission members strongly feel that the HR Administrator should continue to serve as the Executive Secretary to the HRC. The designation of an Executive Secretary to the HRC of a person not in the OHR office introduces the possibility of communication issues and could result in complications in the routine operations of the HRC and the development and coordination of the HRC

enhanced outreach and education efforts proposed in the bill, which is the second subject we would like to address.

HRC's Role in Education, Community Awareness, and Partnership Development

The code currently empowers the HRC to inform citizens on a narrowly specified subject: practices and patterns of conduct which may be discriminatory. The proposed bill tasks the HRC with conducting a public information, outreach, and education program to heighten public awareness of discrimination and methods for eliminating discrimination as well as educating the public about the complaint process. This activity is already within the purview of OHR's mission as specified in the code. HRC members have supported the office's educational efforts over the years, participating in events organized by the OHR and other organizations in the area.

We note that no changes to the OHR's mission are proposed and no reason has been offered to justify potentially duplicative efforts. Any change in this area should be preceded by an examination of OHR's current outreach and education activities to determine their effectiveness and how they can be enhanced to expand the dissemination of public information as well as any need to develop targeted educational programs for different county audiences. The HRC recommends engaging an outside consultant to examine OHR's current outreach and education activities. An independent examination could identify specific gaps that the HRC could fill and also make clear where duplicative efforts are to be avoided. It goes without saying that a carefully coordinated educational and outreach plan that outlines the specific OHR and HRC roles must be developed to prevent confusion among the public regarding who speaks for the county. This examination should be conducted along with the review of the handling of cases called for in the proposed report to be completed by next September. This report is the last subject we will address tonight.

Report on Case Handling and Investigations

The proposed bill calls for the HRC to prepare a report covering the cases docketed before the Commission in the last 5 years, and methods to ensure timely and efficient investigations, including the use of a Hearing Examiner, among other matters.

We have several concerns with this task as outlined. First, it appears that this review is essentially an audit, which is normally conducted by independent parties. Second, it appears that the proposed case review only covers the cases

that were presented to the HRC whether on appeal or for a hearing. If this is the case, it means the report would cover a small fraction on the cases filed with the OHR. Third, the task of recommending methods to ensure timely and efficient investigations requires a detailed examination of the processes and policies in place at the OHR. These tasks call for review of case files and other relevant records accessible only at the OHR offices. As a volunteer body that meets once per month, we are not the best party equipped to conduct a review of this nature, particularly at the pace called for in the bill. Moreover, when I provided a quote on the use of a Hearing Examiner to the CE's assistant Andy Byun, I was not advocating that the role of the HRC be eliminated or diminished but rather that a Hearing Examiner level of adjudication be considered prior to cases being heard by the HRC.

As indicated above, we recommend that an independent consultant be engaged to conduct a review of the case handling processes currently in place both at the OHR and HRC levels as well as an assessment of the educational and outreach efforts undertaken over the last few years. The HRC stands ready to provide substantive input to design a thorough examination of OHR and HRC activities to be conducted at a pace that allows for careful analysis of relevant data and the production of meaningful statistics. The results of this analysis would then serve as the basis for the proposal of changes to current OHR and HRC operations as well as amendments to the code, if necessary.

For all of the reasons just discussed, the HRC respectfully recommends that the council postpone the hearing on the proposed bill to allow the CE, OHR and the HRC to work on the details of the amended bill.