



CITIZENS ADVISORY  
COUNCIL FOR HOUSING MATTERS



Reply to: 44 Capitol Ave., Suite 301  
Hartford, CT 06106  
860-278-5688 x203

**NEXT MEETING**

**1:30 p.m.**  
**Wednesday, June 13, 2012**

Burroughs Community Center  
2470 Fairfield Ave., Bridgeport

Please mark your calendar now.

Minutes of March 14, 2012 Citizens Advisory Council meeting

Persons present: Steven Bidwell, Frank Dineen, Kathy Flaherty, Friedrich Helisch, Robyn S. Johnson, David Pels, Raphael Podolsky, Paul Rosow, Richard Tenenbaum, Penny Trick

(1) PRELIMINARY MATTERS

(a) Call to order: The meeting was called to order by the chairperson, Raphael Podolsky, at 1:40 p.m. at the Connecticut Bar Association, 30 Bank St., New Britain.

(b) Approval of agenda: The agenda was approved without objection.

(c) Approval of minutes: The minutes of the December 14, 2011, meeting were approved unanimously (moved by Richard Tenenbaum, seconded by Friedrich Helisch).

(d) Introduction of Steven Bidwell: Steven Bidwell was introduced as the new assistant clerk in New Britain. Although part of the civil clerk's office (the Judicial Branch is not refilling the New Britain housing clerk position), he will primarily be handling housing. He was most recently a Judicial foreclosure mediator and had served as a temporary assistant clerk (TAC) in the Hartford Housing Court.

(2) JOHN AND JANE DOE NOTICES TO QUIT

Friedrich Helisch raised concerns about the current statutory procedure by which a John or Jane Doe notice to quit is used in eviction cases. The provision, however, was the result of a decree in a Superior Court lawsuit in the mid-1980s that challenged on Due Process grounds the practice of executing a summary process judgment on an occupant who had not been named in the notice to quit or the writ. The decree permitted a marshal

to execute only against a named defendant. The John and Jane Doe procedure was devised by the legislature, on landlord request, so that executions could be enforced against all occupants. Upon further discussion, it was determined that Mr. Helisch's real concern is about requirements imposed by some judges for military affidavits concerning John and Jane Does. Military affidavits, however, are controlled by federal law. Mr. Helisch was designated chair of a subcommittee to research (a) what are the federal requirements for military affidavits in such cases and (b) what are judges are in fact requiring and to what extent do requirements vary from judge to judge. Anyone wishing to work with Mr. Helisch on this issue should contact him directly at [fhelisch@lawtoyou.org](mailto:fhelisch@lawtoyou.org). Further discussion was tabled to the June meeting.

(3) GUEST SPEAKER -- Erin Kemple, Executive Director, Connecticut Fair Housing Center

Atty. Kemple spoke to the Council about the requirements of state and federal fair housing laws. Attachments from her presentation are attached to these minutes. According to Atty. Kemple, three basic questions must be asked whenever a fair housing issue arises:

- (1) Is the person protected by the law?
- (2) Is the property covered?
- (3) Is the behavior covered?

It is a fair housing violation only if the answer to all three questions is "yes."

In regard to persons protected: Persons are not protected under the Fair Housing Act unless they are in a protected class (e.g., smokers can be discriminated against because smoking is not a protected class). Under the Civil Rights Act of 1866, you cannot discriminate because of a person's "race," which includes some things that today are considered ethnicity but were then considered race. There are no exceptions to race discrimination based on the number of units in the building, although there are for other protected classes. Familial status and disability protections were added in 1988. Familial status includes not only people with children but also people in the process of having children, including pregnant women and persons in the process of adoption. Disability requires a physical or mental impairment that substantially limits one or more major life activities (e.g., walking, talking), or having a record of such an impairment (e.g., receiving SSI or a disability pension), or being regarded by others as having such an impairment. Gender identification discrimination will be prohibited as of October 1, 2012. The prohibition on marital status discrimination does not protect an unmarried heterosexual couple living together (but, ironically, protects an unmarried gay couple). Source of income discrimination has become the largest number of cases that the Connecticut Fair Housing Center handles.

In regard to properties covered: Exceptions to the Fair Housing Act vary with the type of protected category. Except for race, most categories have an exception for smaller owner-occupied buildings. Note, however, that an LLC cannot occupy a building so that an LLC loses the owner-occupied exemption, even if the principal of the LLC lives in the building. There is an exemption from the prohibition on discrimination against families with children ("familial status" discrimination) for senior housing, if either all the residents are over age 62 or 80% of the units have a head of household over the age of 55. The entire complex will lose the exception, however, if any unit violates the exemption (e.g., if

someone in an over-age-62 complex takes in a child as a resident of their apartment).

In regard to behavior covered: Illegal conduct can be proven by differential treatment based on a protected class. For example, in regard to familial status discrimination, you cannot have an adults-only building or a rule against children being outside after 8 pm. You can't refuse to rent to a family with children under six because of lead paint and you can't ask for the children's ages. People with disabilities have a right to reasonable accommodation and reasonable modification, but these rights are different and have different rules. Reasonable accommodation refers to changes in the landlord's rules, policies, or practices to accommodate a disability, such as allowing a service or companion animal (even though there is a rule against pets), permitting a live-in aide, or providing a nearby parking space. Reasonable accommodation usually does not involve any cost to the landlord but is in the nature of adjusting the rules to accommodate the disability as long as it won't interfere with a fundamental business practice. Reasonable modifications, in contrast, are physical changes, which are likely to have a cost. They must be permitted if the tenant bears the expense (HUD-subsidized landlords can be required to make modifications at their own expense but can be reimbursed by HUD) and if the premises can be restored by the tenant at the end of the tenancy to its pre-modification condition. Conduct that produces a differential effect may also be prohibited. For example, a landlord who uses only oral month-to-month leases cannot refuse to enter into a written lease with a Section 8 tenant because the refusal would have a differential effect on such tenants based on their source of income (Section 8 requires written leases). Steering of tenants or prospective home purchasers based on a protected category is also illegal. For example, African-American renters cannot be steered to African-American neighborhoods. Advertising prohibitions are broader than rental prohibitions, because you cannot advertise discrimination or make discriminatory statements, even if the property falls within an exemption to the discrimination laws (e.g., an owner-occupied two-family house in regard to some protected classes).

#### (4) COURT OPERATIONS REPORTS

(a) Housing prosecution report (from Robyn Johnson): The new computer system is making it easier for prosecutors to code criminal cases. It is not clear how much information from the system is available to the general public online.

(b) Housing clerks' report: Tabled.

(c) Housing specialists' report: Tabled.

#### (5) OLD BUSINESS

(a) New Britain Housing Court: From the perspective of the public, the restructured New Britain Housing Court appears to be the same as the pre-restructured court. Steven Bidwell and one staff person have desks in the area formerly occupied by housing court staff, and Steven spends most of his time on housing court matters. Litigants continue to use the housing court window in the housing court office, which is separate from the civil court clerk's office. The staff continues to use the same Forecourt computer program for summary process cases that is used in the housing courts, so they remain integrated into the housing court computer system. The New Britain civil court clerk's office, however, has

lost one assistant clerk and three temporary assistant clerks and is therefore operating short-handed. Mr. Bidwell will be trained in other aspects of the civil court clerk's office and may therefore be pulled for non-housing work. The chairperson reported that the Judicial Branch does not plan to replace the lost civil clerk's office staff at this time.

(b) Bridgeport mediator position: The chairperson reported that the Judicial Branch also does not plan to replace the Bridgeport mediator who retired at this time. It was reported by persons present at the meeting that the availability of only a single mediator is now starting to slow down the movement of cases in that court, with continuances often being scheduled for two to three weeks out. This was of concern to the Council.

(c) Website links: The links on the Advisory Council website, which were requested at the Council's last meeting, are in place.

#### (6) PENDING LANDLORD-TENANT LEGISLATION

(a) Bedbugs (S.B. 190): The bill would make explicit the respective responsibilities of landlords and tenants in regard to bedbug infestations. It is likely that the bill will be turned into a study for 2013, because no consensus has developed around the bill and there is opposition to the specific content of the bill from both landlords and tenants.

(b) Nuisance abatement (H.B. 5489): The bill would expand the Nuisance Abatement Act to cover a wider range of offenses and to permit prosecutors to seek forfeiture of the building. There is opposition from both landlords and tenants.

(c) Disposition of tenant possessions after eviction (H.B. 5035): The bill is part of a proposal by the Governor to reduce municipal mandates. It does not change the existing responsibilities for removal, storage, and auction of tenant possessions after an eviction, but it does allow towns to recover the costs of storage and auction from the landlord. It is supported by the Connecticut Conference of Municipalities but opposed by both landlord and tenant groups.

#### (7) PROGRAMS FOR FUTURE ADVISORY COUNCIL MEETINGS

Suggestions for future programs on housing issues included: (a) Nuisance Abatement Act (perhaps Brian Austin from the Chief State's Attorney's Office); (b) housing code enforcement (perhaps a panel with a speaker from Manchester on its property maintenance code and a speaker from New Haven on its landlord licensing ordinance); (c) bedbug infestations; (d) access to the housing courts (Yale has a program dealing with this issue). It was suggested that there might be a program at alternate Council meetings.

#### (8) ADVISORY COUNCIL APPOINTMENTS

The Governor's staff has indicated that it is willing to start accepting names for Advisory Council appointments. Persons interested should send a letter to the Governor requesting appointment and including a resume.

#### (9) NEXT MEETING

The next meeting will be at 1:30 pm on Wednesday, June 13, 2012, at the Burroughs Community Center in Bridgeport. The Council authorized the chairperson to change the location to a larger or more central location if new Council appointments are made prior to the June meeting.

(10) ADJOURNMENT

The meeting was adjourned at 3:40 pm (motion by Kathy Flaherty, second by Richard Tenenbaum).

Respectfully submitted,

Penny Trick, Co-Secretary