July 2008

One Lincoln

Volume 2, Issue 3

City of Lincoln Commission on Human Rights News

President Nominates New Housing Secretary

[*From Nation's Cities Weekly*]
Following the March resignation of Housing and Urban Development (HUD) Secretary Alphonso Jackson, President Bush announced that Small Business Administration (SBA) Chief Steve Preston will be his nominee to take over as the new HUD Secretary.

During his tenure at SBA, Preston was responsible for revamping the agency's Disaster Assistance Program after Hurricane Katrina, which provides loans to homeowners, renters and businesses after a disaster. As part of the revamping effort, SBA sought to deepen its relationship with local and state government groups, including the National League of Cities (NLC). Prior to his SBA appointment, Preston was executive vice president of the Service Master Co., and had been a senior executive with First Data Corp., and investment house Lehman Brothers.

If confirmed by the Senate, many challenges await the new HUD secretary. First, the new secretary must clean up the image of HUD following the resignation of Jackson, who left amid allegations of corruption and political favoritism. Second, HUD is central to the Administration's efforts to overcome the home foreclosure crisis and stabilize the housing market. Third, the new secretary must work to

rebuild relationships with Congressional leaders that have grown skeptical of HUD's ability to carry out its mission.

Rep. Barney Frank (D-Mass.) and Sen. Christopher Dodd (D-Conn.), who chair the HUD oversight committees, have both been critical of HUD under Jackson.

In talking about the current mortgage finance crisis, Frank has said, "HUD has fallen far short of playing the constructive role that is required."

Deputy HUD Secretary Roy Bernardi, a former mayor of Syracuse, NY, has been promoted to acting HUD Secretary until Preston or another nominee is confirmed.

FAIR HOUSING: BUILDING STRONG COMMUNITIES

Cynthia McCollumn, Nation's Cities Weekly

In April, Ms. McCollumn, the National League of Cities (NLC) president, spoke at the Department of Housing and Urban Development Fair Housing Policy Conference for the 40th anniversary of the enactment of the 1968 Fair Housing Act.

She acknowledged that this key civil rights legislation was designed to ensure that communities and housing choices were available and open to anyone regardless of appearance, origin, gender, or disability. She stated that this ideal is critical to making American communities strong. But what was also critical to strong communities is a commitment to well-funded schools and to a thriving business community that provides jobs to support strong families. Ms. McCollumn pointed out that elected officials bear the fundamental responsibility of advocating for all people and ensuring that their right to fair housing is protected. Financial vulnerability threatens that commitment and can contribute to housing discrimination. This is because a family that is financially insecure may not immediately worry if their landlord is illegally discriminating against them or if they are being illegally steered to live in unstable or undesirable communities. Financial instability can also place the dream of homeownership out of reach.

Elected officials and community leaders can foster greater financial stability in many ways. They must ensure that financial courses are made available or publicized so that individuals and families can educate themselves on managing household finances. Access must be expanded to savings and its benefits by encouraging local banks to offer free or low-cost products that allow low-income residents to save their income towards home ownership. But most importantly, elected officials and community leaders must help protect the existing

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BUILDING STRONG COMMUNITIES

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financial assets that families have by restricting the activity of predatory lenders by developing campaigns to educate consumers. One example is that the Earned Income Tax Credit can help many struggling families but many do not know about it and so do not receive it. This is a way that tax help on the front end can ease the need for tax relief on the back end of a financial crisis.

NLC has just launched a new campaign, "Bank on Cities." This program will work with city officials to connect more residents with local financial institutions to make it easier for residents to save by avoiding unnecessary fees.

But city leaders need help and support too. The federal government needs to support local anti-discrimination efforts that may not always be politically popular, and there needs to be better enforcement of laws that will ensure fairness in the housing market. All of these things together can help build and maintain stronger communities.

Our Mission

The administration of the Lincoln Commission on Human Rights supports the enforcement of all provisions of Title 11 of the Lincoln Municipal Code. To receive, settle, conciliate, investigate, issue findings, hold public hearings on complaints alleging discrimination based on race, color, religion, sex, disability, national origin, familial status, age, ancestry, marital status, and retaliation.

To perform functions and activities with community groups, businesses, schools, and governmental entities for the purpose of promoting understanding between races, cultures, and sexes, and to work to eliminate inequalities and sources of inter-racial friction.

Review all City of Lincoln procurement bids and awards in excess of $10,000.

Review DBE (Disadvantaged Business Enterprises) program of minority and women-owned businesses and maintain directory.

Our Goals

To eliminate and prevent all forms of illegal discrimination, to assure and foster equal opportunity for all citizens of the City, and to act in all matters within its jurisdiction.

BIDDING HER A FOND FAREWELL: COLLEEN FLOTH, LCHR

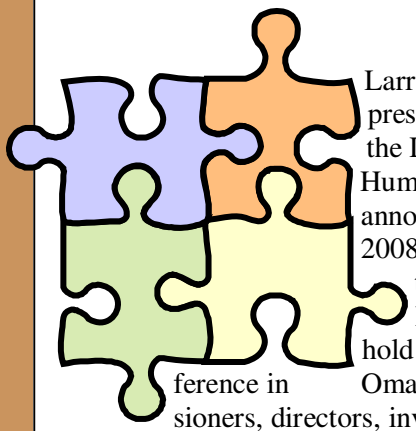
In May 2008, the Lincoln Commission on Human Rights held a retirement celebration for Ms. Colleen Floth. Attendees ranged from Human Rights Commissioners to Lincoln Realtor Association members to Fair Housing Center representatives, demonstrating the breadth of communities and organizations touched by Ms. Floth's nearly thirty years of civil rights service.

Ms. Floth had worked in the civil rights area since 1979 and was known for her thorough knowledge and understanding of local, state, and federal civil rights laws. She retired from the position of LCHR Senior Civil Rights Investigator, and had been with LCHR since 1995.

As Senior Civil Rights Investigator, her responsibilities included investigating cases of discrimination in the areas of employment, housing, and public accommodation within the city of Lincoln. She also was responsible for all conciliations as well as for developing and conducting training for employers, employees, housing and service providers, as well as for the general public. LCHR thanks Colleen Floth for her tireless service and commitment to civil rights.

NEBRASKA TO HOST ANNUAL RECCR CONFERENCE

[Includes information from Kaye Crawford and Louise W. Lorenz's "Brief History of RECCR"]



Larry Williams, RECCR president and Director of the Lincoln Commission on Human Rights is pleased to announce that n August 2008, the Regional Executive Council on Civil Rights (RECCR) will hold its annual training conference in Omaha, Nebraska. Commissioners, directors, investigators, and staff representing human rights agencies from the states of Missouri, Kansas, Nebraska, and Iowa will gather at the Embassy Suites hotel in the Old Market district of Omaha to attend seminars on topics such as avoiding foreclosures, political activism in the civil rights field, and keys to working with diverse populations. Presenters who are new to this year's conference include Mr. Bob Shands, a civil rights activist and author of *In My Father's House: Lessons Learned in the Home of a Civil Rights Pioneer,* Ms. Kristy McTighe and Ms. Heather Ousley who are attorneys with the US Housing and Urban Development Region VII office in Kansas City, and Mr. Joe Gerstandt who is the director of Our Time to Act and is a diversity lecturer.

The RECCR was organized to further the mandated duties of the member state and local agencies in their efforts to eliminate discrimination and further civil rights in their jurisdictions. The Council does this by receiving funding and redistributing it as determined by voting members and according to negotiated contracts for the purposes of training, education, travel, equipment purchases, and conducting research. RECCR also disseminates information through a group website which also provides a forum for members to exchange questions and ideas. A recent discussion regarded the topic of how various member agencies handled housing authority complaints. The discussion was vigorous as the various member agencies commented on if they did or did not handle such complaints or how such complaints were taken care of.

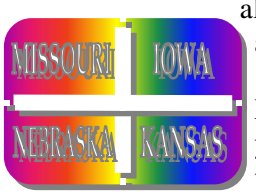
RECCR has always been a forum for members to share ideas and facilitate positive fellowship among fellow regional civil rights and community leaders. RECCR was originally incorporated in Iowa on April 30, 1981. Since then it has remained a forum for recognizing the work and achievements of its members as well as providing a source of training for commissioners, investigators, and directors.

RECCR was designated a 501c (3) not-for-profit agency in 1998 when it was reincorporated in the State of Kansas. The original RECCR was an association of directors of both state and local agencies in the four-state region. They met three to four times per year. RECCR was not as well known beyond the region as the national associations were (the National Association of Human Rights Workers—NAHRW, and the International Association of Official Human Rights Agencies— IAOHRA).

The general intention of RECCR was to address human rights concerns and responsibilities collectively in its four Midwestern states. The original number of 25 members increased to 34 by 2001.

The specific purposes of the RECCR are to: collect, compile, and disseminate information for persons engaged in the improvement of human rights; plan and conduct educational and training programs; assist human and civil rights commissions and / or other local communities in the region; and to assist other member agencies in making their local laws stronger.

Also, one of the original projects of RECCR was for the agencies in the four-state region to collectively and effectively negotiate with the EEOC (Equal Employment Opportunity Commission). RECCR members and the Iowa Civil Rights Commission wrote the first HUD (US Department of Housing and Urban Development) grant in 1989. Throughout the years, RECCR also received funding from grants and from training sessions .



Mr. Williams anticipates that this year's conference in Nebraska will be just as dynamic as previous year's conferences, and will continue to be a forum for members to network and share ideas on how to combat the continuing problem of discrimination.

For more information on this conference, or to register, please contact the LCHR Outreach Coordinator, Pippi Van Slooten at pvanslooten@lincoln.ne.gov.

The Impact of Credit-Based Insurance Scoring

[*National Fair Housing Alliance*]

The National Fair Housing Alliance reported in May that the NFHA Vice President, Lisa Rice, testified before the House Financial Services Subcommittee on Oversight and Investigations. The hearing was regarding the impact of credit-based insurance scoring on the availability and affordability of insurance. A similar hearing was held before the Nebraska state legislature earlier this year, where insurance companies testified as to the need for such scoring for risk assessment.

Ms. Rice, however, testified before the US Congress that they should ban the use of credit scoring because it has been shown to have a disparate impact on people of color and women. The result is a discriminatory, bifurcated lending system which has been demonstrated in research studies and by court cases. The NFHA conducted a multi-year testing project which indicated that African-Americans were denied lending opportunities which included receiving inferior basic information that their white counter-parts were given, and being urged to go to a different lender. The African-American testers were also told that they probably would not qualify for a loan.

Ms. Rice also stated that current discriminatory lending practices might have also helped lead to the current foreclosure crisis whereby borrowers who began with good credit are now facing plummeting credit scores due to misinformation and unequal treatment. The long term impact is that now these borrowers are assessed as risks, meaning they are assessed to be poor drivers or reckless homeowners because now their scores are decreased.

For these reasons, the NFHA has determined that credit-based insurance scoring is a civil rights issue and should be banned by Congress.

The Director's Report: Continuing our Commitment to You

[*A Special Report from the LCHR Director, Larry Williams*]

Building an inclusive community which provides equal opportunity for all is the impetus behind our logo and our theme "One Lincoln." It is the name of our quarterly newsletter and the title of our monthly television program on Channel 5.

I want to personally invite each of you to watch our June program in which Chief Tom Casady, of the Lincoln Police Department, discusses a topic which receives little press or discussion in our community and elsewhere and that is "Hate Crimes." Tom does an excellent job of explaining what hate crimes are, how they are reported, what his officers are to do, how they are trained, and what the trends seem to be. However, Tom goes a step further and tells us what we can do as a community and personally to not only fight "hate," but to confront discrimination, prejudice, racism, sexism, and homopho-

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Editorial Policy:
One Lincoln is a publication of the Lincoln Commission on Human Rights. Materials appearing in this publication shall be in accordance with the purposes, and goals of the LCHR. One Lincoln will be published on a quarterly basis in January, April, July and October.

Criteria for Publication:
Submissions by community groups and individuals are welcome. Deadlines are the first of the month preceding the month of publication. Articles are subject to editing, with the author's compliance. Specific opinions expressed are not necessarily the opinions held by LHRC employees or its Commissioners.

You Want to Know

Questions & Answers Regarding Employment & Fair Housing Issues

Q: **Do you have to be of majority age to file a discrimination complaint?**
A: No. If you are under the age of 19, then your parent or legal guardian can file a discrimination complaint on your behalf.

Q: **Do you have to be a U.S. citizen to file a discrimination complaint?**
A: No. The law is designed to protect everyone from discrimination. We do not ask for proof of citizenship or even legal resident status. The concern is that all people are being treated equally without regard to race, color, sex, religion, national origin, age, marital status, and retaliation.

Q: **I saw an ad in the newspaper that was asking for a strong, mature, male for a position as a bouncer, is that discrimination?**
A: Yes. An employer cannot specifically ask for one gender unless it is what is known as a Bona Fide Occupational Qualification (BFOQ), which means that only that gender can do the job. Examples would be a wet nurse or sperm donor. It is very difficult for an employer to claim BFOQ's as a defense.

Q: **I am employed by a temporary employment agency and am currently working at a company in which the position may become permanent. One of the co-workers, who works for the company has been making racial jokes and comments that offend me, who do I complain to, my employer or the company?**
A: You need to notify your employer which is the employment agency and you can also inform a management person at the company. Your employer is responsible to make sure your work environment is free of discriminatory remarks or comments.

If you have a question you would like answered in regard to possible discrimination as it affects employment, fair housing or public accommodation, you can email them to lchr@lincoln.ne.gov or mail them to LCHR, Attn: Questions, 440 S. 8th Street, Ste. 101, Lincoln, NE 68508.

"Hostile Work Environment": Prompt Employer Action Precludes Harassment Claims

[*Nebraska Employment Law Letter*]
Promptly investigating employees' complaints of workplace harassment and taking appropriate action to correct the situation will save employers from liability for any potential legal claims. When investigating internal complaints, employers must differentiate between general grievances and complaints about inappropriate behavior with sexual or racial overtones that is ongoing and pervasive. It is typical for employees to resign and later claim that discriminatory treatment was the reason they left. *But an employee who quits without giving her employer an opportunity to address the problems she was having cannot legally claim that she was forced to quit.* That is why it is important to communicate with employees to make sure that they understand that the employer is investigating their complaints and is addressing the situation. Find out more about avoiding sexual harassment law suits in the subscribers' area of www.HRhero.com, the website for the *Nebraska Law Letter.*

NEW SUPREME COURT DECISION ON "ME, TOO" EVIDENCE

[*Nebraska Employment Law Letter*]

The US Supreme Court in February handed down a mixed decision on the admissibility of "me, too" evidence in employment discrimination cases.

"Me, too" evidence is testimony from non-parties to a lawsuit in which they allege that they, too, were discriminated against by other people who had no part in the actual employment decision being challenged. This type of evidence could prove an ongoing practice or culture of discrimination within a workplace, or it could be completely irrelevant testimony that just slows down proceedings, increasing litigation costs.

"really? me, too..."

In such a case , the Tenth Circuit court overturned the lower court's decision saying that it abused its discretion when it excluded "me, too" evidence.

On appeal, the Supreme Court held that the Tenth Circuit also had erred in requiring the inclusion of the evidence. In the unanimous opinion, Justice Clarence Thomas concluded that this type of evidence is neither per se admissible nor per se inadmissible. Instead, the distinct facts of each case will be required to rule on the appropriateness of "me, too" evidence.

The bottom line is that unfortunately for employers and the lower courts, very little guidance is given on which facts and circumstances will determine how to use or interpret "me, too" evidence. So the best guideline for those looking to avoid this type of evidence is to avoid the discrimination case in the first place.

About the LCHR

What does the Lincoln Commission on Human Rights (LCHR) do?
The LCHR investigates complaints of discrimination within Lincoln that involves housing, employment, or discrimination in services provided to the public.

What is discrimination?
Illegal discrimination is to have an adverse action taken against you or being treated differently based on a protected class (i.e.: race, color, national origin, sex, religion, disability, age, marital status, familial status, retaliation).

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Hazell Rodriguez
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SEXUAL HARASSMENT: ARE STRAY COMMENTS ENOUGH TO CONSTITUTE SEXUAL HARASSMENT?

[*Nebraska Employment Law Letter*]

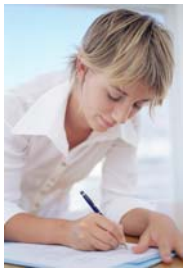
Employers and human resources professionals often cringe when they overhear or later learn that a manager, coworker, or executive has made an offhand remark that could be objectively construed as sexual harassment. While such comments are seemingly innocuous (but clearly) inappropriate), the true question is whether stray, isolated comments are sufficient to constitute sexual harassment. Recently, the US Court of Appeals for the Eighth Circuit, which has jurisdiction over Nebraska, squarely addressed this issue.

The court explained in the Barker v Missouri Department of Corrections decision that conduct can be deemed sexual harassment *only* if the environment is objectively and sufficiently hostile or abusive. In this case, the court found that the manager's single, stray comment to the coworker didn't rise to the level of legally actionable, concluding that the "single, isolated statement, implying that women are more nurturing and better suited for work [in a particular unit of the facility] is insufficient to support an objectively reasonable belief that the statement constituted sexual harassment."

The Eight Circuit therefore found that the manager's remark fell far short of being pursuable in court, noting that comments that are merely rude and unpleasant don't rise to the extreme level required to constitute unwelcome and offensive sexual harassment in the workplace.

This case serves as a noteworthy reminder that isolated comments can't create legally pursuable sexual harassment claims. It's never wise to ignore a potentially inappropriate comment in the workplace, however. And if disciplinary action is warranted, document and assess the grounds for that action.

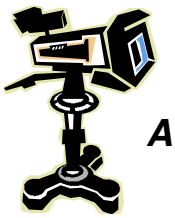
WHAT PREJUDICE MEANS TO ME...



The Lincoln Commission on Human Rights will expand its outreach program with the Lincoln Public Schools beginning Fall 2008. LPS has approved a two part program where the LCHR will explain prejudice to area fifth and sixth graders before demonstrating it through an in-class activity.

The students will then be asked to participate in an essay contest where the winners will receive Chief Standing Bear coins from the Mayor as well as having their essays on "What Prejudice Means to Me" published in upcoming editions of the LCHR "One Lincoln" newsletter. This program will compliment the outreach currently conducted with area high schools.

Receive your own issue of ***One Lincoln*** by sending your email address to mkniep@lincoln.ne.gov. You may also access this issue and all current issues on our website at www.lincoln.ne.gov/city/mayor/human/index.htm



One Lincoln

Addressing Discrimination In Lincoln

A City TV 5 monthly program addressing issues relating to discrimination as it affects Lincoln's citizens. June's program features an engaging conversation with Lincoln Police Department Chief Tom Cassady on hate crimes in Lincoln.

Program times vary but you can also view current or past shows online through Video on Demand at: http://www.lincoln.ne.gov/city/mayor/cic/5citytv/video.htm - select Lincoln Commission on Human Rights.

Need Help Making Sense of Discrimination Laws?

We're Here for You.

We provide free assistance and training to large or small businesses in understanding the discrimination laws and creating Human Resources' policies to help you avoid liability issues. Call us at 441-7624 for more information.

EQUAL HOUSING OPPORTUNITY

Fair Housing.

It's Not an Option.

It's the Law!

Director's Report: Our Commitment

(Continued from page 4)

bia. If you have not seen this program which airs daily on Channel 5, I urge you to do that or to view it on your computer through video on demand. This program is instructive. Tom gives us a blueprint for making our community, "One Lincoln."

Our next television program will focus on new Americans in our community and on the organizations that exist to assist our new neighbors. Lincoln continues to be a new home for so many as they seek a new life, liberty, and the American Dream. However, many times our new neighbors are viewed with suspicion, envy or prejudice. We hope to dispel some myths with this program. Our guests will be Kit Boesch, of the Lancaster County Human Services and Jason Varga, of the Fusion Project.

The Lincoln Commission on Human Rights recently received a grant from the Equal Employment Opportunity Commission and after much discussion we determined that the best use of these funds was the development of a public service announcement (PSA) which extols the virtues of our vibrant community, but urges us to create a community which will face head on the many challenges. These are exciting times in Lincoln. There is so much we must do to make it the shining star on the plains, but we must ensure that all of our people have an equal opportunity to succeed. We hope you will catch our PSA as it airs during the local morning show on Channel 10/11 over the next six months. We are very pleased with the results.

We are also pleased to announce that the LCHR will be facilitating a new program in the fifth and sixth grades in the upcoming school year. This program which has been accepted into the Lincoln Public Schools curriculum will teach our young people what prejudice is. It is experiential in nature and will offer our young people insight into how they feel about these important issues. We are excited about this new venture and with our continuing partnership with the Lincoln Public Schools. For almost five years we have been facilitating a program in area high schools on the rights and responsibilities of young people in the workplace.

During these times of dwindling resources, the challenges we face as a growing community continues. We are all asked to do more with less, however despite this reality, this is *our community* and we have an individual obligation to make our community the best that it can be. It is a basic tenet of local responsibility and local control. The notion that prejudice, bigotry, hatred, and discrimination are not important issues is false. We as a community can become an example to the region, to the nation, and to the world. The battle against "hate" is for everyone to wage: block by block and neighborhood by neighborhood. Together we can build a community of equal opportunity for all of us to share. That is the spirit of *One Lincoln*.

—Larry Williams

One Lincoln

City of Lincoln
Human Rights Commission
440 S. 8th Street, Ste. 101
Lincoln, NE 68508
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Jurisdiction:

The City of Lincoln Human Rights Commission has jurisdiction to investigate alleged discrimination complaints in the areas of employment, housing, and public accommodation occurring within Lincoln's city limits. We do not have jurisdiction to investigate alleged discrimination complaints involving City, County and State Government employees, offices or facilities, or state universities.

Resources:

- ***Discrimination complaints outside of Lincoln City limits*:** Nebraska Equal Opportunity Commission—402-471-2024 or the regional Equal Opportunity Commission office in St. Louis, MO (800) 669-4000
- ***City agency complaints***—City Ombudsman/Mayor's Office (402) 441-7511
- ***University of Nebraska-Lincoln employment complaints*** — UNL Affirmative Action (402) 472-3417
- ***Lincoln Police Department complaints***—Internal Affairs Division (402) 441-7204, Citizen Advisory Board (402) 441-6351, or Mayor's office (402) 441-7511
- ***Jail complaints, not including the State Penitentiary***—Jail Standards Division of the Nebraska Crime Commission (402) 471-3988
- ***State Penitentiary***—Ombudsman at the State office for Corrections (402) 471-2035
- ***Landlord-Tenant disputes***—Lincoln Action Program Specialist (402) 471-4515
- ***Complaints about legal matters***—County Attorney (402) 441-7321, Southeast Nebraska Legal Services (402) 435-2161, Nebraska Attorney General (402) 471-2682, or Nebraska State Bar Association (402) 475-7091
- ***Advocacy Services for people with disabilities***—League of Human Dignity (402) 441-7891 or Nebraska Advocacy Services (402) 474-3183.