AGENDA ITEM #12
May 11, 2009
Worksession

MEMORANDUM

May 5, 2009

TO: County Council

FROM: Vivian Yao, Legislative Analyst

SUBJECT: **Worksession:** FY10 Operating Budget
Office of Human Rights

The Executive's recommendation for the Office of Human Rights is attached at ©1-5.

Summary of the Health and Human Services Committee Recommendations

The Health and Human Services Committee (HHS) held a worksession on the Office of Human Rights Operating Budget on April 17, 2009. The Committee proposes (2-1, Councilmember Trachtenberg dissenting) putting $15,000 on the non-recommended reduction list for the Department's Biennial Hall of Fame event. The Committee concurs with all other adjustments recommended by the Executive.

I. OVERVIEW

For FY10, the Executive recommends total expenditures of $2,179,690 for the Office of Human Rights, a 12.9% decrease from the FY09 approved budget of $2,501,500.

	FY08 Actual	FY09 Approved	FY10 CE Recommended	% Change FY09-FY10
Expenditures:				
General Fund	2,398,652	2,501,500	2,179,690	-12.9%
Grant Fund	-	-	-	-
TOTAL Expenditures	**2,398,652**	**2,501,500**	**2,179,690**	**-12.9%**
Positions:				
Full-time	22	21	18	-14.3%
Part-time	-	-	-	
TOTAL Positions	**22**	**21**	**18**	**-14.3%**
WORKYEARS	**22.5**	**21.5**	**18.5**	**-14.0%**

The Executive recommends a net decrease of 3 full-time positions from FY09 staffing levels. There is no change recommended in FY10 to part-time positions.

	Full-time	Part-time
New positions for FY10	0	0
Positions created during FY09		0
Abolished positions for FY10	-2	0
Positions abolished during FY09	-1	0
Net Change	-3	0

The FY10 CE recommendation includes a net increase of $57,940 for same service and program enhancement adjustments. This increase is more than offset by program reductions of $379,750.

Same Services Adjustments:	
Retirement Adjustment	$ 14,740
Service Increment	$ 10,310
Group Insurance Adjustments	$ 4,370
Annualization of FY09 Service Increment	$ 4,130
Vehicle Upgrade	$ 1,800
Printing and Mail Adjustments	$ 180
Motor Pool Rate Adjustments	$ 130
Central Duplicating Deficit Recovery Charge	$ (290)
Total Same Service Increases	**$ 35,370**
Program Enhancement:	
Biennial Hall of Fame Event	$ 22,570
Total Program Enhancement	**$ 22,570**
Program Reductions:	
Retirement Incentive Program Savings	$ (152,050)
Investigator III (2 positions)	$ (177,700)
Lender Contract for Yearly Report	$ (50,000)
Program Reductions	**$ (379,750)**
GRAND TOTAL	**$ (321,810)**

II. FY10 EXPENDITURE ISSUES

PROGRAM ENHANCEMENT

Biennial Hall of Fame Event ***$22,570***

The Executive has provided $22,570 in the Department's budget to hold the biennial induction ceremony for honorees in its Human Rights Hall of Fame. Inductees are honored for having made great personal sacrifices and contributions to human and civil rights in Montgomery County. Approximately, 100 to 150 individuals have attended the event on an annual basis, and the Department is planning for 300 attendees this year.

The HHS Committee proposes (2-1, Councilmember Trachtenberg dissenting) taking $15,000 as a non-recommended reduction to the Hall of Fame Event.

PERSONNEL SAVINGS—REDUCTIONS TO COMPLIANCE DIVISION

Retirement Incentive Program Savings ***-$152,050***

Two employees participated in the retirement incentive program, and one investigator I position was eliminated as a result of the program.

Investigator III (2 positions) ***-$177,700***

For FY10, the Department has recommended the elimination of two filled investigator III positions. Compliance investigation cases assigned to these positions will be reassigned.

For FY10, there will be a total of six investigators, down from nine investigators in FY09. Council staff notes that members of the HHS Committee expressed concern at the November 13th joint meeting of the HHS and PHED Committees about the time that it has taken the Department to resolve housing discrimination complaints. In its response to findings of the Equal Rights Center related to housing discrimination in Montgomery County (©6-10), the Department suggested that it would institute "performance measures designed to prevent any investigation from exceeding nine months to one year."

The Executive's recommended budget provides for a period of 14 months as the FY10 performance measure for the length of time needed to close complaint cases.

At the April 17 HHS Committee worksession, the Director of the Office of Human Rights reported that the Department has no cases in its inventory that are 24 months or older. The Department is currently averaging 9-12 months to resolve its existing inventory of cases. However, the Department anticipates that case loads in some areas will increase based on trends at the national level.

The HHS Committee recommends approval of all personnel reductions recommended by the Executive. The Committee requested that it be kept apprised during the fiscal year of any trends relating to increasing number of complaints, caseloads, or the length of time required to resolve complaints.

OTHER ADJUSTMENTS

Lender Contract for Yearly Report ***-$50,000***

The Department received funding to hire a consultant to perform testing related to predatory lending and issue a report of its finding in FY08. The testing was not intended to be an ongoing exercise.

The HHS Committee recommends approval.

POSSIBLE REDUCTION IF NEEDED TO MEET FISCAL CONSTRAINTS

Training Expenses and Dues/Memberships

The FY10 recommended budget for the Office of Human Rights includes approximately $20,600 for expenses related to training, education, tuition and membership dues. The Department suggests that these items are:

- Used to augment staffs' ability to interpret accurately the judicial intent of civil rights law;
- Crucial to maintaining the effectiveness, consistency, and accuracy of the Department's application of guidelines and procedures associated with the legal processes the office is required to implement;
- Needed by staff and commissioners to maintain current knowledge of events, legislation, potential problems areas, and resolution techniques to consistently remain certified in the civil rights arena; and
- Used to provide the guidance and leadership required to promote a favorable quality of life in Montgomery County.

The Executive has recommended significant cuts to personnel and operating expenses for the Office of Human Rights. The Committee does not recommend making additional cuts to these operating expenses. However, if fiscal constraints require more drastic cost saving measures at reconciliation, the Council may want to reduce these expenditures in part for the upcoming fiscal year

III. PROGRAM MEASURES AND HIGHLIGHTS

In the Executive's Recommended FY10 Operating Budget, the Department reports that during FY09 it will:

- Reduce the length of time to close complaint cases from 24 months in FY08 to 18 months in FY09;
- Provide 20 trainings and outreach sessions;
- Obtain approximately $300,000 in relief, down from the FY08 actual amount of $400,000;
- Close about 205 cases, slightly higher than the FY08 actual amount of 200; and

- Resolve about 50% of mediated cases.

Recent data provided by the Department, however, updates these reported outcomes (©12 and 14). For example, the recommended budget reports that 50% of mediated cases were resolved in FY08 and with the same percentage on track for FY09. The Department's update provides for percentages of 32% and 24% respectively.

Council staff notes that the Department is on track to dispose of significantly fewer cases for FY09 than previous years:

Case Dispositions

	No Reasonable Grounds	Reasonable Grounds	Other (Settled, withdrawn, administrative closure	Total
FY09 (July-March)	17	2	45	64
FY08	90	4	102	196
FY07	81	5	78	164

In FY09, the Department has closed 64 cases with one quarter left to go. If the Department continues at this rate, it will close approximately 85 cases, compared to 196 and 164 for the two prior years. Although the Department reports that the minimum number of required closures per year per Investigator is 30 cases, it appears unlikely that this standard will be met for FY09. It is also unclear to what extent this standard has been met in previous years.

As stated above, the Director of the Office of Human Rights has reported that the Department currently has no cases in its inventory that are 24 months or older. The Department is currently averaging 9-12 months to resolve its existing inventory of cases. However, the Department anticipates that case loads in some areas will increase based on trends at the national level.

The Committee requested that it be kept apprised during the fiscal year of any trends relating to increasing number of complaints, caseloads, or the length of time required to resolve complaints.

IV. FY09 REVENUE ISSUES

County General Fund Revenues	Actual FY08	Budget FY09	Estimated FY09	Recommended FY10	% Change
EEOC Reimbursement	107,750	68,500	68,500	68,500	0.00%

Revenue from EEOC reimbursements is anticipated to stay level from the estimated FY09 budgeted level.

Human Rights

MISSION STATEMENT

The mission of the Office of Human Rights is to enforce antidiscrimination laws in housing, commercial real estate, employment, public accommodations and intimidation; promote, monitor, and enforce fair housing laws relating to access and treatment; provide training and technical assistance in civil rights laws; address community conflict motivated by prejudice, intolerance, and bigotry; and promote increased understanding and tolerance among diverse groups.

BUDGET OVERVIEW

The total recommended FY10 Operating Budget for the Office of Human Rights is $2,179,690, a decrease of $321,810 or 12.9 percent from the FY09 Approved Budget of $2,501,500. Personnel Costs comprise 92.4 percent of the budget for 18 full-time positions for 18.5 workyears. Operating Expenses account for the remaining 7.6 percent of the FY10 budget.

LINKAGE TO COUNTY RESULT AREAS

While this program area supports all eight of the County Result Areas, the following are emphasized:

- ***A Responsive, Accountable County Government***
- ***Vital Living for All of Our Residents***

DEPARTMENT PERFORMANCE MEASURES

This table presents the department's headline measures or submeasures that relate to multiple programs including projections from FY09 through FY11. These estimates reflect funding based on the FY09 savings plan, the FY10 budget, and funding for comparable service levels in FY11.

Measure	Actual FY07	Actual FY08	Estimated FY09	Projected FY10	Projected FY11
Headline Measures					
Complaints closed[1]	184	200	205	210	230
Length of time to close complaint cases (months)	NA	24	18	14	10
Percentage of mediated cases resolved[2]	41	50	50	50	50
Relief obtained[3]	$261,319	$400,000	$300,000	$300,000	$300,000
Training and outreach sessions held[4]	17	20	20	25	30
Training and technical assistance sessions[5]	12	12	12	15	15
Paired tests conducted to determine levels of discrimination[6]	180	200	200	200	200

[1] The Office of Human Rights continues to see an escalation in complaint intakes which directly impacts on the number of cases filed with the office; additionally, the Office of Human Rights has a work sharing agreement with the Federal Equal Employment Opportunities (EEO) Office.

[2] Pursuant to strict enforcement guidelines, increased educational outreach to businesses, visitors, and citizens, there has been a continuance of a 50% success rate associated with cases resolved through the mediation process about discrimination cases.

[3] Expeditious interventions and stricter performance investigative measures by the Office of Human Rights will cause a decline in the amounts of monetary awards. As complainant's issues are resolved more quickly, the damage amounts and awards decrease.

[4] The Office of Human Rights training and outreach activities will increase to educate the most vulnerable populations about civil rights; additionally, this office will have at least five additional outreach and/or training seminars to educate businesses.

[5] Pursuant to an aggressive and proactive focus on educating the public and business about the rights and responsibilities associated with anti-discrimination laws, there will be in increase in service to individuals seeking guidance or assistance.

[6] 200 paired tests will be conducted to determine levels of housing discrimination in the County. A pool of 30 testers with diverse nationalities and racial backgrounds will be used to test for discrimination.

ACCOMPLISHMENTS AND INITIATIVES

- ***The Office of Human Rights worked with the Regional Service Centers so that any person, feeling that he or she was discriminated against, could go to any Regional Center and file a discrimination complaint.***
- ***The Fair Housing Unit partnered with the Housing Opportunities Commission, Landlord-Tenant Affairs, the Maryland State Commission on Human Rights, and the Office of Consumer Protection to offer two "One Stop Fair Housing Shop" programs for property management professionals, landlords, and the general public.***

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- *Two sessions of the Human Rights Camp were provided to Montgomery County schools students. The three-day program included costs for transportation, activities, materials, meals, and refreshments for 20 students.*
- *The 5th Hall of Fame Induction Ceremony formally recognized five residents for their visionary leadership outstanding achievement, and altruism on the road by eliminating discrimination and advancing human rights.*
- *The Fair Housing staff performed 200 fair housing tests in an effort to reduce discrimination in housing.*
- *Productivity Improvements*
  - *The IT application (Time Matters), allows staff to enter all hate/violence, Fair Housing testing, and neighborhood incident data to provide statistical analysis and enable the office to respond more efficiently to customer needs and public inquiries and to predict potential problem areas.*
  - *This year, the office met its Fair Housing predatory lending testing goals.*

PROGRAM CONTACTS

Contact Debra Jones of the Office of Human Rights at 240.777.8459 or Phil Weeda of the Office of Management and Budget at 240.777.2780 for more information regarding this department's operating budget.

PROGRAM DESCRIPTIONS

Discrimination Investigations

This program investigates and resolves formal sworn complaints of discrimination in employment, commercial and residential real estate transactions, public accommodations, and intimidation through a formal complaint process or through mediation. Complaints of discrimination are accepted and investigated on the bases of race, color, religious creed, ancestry, national origin, age (employment and real estate only), sex, marital status, sexual orientation, disability, presence of children (real estate only), source of income (real estate only), genetic status (employment only), gender identity, and family responsibilities (employment and real estate only).

Program Performance Measures	Actual FY07	Actual FY08	Estimated FY09	Projected FY10	Projected FY11
Complaints closed[1]	184	200	205	210	230
Length of time to close complaint cases (months)	NA	24	18	14	10
Percentage of mediated cases resolved[2]	41	50	50	50	50
Relief obtained[3]	$261,319	$400,000	$300,000	$300,000	$300,000
Training and outreach sessions held[4]	17	20	20	25	30
Training and technical assistance sessions[5]	12	12	12	15	15

[1] The Office of Human Rights continues to see an escalation in complaint intakes which directly impacts on the number of cases filed with the office; additionally, the Office of Human Rights has a work sharing agreement with the Federal Equal Employment Opportunities (EEO) Office.

[2] Pursuant to strict enforcement guidelines, increased educational outreach to businesses, visitors, and citizens, there has been a continuance of a 50% success rate associated with cases resolved through the mediation process about discrimination cases.

[3] Expeditious interventions and stricter performance investigative measures by the Office of Human Rights will cause a decline in the amounts of monetary awards. As complainant's issues are resolved more quickly, the damage amounts and awards decrease.

[4] The Office of Human Rights training and outreach activities will increase to educate the most vulnerable populations about civil rights; additionally, this office will have at least five additional outreach and/or training seminars to educate businesses.

[5] Pursuant to an aggressive and proactive focus on educating the public and business about the rights and responsibilities associated with anti-discrimination laws, there will be in increase in service to individuals seeking guidance or assistance.

FY10 Recommended Changes	Expenditures	WYs
FY09 Approved	**1,327,470**	**12.0**
Increase Cost: Retirement Adjustment	14,740	0.0
Increase Cost: Service Increment	10,310	0.0
Increase Cost: Group Insurance Adjustment	4,370	0.0
Increase Cost: Annualization of FY09 Service Increment	4,130	0.0
Decrease Cost: Retirement Incentive Program (RIP) Savings	-152,050	-1.0
Decrease Cost: Investigator III (2 positions); compliance investigation cases to be reasigned to remaining Investigators	-177,700	-2.0
Miscellaneous adjustments, including negotiated compensation changes, employee benefit changes, changes due to staff turnover, reorganizations, and other budget changes affecting more than one program	-71,240	0.0
FY10 CE Recommended	**960,030**	**9.0**

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Community Mediation and Public Affairs

This program provides support services serving as a mechanism for reporting, investigating, monitoring, and analyzing hate/violence incidents and provides compensatory fund to victims of such incidents. This program acts as a liaison to police departments and the school system pertaining to hate violence incidents and serves as staff support for the Commission on Human Rights, the Committee on Hate/Violence, and the Partnership Fund which is a sub-committee of the Committee on Hate/Violence. The program also provides technical assistance, training, and community mediation for reducing conflict and tension associated with racial, religious, ethnic, sexual orientation, or disability-based issues; promotes and supports the Network of Neighbors which is a support group for victims of hate or bias incidents. This program also conducts countywide forums to improve race/intercultural relations, hosts a semi-annual human relations camp for youth, and produces the County's Human Rights Hall of Fame recognition program and inductions.

FY10 Recommended Changes	Expenditures	WYs
FY09 Approved	**235,900**	**2.0**
Increase Cost: Biennial Hall of Fame Event	22,570	0.0
Miscellaneous adjustments, including negotiated compensation changes, employee benefit changes, changes due to staff turnover, reorganizations, and other budget changes affecting more than one program	14,010	0.0
FY10 CE Recommended	**272,480**	**2.0**

Fair Housing

This program coordinates all the activity of county departments, offices, and agencies to prevent housing discrimination in Montgomery County. This program also promotes fair treatment and access to housing choices through data analysis, testing, training, education, and other outreach strategies. This program also interacts with the Montgomery Public School District Social Studies Department to teach awareness of human rights issues, as they relate specifically to fair housing. This program is funded in part by the Home Investment Partnership (HOME Grant) in the Department of Housing and Community Affairs.

Program Performance Measures	Actual FY07	Actual FY08	Estimated FY09	Projected FY10	Projected FY11
Paired tests conducted to determine levels of discrimination[1]	180	200	200	200	200

[1] 200 paired tests will be conducted to determine levels of housing discrimination in the County. A pool of 30 testers with diverse nationalities and racial backgrounds will be used to test for discrimination.

FY10 Recommended Changes	Expenditures	WYs
FY09 Approved	**496,250**	**5.0**
Miscellaneous adjustments, including negotiated compensation changes, employee benefit changes, changes due to staff turnover, reorganizations, and other budget changes affecting more than one program	52,980	0.0
FY10 CE Recommended	**549,230**	**5.0**

Administration

This program provides overall direction of the office, administration of the budget, personnel, procurement, automation, and support services. Also provided in this program is funding for human relations awards.

FY10 Recommended Changes	Expenditures	WYs
FY09 Approved	**441,880**	**2.5**
Decrease Cost: Lender Contract for Yearly Report	-50,000	0.0
Miscellaneous adjustments, including negotiated compensation changes, employee benefit changes, changes due to staff turnover, reorganizations, and other budget changes affecting more than one program	6,070	0.0
FY10 CE Recommended	**397,950**	**2.5**

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BUDGET SUMMARY

	Actual FY08	Budget FY09	Estimated FY09	Recommended FY10	% Chg Bud/Re
COUNTY GENERAL FUND					
EXPENDITURES					
Salaries and Wages	1,703,859	1,691,920	1,481,010	1,485,200	-12.2%
Employee Benefits	576,609	619,350	479,700	529,870	-14.4%
County General Fund Personnel Costs	***2,280,468***	***2,311,270***	***1,960,710***	***2,015,070***	***-12.8%***
Operating Expenses	118,184	190,230	190,230	164,620	-13.5%
Capital Outlay	0	0	0	0	—
County General Fund Expenditures	***2,398,652***	***2,501,500***	***2,150,940***	***2,179,690***	***-12.9%***
PERSONNEL					
Full-Time	22	21	21	18	-14.3%
Part-Time	0	0	0	0	—
Workyears	22.5	21.5	21.5	18.5	-14.0%
REVENUES					
EEOC Reimbursement	107,750	68,500	68,500	68,500	—
County General Fund Revenues	***107,750***	***68,500***	***68,500***	***68,500***	—

FY10 RECOMMENDED CHANGES

	Expenditures	WYs
COUNTY GENERAL FUND		
FY09 ORIGINAL APPROPRIATION	**2,501,500**	**21.5**
Other Adjustments (with no service impacts)		
Increase Cost: Biennial Hall of Fame Event [Community Mediation and Public Affairs]	22,570	0.0
Increase Cost: Retirement Adjustment [Discrimination Investigations]	14,740	0.0
Increase Cost: Service Increment [Discrimination Investigations]	10,310	0.0
Increase Cost: Group Insurance Adjustment [Discrimination Investigations]	4,370	0.0
Increase Cost: Annualization of FY09 Service Increment [Discrimination Investigations]	4,130	0.0
Increase Cost: Vehicle Upgrade	1,800	0.0
Increase Cost: Printing and Mail Adjustments	180	0.0
Increase Cost: Motor Pool Rate Adjustments	130	0.0
Decrease Cost: Central Duplicating Deficit Recovery Charge	-290	0.0
Decrease Cost: Lender Contract for Yearly Report [Administration]	-50,000	0.0
Decrease Cost: Retirement Incentive Program (RIP) Savings [Discrimination Investigations]	-152,050	-1.0
Decrease Cost: Investigator III (2 positions); compliance investigation cases to be reasigned to remaining Investigators [Discrimination Investigations]	-177,700	-2.0
FY10 RECOMMENDED:	**2,179,690**	**18.5**

PROGRAM SUMMARY

Program Name	FY09 Approved Expenditures	FY09 Approved WYs	FY10 Recommended Expenditures	FY10 Recommended WYs
Discrimination Investigations	1,327,470	12.0	960,030	9.0
Community Mediation and Public Affairs	235,900	2.0	272,480	2.0
Fair Housing	496,250	5.0	549,230	5.0
Administration	441,880	2.5	397,950	2.5
Total	**2,501,500**	**21.5**	**2,179,690**	**18.5**

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FUTURE FISCAL IMPACTS

Title	CE REC. FY10	FY11	FY12	($000's) FY13	FY14	FY15
his table is intended to present significant future fiscal impacts of the department's programs.						
COUNTY GENERAL FUND						
Expenditures						
FY10 Recommended	2,180	2,180	2,180	2,180	2,180	2,180
No inflation or compensation change is included in outyear projections.						
Labor Contracts	0	5	5	5	5	5
These figures represent the estimated cost of service increments and associated benefits.						
Biennial Hall of Fame Event	0	-23	0	-23	0	-23
This Biennial event recognizes Montgomery County residents who have made personal sacrifices that positively impacted County human rights issues.						
Subtotal Expenditures	*2,180*	*2,162*	*2,185*	*2,162*	*2,185*	*2,162*

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Isiah Leggett
County Executive

OFFICE OF HUMAN RIGHTS

MEMORANDUM

James L. Stowe
Director

March 4, 2009

To: George Leventhal, Chair, Health & Human Services Committee
Michael Knapp, Chair, Planning, Housing & Economic Development Committee

From: James Stowe, Director, Office of Human Rights James Stowe

Re: Response to Inquiries from the Health and Human Services and Planning, Housing, and Economic Development Committees

The purpose of this memorandum is to respond to your request for information from the Office of Human Rights in regards to the recent report issued in 2008 by the Equal Rights Center and the following presentation made before the Health and Human Services (HHS) and Planning, Housing and Economic Development (PHED) Committees on November 13, 2008. The report as you may recall purports that in 99 tests conducted between the period of March and April 2008 involving 45 different property management companies in 12 different municipalities, the Equal Rights Center (ERC) found 15 incidents of real estate discrimination on the basis of Source of Income within the County. It is my understanding that the Committees have requested:

(1) Comments from the Office of Human Rights in response to the findings of the Equal Rights Center (e.g., concerns, accuracy of findings, follow-up, etc)

(2) Information related to the Office of Human Rights' approach to handling housing discrimination complaints including answers to the following questions:

(a) What options exist to provide immediate relief to complainants who have experienced housing discrimination?

(b) Is the average timeline for case disposition (18 months – 2 years) reasonable and in line with best practices/standards of other comparable jurisdictions? If not, what should the goal for the Office be given current resources and what will the Office do to achieve this goal?

(c) Would the timeline for resolving complaints be different/shortened if additional resources were available to the Office? Are additional resources needed to create a stronger complaint resolution process, and if so, in what areas?

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1. Comments on the ERC report

In reference to the ERC's report and alleged violations of County law associated with the Source of Income prohibitions, our office has not found the same high rate of discriminatory practices in the County as is suggested in the ERC report. Consequently, our Office is not in a position to endorse the specific findings regarding the rate of Source of Income discrimination in the County as presented by the ERC to the Committees on November 13, 2008.

Although it is not our intent to cast doubt regarding the accuracy of the report presented to the Committee; subsequent efforts by our office to secure any information regarding the precision of the statistical information in the report's findings have not been fruitful. Specifically, the ERC asserts of the 99 tests conducted, 15 property management companies were found to have violated the County's Source of Income prohibitions by refusing to accept housing vouchers, limiting the use of housing vouchers, or imposing different terms and conditions for housing voucher applicants.

Shortly after the report was presented to the HHS and PHED Committees, our office met with Don Kahl, Executive Director, to invite the ERC to work with us in the spirit of cooperation as partners towards eliminating prohibited behaviors in fair housing. I requested that their agency identify the 45 property management companies for which tests were conducted. The ERC was unwilling to make any disclosures or provide any other referral information associated with the tests identified in their report.

I also arranged for ERC's Executive Director to come before the Interagency Fair Housing Coordinating Group to speak with its members and provide credible rebuttal to its members concerns regarding the accuracy of their report. ERC did make a presentation but unfortunately was reluctant to disclose to committee members of the Interagency Fair Housing Coordinating Group any information regarding how their testing data was collected, what entities were found to have violated the source of income laws, and even what property management companies passed their testing process.

The ERC initially forwarded referral materials of alleged incidents of Source of Income discrimination for August, October, and November 2008, to the Office of Human Rights for potential action; however, our office only found one instance of alleged discrimination which readily met the criteria for an investigation by the Office of Human Rights. Further, the testing program within our office had already identified that this one entity also identified by ERC was in possible violation of our Human Rights Laws.

On February 24, 2008, the ERC submitted six (6) complaints alleging discrimination based on Source of Income against six housing complexes operating in Montgomery County. Of the six complaints submitted to the Office of Human Rights, five complaints were within the time period specified in the ERC's report presented to the council in November 2008; Although these complaints met the modest legal standard for a real estate complaint to be accepted by the Office of Human Rights, there were no tester affidavits submitted with the complaints upon which this office could adjudge the probable result of any investigative efforts by this office.

What we are sure of is if there are any cases of housing discrimination occurring in the County on any basis under our jurisdiction it is unacceptable.

We will continue to vigorously enforce our law by monitoring the legal activities by the ERC as well as any private parties that challenge the validity of our anti-discrimination law or violate its provisions.

2(a). What options exist to provide immediate relief to complainants who have experienced housing discrimination?

In regards to the Office of Human Rights and the laws which govern the investigation processes under which it operates, the agency cannot provide emergency or immediate relief to complainants who allege acts of discrimination by others.

Chapter 27, Chapter 2A (Administrative Procedures Act), and COMCOR 27.02.01 (Human Rights Commission Rules of Procedure) all require our office to act with due diligence and under the framework of due process when we receive a complaint of alleged discrimination under Chapter 27.

As you may know, our office typically intervenes in legal proceedings in which the allegations state that a violation of Chapter 27 has occurred or in which the validity of any provision of Chapter 27 is questioned.

As you are well aware, the County actively pursues those respondents (individuals and businesses) who we find violate the anti-discrimination laws. A particular example of our commitment to this task is the recent decision by the State's highest court in *Montgomery County v. Glenmont Hills Assoc.*, 402 Md. 250, 936 A.2d 325 (2007), *cert. denied*, *Glenmont Hills Assoc. v. Montgomery County*, 128 S. Ct. 2914 (2008); *Glenmont Hills Assoc. v. Montgomery County Human Rights Commission,* Civil No. 264885, Montgomery County Circuit Court, February 8, 2008, Order, (J. Durke Thompson), (Ordering that in accordance with the mandate from the Court of Appeals, the "final order of the Montgomery County Commission on Human Rights in this matter is AFFIRMED')

2(b). Is the average timeline for case disposition (18 months – 2 years) reasonable and in line with best practices/standards of other comparable jurisdictions? If not, what should the goal for the Office be given current resources and what will the Office do to achieve this goal?

Concern was raised concerning the amount of time it takes our office to resolve complaints, and whether complainants would be well served by the Office of Human Rights if their need for relief was immediate.

I have related earlier in this correspondence that by default the legal process inherent in our handling complaints does not effect immediate relief. So we are in agreement with the concern. And certainly, being denied housing because of discrimination and thereby in some instances unintentionally compelling prospective home seekers to become homeless is of grave concern to the Office of Human Rights and the County Executive and needs to be immediately addressed.

We also agree that not withstanding our due process requirements, that 18 to 24 months case resolutions are unacceptable unless there are extenuating appeals, which I described in the Glenmont Hills Associates Privacy World case or changes in the status of parties (i.e. death, bankruptcy).

Presently, the Office of Human Rights is in the process of instituting performance measurements designed to prevent any investigation from exceeding nine months to one year. I want to emphasize that the nine months to one-year measurement is not a goal but will be a performance requirement.

Although compliance enforcement is a very important element of the Office of Human Rights and a component mandated by law, educational outreach and precipitant intervention is equally important, so that our businesses, visitors, and citizens are aware of our office, its responsibilities, and their rights.

Our outreach programs will be redesigned to reach more of the most vulnerable populations, including homeless shelters and crisis centers. We will work more closely with employment agencies, regional centers, union employees and through seminars, training sessions, housing and employment fairs to provide educational information about best practices to prevent discriminatory behavior and how to file a complaint should discrimination take place. A more informed citizenry can immediately notify our office of a possible violation and we can act expediently to resolve the complaint.

In fact, we sponsored a one day one stop fair housing workshop for housing providers emphasizing source of income issues on February 23, 2009 at the University of Maryland at Shady Grove which was well attended by housing providers. We will also be developing a similar workshop for housing seekers to insure they are aware of their legal rights when seeking housing options. In both instances we are enlisting involvement of all county agencies and housing advocates to insure a comprehensive training opportunity.

As stated earlier in this response our Fair Housing Program includes a testing component and our office has tested for source of income discrimination in the past. Specifically, the Office of Human Rights conducts tests not because we were particularly aware of any specific problem. On the contrary, the Office of Human Rights periodically will initiate fair housing tests regarding several prohibited bases, including source of income to determine if there might be a problem that has not yet come to our attention.

2(c). Would the timeline for resolving complaints be different/shortened if additional resources were available to the Office? Are additional resources needed to create a stronger complaint resolution process, and if so, in what areas?

With respect to the Committees' query regarding additional staff resources, the addition of a systemic component workforce would educate our businesses, employers, and property owners how to properly develop policies, regulations and rules so that they do not violate law. For those who are members of the most vulnerable populations, instruction and monitoring of behaviors or patterns of complaints would provide the foundation for easy recognition of illegal conduct.

A systemic division would also develop the means to quantify the data available through the various sources of information which is conveyed by our customers and discern patterns of intolerance, intimidation, inequity, predatory lending practices, and hate/violence that may develop in our communities, places of employment, businesses, and real properties without an extensive compliance enforcement process.

However, current budget constraints precludes my office from implementing the initiatives required to serve our customers more proactively and more efficiently through monitoring patterns of discrimination through systemic investigation which will reveal early signs of discriminatory patterns.

So what my office will do presently is reorganize current staff to perform an educational outreach offensive designed to educate our customers about their rights and responsibilities. Furthermore, I will implement the performance measurements referred to earlier in this memorandum.

Additionally, our office is presently working with the United States Department of Housing and Urban and Development (HUD) to participate in a Fair Housing Assistance Program (FHAP) on a contractual basis to perform housing discrimination investigations within the County. Such a contract would provide the Office of Human Rights with the ability to examine discriminatory housing issues in areas previously precluded by law and jurisdiction. Whereas, our office can legally examine a broader sector of housing providers for which we were previously barred from examining because the provider was partially funded by federal monies. Moreover, participation in an approved FHAP Program will allow our staff access to considerable training opportunities which can only enhance their capability in conducting dispute resolution and investigations of alleged housing discrimination complaints.

A contract with HUD would also require that a complaint of alleged housing discrimination be concluded within 100 days as a rule and this focus would actually assist our office towards providing a speedy resolution regarding allegations of housing discrimination in the County.

Finally, through additional focus on education and advertisement, we can educate businesses to recognize potential violations or conduct which could provide the impetus for a complaint of alleged discrimination as well as instruct victims of discrimination how to recognize a potential violation of the law.

Thank you for the opportunity to respond concerning this important matter.

CC:

Kathleen Boucher, Assistant CAO
Linda McMillian, County Council
Vivian Yao, County Council
Russell Campbell, President, Human Rights Commission
Diane Graham, Human Rights Commissioner
Fariba Kassiri, Assistant CAO
Nancy Appel, Attorney, County Attorney's Office
David Hughley, Acting Compliance Director, Office of Human Rights

Isiah Leggett
County Executive

OFFICE OF HUMAN RIGHTS

James L. Stowe
Director

MEMORANDUM

TO: Vivian Yao
Legislative Analyst
Montgomery County Council

FROM: Debra Jones
Executive Administrative Aide
Montgomery County Office
of Human Rights

SUBJECT: Responses to follow-up questions

For FY07, FY08 and FY09 to date, the chart below identifies:

(1) Number of complaints filed FY 07, FY 08 and FY 09 to date:

Total Number of Complaints filed in:

FY 07 = 170 (July 1, 2006 – June 30, 2007)

FY 08 = 274 (July 1, 2007 – June 30, 2008)

FY 09 to date = 150 (July 1, 2008 – March 31, 2009)

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(2) Total caseload for FY 07, FY 08 and FY 09 to date (number of open case at the start of the year and number of new cases filed during the year):

The agency has always used the federal government's fiscal year of October 1 to October 1 to track caseloads and closures. Therefore the following statistics for fiscal years 2007, 2008 and 2009 reflect the federal government's fiscal year. The agency will begin to use the County's fiscal year time period as of July 1, 2009.

Total caseload as of October 1, 2006 = 178
Number of new cases filed October 1, 2006 to October 1, 2007 = 184

Total caseload as of October 1, 2007 = 151
Number of new cases filed October 1, 2007 to October 1, 2008 = 154

Total caseload as of October 1, 2008 = 161
Number of new cases filed October 1, 2008 to March 31, 2009 = 150

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(3) Total number of cases that attempted mediation and total number of cases resolved through mediation in FY 07, FY 08 and FY 09 to date:

Fiscal Year	Dates	# of Cases that attempt mediation	# of Cases resolved through mediation
FY07	July 1, 2006 – June 30, 2007	55	23
FY08	July 1, 2007 – June 30, 2008	57	18
FY09	July 1, 2008 - March 31, 2009 - To Date	37	9

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(4) Number of complaints broken down by type of discrimination:

FY 07 - 24 Real Estate/Housing cases filed (July 1, 2006 – June 30, 2007)

FY 08 - 18 Real Estate/Housing cases filed (July 1, 2007 – June 30, 2008)

FY 09 to date – 16 Real Estate/Housing cases filed (July 1, 2008 – March 31, 2009)

FY 07 – 21 Public Accommodations cases filed (July 1, 2006 – June 30, 2007)

FY 08 – 27 Public Accommodations cases filed (July 1, 2007 – June 30, 2008)

FY 09 to date – 14 Public Accommodations cases filed (July 1, 2008 - March 31, 2009)

FY 07 - 125 Employment cases filed

FY 08 - 218 Employment cases filed

FY 09 to date - 123 Employment cases filed

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(5) Disposition of cases: number of no reasonable grounds findings; number of reasonable grounds findings; other findings:

FY 07 (July 1, 2006 – June 30, 2007)

- **No Reasonable Grounds 81**
- **Reasonable Grounds 5**
- **Other 78**
  (I.e. cases that were settled; complaints withdrawn; administrative closure)

FY 08 (July 1, 2007 – June 30, 2008)

- **No Reasonable Grounds 90**
- **Reasonable Grounds 4**
- **Other 102**
  (I.e. cases that were settled; complaints withdrawn; administrative closure)

FY 09 (to date) (July 1, 2008 – March 31, 2009)

- **No Reasonable Grounds 17**
- **Reasonable Grounds 2**
- **Other 45**
  (i.e. cases that were settled; complaints withdrawn; administrative closure)

(6) What is the expectation for number of cases that each Investigator needs to close out per year?

The minimum number of required closures per year, per Investigator is 30.

(7) The Office of Legislative Oversight prepared a base budget review of the Office of Human Rights in 2006. In that report, the numbers for the total cases closed in FY02 through FY05 (e.g., 226-259) are higher than the totals reported in the budget for FY07-FY10 (1840210). What accounts for the differences in these numbers?

The number of complaints the agency receives yearly fluctuate and are contingent upon social, economic, and cultural factors. Additionally, educational outreach and other programs administered by the Office of Human Rights, including enforcement efforts, may temporarily reduce the number of complaints filed within a given time period.

(8) How many staff works on outreach and community mediation?

The Fair Housing Unit has one dedicated position for Outreach and Education (The Program Specialist). However, the Fair Housing Program Manager also provides Education and Outreach in the Community. In addition, the Testing Coordinator has performed Outreach and Education when called upon to do so. Thus, there are three positions that perform Outreach and Education services when needed. The primary positions providing this outreach are the Program Specialist and the Program Manager.

(9) To what extent do you [the Fair Housing Unit] work with other County agencies to disseminate information...?

The Fair Housing Unit works with a number of County agencies to disseminate information about Human Rights and educate community members. The Fair Housing Program Manager staffs the Interagency Fair Housing Coordinating Group (IFHCG) and hosts the monthly meetings. The IFHCG is a committee of County agencies (HOC, DHCA, HHS, Commission for Women, the Govt. Centers, MCPS, etc.) as well as Community groups, (realtors, housing advocates, the league of Women Voters, etc.). The IFHCG sponsors events, provides speakers and advocates for Fair Housing policies in the County. In addition, the Program Manager also sits on the Housing Fair Committee (DHCA) and the Coalition for Financial Literacy (Office of Consumer Protection). As a sitting member of these committees the Program Manager represents the OHR's interests in spreading the message about Fair Housing in Montgomery County. The Fair Housing Program Manager has spoken to a variety of County groups to inform them about the agency and Fair Housing laws. Most recently she spoke to HHS (Victim's Assistance) about Fair Housing issues related to their clients.

(10) Please provide a list of all special events that the Department sponsors or participates in...

The Annual Housing Fair*	**8 hours (the day of the event)**	**Bohrer Park**
Financial Literacy Days* College	**4 hours each (3)**	**Montgomery**
One Stop Fair Housing Shop	**5 hours each (2)**	**UMSG**
Foreclosure Prevention	**5 hours each (3)**	**Up-County Center Gaithersburg Rockville**
Association of African American Financial Advisors (Panel Member)	**3 hours each (2)**	**Wheaton Silver Spring**
The Human Rights Camp	**3 hours (2)**	**Camp**

Disability Awareness 8 hours MC
Fairgrounds

Brown Bag Lunch (4/27)
(Foreclosure prevention/fair housing) 3 hours EOB

The previous list includes most of the regularly schedules events at which the OHR Fair Housing Unit takes part. There are many other individual speaking engagements throughout the Community and throughout the year that the Fair Housing Unit may offer.

*** The Program Manager sits on the planning Committee for these events.**

(11) How does the office track the EEOC reimbursements that are generated by the work of the office and how does the office project the amount of revenues for the upcoming year?

Each month a closure report is generated through the office database (Lexus-Nexus TimeMatters) and the EEOC Integrated Management System (IMS) for our office and EEOC to record and verify the number of monthly credited closures as required by the negotiated contract. The County Government is paid for the number of pre-determined negotiated closures pursuant to the contract and can be subject to an upward modification, if federal monies are available. The agency's EEOC liaison negotiates a new contract with EEOC prior to October 1 each year to determine the number of employment cases the Office of Human Rights will be responsible for resolving during the contract year. All monies paid by EEOC based on the work-sharing agreement between EEOC and the Office of Human Rights are consigned to Montgomery County's general fund pursuant to established time periods set forth in the contract.

(12) Please provide an explanation of how the following funding is used and how the Office anticipating targeting these funds in FY10:

The operating budget line item for professional educational/training (2009) encompasses specified training opportunities and the purchase of current legal reference materials which are designed to augment staffs' ability to interpret accurately the judicial intent of civil rights law as it pertains to Chapter 27 of the Montgomery County Code; additionally, these monies are

crucial to maintaining the effectiveness, consistency, and accuracy of our offices' application of the guidelines and procedures associated with the legal processes which this office is required to implement. Further, the mission of this office and its ability to serve every Montgomery County resident requires that the Office of Human Rights seek and maintain certifications to remain substantial equivalent with the Department of Housing and Urban Development (HUD) and the Equal Employment Opportunity Commission (EEOC) to effectively seek compliance with all anti-discrimination laws. Additionally, these monies will provide the impetus for the formation of a specialized unit to predict potential problem areas in the community and provide an expedited means to resolve discrimination issues which require immediate action. This will continue in FY 10.

The operating budget line items which pertain to Education, Tuition, and Training (350) including local conference related (3500) and Other Education, Tuition & Training (3549) which grants the Director, staff, and the Commissioners on our Hate/Violence and Human Rights Commissions training in Human Rights and Civil Rights Laws to maintain current knowledge of events, legislation, potential problem areas, and resolution techniques to consistently remain certified in the civil rights arena. Additionally, these monies are vital to continued certification and membership in organizations such as the International Organization of Human Rights Workers and the International Organization of Human Rights Agencies. This will continue in FY 10.

The operating budget line items which pertain to Advertising (360), including Advertising- Sponsorships (3603) and Advertising Legal Compliance (3604) Due Memberships (370) are funds required by law to provide legal notifications, legal advisements, and information to the businesses, property owners, and citizenry in Montgomery County to effectively deter violations of Chapter 27, reduce misunderstanding about the rights and responsibilities associated with Chapter 27, and provide the guidance and leadership required to promote a favorable quality of life in Montgomery County. This will continue in FY 10.

The operating budget line items which pertain to Special County Functions (500), including Conferences Hosted (5000) and Other Special County Functions (5069) are monies which maintain this offices' well supported outreach programs for all communities of Montgomery County.

These events include the Hall of Fame, One-Stop Shop Fair Housing forums, the April Fair Housing Month events, as well as other specialized educational tools which assist the public in understanding the value of tolerance and civility.

These monies also provide for this offices' well supported Human Rights Camp which provides the opportunity for youth interaction and discussion of cultural and civil rights issues. These very important events also provide training in human rights issues, conflict resolutions, and make the public awareness of civil rights issues. This will continue in FY 10.

The operating budget line items which pertain to (510) pertains to the support necessary to provide our Boards/Committees/Commissioners with the opportunity for outreach and involvement in the communities they are most needed. The Commission on Human Rights and the Committee on Hate/Violence are critical components of the outreach required to maintain awareness and understanding of civil rights and civil liberties available in Montgomery County through study circles and other community outreach forums. This will continue in FY 10.