

Kentucky Commission On Human Rights

Protector of Civil Rights, Voice for Equality,

Catalyst for Positive Change

Kenton Circuit Court awards judgment for cross-burning

The Kenton Circuit Court Fourth Division ruled in favor on February 1st in a civil case the Kentucky Commission on Human Rights filed against convicted felons of a cross-burning and vandalism that took place in Northern Kentucky in 2004.

Judge Patricia Summe ordered David Carriveau, James Foster and Matthew Scudder to pay a total of \$610,000 to plaintiffs Frederick and Tangela Mahone and their children in civil damages and \$250,000 in punitive penalties to the Commonwealth of Kentucky and the Kentucky Commission on Human Rights.

The men were in violation of the Kentucky Civil Rights Act and The U.S. Fair Housing Act, the court order said.

"The actions of the defendants were motivated by racial animus, and were intended to and did, coerce, intimidate, threaten or interfere with the Mahone family with regard to their enjoyment of their home," Judge Summe said.

The court order said the actions of the defendants caused the black family to suffer severe emotional distress, embarrassment, and humiliation, as well as causing the family to move out of their home.

The Mahones did not testify during the civil trial, stating they live in fear of more such actions by others and of reprisal as a result of the court cases.

On July 2, 2004, Carriveau and Scudder burned a cross in the front yard of the Mahones in Burlington, Ky. The following night, Carriveau, Scudder and Foster returned and vandalized the family's car and shouted racial epithets.

The three men were also charged for their actions in a separate case under federal hate crimes laws and pleaded guilty, serving time in prison for their crimes.

"The ruling in this civil action sends the message that Kentucky will not tolerate this type of hateful, archaic behavior," said KCHR Executive Director John Johnson. "Those days are long over," he said.

Commissioners appointed

A new commissioner joined KCHR in December 2007. V. Ann Newman of Ashland, Ky. represents the 7th Supreme Court District. She replaced Regena Triplett of Pikeville whose term expired.

Ms. Newman is president of Compliance and Internal Controls at the Ashland Credit Union. She served as a commissioner to the Ashland Planning and Zoning and the Ashland Human Rights boards. Her term expires Sept. 12, 2010.



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Robert Asseo of Florence was re-appointed to represent the 6th Supreme Court District.

He is a Delta Air Lines Cincinnati Field Service manager. In 2005, he became the first-ever Latino American KCHR commissioner. His second term expires Sept. 12, 2010. •



April is Fair Housing Month

Governor Steve Beshear signed the Fair Housing Month Proclamation on April 18. C.J. Bonifer, son of Human Rights Commissioner Duane Bonifer, was on hand in Kentucky's Capitol Rotunda to watch this recognition of the 40th anniversary of the Fair Housing Act. He was joined by several members of Kentucky's civil rights community, including KCHR Chair Henry Curtis, standing at center. At far right is KCHR Housing Enforcement Supervisor Cynthia Thornburg Schnell. KCHR conducted education programs during April throughout Kentucky. Look inside this newsletter for the special section, *Focus on Housing*. •

Order against Red Cheetah nightclub

The Kentucky Commission on Human Rights Board of Commissioners on April 17 issued a default order finding the respondent guilty of discrimination in the matter of Edward Elfalan v. Headliners – Louisville, LLC (formerly JP 4th Street Line, LLC) (d/b/a Red Cheetah Lounge) in Louisville, Ky.

The commission ruled that Red Cheetah was in violation of the Kentucky Civil Rights Act (KRS 344.120), discriminating against Elfalan on the basis of race in a place of public accommodation when management refused to allow the African American complainant to enter its premises located in Fourth Street Live downtown on May 15, 2005. Red Cheetah asserted it refused to allow Elfalan entry because he failed to meet the dress code by wearing a shirt that fell below his pockets. A police officer on duty and standing near the door said white men dressed similarly to Elfalan were allowed to enter the club after Elfalan was turned away.

Red Cheetah went out of business before the hearing and did not file bankruptcy. According to the *Courier-Journal*, Red Cheetah owed Fourth Street Live over \$400,000 in unpaid rent and related charges when it closed its doors.

The commission held, “Because the respondent and its employees are beyond the present reach of the commission...the only affirmative

relief appropriate in this instance is an order prohibiting the respondent from resuming any business operations within the Commonwealth of Kentucky.” •

Kentucky's Black Heritage Book 2nd Edition

In recognition of Black History Month, KCHR announced at its meeting in February a new committee to develop a second edition of *Kentucky's Black Heritage*. KCHR published the book in 1971 to give students information about the role African Americans played in the state and to provide a deeper understanding of the problems black Kentuckians faced and overcame throughout history.

Commission Chair Henry Curtis named as cochairs of Kentucky's Black Heritage 2nd Edition Book Committee Dr. John Hardin, professor of History at Western Kentucky University in Bowling Green, and Dr. William Turner, a KCHR commissioner and the National Endowment for the Humanities distinguished chair of Appalachian Studies at Berea College.

Members are Dr. J. Blaine Hudson, dean of the College of the Arts and Sciences at the University of Louisville; Dr. Kevin Cosby, president of Simmons College in Louisville; Rev. Thurmond Coleman, a KCHR commissioner and pastor emeritus of First Baptist Church of Jeffersontown where he served as pastor for 45 years; Dr. Anne S. Butler, director of the Center of Excellence for the Study of Kentucky African Americans at Kentucky State University in Frankfort; and Dr. James

C. Klotter, professor of History at Georgetown College and the state historian.

Members of the public may offer suggestions for the publication by contacting KCHR Deputy Director Cynthia Fox at 502.595.4024 or 1.800.292.5566.

Executive Director Johnson said the commission hopes to release the second edition at the KCHR 50th anniversary in 2010. •

Women's rights advocacy hearing

“In the area of economic self sufficiency, Kentucky women are ranked 47th in the nation; in terms of employment and earnings, women in Kentucky are paid on a scale that is one of the worst in the nation, ranking at 43rd; and, in the area of women's health and well-being, Kentucky is ranked at the bottom of the nation, 50th.”

Eleanor Jordan, executive director of the Kentucky Women's Commission, reported this information at a recent KCHR panel. Held at the Louisville Urban League on March 20, this was the first in a 2008 monthly series of civil rights-related advocacy hearings.

In honor of Women's History Month in March, the first presentation featured a panel discussion on the status of equal opportunity for women.

Guest panelists included Jordon, Judy Jennings, executive director of the Kentucky Foundation for Women, and Karina Barillas, bilingual family advocate of the Center for Women and Families.

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Kentucky Commission on Human Rights

John J. Johnson, Executive Director

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Jordan, reporting on a study conducted by a Governor's taskforce, said that despite the decreased opportunities for women in Kentucky, 205,540 Kentucky households are led by women and 27,495 women in Kentucky are raising their grandchildren.

The panel discussed ways to address the problems of women in Kentucky, agreeing that fair treatment in employment, training and educational opportunities are top priorities in finding solutions to women's needs.

Barillas of The Center for Women and Families added that another serious problem women in Kentucky face is domestic strife. Revenue to provide housing opportunities and support for women, who are the most common victims of domestic strife and who many times have no income, must be made available to these women and their children, she said.

John Johnson, executive director of the Kentucky Commission on Human Rights, said in a speech March 30 to the Lexington Central Kentucky section of the National Council of Negro Women, "To have survived the terror of slavery only to be bound again for being female must have been the ultimate heartbreak for many black foremothers."

Add to the discrimination that all women face, the second stigma of being a black woman, and the problems become even more complex, he said.

The commission is conducting the advocacy hearing series to help address a variety of issues that concern women, minorities, people with disabilities, older Americans and others who are protected by laws against discrimination.

Each hearing will feature a panel of experts; the panelists will make presentations, and guest members of the press will ask the panelists questions.

The public is invited to attend the free events. All except one of the remaining hearings will be from 1 to 3 p.m. at the Louisville Urban League located at 1535 West Broadway in Louisville. The August hearing will be held in Paducah.

Each monthly panel will present recommendations for action to the Kentucky Commission on Human Rights to help with the state agency's work. The commission plans to publish a final report of all the hearings toward the end of the year. •

Focus on Housing

Report on Housing issues

KCHR Executive Director John Johnson reported to the Kentucky Advisory Committee of the U.S. Civil Rights Commission on February 15 about fair housing issues in Kentucky. "The types of issues increase as the population diversifies," he said. The group invited Johnson to report to its members at a meeting at the University of Louisville Belknap Campus.

Discrimination complaints based on disability accounted for the largest number of housing cases filed at the state human rights commission in 2007. The commission received 37 housing discrimination complaints of which

32.5 percent dealt with disabilities, and while the total number of housing complaints may seem relatively small compared to over 300 cases in the jurisdictions of employment and public accommodations, "each year, the number of housing complaints in Kentucky increases," Mr. Johnson said.

HUD Statistics

The U.S. Department of Housing and Urban Development (HUD), took in 100,000 housing discrimination complaints, nationally, last year.

In Kentucky, HUD directly received 18 housing complaints in addition to those received by KCHR. HUD's Fair Housing Assistance Program agencies, which include KCHR, the Lexington/Fayette Human Rights Commission and the Metro Louisville Human Relations Commission took in a total of 98 complaints for HUD in Kentucky. •

Advocacy Hearing tackles housing

"The current predatory lending and foreclosure crisis is spurring the largest loss of African American wealth in modern times," said Cathy Hinko, executive director of the Metropolitan Housing Coalition in Louisville.

In Louisville and throughout the U.S., loss of wealth and the lack of opportunity for affordable, fair housing are grave concerns, said Hinko.

"Open Housing in Kentucky, Reality or Myth," was the second in a series of Kentucky Commission on Human Rights Advocacy Hearings. It was

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Board of Commissioners

Chair Henry Curtis, Frankfort . Robert Asseo, Florence . Betty J. Dobson, Paducah . Thurmond Coleman Sr., Louisville
Dr. William H. Turner, Lexington . Henry L. Blythe, Mayfield . George McDade Staples, Pineville . Robert S. Peters, Lexington
Alma L. Randolph, Owensboro . Duane Bonifer, Greensburg . Ann Newman, Ashland

KY Human Rights Commission Citizen Advocacy Hearings

1 to 3 p.m., Louisville Urban League, 1535 W Broadway

- **May 15** Is Equal-Quality Education a Dream, Deferred?
State of school integration in Ky.
- **June 19** Does Kentucky Treat its First, Last?
Kentucky's Native American community
- **July 17** Kentucky's Overlooked Majority
Disability Rights
- **August 8** Does Kentucky Respect the Bridge that Brought Us Over?
Equal Opportunity for Aging Kentuckians (Held in Paducah)
- **Sept. 18** Does Slavery Exist in Kentucky in 2008?
Human Trafficking
- **October 16** I, too, Sing Kentucky
Equality for Kentucky's foreign-born people
- **November** Does Kentucky Still have Faith in Interfaith?
Religious Discrimination (Date to be announced)

held on April 17 at Appalshop Inc., a non-profit multi-disciplinary arts and education center in Whitesburg, Ky. Hinko was a panelist.

Fellow panelists Ricky Baker of the Leslie-Knott-Letcher-Perry Community Action Council and Art Crosby, executive director of the Lexington Fair Housing Council, echoed Hinko's findings.

"If you make low income in a rural area, there is very little affordable rental housing in Kentucky, and in rural and urban areas, there is still discrimination against minorities in housing," Baker said.

Baker, who spoke about fair housing needs in Eastern Kentucky, reported to commissioners and members of the public that "Open housing is still a myth in many places in Kentucky."

Crosby talked about recent occurrences of hate crime based on race in the jurisdiction of housing and about the

rising instances of discrimination toward people with disabilities seeking housing in the state.

The panel discussed ways to combat housing discrimination and recommended an aggressive fair housing public education campaign, stronger regulations on lending practices, and more funding for affordable housing in the state. •

New law aimed at predatory lending

Gov. Steven Beshear on April 24 in Frankfort, Ky., signed into law House Bill 552, which makes widespread changes in the state's mortgage industry. Unless stated otherwise in the bill, these changes take effect immediately.

"This important legislation will increase consumer protection and reduce mortgage fraud and predatory lending," said Gov. Beshear. "It will hold

mortgage brokers to a higher standard and will allow the Office of Financial Institutions (OFI) – the state agency that regulates the mortgage industry – greater authority to oversee lenders and enforce the mortgage statutes."

The law will give predatory mortgage brokers up to 10 years in prison for tricking home buyers into bad-deal mortgages and will put limits on the fees they can charge, said Senator Gerald Neal (D) of Louisville.

A supporter of the legislation, Neal said in a report Friday, April 18, at a meeting of the Kentucky Black Caucus of Locally Elected Officials, "This bill will also make sure that before people sign on the dotted line, homebuyers can actually afford that mortgage, and not just the first monthly payment."

HB 552 was sponsored by House Banking & Insurance (B&I) Committee Chairman Rep. Tommy Thompson (D-Owensboro). It was drafted by the OFI in conjunction with members of the House and Senate B&I committees, consumer groups and industry representatives, including the Mortgage Bankers Association of Kentucky, the Kentucky Mortgage Brokers Association, the Kentucky Bankers Association, the Kentucky Housing Corp. and others.

"[It] expands and clarifies the mortgage terminology in the statute and increases the scope of OFI's jurisdiction," said OFI Executive Director Cordell Lawrence. "It generally focuses on three areas: consumer protection, industry regulation and enforcement," he said.

The following are some of the provisions the legislation includes:

- Establishes a Kentucky Homeownership Protection Center to provide mortgage foreclosure counseling and education programs by or through the Kentucky Housing Corp.
- Reduces the maximum prepayment penalty to 3 percent for the first year,

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2 percent for the second year and 1 percent for the third year (rather than 5 percent for five years).

- Prohibits prepayment penalties within 60 days prior to the date of the first interest rate reset.
- Creates the Mortgage Fraud Act, which will clarify and better define mortgage fraud and will make it easier to prosecute.
- Sets up a Mortgage Prosecution Fund to provide extra funding to assist local prosecutors and the attorney general in prosecuting mortgage fraud cases. OFI does not have jurisdiction and powers to criminally prosecute these cases, Lawrence noted. It will be funded through fines/penalties.
- Establishes among mortgage brokers a heightened standard of care toward borrowers. A broker may no longer act as an agent for the lender and must act in the best interest of the borrower.
- Caps total net income for mortgage loan brokers and mortgage loan companies at 4 percent.
- Establishes by 2010 testing requirements for all individuals originating mortgage loans who are required to register with OFI, including HUD-exempt individuals.
- Eliminates an exemption for those making fewer than five loans per year; HUD-exempt companies must now annually request a claim of exemption in writing.
- Adds a new section making it unlawful to improperly influence a real estate appraisal.
- Requires mortgage loan processors to register.
- Provides for a number of technical changes to bring Kentucky laws in line with the use of the Nationwide Mortgage Licensing System (NMLS), which is a national, online database all mortgage companies and individuals operating in Kentucky must now use to register.

An OFI Web page at www.kfi.ky.gov/industryinformation/hb552.htm outlines the specific changes for different areas of the mortgage industry and for consumers. Mortgage companies and individuals are urged to visit this page and implement these changes as soon as possible.

OFI is an agency of the Department of Public Protection in the Environmental and Public Protection Cabinet. It supervises the financial services industry by examining, chartering, licensing and registering various financial institutions, securities firms and professionals operating in Kentucky. OFI's mission is to serve the public through effective and efficient regulation that promotes consumer confidence and economic growth. •

Covington hosts reception & housing forum

The Covington Human Rights Commission held a forum to address housing needs for low-income and disabled people in Covington on April 29 at Covington City Hall.

Speakers at the forum included Steve Eggleston of HUD; Shayla Johnson of the Lexington Fair Housing Council; Ben Savage of the Center for Great Neighborhoods of Covington; and Bill Draznik of the Model Group developers.

Just before the forum, the 50 attendees gathered at a reception for Kentucky Human Rights Commission Executive Director John Johnson at the City Hall.

The reception was sponsored by the Covington Human Rights Commission to allow Mr. Johnson to meet Northern Kentucky officials who are fighting for fair housing and equal opportunity in employment, public accommodations and financial transactions.

Some of the notable people who attended the reception included Covington Human Rights Chair Charles J. King and local human rights

members Marie Braun and Pamela Mullins. Other Northern Kentucky civil rights leaders who attended the reception included Jerome Bowles, the president of the Northern Kentucky NAACP; Rev. Richard Fowler, pastor of the Ninth Street Baptist Church in Covington; Sister Juana Mendez, director of the Centro De Amistad; Sister Janet Bucher of the Church of Our Savior in Covington; and Ms. Bennie Doggett, a cofounder of the Oasis social help agency who fought to add Dr. Martin Luther King's name to 12th Street in Covington. •

Housing in Eastern mountain region

by Emily Hudson, chair
Housing Development Alliance
Hazard, Ky.

The 2000 Census shows that Kentucky is growing, in general, but Breathitt, Knott, Leslie and Perry counties are shrinking.

Perry is the base county for the Housing Development Alliance, which is planning to expand into these other counties. HDA is a community-based nonprofit organization offering affordable housing opportunities for families in need.

These four counties lost 10.3 percent of their population since 1980. They had large losses of people under 18 years of age between 1980 and 2000.

This is discouraging but reflects a trend where the young people leave the area for education or better jobs. We have the community college system intertwined throughout the mountains that provides excellent education, and many take advantage of the opportunity to get a 4-year degree through long-distance learning programs.

But, many still leave because good-paying job opportunities are scarce in the region. •

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Appalachian Regional Healthcare (ARH) is a not-for-profit health care system that is the largest employer in southeastern Kentucky and the third largest private employer in southern West Virginia. ARH employs over 4,000 employees in nine hospitals, numerous clinics, home health agencies, home care stores and pharmacies. ARH is a diversified employer and has served the uninsured and underinsured by providing nearly \$96 million in charity and uncompensated care. (This information can be found on ARH's website.)

The average household size in the four counties ranged in 2000 from 2.47 to 2.54 people. The number of households increased in every county from 1980 to 2000. Even though population is decreasing, the housing demand is increasing due to an increase in the number of households.

Income and Poverty: rates in the four counties are very high, double or more than the Kentucky average in 2000. According to the Housing Assistance Council, these counties are among the 200 poorest in America. The four counties rank: Breathitt - 48th poorest; Leslie - 57th poorest; Knott - 74th poorest; and Perry - 102nd poorest. Unemployment is a contributor to poverty in the area. Unemployment is two to three times higher in the four counties than in the rest of Kentucky.

Housing Units: Perry County, with the largest population, has the most housing units (2000 census): The four counties' total Housing Units is 32,634. Breathitt has 6,812; Knott has 7,579; Leslie has 5,502; and, Perry has 12,741. About 60 percent of all units are single homes; close to one-third of all units in the region are mobile homes. About 22.5 percent of the units were built since 1990 while 44 percent were built in 1969 or earlier. For Perry County, there are 2,486 rental units. At least 28 percent of renters (712 households) are cost burdened (they pay more than 30 percent of their income toward housing); 15 percent (373 renters) pay more than 50

percent of their income toward rent.

Most of this information (unless otherwise specified) comes from a market analysis report provided by consultants to the Housing Development Alliance for its strategic planning process.

There are many problems and issues we face in our mountain communities. I personally think we need to change the way we view them from being problems to being challenges. Challenges are to be met. I don't think it was a coincidence that the past governor unveiled the state logo "Unbridled Spirit." There is a fighting spirit that is being released here in the mountains. With the help of God, we're taking our land and people back from poverty and oppression. •



Visit the KCHR Fair Housing Booth

May 17 at the Mexican Consular Mobil in Owensboro. KCHR will conduct a workshop and distribute fair housing materials.

June 7 at the Annual American Festival in Louisville; KCHR will distribute free fair housing materials.

August 9 at the Mexican Consular Mobil in Erlanger. KCHR will conduct a workshop and distribute fair housing materials.

September 6 at the Mexican Consular Mobil in Louisville. KCHR will conduct a workshop and distribute fair housing materials.