CITY OF DOVER PLANNING COMMISSION
QUARTERLY WORKSHOP
August 21, 2012

The Regular Quarterly Workshop Meeting of the City of Dover Planning Commission was held on Tuesday August 21, 2012 at 4:00 PM with Chairman Colonel Welsh presiding. Members present were Colonel Welsh, Mr. Tolbert, Mr. Shomo, Mr. Baldwin, Mr. Holt and Mrs. Still. Mr. Ambruso, Mr. Nichols, and Mr. Holden were absent.

Staff members present were Mrs. Townshend, Mrs. Melson-Williams, Ms. Cornwell, Mrs. Harvey and Ms. Metsch. Also attending was Romona Fullman, Executive Director, Division of Human Relations Commission; Vincent Petroff, Supervisor of Investigators; and Ines Hungria, Investigator for the State of Delaware.

Planning Commission Comments and Concerns

Colonel Welsh stated that he would provide some background as to why we hold Quarterly Workshops. We meet in a public fashion and do not have a chance to sit down as a Commission and talk about things we could do to improve our effectiveness, talk about training opportunities, and to talk about things that could make us a better body. If we were to meet once a quarter, we would have that opportunity to just kick back and talk. We would not be able to talk about upcoming projects or current applications; however, we could talk about things that we have already done and where we have made mistakes and where we could do things better.

Colonel Welsh further stated that this was working very well. Then we went to a more structured format where we started having some formal training which is something that we can all use; however, we need to make sure it is something that is pertinent to our area of responsibility and authority.

Mrs. Townshend stated that the City of Dover is an entitlement community for CDBG so we receive money directly from HUD each year for Community Development activities. As part of accepting that money, we have an obligation to affirmatively further fair housing. The City along with other partners in the state recently developed a statewide "Analysis of Impediments to Fair Housing." Some of what that calls for is training of the bodies that make land use decisions and set the rules. We would also like to extend this training on fair housing to City Council so that they understand what our legal obligations are with regards to fair housing.

Colonel Welsh stated that one of the things that he is very concerned about is that we have nine (9) Commission members and he is not sure that we are taking advantage of all of the training opportunities that may be available to us. He would ask that the members of the Planning Commission please make yourself available for training sessions that are available to us. He has taken several that are offered through the University of Delaware at the Paradee Center.

Mrs. Townshend stated that the Delaware Chapter of the American Planning Association and the Kent County Planning Office has offered most all of the national Audio Web Conference presentations in both New Castle and Kent Counties. Also, the Institute for Public Administration classes typically starts in January and goes through the spring. There have been new classes that have been added if you have attended in the past.

Colonel Welsh further stated that the other thing that he would like to see the Commission members participate and rotate going is to the Regional Planning Conferences and National Conferences. These conferences are very informative and you can pick up so many ideas with the many sessions that are available at them where you can hear people's experiences and can import them back to Dover. This is where our architectural review process came from.

Mrs. Townshend stated that the next regional conference is being held in Columbia, Maryland in October. The training budget this year is going to be very tight because of travel cost associated with it.

Colonel Welsh stated that you learn by experience and his concern is that he has heard a lot of negative comments regarding the library and its appearance. He does not feel that they did what they should have done with this building. If you look at the community that it is in, near the Legislative Mall area with red brick and modified colonial construction and architecture, he feels that they could have done a better job with the library. He would like to hear thoughts on how we can do things better.

Mr. Tolbert stated that he would agree with Colonel Welsh as there has been a lot of criticism regarding the library not only on its appearance as it does not look like it belongs in this area regarding its architectural design.

Mr. Holt stated that he has heard a lot of negative comments regarding the library, mainly its size. It is larger than most envisioned it to be. The problem is that he does not feel that the general public realizes the scope of what the library does. They are looking at the old fashioned small bricked library and going back fifty (50) years. They do not realize all of the computers that will go in there and all the different means of teaching children; it is more than just books. The problem is that it has not gotten out to the public and what the library can do and what it is going to do. This is a modern up-to-date library. There needs to be more education of what the library can and will do especially for the kids in the area. This leads to the negative comments.

Colonel Welsh stated that in our role and responsibility we do not control the size, funding, or whether it can or cannot be built. Where he feels that this Commission has some teeth and could have exercised more options is in the architectural finish and design of the building. In the elevations of the library, he does not remember seeing all of the different materials that now appear on the building.

Mrs. Townshend stated that the level of detail that you see in the architectural elevation does not fully capture that. There was a description of the materials; however, when you translate the two dimensional elevation that you looked at on the ground, she has heard a lot of people state they didn't realize it would be so big. Part of the reasoning for the different bricks is because it is such a large building, this helps break up some of that massive building to make it look like not such of a massive building. Where the Commission has had a lot of positive influence on the architecture is when you have someone wanting to bring in the bottom of the barrel to do it as cheaply as you can.

Mr. Tolbert stated that he feels with regards to architecture, this is an area that this Commission could use some training on. Without the kind of information you would need to make a

meaningful review of the architecture, as it is an art form; we are reduced to being subjective without having the kind of knowledge to make quality comments. To him, the library does not look like it belongs where it is sitting.

DEPARTMENT OF PLANNING AND INSPECTIONS UPDATE

Status of Ordinance Amendments

Mrs. Townshend stated that in your packet is a summary of the text amendments that Staff has been working on. One Ordinance will deal with residential zone family definitions dealing with making sure that the Code clearly affords for transitional housing. We need to adopt the Airport Environs Overlay Zone and Noise contour; however, there is a lot involved in that and Staff has not had the time to get to it.

Educational and Training Opportunities

Mrs. Melson-Williams stated that registration is open for the Maryland/Delaware Regional APA Conference that will be held October 17-19 in Columbia, Maryland. The host is the Sheraton Hotel. The conference focuses on Columbia, Maryland because it is the anniversary of that town. There are major speakers from the APA National that will be there. She is unsure if there is funding for Planning Commission members in this year's budget as we would be funding Staff first due to continuing education credits that have to be obtained.

IPA Training Series

Mrs. Melson-Williams stated that regarding the IPA training series, there are none this fall that pertain to the Planning Commission. There are other programs that are scheduled for the fall timeframe. The spring schedule has not been released as of yet. For the other local presentations of the APA National Web Conference series, the Delaware Chapter is again working with the Kent County Planning Office and some other sponsors to bring a number of those presentations to the area. The first Audio Web Conference is scheduled for October 10, 2012 and is on "Planning Mistakes Accessing, Learning, and Adapting"

Training Session: Fair Housing

Mrs. Harvey stated that one of the recommendations in the Fair Housing Plan was to provide training to the elected officials, Boards, and Commissions. She reached out to the State Human Relations Commission to provide this training for the State of Delaware. They will provide an overview of the Fair Housing Laws for the State of Delaware.

Mrs. Fullman stated that you have talked a lot about the importance of training and learning. By the agenda that was just discussed regarding regional training for this body, both Staff and volunteers, you have identified yourself as lifelong and continuous learners. That is a good thing for both the City, the State, and the community.

Mrs. Fullman further stated that the Fair Housing Training is intended to inform you both as City officials; however, also as co-workers, neighbors, and as citizens so that you may learn what the Fair Housing law requires and will help them in some way to enforce it by referring to us anyone that needs our assistance.

Mrs. Fullman further stated that the Power Point Presentation that will be presented today has been provided in your packet. Also included in the packet was a copy of the Fair Housing Law, a sheet that provides the Human Relation Commission and the Division information. From that, you can see that our mission is to eliminate unlawful discrimination and to foster amicable relations among diverse populations in Delaware.

Mrs. Fullman further stated that what they will be covering today is both State and Federal laws, the protected classes for those who discriminate is prohibited, the specific acts that are prohibited, the exemptions, reasonable accommodations and modifications, the responsibility to affirmatively further Fair Housing, the complaints process, and the remedies that are available through the State Human Relations Commission.

Mrs. Fullman further stated that your entitlement in this jurisdiction for the top seven (7) keys to affirmatively furthering fair housing is to: understand how HUD defines affirmatively fair housing; to understand how impediments to Fair Housing Choice are defined; to conduct an Analysis of Impediments which has been done to ensure that it is an exclusion and inclusionary process on behalf of the City in conjunction with the State of Delaware, New Castle County, and the City of Wilmington; and to implement the actions to address the impediments identified. The impediments study is a 700 page document and is available on the Delaware State Housing Authorities website under "Analysis of Impediments." We have provided the recommendations section as it relates specifically to the City of Dover.

Ms. Hungria presented a Power Point Presentation at this time. (See Attachment #1). The presentation included scenarios for discussion and the opportunity for questions and comments.

Ms. Hungria presented a scenario case where a Zoning Officer reversed an initial decision that a group home for recovering substance abusers was a permitted use under the *Zoning Ordinance* following expression of neighborhood and City Council opposition.

Colonel Welsh questioned if this would apply to half-way houses and because if it does, the City of Dover could not have a zoning ordinance that would exclude halfway houses from a certain zoning classification? Responding to Colonel Welsh, Mrs. Townshend stated that we would consult with the City Solicitor on any of those types of matters. When you are not case specific to say absolutely yes or no is probably too broad of a brush. There is a State statute that allows governments to have zoning authority that states specifically that group homes for people with disabilities that are licensed by the State can register with the State and are to be treated as single family from a zoning perspective.

Ms. Hungria explained the physical and mental impairments regarding persons with disabilities. Mrs. Townshend questioned if you could require a drug test if you know someone has this history? They are not a protected class if they are actively using and the only way that you know they are not actively using is if you test.

Responding to Mrs. Townshend, Mrs. Hungria stated that no you can ask them if they have been through recovery and if they have, you can get that information to say you would be drug testing them every three (3) months to make sure that they are not currently using. You would use this as your criteria for everyone.

Colonel Welsh stated that this would be the criteria for people with a history of using drugs. He does not have any rental properties; however, if he has someone who wants to rent from him and he does a background check and finds that they have repeated arrests for possession or use of drugs and you confront them on it and they state that they have been through treatment and they are clean, can you legally ask for the documentation? Responding to Colonel Welsh, Ms. Hungria stated that you can ask for the documentation from the recovery of wherever they went to get their substance abuse treatment from. You can also use a third party to gain information. Usually, the person who went through the treatment program would have to obtain this information for you.

Mrs. Harvey questioned if someone who is bipolar would be a protected class because they have a mental illness? Responding to Mrs. Harvey, Ms. Hungria stated that yes; they would be considered a protected class.

Mrs. Townshend stated that in the case where someone with bipolar or anyone with mental illness is a threat to others can you evict as long as you document. Responding to Mrs. Townshend, Ms. Hungria stated that they had a case where a woman became aggressive because she was not on her medication and they pursued eviction against her. The argument was made that at the time she was not on her medication so they felt they needed to put some mechanisms in place that would guarantee that she continue on her medications and because of these mechanism she was able to retain her housing and was not evicted.

Ms. Hungria stated that you can lose an exemption for the Fair Housing Act if you make a discriminatory remark.

Mr. Tolbert questioned if you lose your exemption can it be reinstated at some point? Responding to Mr. Tolbert, Ms. Hungria stated that he would lose his exemption for this case. Once the case is resolved, he would keep his exemption and would always be able to retain it.

Mrs. Townshend questioned with regards to religious or Christian organizations that have housing; however, will not rent to unmarried couples or gay couples, is this discriminative? Responding to Mrs. Townshend, Ms. Hungria stated that they cannot say it is against their belief that they would not rent to people who are gay or people who are not married.

Mrs. Townshend stated that we have a provision in our Code that limits how you can rent to students. You would have to go through Conditional Use process and it cannot have more than three (3) students and closer than 500 feet. Her understanding was that students are not a protected class. Responding to Mrs. Townshend, Ms. Hungria stated that they would fall under age discrimination because students are between the ages of 18 to 23.

Mr. Tolbert questioned that if a development is advertised as a 55+ community and the development managers do not adhere to that and start renting to people under 55, does this fall under your authority? Responding to Mr. Tolbert, Ms. Hungria stated that as long as it is not rented for more than 20% of the units less than the age of 55. If out of the 80% of the units that they have and there is not one person that is 55 and over, they can lose their exemption when it comes to denying people with children or under that age. Unless you move into a 62 and over community that the sole intention is for those who are 62 years of age and older, you will have

children and younger people living in the community.

Colonel Welsh questioned regarding Section 8 housing, does it come about by a person securing some type of loan? Responding to Colonel Welsh, Mrs. Townshend stated that Section 8 is a voucher program for rent where they would have to still find a landlord.

Colonel Welsh further stated that what has happened is someone bought a couple of homes in an area and immediately converted it to Section 8 housing. What obligation do they have when they did that? What is the advantage of someone who purchases the property? Are they purchasing it from someone who guarantees Section 8 housing? Responding to Colonel Welsh, Mrs. Townshend stated that they have no obligations. Section 8 is the landlord accepting the voucher and is the means of paying for the rent.

Colonel Welsh further questioned that there is nothing that specifically designates housing as being Section 8? Responding to Colonel Welsh, Mrs. Harvey stated that no there is not.

Colonel Welsh further questioned if he is asking a certain amount for rent and he is approached with someone with a voucher that is for less is he obligated to rent to that person? Responding to Colonel Welsh, Ms. Hungria stated that no, he does not. They would not be able to rent from him if their voucher is for less money and they want to pay the difference; this is actually illegal.

Mr. Tolbert questioned if Section 8 properties need to meet certain guidelines? Responding to Mr. Tolbert, Ms. Hungria stated that there is an inspection that is conducted at the property to make sure that it is up to Code.

Colonel Welsh questioned what would happen if he were to rent to someone with Section 8 and after about six (6) months it becomes apparent that these people are trashing his property; what recourse do you have as a landlord? Responding to Colonel Welsh, Ms. Hungria stated that you would have the same rights that any landlord would have under normal rental rules. If Section 8 were advised they could lose their Section 8 voucher.

Mr. Tolbert questioned if there is a complaint it should be written and require specific information, does your office provide help to people to provide that document? Responding to Mr. Tolbert, Ms. Hungria stated that yes, there is an intake complaint form and once it is filled out it goes to a Supervisor who reviews it and it is then assigned to an investigator and then they are contacted for any missing information.

Mr. Tolbert further questioned if they have a large amount of cases? Responding to Mr. Tolbert, Ms. Hungria stated that in terms of whether discrimination occurs in large numbers in our case she would say yes. We know that it is happening and for various reasons people come or they don't. Sometimes they will start the process but not complete it. The economy could be a factor because as it relates to housing people just need a place to stay.

Mr. Tolbert further questioned if they are finding that people in Delaware just do not know enough about what you do? Responding to Mr. Tolbert, Ms. Hungria stated yes, there has been a lot of training conducted where she hears people state that they wish they knew of this agency years ago. We try our best to advertise, we go to churches and daycare facilities and it seems

there are still bodies or groups of people who do not know who we are.

Meeting adjourned at 6:08 PM

Sincerely,

Diane Metsch
Secretary