Community Inn files Fair Housing Act Complaint

- September 2012 – Lexington Fair Housing Council files a Fair Housing Complaint against Lexington regarding the revocation of the conditional use permit.
- Complaint alleges race discrimination and disability discrimination and failure to make reasonable accommodation under Title VIII of the Civil Rights Act of 1968 as amended by the Fair Housing Act of 1988.

The Fair Housing Act Provisions At Issue

- **Sec. 804. [42 U.S.C. 3604] Discrimination in sale or rental of housing and other prohibited practices** As made applicable by section 803 of this title and except as exempted by sections 803(b) and 807 of this title, it shall be unlawful--(a) To refuse to sell or rent after the making of a bona fide offer, or to refuse to negotiate for the sale or rental of, or otherwise make unavailable or deny, a dwelling to any person **because of race, color, religion, sex, familial status, or national origin.**

Fair Housing Act Provisions at Issue Section 804(f)

- (1) To discriminate in the sale or rental, or to otherwise make unavailable or deny, a dwelling to any buyer or renter because of a handicap of--

- (A) that buyer or renter,
  (B) a person residing in or intending to reside in that dwelling after it is so sold, rented, or made available; or
  (C) any person associated with that buyer or renter.

Fair Housing Act Provisions at Issue
Section 804f(3)(b)

- (B) a refusal to make reasonable accommodations in rules, policies, practices, or services, when such accommodations may be necessary to afford such person equal opportunity to use and enjoy a dwelling. . .

Department of Housing and Urban Development Initiates Conciliation Process

- Lexington and the Community Inn engaged in a review of potential locations around Lexington that were zoned properly for a homeless shelter and where the Community Inn could relocate.
- Each time a particular location was mentioned or a neighborhood was informed, there would be an outcry.
- Lexington and the Community Inn continued to explore potential locations while litigation was ongoing.

Next Steps- Department of Justice

- March 2015 - HUD refers the Community Inn investigation to the Department of Justice.
- The matter was referred under Section 42 USC Section 3610(g)(2)(c) listed below:
- (C) If the Secretary determines that the matter involves the legality of any State or local zoning or other land use law or ordinance, the Secretary shall immediately refer the matter to the Attorney General for appropriate action under section 3614 of this title, instead of issuing such charge.
- This step resulted in continued investigation by the Department of Justice, including document production by Lexington and further efforts at conciliation.

Finally- Agreement Reached Through Mediation

- August 2015 – The Community Inn and Lexington came to an agreement as follows:
- Lexington sold one of its buildings to the Community Inn.
- Lexington's Police are located in the top floor of this building.
- The building is located in an industrial area- not near neighborhoods.
- This building is properly zoned for a homeless shelter.
- Community Inn will close the night shelter at 824 Winchester Road and the day shelter at the Catholic Action Center and operate a 24- hour homeless shelter at the new location.
- Community Inn will transfer the Catholic Action Center (where daytime homeless operations are held) to Lexington.
- Lexington Police will continue to rent the top floor of the building and will increase their presence in the surrounding shopping center.
- All lawsuits Dismissed; Community Inn requests dismissal of the Fair Housing Complaint. The Complaint has now been dismissed and the DOJ has closed its investigation.

HOMELESS SHELTER AT 824 WINCHESTER ROAD CLOSES



1055 Industry Road sold to Community Inn for operation of a 24 Hour Shelter-



New Location Not Near Neighborhoods



Division of Police are Located in the Upper Floor of the New Building



Catholic Action Center Transferred to City of Lexington- Google Maps



RECOMMENDATONS REGARDING ZONING DISPUTES INVOLVING HOMELESS SHELTERS

- Before actions are taken involving these issues, review the Fair Housing Act and RLUIPA and advise your planning and zoning divisions regarding these laws.
- Advise your clients regarding the public relations aspects of government action regarding homelessness intervention.
- Consider the use of government property for shelter services.
- Evaluate the services available in your community to serve the homeless population.
- Evaluate your locality's federal grant funding and the requirements related to those grants.

Bibliography

- **Photographs used in this presentation were obtained from Google Maps and in compliance with its guidelines.**
- **The following cases and other resources may be useful to you regarding the issues of homelessness, the Fair Housing Act and RLUIPA:**
- **Hunter on behalf of A.H. v. District of Columbia, 64 F.Supp.3d 158 (2014).**
- **Harbor Missionary Church Corp. v. City of San Buenaventura, 642 Fed.Appx. 726 (2016).**
- **Sullivan v. Board of Zoning Appeals of City of Albany, 144 A.D.3d 1480 (2016).**
- **Phillips Supply Co. v. Cincinnati Zoning Bd. of Appeals, 17 N.E.3d 1 (2014).**
- **St. John's Evangelical Lutheran Church v. City of Hoboken, 195 N.J.Super. 414 (1983).**
- **Vitti v. Zoning Bd. of Adjustment of City of Pittsburgh, 710 A.2d 653 (1998).**
- **Esplanade Ridge Civic Ass'n v. City of New Orleans, 136 So.3d 166 (2014).**
- **Eppler v. Cleveland, 142 Ohio App.3d 91 (2001).**
- **https://www.justice.gov/crt/fair-housing-act-1**
- **https://www.justice.gov/crt/religious-land-use-and-institutionalized-persons-act**
- **https://www.justice.gov/opa/pr/justice-department-files-brief-address-criminalization-homelessness**

QUESTIONS?

