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MEMO

TO: Fair Housing Council
FROM: Karen Richards, Executive Director- Human Rights Commission
RE: Housing Discrimination Legislative Proposals, 2015 Legislative Session
DATE: September 16, 2014

ISSUE #1: In 2013, the Vermont Fair Housing and Public Accommodations statute was amended to correct two problems. The public accommodations portion of the statute, 9 V.S.A. §4502(c)(4) had a section prohibiting discrimination based on filing a charge or engaging in protected activity. The fair housing section, consistent with federal law, prohibited "coercing, intimidating, threatening or interfering... in the exercise of rights or for having filed a charge. 9 V.S.A. §4503(a)(5)." The Fair Employment Practices Act also had language prohibiting retaliation but this language also differed from that of the VFHPAA. Both the VFHPAA and FEPA were amended in 2013 with consistent language prohibiting retaliation.

The problem is that when the amendment to the VFHPAA occurred, it lost the language of both previous sections (public accommodations and fair housing) concerning coercion, intimidation, threatening or interfering with any person in the enjoyment of any right granted or protected by the VFHPAA. The language now reads:

§4506(e) **Retaliation prohibited.** A person shall not discriminate against any individual because that individual:

- (1) has opposed any act or practice that is prohibited under section 4502 or 4503 of this title;
- (2) has lodged a complaint or has testified, assisted, or participated in any manner with the Human Rights Commission in an investigation of acts or practices prohibited by chapter 139 of this title;

- (3) is known by the person to be about to lodge a complaint, testify, assist or participate in any manner in an investigation of acts or practices prohibited by chapter 139 of this title; or
- (4) is believed by the person to have acted as described in subsection (1) through (3) of this subsection.

By way of example of the problem: If a person requests a reasonable accommodation based on disability and a landlord then retaliates in some manner (starts an eviction, harasses, etc.), that would not be covered under the current language because the tenant has not "opposed an act or practice" but rather has asserted an affirmative right that is granted and protected by law.

To fix this, the VHRC proposes to seek an amendment of the statute as follows:

§4506(e) **Retaliation prohibited.** A person shall not coerce, threaten, interfere or otherwise discriminate against any individual ~~because that individual:~~

- (1) in the exercise or enjoyment of any right granted or protected by this Chapter; or
- (2) who has opposed any act or practice that is prohibited under section 4502 or 4503 of this title; or
- (3) who has lodged a complaint or has testified, assisted, participated in any manner with the Human Rights Commission in an investigation of acts or practices prohibited by chapter 139 of this title; or
- (4) who is known by the person to be about to lodge a complaint, testify, assist or participate in any manner in an investigation of acts or practices prohibited by chapter 139 of this title; or
- (5) who is believed by the person to have acted as described in subsection (1) through ~~(3)-(4)~~ of this subsection.