

TITLE 2: NATURAL RESOURCES
DIVISION 4: LAND RESOURCES

§ 40108. Administrative Enforcement; Preliminary Matters.

(a) *Complaints and answers.*

(1) (i) (A) An aggrieved person may, not later than one year after an alleged discriminatory housing practice has occurred or terminated, file a complaint with the Corporate Director alleging such discriminatory housing practice. The Corporate Director, on the Corporate Director's own initiative, may also file such a complaint.

(B) Such complaints shall be in writing and shall contain such information and be in such form as the Corporate Director requires.

(C) The Corporate Director may also investigate housing practices to determine whether a complaint should be brought under this section.

(ii) Upon the filing of such a complaint:

(A) The Corporate Director shall serve notice upon the aggrieved person acknowledging such filing and advising the aggrieved person of the time limits and choice of forums provided under this chapter;

(B) The Corporate Director shall, not later than 10 days after such filing or the identification of an additional respondent under subsection (a)(2) of this section, serve on the respondent a notice identifying the alleged discriminatory housing practice and advising such respondent of the procedural rights and obligations of respondents under this chapter, together with a copy of the original complaint;

(C) Each respondent may file, not later than 10 days after receipt of notice from the Corporate Director, an answer to such complaint; and

(D) The Corporate Director shall make an investigation of the alleged discriminatory housing practice and complete such investigation within 100 days after the filing of the complaint, unless it is impracticable to do so.

(iii) If the Corporate Director is unable to complete the investigation within 100 days after the filing of the complaint, the Corporate Director shall notify the complainant and respondent in writing of the reasons for not doing so.

(iv) Complaints and answers shall be under oath or affirmation, and may be reasonably and fairly amended at any time.

(2)(i) A person who is not named as a respondent in a complaint, but who is identified as a respondent in the course of investigation, may be joined as an additional or substitute respondent upon written notice, under subsection (a)(1) of this section, to such person, from the Corporate Director.

(ii) Such notice, in addition to meeting the requirements of subsection (a)(1) of this section, shall explain the basis for the Corporate Director's belief that the person to whom the notice is addressed is properly joined as a respondent.

(b) *Investigative report and conciliation.*

(1) During the period beginning with the filing of such complaint and ending with the filing of a charge or a dismissal by the Corporate Director, the

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Corporate Director shall, to the extent feasible, engage in conciliation with respect to such complaint.

(2) A conciliation agreement arising out of such conciliation shall be an agreement between the respondent and the complainant, and shall be subject to approval by the Corporate Director.

(3) A conciliation agreement may provide for binding arbitration of the dispute arising from the complaint. Any such arbitration that results from a conciliation agreement may award appropriate relief, including monetary relief.

(4) Each conciliation agreement shall be made public unless the complainant and respondent otherwise agree and the Corporate Director determines that disclosure is not required to further the purposes of this chapter.

(5)(i) At the end of each investigation under this section, the Corporate Director shall prepare a final investigative report containing:

(A) The names and dates of contacts with witnesses;

(B) A summary and the dates of correspondence and other contacts with the aggrieved person and the respondent;

(C) A summary description of other pertinent records;

(D) A summary of witness statements; and

(E) Answers to interrogatories.

(ii) A final report under this paragraph may be amended if additional evidence is later discovered.

(c) *Failure to comply with conciliation agreement.* Whenever the Corporate Director has reasonable cause to believe that a respondent has breached a conciliation agreement, the Corporate Director shall refer the matter to the Attorney General with a recommendation that a civil action be filed under 2 CMC § 40112 for the enforcement of such agreement.

(d) *Prohibitions and requirements with respect to disclosure of information.*

(1) Nothing said or done in the course of conciliation under this chapter may be made public or used as evidence in a subsequent proceeding under this chapter without the written consent of the persons concerned.

(2) Notwithstanding subsection (d)(1) of this section, the Corporate Director shall make available to the aggrieved person and the respondent, at any time, upon request following completion of the Corporate Director's investigation, information derived from an investigation and any final investigative report relating to that investigation.

(e) *Prompt judicial action.*

(1) If the Corporate Director concludes at any time following the filing of a complaint that prompt judicial action is necessary to carry out the purposes of this chapter, the Corporate Director may authorize a civil action for appropriate temporary or preliminary relief pending final disposition of the complaint under this section. Upon receipt of such an authorization, the Attorney General shall promptly commence and maintain such an action. Any temporary restraining order or other order granting preliminary or temporary relief shall be issued in accordance with the Commonwealth Rules of Civil Procedure. The commencement of a civil action under this subsection does not affect the

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initiation or continuation of administrative proceedings under this section and 2 CMC § 40110.

(2) Whenever the Corporate Director has reason to believe that a basis may exist for the commencement of proceedings against any respondent under 2 CMC § 40112 and 2 CMC § 40112, or for proceedings by any governmental licensing or supervisory authorities, the Corporate Director shall transmit the information upon which such belief is based to the Attorney General, or to such authorities, as the case may be.

(f) (RESERVED).

(g) *Reasonable cause determination and effect.*

(1) The Corporate Director shall, within 100 days after the filing of the complaint, determine based on the facts whether reasonable cause exists to believe that a discriminatory housing practice has occurred or is about to occur, unless it is impracticable to do so, or unless the Corporate Director has approved a conciliation agreement with respect to the complaint. If the Corporate Director is unable to make the determination within 100 days after the filing of the complaint, the Corporate Director shall notify the complainant and respondent in writing of the reasons for not doing so.

(2)(i) If the Corporate Director determines that reasonable cause exists to believe that a discriminatory housing practice has occurred or is about to occur, the Corporate Director shall, except as provided in subsection (g)(2)(iii), immediately issue a charge on behalf of the aggrieved person, for further proceedings under 2 CMC § 40110.

(ii) Such charge:

(A) Shall consist of a short and plain statement of the facts upon which the Corporate Director has found reasonable cause to believe that a discriminatory housing practice has occurred or is about to occur,

(B) Shall be based on the final investigative report; and

(C) Need not be limited to the facts or grounds alleged in the complaint filed under 2 CMC § 40108(a).

(iii) If the Corporate Director determines that the matter involves the legality of local zoning or other local land use law or ordinance, the Corporate Director shall immediately refer the matter to the Attorney General for appropriate action under 2 CMC § 40112, instead of issuing such charge.

(3) If the Corporate Director determines that no reasonable cause exists to believe that a discriminatory housing practice has occurred or is about to occur, the Corporate Director shall promptly dismiss the complaint. The Corporate Director shall make public disclosure of each such dismissal.

(4) The Corporate Director may not issue a charge under this section regarding an alleged discriminatory housing practice after the beginning of the trial of a civil action commenced by the aggrieved party under an Act of Congress, this chapter, or another Commonwealth law, seeking relief with respect to that discriminatory housing practice.

(h) *Service of copies of charge.* After the Corporate Director issues a charge under this section, the Corporate Director shall cause a copy thereof, together

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with information as to how to make an election under 2 CMC § 40110(a) and the effect of such an election, to be served:

- (1) On each respondent named in such charge, together with a notice of opportunity for a hearing at a time and place specified in the notice, unless that election is made; and
- (2) On each aggrieved person on whose behalf the complaint was filed.

Source: PL 11-38, § 11, modified.

Commission Comment: Subsection designations using capital letters changed to lower case roman numerals and subsection designations using lower case roman numerals changed to capital letters to comply with standard code formatting.