

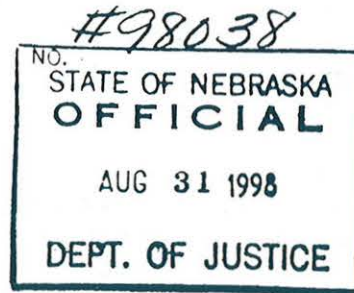


STATE OF NEBRASKA
Office of the Attorney General

2115 STATE CAPITOL BUILDING
LINCOLN, NE 68509-8920
(402) 471-2682
TDD (402) 471-2682
CAPITOL FAX (402) 471-3297
1235 K ST. FAX (402) 471-4725

DON STENBERG
ATTORNEY GENERAL

STEVE GRASZ
LAURIE SMITH CAMP
DEPUTY ATTORNEYS GENERAL



DATE: August 3, 1998

SUBJECT: Does a conflict of interest exist when the Nebraska Equal Opportunity Commission investigates complaints that are filed by the Fair Housing Center of Nebraska or in which the Fair Housing Center of Nebraska acts as an advocate for the complainant?

REQUESTED BY: Mr. Alfonza Whitaker, Executive Director
Nebraska Equal Opportunity Commission

WRITTEN BY: Don Stenberg, Attorney General
Suzanna Glover-Ettrich, Assistant Attorney General

You have requested an Attorney General's Opinion regarding whether a conflict of interest exists when the Nebraska Equal Opportunity Commission investigates complaints filed by the Fair Housing Center of Nebraska or in which the Fair Housing Center acts as an advocate for the complainant. We conclude that no conflict exists.

The Fair Housing Center of Nebraska is a program of Family Housing Advisory Services, which is a Nebraska not-for-profit corporation. The Fair Housing Center of Nebraska conducts inquiries into violations of the Nebraska Fair Housing Act, Neb. Rev. Stat. § 20-301, et. seq. The Fair Housing Center is a recipient of a Private Enforcement Initiative grant from the U.S. Department of Housing and Urban Development, for the purpose of investigating housing discrimination under the federal Fair Housing Act.

David K. Arterburn
L. Jay Bartel
J. Kirk Brown
David T. Bydalek
Dale A. Comer
Suzanna Glover-Ettrich
Royce N. Harper
Lauren L. Hill

Jay C. Hinsley
Amy Hollenbeck
William L. Howland
Marilyn B. Hutchinson
Kimberly A. Klein
Jennifer S. Lilledahl
Joseph P. Loudon

Charles E. Lowe
Lisa D. Martin-Price
Lynn A. Melson
Donald J. B. Miller
Ronald D. Moravec
Fredrick F. Neid
Marie C. Pawol

Paul N. Potadle
Mark D. Raffety
Carla Heathershaw Risko
Robert B. Rupe
James D. Smith
James H. Spears
Mark D. Starr

Martin Swanson
David R. Tarvin, Jr.
Timothy J. Texel
John R. Thompson
Barry Waid
Terri M. Weeks
Melanie J. Whittamore-Mantzios
Linda L. Willard

Under the Nebraska Fair Housing Act, whenever a complaint alleges a discriminatory housing practice that falls within the jurisdiction of a local agency which has been certified by the commission, the commission is required to refer the complaint to that agency before taking any action. Neb. Rev. Stat. § 20-332(1)(a) & (b).

The Nebraska Equal Opportunity Commission may certify a local agency only if the commission determines that the following are substantially equivalent to those created by and under the Nebraska Fair Housing Act:

- (1) The substantive rights protected by the agency in the jurisdiction with respect to which certification is to be made;
- (2) The procedures followed by the agency;
- (3) The remedies available to the agency; and
- (4) The availability of judicial review of the agency's action.

Neb. Rev. Stat. § 20-332 (3)(a)(i-iv).

Before certifying a local agency, the commission is required to take into account the current practices and past performance of the agency. Neb. Rev. Stat. § 20-332(3)(b).

If the Fair Housing Center of Nebraska was a local agency certified by the Nebraska Equal Opportunity Commission, the commission would be required to refer complaints which fell under the jurisdiction of the Fair Housing Center to that agency before taking any action on the complaint. Further, if the Fair Housing Center was an agency certified by the commission, one might argue that it would be a conflict of interest for the NEOC to take action on a case which was brought by the Fair Housing Center.

The issue of a conflict of interest should not arise because the Fair Housing Center of Nebraska is not a local agency which has been certified by the Nebraska Equal Opportunity Commission. Although the NEOC and the Fair Housing Center of Nebraska share a common goal of eliminating housing discrimination, they are separate entities. Further, they have been encouraged to work together by HUD.

Because the Nebraska Equal Opportunity Commission operates as a neutral, factfinding body, and because the Fair Housing Center is not a local agency certified by the NEOC, there is no reason to believe that a conflict exists when the NEOC investigates

Whitaker
August 3, 1998
Page - 3 -

complaints that are filed by the Fair Housing Center of Nebraska or in which the Fair Housing Center of Nebraska acts as an advocate for the complainant.

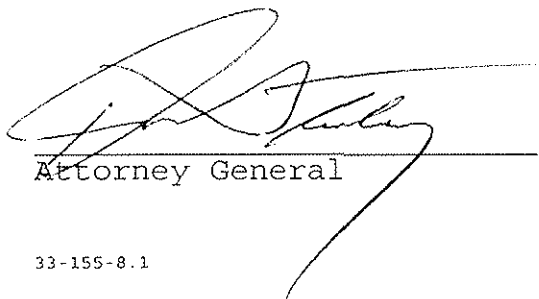
Sincerely,

DON STENBERG
Attorney General

Suzanna Glover-Ettrich

Suzanna Glover-Ettrich
Assistant Attorney General

Approved By:



Attorney General

