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January 9, 2018

The Honorable Helen Head, Chair
House General, Housing & Military Affairs
Statehouse
Montpelier, VT

RE: H. 412- An act establishing a homeless bill of rights and prohibiting discrimination against people without homes

Dear Chair Head and Members of the Committee:

Thank you for the opportunity to testify regarding this bill. The Human Rights Commission (HRC) does not have an official position on this bill at this time as the Commissioners have not had an opportunity to discuss it. I expect to take this up with them at their next meeting which is January 25, 2018. At that point, I will be able to advise you as to the agency's official position.

In the meantime, I will offer my thoughts on the pros and cons of adding "housing status" as a protected category under the Vermont Fair Housing and Public Accommodations Act, which as you know the HRC enforces. There is absolutely no doubt that homelessness is a serious issue in our state and nationally. No one should be without a home.

In 2015, the State of Utah made it a priority to end homelessness in their state through a "housing first" approach.¹ The theory behind housing first initiatives is that getting people into safe housing is the most effective way of addressing the myriad issues that cause chronic homelessness. Only when people are safely housed are they able to focus on other issues such as substance abuse, mental health treatment, healthcare, etc. The Utah experiment was widely touted at the time with claims that it reduced homelessness almost completely and saved a lot of money. The reality is that it has significantly reduced "chronic" homelessness but did not really address the "non-chronically" homeless population which has continued to increase in Utah as it has in other states, including Vermont.² Chronic homelessness is defined by the federal government as persons who are homeless for over a year or who have been homeless at least four times in the past three years and who have a disability, which can include mental illness and substance abuse. These are also the individuals who utilize costly medical and social services and sometimes end up in our correctional facilities.

¹ <https://jobs.utah.gov/housing/scso/documents/homelessness2016.pdf>

² <https://www.deseretnews.com/article/865678779/Is-Utah-still-a-model-for-solving-chronic-homelessness.html>

While creating the homeless bill of rights and adding housing status as a protected category have the potential to ease some of the issues faced by the homeless, these protections only nibble at the edges of the problem which is the lack of sufficient affordable housing, including subsidized housing units. Focusing, as Utah did, first on the chronically homeless and then as they are doing now, on those who are in and out of jails, would be a good start for addressing the problem. While this represents a significant up-front cost, in Utah it has resulted in decreased costs in the criminal justice system, in emergency department visits, and other savings. If Utah can do this, Vermont can do this. I would encourage this Committee to look at this issue in the context of the State's other affordable housing initiatives.

I have no doubt that people who are homeless experience discrimination based on their status. A couple of years ago, I spoke with a woman who was asking for money outside of a grocery store. She told me that she finally got a job at a McDonald's only to be fired when they discovered that she did not have a fixed address. This bill would make that illegal. It would also offer other protections in the housing realm that could be beneficial to homeless individuals and families.

While these additional protections in housing could be helpful, I believe it will be difficult to enforce. For example, most landlords want references from prior landlords, which are likely not to be favorable. They also look at credit scores, which are also likely to be either non-existent or not helpful. If there have been issues with behavior or non-payment of rent at a previous tenancy or the tenant was evicted, the tenant is unlikely to be a successful applicant. Is this discrimination based on homelessness or on otherwise "legitimate" screening criteria? It will be extremely difficult to prove discrimination in such situations unless a landlord is ignorant enough of the law to actually say, "I am not renting to you because you are homeless."

I have two additional concerns. The first is that "housing status" is not one of the traditional "protected categories" in civil rights jurisprudence and thus constitutes an expansion of our jurisdiction that could be a slippery slope. Once you move away from protected status that is based on discrimination related to characteristics that are either social constructs or otherwise not within the person's control, you open the door to adding any number of protections that have the potential to dilute the agency's core civil rights mission.

My second concern is resources. The HRC has five staff members---myself, an executive staff assistant and three investigators. Our current charge includes investigation of complaints of housing, public accommodations and state government employment. It would be very difficult for us to take on additional investigatory responsibilities with our limited staffing. With each level funded budget, we fall further and further behind. Our only option if this trend continues, is to reduce investigatory staff. This would indeed be tragic given the attack on civil rights at the federal level, which has left the HRC as the sole resource protecting Vermonters civil rights in our current areas of jurisdiction.

As I stated at the beginning, the HRC does not yet have an official position but I thought it would be helpful to understand the concerns. Thank you for your time and I will get back to the Chair with the HRC's position as soon as possible after the 25th.

Sincerely,

A handwritten signature in black ink, appearing to read "Karen", with a long, sweeping horizontal flourish extending to the right.

Karen L. Richards
Executive Director and Legal Counsel