

FARMWORKERS DESERVE DISCRIMINATION-FREE HOUSING

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The Pacific Northwest is no stranger to the issue of farmworkers and the conditions they face. The Washington State Human Rights Commission (WSHRC) is increasingly concerned about race and national origin discrimination against farmworkers in the state. We are hearing about housing discrimination, shortages, and deplorable conditions from a growing number of farmworkers, advocates, school professionals, and others connected to farmworker communities.

In 2007, our society should take action to greatly improve treatment of farmworkers and the conditions in which they live. César Chávez said, "Farm workers are involved in the planting and the cultivation and the harvesting of the greatest abundance of food known in this society. They bring in so much food to feed you and me and the whole country and enough food to export to other places. The ironic thing and the tragic thing is that after they make this tremendous contribution, they don't have any money or any food left for themselves." The WSHRC hears reports about farmworker families who live without heat, running water, cooking facilities, toilet facilities, and electricity. Many do not have a warm, dry place to sleep. Many live in tents or in their cars. We should not continue to create and encourage circumstances which require people to live in such deplorable conditions.

The WSHRC is the state agency responsible for Washington Law Against Discrimination (WLAD), RCW 49.60. The WLAD prohibits discrimination based on prohibits discrimination in employment (non-tribal employers with eight or more employees), housing, places of public accommodation, and credit and insurance transactions, on the basis of race, color, creed, national origin, sex, marital status, sexual orientation, including gender expression/identity, marital status, honorably discharged veteran or military status, age (over 40), the presence of any sensory, mental, or physical disability, the use of a trained dog guide or service animal by a person with a disability, retaliation for opposing an unfair practice, filing a whistleblower complaint with the Washington State Auditor, or filing a nursing home abuse complaint.

Washington State has a long history of dealing with issues related to farm worker housing. As our state becomes more diverse and its demands for farm workers grow, there will continue to be an increased need for housing. The U.S. Department of Housing and Urban Development (HUD) defines a *farmworker* as a person who works in agriculture or a related industry such as food processing. HUD defines a *migrant farmworker* as someone who moves from community to community, usually based on season and job availability, while *seasonal farmworkers* live in one community year round. HUD's website says some of the most severe farmworker housing issues are in Florida and the Pacific Northwest.

In particular, housing discrimination is prevalent against Hispanic families. Hispanics often have large families and many housing providers intentionally discriminate against families with children, through overcrowding and charging excessive rents and fees per

person. Micro-colonias (trailer parks that are substandard and rented to farmworkers) are prevalent in Central and Eastern Washington. Agricultural workers are subjected to unthinkable living conditions, including overcrowding and lack of sanitation. It is estimated that 157,000 of Washington's farmworkers are without decent housing.

It is becoming more difficult for non-profit agencies to find locations to build farmworker housing. In January 2003, the Office of Rural and Farmworker Housing (ORFH) filed a complaint with the WSHRC against the City of Pasco. ORFH alleged that Pasco zoning ordinances prohibited migrant farmworkers from staying in particular hotels within city limits. The ordinance prohibited hotel accommodations in certain areas of town if the person was the recipient of defined public assistance.

The Office of Rural and Farmworker Housing filed two complaints with the WSHRC in 2002. The complaints were referred to the U.S. Department of Justice due to their adverse impact. Elements in both Pasco and Benton City attempted to prevent the construction of farmworker housing in their communities. In the Benton City case, some members of the community itself voiced loud opposition to the housing and were on record as stating that they did not want Benton City to become like Mabton, a mostly Latino community. In addition to the moral and ethical implications of denying fellow human beings safe and sanitary housing, communities need to be educated about the potential of fair housing violations when they exclude people based on their national origin.

The building permits of the Bella Vista project in East Wenatchee were revoked because the predominately Anglo neighborhood cited overconcentration of low income housing in one area. Neighborhoods in these "not in my back yard" (NIMBY) cases often use zoning to prevent the construction of housing for farmworkers. Anglo communities also often oppose transitional housing for farmworkers, which can be discriminatory if denial of housing opportunities is based on national origin or race.

Every family is entitled to safe, decent and affordable housing. In response to issues in Wenatchee, the WSHRC hosted a community forum there in September. Forum attendees spoke about many of the same issues, including lack of running water and electricity, unhealthy living conditions, shortage of housing, families forced to live in the orchards, and a neighborhood lawsuit to stop the construction of temporary migrant farmworkers in a neighborhood.

Washington is the number one producer of over eleven crops, including apples, cherries, and raspberries. Washington State relies heavily on revenue from its agricultural and forestry sector. There are many types of farm work in Washington State, including:

- Cherry, apple, asparagus, and other fruit and vegetable harvesting in Eastern and Central Washington;
- Fruit and vegetable packing houses;
- Floral harvesting, such as tulips in the Skagit Valley;
- Forestry work in Western Washington such as salal harvesting (salal is a greenery used in floral arrangements);
- Aquaculture farming, including the harvesting of oysters and other shellfish in Western Washington.

As a result of Washington's diverse agricultural, forestry, and aquaculture economies, there may be specific considerations for farmworker housing based on the specific industry and geographic location in the state.

Since 1999, the Washington State Department of Health has had statutory authority to license and oversee farmworker housing. This program is known as the Migrant Farmworker Housing Program (MFHP). MFHP conducts investigations into violations of farmworker housing standards; provides consultation for growers and other entities who want to comply with the law; and conducts inspections to make sure that housing is in compliance with the law.

Many farmworkers are employed under federal H2A and H2B visa programs. The H2A program is for agricultural workers, while the H2B program is for forestry and meat packing plant workers. According to federal law, employers of H2A workers must provide transportation and housing. Employers of H2B workers are not held to the same standards and do not have to provide housing or transportation. In general, H2A and H2B employees are required to work within the industry designated on the visa, or can be found in violation of visa requirements. These are people who have come to the U.S. for an opportunity to improve their lives and the lives of their families. Housing provided under the H2A program must meet standards under the federal Occupational Safety and Health Act (OSHA) and enforced by the U.S. Department of Labor (OSHA Standards – Temporary Labor Camps, 29 CFR 1910.142). Housing can be provided by the employer, or the employer can provide rental housing.

The WSHRC is also concerned about community groups who aim to keep farmworkers out of particular towns or specific areas within towns. Housing violations often go unreported because people are afraid to speak to the government or risk losing housing. Orchards are often not an appropriate housing location due to the use of pesticides there.

The "not in my back yard" approach may create liability issues for cities and other government entities. For example, an ordinance passed last year in Hazelton, PA, aimed to eliminate undocumented immigrants from living or working within Hazelton city limits. The ordinance also requires city materials to be written and distributed only in English. Hazelton is now in litigation over the ordinance, having lost at the District Court level in a suit brought by the American Civil Liberties Union, the Puerto Rican Legal Defense Fund, and allied groups.

We have the opportunity to make better decisions in Washington State. Together, growers and farmworkers have earned our state's reputation as an industry leader. This distinction did not happen overnight, but through collaboration, communication, and hard work. Fortunately, there are strong federal and state fair housing laws in place. We should all work toward the same high industry standards in the area of farmworker housing. Such an achievement would only serve to make our state even more of an industry leader.