

BEFORE THE MONTGOMERY COUNTY COMMISSION ON HUMAN RIGHTS
Office of Zoning and Administrative Hearings
Stella B. Werner Council Office Building
100 Maryland Avenue
Rockville, Maryland 20850
(240) 777-6660

GISELLE PAUTRAT,

*

Complainant,

*

v.

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OZAH No. HR-19-01

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(OHR No. E-06021)

FOUNDATION FOR FINANCIAL EDUCATION (F3E),*

JONATHAN LEE,

*

CAPITAL FINANCIAL PARTNERS,

*

*

Respondents.

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**ORDER ESTABLISHING HEARING DATE
AND OUTLING HEARING PROCEDUREs**

Based on Office of Zoning and Administrative Hearings consultations with the parties, it is hereby Ordered that the hearing in this case will convene at 9:30 a.m. on Wednesday, March 4, 2020 and will continue day-to-day weekdays through Friday, March 6. Additional hearing dates will be scheduled if the hearing is not concluded by March 6. It is anticipated that the hearing will be adjourned each day by about 5 p.m.

The hearing will be held in the Stella B. Werner Council Office Building, 6th floor Patuxent River conference room, 100 Maryland Avenue, Rockville, Maryland.

The hearing will be governed by the Montgomery County Administrative Procedure Act, M.C. Code §§ 2A-1 *et. seq.* (“MC-APA”) and Rules of Procedure for Agency Referral & Accessory Apartment Cases Heard by the Office of Zoning and Administrative Hearings. Counsel for the parties will be expected to be familiar with the MC-APA and the relevant Rules.

Proceedings at the hearing will be informal, but orderly. The hearing will be open to the public. The parties will have the opportunity to call witnesses, cross-examine opposing party witnesses, and present supporting documentation. (Witnesses and documents that had not been identified by November 6 will not be allowed in a party’s case-in-chief). I reserve the power to examine witnesses. All testimony will be under oath and subject to the penalties of perjury.

The rule on witnesses will apply. That means that witnesses will be barred from the hearing room until called to testify. The rule also prohibits any other potential witness from talking to a witness who has testified, or is in the process of testifying, about evidence presented by that witness in the hearing, until after that potential witness testifies. A violation of the rule on witnesses may result in a witness being excluded from testifying. The rule does not preclude a party from having one representative present in the hearing room even if the representative will be called to testify. Because the hearing may extend over several days,

witnesses need not be in the building until called but will be expected to arrive within 30 minutes of the time they are notified that their testimony is required.

Leading questions on direct examination will not be permitted. Repetitious questions and examination on irrelevant matters will also not be permitted. Hearsay may be admitted if probative and reliable. See MC-APA § 2A-8(e). Discovery materials may be introduced as evidence at the hearing, or be used for cross-examination, under the normal rules of evidence.

The record on which my findings and conclusions will be based is limited to the verbatim transcript of the testimony and exhibits admitted at the hearing. The record will not include matters filed with the Office of Human Rights (“OHR”), except as necessary to establish jurisdiction (*i.e.*, the complaint, the OHR referral to the Human Rights Commission, and the Commission’s referral to OZAH for hearing). Other items from the OHR file will be included in the record only if the parties stipulate to them, or if they are introduced and admitted at the hearing, or if they are admitted by me *sua sponte*.


There is a right, subject to the provisions of the State public information law, to inspect and copy, at the requesting party's own expense, documents in OZAH, OHR, and Commission files unless such inspection is prohibited by law.

Complainant has the burden of going forward with the production of evidence at the hearing. Complainant also has the burden of persuasion in the sense that she must establish the merits of his claims by a preponderance of the evidence.

In general, the sequential stages of the hearing are expected to follow the order outlined in MC-APA § 2A-8(i)(5):

- a. Disposition of all outstanding preliminary motions and preliminary matters.
- b. Opening statements by the parties (though these are generally unnecessary).
- c. Presentation of complainant’s factual case and cross-examination of his witnesses.
- d. Presentation of respondents’ factual cases and cross-examination of their witnesses.
- e. Rebuttal evidence by complainant and cross-examination of her rebuttal witnesses.
- f. Surrebuttal evidence by respondents and cross-examination of their rebuttal witnesses.
- g. Closing arguments (although these are preferably left to post-hearing briefs). A future Order will govern post-hearing briefing.

SO ORDERED.



LUTZ ALEXANDER PRAGER
Hearing Examiner

December 12, 2019

Serve:

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