



## Maine Human Rights Commission

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EXECUTIVE DIRECTOR

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COMMISSION COUNSEL

### COMMISSION MEETING MINUTES

#### Senator Inn - Boardroom

*19 Union Street ~ Augusta, Maine*

May 22, 2017

Commissioner Deborah Whitworth called the meeting to order at 8:34 AM. Present were Commissioners Deborah Whitworth, John Norman, Ted Helberg, and Fred Oettinger.

#### MINUTES

Commissioner Helberg moved, seconded by Commissioner Oettinger, to adopt the April 24, 2017 Commission meeting minutes. 5 in favor | 0 opposed.

#### ADMINISTRATION

Monthly reports: Executive Director Sneirson discussed reporting on Commission activities from April:

- Personnel: No new activity in April 2017.
- Compliance: Since the last meeting, there was one unsuccessful conciliation and no successful conciliations. Two reasonable-grounds cases remain in active conciliation.
  - One case that had been successfully conciliated was ready to be dismissed because all terms of agreement have been fully implemented. Commissioner Helberg moved, seconded by Commissioner Norman, to dismiss Murray & Murray v KC Management Inc & Bradbury Apartments (H16-0224). 4 in favor | 0 opposed.
- Investigations in April:
  - New Charges: 69 new charges filed.
  - Administrative Dismissals: 21 administrative dismissals.
  - There were 15 predetermination settlements with benefits of \$335,000 to complainants.

Quarterly: Executive Director Sneirson next discussed FY2017's third quarter agency performance:

- Training & Education: Commission staff attended/presented at 10 trainings/presentations.
- Financial Report: Presented and placed on file.
- Pending inventory: The Commission has 712 cases pending; the average age of cases is 284 days. There were 34 predetermination settlements reached in the quarter.

The Commission took a five-minute break at 8:40 AM.

#### AGENDA

As the Commissioners prepared to adopt the Hearing and Consent Agendas, Executive Director Amy Sneirson requested that the Commission consider amendments to the agendas as follows:

- PA15-0472, LaPlante v. Ramada Inn: This case was inadvertently listed on the Consent Agenda and should have been listed on the Hearing Agenda. The parties were also sent incorrect information, but agree that the case should be heard today.
- E15-0188, Joanna M. Moore v. Granite Bay Care Table: E.D. Sneirson requested that this case, currently listed on the Consent Agenda, be moved to be tabled instead, as the U.S. Mail failed to deliver the Investigator's Report to Complainant in time to allow her to make a submission. Commissioner Oettinger moved, seconded by Commissioner Norman, to table case E15-0188 (Moore v. Granite Bay Care) to the June Agenda. 4 in favor | 0 opposed.
- PA15-0216, Dalton v. Maine Medical Center: Complainant submitted a withdrawal form, but after the Investigator's Report is issued and the case is listed on a Commission agenda, the Commission has discretion to grant or deny withdrawal. Commissioner Helberg moved, seconded by Commissioner Oettinger, to deny the withdrawal request in PA15-0216. 3 in favor | 1 opposed (Norman opposed).

Commissioner Whitworth called for a motion to adopt the Agenda and Consent Agenda as amended. Commissioner Helberg moved, seconded by Commissioner Oettinger, to adopt the Agenda as amended and to accept the Investigator's recommendations in each of the cases on the amended Consent Agenda. 4 in favor | 0 opposed. See detailed listing of Consent Agenda cases on page 5.

At 8:55 AM Acting Commission Chair Deborah Whitworth began the case hearing agenda.

#### **CASES VOTED ON 8:55 A.M.**

PA15-0195: Matthew Francis (Falmouth) v. Amistad (Portland). Attorney Richard Moon restated the position of the Respondent. Attorney Zack Paaakkonen restated the position of the Complainant. Investigator Angela Tizon restated the facts of the case. Commissioner Oettinger moved, seconded by Commissioner Helberg, to find **reasonable grounds** to believe that Amistad discriminated against Matthew Francis on the basis of sex and sexual orientation by subjecting him to a hostile environment. 4 in favor | 0 opposed. Commissioner Helberg moved, seconded by Commissioner Oettinger, to find no reasonable grounds to believe Amistad otherwise discriminated against Matthew Francis on the basis of sex and sexual orientation by denying him full and equal access to a place of public accommodation. 4 in favor | 0 opposed.

PA15-0472: Sean LaPlante (Glen, NH) v. Ramada Inn (Kittery, ME). Executive Director Sneirson noted that this case had erroneously been listed on the Consent Agenda, that both parties agreed to proceed with hearing today, and that the Commission's investigator and Commissioners were prepared to proceed with hearing as well. Attorney Philip Pettis restated the position of the Respondent. Attorney Kristin Aiello restated the position of the Complainant. Investigator Jenn Corey restated the facts of the case. Commissioner Helberg moved, seconded by Commissioner Oettinger, to find **Reasonable Grounds** to believe that Ramada Inn discriminated against Sean LaPlante based on his disability. 4 in favor | 0 opposed.

PA15-0419: Sean LaPlante (Glen, NH) v. Days Inn (Kittery, ME). Attorney Philip Pettis restated the position of the Respondent. Attorney Kristin Aiello restated the position of the Complainant. Investigator Jenn Corey restated the facts of the case. Commissioner Helberg moved, seconded by Commissioner Oettinger, to find **Reasonable Grounds** to believe that Respondent Days Inn discriminated against Complainant Sean LaPlante on the basis of his disability (service animal). 4 in favor | 0 opposed.

At 10:28 AM, Commissioner Whitworth called for 5 minute break.

H17-0055: Valeda Edwards (Lewiston) v. Auburn Housing Authority (Auburn). Attorney Chet Randall restated the position of the Complainant. Attorney Jonathan Brogan restated the position of the Respondent. Investigator Stuart Evans restated the facts of the case. Commissioner Norman moved, seconded by Commissioner Helberg, to find no reasonable grounds to believe that Respondent Auburn Housing Authority denied Complainant Valeda Edwards a reasonable accommodation for her disability or that Respondent Auburn Housing Authority discriminated against Complainant Valeda Edwards due to her disability by evicting her. 4 in favor | 0 opposed.

## NEW BUSINESS

- Jill Hunter of Pine Tree Legal Assistance provided a presentation on PTLA’s housing tester program.
- On May 15, 2017, a Maine Superior Court judge issued a 22-page decision finding that the Commission and PTLA prevailed in their claims that Megunticook Management and Realty Corporation and Jeffrey Weymouth violated the MHRA and Fair Housing Act when they denied Shirley Kelderhouse and Shaunn Patton the opportunity for a housing accommodation based on race. The judge’s decision awarded Ms. Kelderhouse and Mr. Patton each \$15,000 in emotional distress damages and their costs (with interest) of suit, and invited PTLA to submit its attorneys fees for the court to consideration; the decision also imposed a civil penalty of \$10,000 on the defendants.
- Executive Director Sneirson provided an update on legislative matters related to the MHRA:
  - LD 1239 (“An Act to Increase Efficiency in Enforcement of the Maine Human Rights Act”) was the subject of a public hearing and a work session recently. There was almost unanimous support for the Commission to add outreach and intake staffers and almost unanimous opposition to the other proposals in the bill. The Judiciary Committee voted on an amended bill (including only new positions and removing all other proposals), but their vote was divided. Without a unanimous report from the Judiciary Committee, the bill is unlikely to become law, as it expected that most bills with fiscal notes will be vetoed and can only pass if there is a 2/3 majority in both House and Senate to override vetoes.
  - LD 1259 (“An Act Regarding Pay Equality”) proposed to amend the MHRA to allow persons alleging sex discrimination to demonstrate discrimination by showing that a prospective employer asked about his/her prior wage history; the bill was heard alongside two other bills that would have prohibited prospective employers from asking an applicant for prior wage history information. LD 1259 passed out of the LCRED Committee with a divided report and is unlikely to become law.
  - LD 1477 (“An Act to Coordinate and Enforce Existing Workplace Training Requirements”) would have required the Commission to create and annually update and post a guidance document for employers explaining what a Maine Department of Labor sexual harassment statute mandated. The Commission objected to this transfer of responsibility from MDOL to the Commission, especially without any increase of Commission resources, and MDOL agreed to provide the employer guidance itself. The Commission agreed to provide sexual harassment posters to employers at no charge as long as the Commission’s budget allowed it to do so. The bill was amended to reflect these changes and was passed unanimously by the LCRED Committee.
  - LD 1566 (“An Act to Enact the Maine Fair Chance Employment Act”) proposed to ban employers from asking prospective employees about criminal history on employment applications and also to allow persons who believed that they had been illegally asked such questions or that they had been denied employment based on criminal history to seek redress

under the MHRA. The bill was much-discussed at the LCRED Committee and carried over to the next Legislative session.

- The Commission is sponsoring an outreach project with Maine's Muslim community and the Portland Police Department in Portland on July 1. Flyers will be available on our website.

## **EXECUTIVE SESSION**

At 11:42 AM, Commissioner Helberg moved, seconded by Commissioner Oettinger, to go into executive session to discuss pending or contemplated litigation and the Commission's legal rights and duties with Commission Counsel pursuant 1 M.R.S. §405(6)(E). 4 in favor | 0 opposed.

At approximately 11:50 AM, Commissioner Norman moved, seconded by Commissioner Oettinger, to come out of executive session. 4 in favor | 0 opposed.

## **LITIGATION**

Commissioner Norman moved, seconded by Commissioner Helberg, that the Commission should proceed with litigation in the reasonable-grounds case Justin Engstrom v. D & L Apartments (H16-0372). 4 in favor | 0 opposed.

At approximately 11:55 AM, Commissioner Whitworth adjourned the meeting.

## CONSENT AGENDA

The consent agenda is a listing of cases scheduled on the Commission's meeting agenda in which there was no written disagreement to the Investigator's recommendation. Commissioners considered these cases without oral argument by the parties.

E15-0154:	Peter Hyatt (Old Town) v. Getchell Agency, Inc. (Bangor)	<b>RG</b>
PA15-0187:	Sheila King (Arlington, Tx) v. Avis/Budget Group (Bangor)	NRG
E15-0202:	Jeffrey T. Gurney (Hartford) v. Catalyst Paper (Rumford)	NRG
E15-0203:	Wayne D. Davis (Turner) v. Catalyst Paper (Rumford)	NRG
E15-0205:	Pamela Cummings (Portland) v. Potpourri Group (North Billerica, MA)	NRG
PA15-0216:	Danny Dalton (United Kingdom) v. Maine Medical Center (Portland)	<b>RG</b>
E15-0220:	Mindi Peavey (Brooks, ME) v. Access Worldwide Communications, Inc. (Boca Raton, FL)	<b>RG</b>
E15-0226:	Flint Hutchinson (North Berwick) v. York Hospital (York)	NRG
PA15-0231:	Tamika I Dias (Gorham) v. Maine Medical Partners (Scarborough)	NRG
PA15-0232:	Tamika I Dias (Gorham) v. Timothy Hawkins, MD (Scarborough)	NRG
E16-0061:	Erik Grabowski (Kennebunk) v. Balfour Beatty (Kittery)	NRG
E16-0131:	Christopher M. Cope (Dresden) v. Josh K. Davis (Brunswick) & Gelato Fiasco (Brunswick)	NRG
H17-0019:	Robert C. Gregoire (Augusta) v. Woodland Ridge Condominium Association (Augusta)	NRG
H17-0023:	Dean M. Burnham (Lewiston) v. Fred Collins (Lewiston)	NRG