

City of Chicago
COMMISSION ON HUMAN RELATIONS

ADJUDICATION DIVISION

2004 Activity
Concerning Discrimination Cases
filed under the
Chicago Human Rights Ordinance
and
Chicago Fair Housing Ordinance



Chicago Commission on Human Relations
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City of Chicago
Richard M. Daley, Mayor

Commission on Human Relations
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Adjudication of Discrimination Complaints

The Enabling Ordinance of 1990 gave the reorganized Commission on Human Relations powers to enforce the Chicago Human Rights Ordinance and the Chicago Fair Housing Ordinance. These powers are exercised through the Adjudication Division. The work of the Division is:

- To receive and investigate complaints of discrimination in violation of the Chicago Human Rights Ordinance and the Chicago Fair Housing Ordinance.
- To facilitate the settlement of cases, where possible.
- To determine, after investigation and hearing, whether discrimination occurred in violation of the City of Chicago ordinances.
- To order remedies if the complainant proves at a hearing that discrimination has occurred.

The orders of the Commission's Adjudication Division carry the force of law. The cooperation of the alleged violator in any case where discrimination has been alleged is mandatory, and the Commission has powers of subpoena, default, and negative inference to support its investigations. If the Commission finds, after an administrative hearing, that discrimination occurred, it has the power to order injunctive relief as well as the payment of out-of-pocket damages, emotional distress damages, punitive damages, attorney's fees and costs, and fines.

The role of the Adjudication Division is neutral. It does not serve as either side's lawyer, advisor, or advocate. It is not a prosecutor of the complaint. It does not take the side of either the complainant (the person who filed the complaint) or the respondent (the alleged violator).

Filing a Discrimination Complaint

Adjudication intake staff are available during business hours to answer inquiries about filing a complaint under the Chicago Human Rights Ordinance or Chicago Fair Housing Ordinance. Telephone 312/344-4111. Intake staff assist the public with preparation of complaints on a walk-in basis or provide forms for self-preparation of complaints and filing by mail. There is no filing fee.

What is Discrimination?

To win a discrimination case under the City of Chicago ordinances, a complainant must be able to prove by a preponderance of the evidence that:

- The complainant was subjected to unfavorable treatment by a covered individual, business, or government entity (the respondent).
- This conduct was based on the complainant's status in one or more of these protected categories:

Race	Sex	Age
Color	Sexual Orientation	Disability
National Origin	Gender Identity	Source of Income
Ancestry	Marital Status	Military Discharge Status
Religion	Parental Status	

- The conduct was in one of the following covered areas:

Housing	Public Accommodation
Employment	Credit or Bonding Transactions

- The adverse action took place in the City of Chicago.
- The complainant filed the complaint within 180 days of the date of the alleged discriminatory action.
- The complainant was treated differently *because of* his or her protected status, and not for other legitimate, non-discriminatory reasons.

How Cases Proceed

People who believe they have been subjected to discrimination as defined in the City of Chicago ordinances must file written complaints with the Commission following a prescribed form. Once they do so, the Commission requires each respondent to provide a written answer and submit supporting documentation and information. The Commission then investigates the claims and defenses of the parties. An investigator typically interviews the complainant, the respondent/s, and any witnesses. The investigator also gathers relevant documents and information, which may include information about the experiences of other people whose situations are comparable to the complainant's.

The investigator will also talk with the parties about whether they wish to try to settle the case before the investigation is completed. Settlement is voluntary.

If the case does not settle (or otherwise close), the investigator completes the evidence-gathering and writes a report summarizing the evidence. Commission senior staff review the report and determine whether or not there is substantial evidence of discrimination. A finding of "substantial evidence" does not mean that the complainant has won the case, only that there is enough evidence of discrimination to proceed further. If the Commission finds that there is not substantial evidence of discrimination, it dismisses the case; the complainant may request a review of the dismissal.

If the Commission finds that there is substantial evidence of discrimination, it holds a mandatory settlement conference. If the parties do not reach a settlement agreement, the Commission then holds an administrative hearing. The administrative hearing is a trial, but somewhat less formal than in a court. A hearing officer, who is an attorney, presides over the hearing and manages the hearing process. The Commission does not prosecute the case or represent the complainant at this hearing; it is the complainant's responsibility to prove the case and to prove entitlement to injunctive and monetary relief as well as attorney fees and costs. Based on the Hearing Officer's recommendation and the rest of the hearing record, the Commission's Board of Commissioners makes the final determination about whether the complainant has proved that the respondent has violated the Chicago Human Rights Ordinance or Chicago Fair Housing Ordinance. If the Board of Commissioners rules that there has been a violation, it also determines what relief will be awarded to Complainant.

Annual Summary of Adjudication Division Activity

	Housing	Employment	Public Accommodation	Credit	TOTAL
COMPLAINTS FILED	69	194	86	4	353
CASES CLOSED	71	157	61	2	291
Settled	31	57	33	1	122
Complainant Failed to Cooperate	10	30	10		50
Complainant Withdrew Case	17	41	8		66
Lack of Jurisdiction	0	4	4	1	9
No Substantial Evidence	7	19	6		32
Ruling After Hearing	6	6			12
CASES FORWARDED TO HEARING STAGE	13	13	5		31
Substantial Evidence	12	9	5		26
Default	1	4			5
REQUESTS FOR REVIEW rulings after involuntary dismissal	3	4			7
Denied	2	4			6
Granted	1				1

DISCRIMINATION BASES CLAIMED IN COMPLAINTS FILED

PROTECTED CLASSES	Hsng		Empl		Public Accom		Credit		Total Claims	
Race	15	22%	75	38%	38	44%	2	50%	130	37%
Color	4	6%	4	2%	4	4%			12	3%
National Origin	7	10%	19	9%	1	1%			27	8%
Ancestry	1	1%	4	2%					5	1%
Religion	4	6%	5	2%	6	6%			15	4%
Sex	5	7%	66	34%	9	10%			80	23%
Sexual Orientation	5	7%	32	16%	7	8%			44	12%
Gender Identity	1	1%	2	1%	1	1%			4	1%
Marital Status	2	3%							2	1%
Parental Status	11	16%	11	5%	2	2%	1	25%	25	7%
Age	3	4%	25	12%	5	5%			33	9%
Disability	23	33%	44	22%	37	43%			104	29%
Source of Income	29	42%			5	5%	1	25%	35	10%
Military Discharge	0									
Retaliation	N/A		7	3%	2	2%			9	3%
TOTAL COMPLAINTS	69		194		86		4		complaints 353	X

Percentage figures are based on the percentage of *complaints* containing a *claim* of discrimination on the basis named. A complaint may claim discrimination on more than one basis (e.g. sex and age) arising out of the facts alleged. This is a change from previous annual reports, which showed percentages of the total *bases* claimed.

As in prior years, race was the discrimination basis most frequently claimed, followed by disability and sex. Source of income was the most frequently-claimed basis in housing discrimination complaints, followed by disability, race, and parental status in that order. Race and disability equally predominated in public accommodation discrimination complaints. Other frequently-claimed bases were sexual orientation (16% of employment discrimination cases) age (12% of employment discrimination cases), and national origin (10% of housing and 9% of employment discrimination complaints).

Substantial Evidence Determinations

	Housing	Employment	Public Accommodation	TOTAL
Substantial Evidence	12	9	5	26
No Substantial Evidence	7	19	6	32
TOTAL FULL INVESTIGATIONS	19	28	11	58

The data above covers only those cases in which a determination of Substantial Evidence or No Substantial Evidence of discrimination was made after a full investigation. This does not include all cases which the Commission completed in 2003. Many cases are settled, withdrawn, or dismissed for other reasons before completion of the full investigation. A finding of Substantial Evidence means that there is sufficient evidence that discrimination may have occurred to enable the case to go forward to mandatory conciliation and an administrative hearing if the case does not settle.

Settlements

A high percentage of discrimination cases close as a result of settlements between the parties. Complainants as a group obtain a great deal more relief through settlements than through awards after administrative hearings. In 2004, for example, 42% of closed cases ended with settlements.

Settlement is voluntary between the parties and may occur at any stage of the investigation and adjudication process. When cases settle, the respondents do not admit liability and the Commission makes no judgment as to whether a violation occurred. The Commission does not require or advocate particular settlement terms although staff, conciliators, and hearing officers do encourage and facilitate settlement.

Individual settlement terms vary and, because many cases settle privately between the parties, the Commission does not always know the terms of settlements including their monetary value to complainants. In the interest of promoting settlement in the future, the Commission does not announce or publicize the terms of particular settlements, although parties may choose to do so if they have not agreed to the contrary as part of the settlement terms.

Summary of Administrative Hearing Actions

The Board of Commissioners issued twelve rulings in discrimination cases brought before it in 2004 after administrative hearings conducted by appointed hearing officers. Eight rulings were in favor of Complainants and four in favor of Respondents.

Rulings after Hearings in 2004	12	
Rulings for Respondents (no liability)	4	
Liability Rulings for Complainants	5	
Damages Awarded to Complainants		\$82,902.49
Fines Awarded to City		\$ 4,785.00
Attorney Fee and Cost Rulings for Complainants	3	
Fees Awarded		\$71,422.50
Costs Awarded		\$ 1,768.39

Attorney fee petitions are considered only after a ruling finding liability (and only if the complainant was represented by counsel); thus these rulings may occur in a year subsequent to when liability was found, as for all three 2004 awards.

Summary of Rulings After Administrative Hearings

Employment Discrimination Cases

Arellano & Alvarez v. Plastic Recovery Technologies, Inc., CCHR Nos. 03-E-37 and 03-E-44
Sexual Orientation and Ancestry Discrimination

Complainants alleged that Respondent through its president harassed each of them, discharged Alvarez, and constructively discharged Arellano based on a perception that they were homosexual, and also harassed Alvarez based on her Mexican ancestry. After entry of an Order of Default against Respondent, the Commission found that Complainants had each established a *prima facie* case of sexual orientation discrimination but Alvarez had not established a *prima facie* case of discrimination based on her ancestry. The Commission awarded total damages of \$21,807.64 (including \$19,907.64 for back pay and emotional distress plus \$2,000 as punitive damages) to Arellano and \$17,653.85 (including \$15,653.85 for back pay and emotional distress plus \$2,000 as punitive damages) to Alvarez. Thus all damages totaled \$39,461.49. The Commission also imposed fines totaling \$1,000.

Brooks v. Hyde Park Realty, CCHR No. 02-E-116
Age Discrimination

The Commission awarded attorney fees of \$6,625 and costs of \$629.24 to this prevailing Complainant. In 2003, the Commission had found the employer liable for age discrimination for discharging Complainant, awarded damages, and imposed a fine.

Carroll v. Riley, CCHR Nos. 03-E-172
Sex Discrimination

Complainant Joseph Carroll alleged that Respondent sexually harassed him by firing him from his employment as a manager of newspaper delivery routes because he entered into a relationship with another woman after having a personal relationship with her. After entry of an Order of Default against Respondent, the Commission found that Complainant had established a *prima facie* case of sexual harassment and awarded him damages of \$10,500 for back pay and \$2,000 for emotional distress, for total damages of \$12,500. The Commission also imposed a fine of \$500.

Guy v. First Chicago Futures, CCHR No. 97-E-32
Race Discrimination

The Commission found no race discrimination where an African-American phone clerk for a futures brokerage was discharged after he failed to properly cover a trading error and tried to hide the error from his supervisor. The employee claimed he was subjected to a racially-hostile work environment in that, among other things, his new supervisor scrutinized and criticized him more severely than his non-African-American co-workers, and the company failed to advance him to officer status and overstated the seriousness of the trading error. The Commission determined that the incidents cited by the employee could not be connected to a racial character or purpose and were not sufficiently severe and pervasive to constitute harassment. As to the discharge, the Commission determined that the employee had not established that he was meeting his employer's legitimate expectations and that similarly-situated non-African-American employees were treated more favorably. The Commission found that the employer was applying established policies and procedures regarding the trading error and had previously discharged a white employee for similar violations.

Martin v. Glen Scott Multi-Media, CCHR No. 03-E-34
Sex Discrimination

After an Order of Default, the Commission found that a female employee had established a *prima facie* case of pregnancy-related sex discrimination where her employer told her that she was discharged because she was pregnant and had been absent from work for two days due to illness. The Commission awarded back pay of \$5,236, expenses of \$65 for attending a pre-hearing conference which Respondent failed to attend, emotional distress damages of \$6,000, and \$2,000 as punitive damages, for total damages of \$13,301. The Commission imposed fines of \$585.

Salwierak v. MRI of Chicago, Inc. and Baranski, CCHR No. 99-E-107
Sexual Harassment

The Commission awarded attorney fees of \$32,200 and costs of \$863.43 to a female employee after having ruled in 2003 that the employee had been subjected to sexual harassment, for which the Commission awarded damages and imposed a fine.

Housing Discrimination Cases

Jones v. Shaheed, CCHR No. 00-H-82
Disability and Source of Income Discrimination

The Commission found liability for source of income discrimination where a landlord refused to show an available apartment to Complainant after learning that she was not working but rather was receiving Social Security Disability income. The landlord repeatedly told Complainant that she had to be working in order to rent the apartment and also inquired about the nature of her disability. The Commission awarded \$3,000 in emotional distress damages and \$1,500

in punitive damages, for total damages of \$4,500. It imposed a fine of \$500.

Fox v. Hinojosa, CCHR No. 99-H-116

Sexual Orientation Discrimination

The Commission found liability for sexual orientation discrimination where Complainant's landlord harassed him after determining that he is gay by repeatedly telling him that she did not want gay people in the building, revealing to his family that he is gay when he had not told them, demanding to know whether a visitor was his boyfriend, calling him derogatory names, and attempting to evict him. Complainant was awarded \$1,140 in out-of-pocket damages, \$10,000 in damages for emotional distress, and \$2,000 as punitive damages, for total damages of \$13,140. The Commission also imposed \$2,200 in fines.

Marshall v. Gleason, CCHR No. 00-H-1

Source of Income Discrimination

The Commission found no source of income discrimination where Complainant claimed that a landlord refused to rent her an apartment because she had a Section 8 Housing Choice Voucher. The Commission determined that the landlord had articulated legitimate non-discriminatory reasons for his action: that the apartment was not on the market and not habitable when Complainant viewed it at her request; and that it never went on the market because, due to financial problems, the landlord sold the home where he had been living and moved into the apartment with his family. The Commission found that Complainant had not shown these reasons were pretextual and that his refusal was due to Complainant's source of income.

McPhee v. Novovic, CCHR No. 00-H-69

Race Discrimination

The Commission found no indirect race discrimination where a white tenant claimed her landlord refused to allow her to rent single room occupancy (SRO) units to blacks or Puerto Ricans, then interfered with her plans to provide residential foster care services to children who may be black or Puerto Rican. The Commission determined that much of the alleged conduct did not implicate the Chicago Fair Housing Ordinance but rather involved business transactions. The actions related to refusal to allow rental of SRO units were determined to have occurred more than one year outside the filing deadline and thus were not within the Commission's jurisdiction. The Commission determined that the Complainant had not established that she would have qualified for a foster care license in the absence of the landlord's actions, and thus the landlord's racial animus did not cause her injuries. Moreover, Complainant did not prove the existence of the contract terms she claimed required the landlord to make certain repairs, forbear on rent collection, and in other respects support her foster care plans. The Commission emphasized, however, that it thoroughly condemns the racially-biased statements and animus of this landlord which were brought out in the course of the hearing.

Sellers v. Outland, CCHR No. 02-H-73

Sexual Harassment

The Commission awarded attorney fees of \$32,597.50 and costs of \$275.72 to this prevailing Complainant. In 2003, the Commission had found the Respondent landlord liable for sexual harassment of Complainant when she was his tenant, awarded damages, and imposed a fine.

Thomas v. Prudential Biros Real Estate et al., CCHR Nos. 97-H-59 and 97-H-60
Race Discrimination

The Commission found no race discrimination where an African-American couple alleged that a real estate company, its managing broker, and two real estate agents had acted to deny them the opportunity to purchase a house listed with the firm. The Commission determined that Complainants, who were real estate agents for another firm, had initially caused the delayed processing of their offer by submitting it with a split commission provision although the Respondent firm had explained that this was an exclusive listing and it would not split the commission. The Commission found that no racial motivation had been shown in connection with the exclusive listing arrangement. The Commission also found no racial motivation had been shown in connection with the determination to negotiate a purchase agreement with a white couple (one of whom was also a real estate agent) who submitted a better offer as to purchase price and other terms.