



RIGHTS STUFF

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EEOC Sues Two Employers for Alleged Discrimination Against Transgender Employees

The Equal Employment Opportunity Commission (EEOC), the federal agency that enforces federal non-discrimination laws, has filed suit against two employers. In both cases, the EEOC alleges that discriminating against an employee because of his or her transgender status is a form of sex discrimination.

Federal law does not explicitly prohibit discrimination against employees or applicants on the basis of gender identity. The Bloomington Human Rights Ordinance does, to the extent permitted under Indiana law.

Courts have long held that discriminating against a woman because she does not conform to the employer's gender expectations or stereotypes is a form of sex discrimination. For example, if an employer refused to promote a woman because she was not feminine, did not wear make-up, was assertive, etc., that could well be evidence of sex discrimination. The EEOC argues that discriminating against a person because he or she is transitioning from one sex to the other is also sex discrimination, because the individual is not conforming to the employer's gender expectations.

One case is against Lakeland Eye Clinic in Florida. According to the EEOC, the complainant had performed her duties satisfactorily throughout her employment. But

when she began to present as a woman at work and told the clinic she was transgender, she was fired.

The other complaint is against R.G. and G.R. Harris Funeral Homes. The funeral home is located in Michigan. According to the EEOC, the complainant had worked for the funeral homes since 2007 with no performance issues. But when she let her supervisor know in 2013 that she was transitioning to being a woman, she was told that what "you are proposing to do is unacceptable," and she was fired.

In 2012, the EEOC adopted a strategic enforcement plan that says that the EEOC will deem that lesbians, gays, bisexuals and transgender individuals are covered by federal law prohibiting sex discrimination, when appropriate. Bills are pending before Congress that would explicitly add sexual orientation and gender identity to Title VII, the federal fair employment law, but passage anytime soon is not seen as likely.

In announcing the lawsuits, Malcolm Medley, director for the EEOC's Miami office, said, "An employee should not be denied employment opportunities because he or she does not conform to the preferred or expected gender norms or roles of the employer or co-workers. Protections must be afforded to such employees."

BHRC Staff

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Carolyn Calloway-Thomas

Valeri Haughton

Beth Applegate

Birk Billingsley

Mayor

Mark Krusan

Corporation Counsel

Margie Rice

BHRC
PO BOX 100
Bloomington IN
47402
349.3429
human.rights@
bloomington.in.gov



Sex Plus Discrimination in Housing Illegal

Jeffrey Lax is a single man. In 2010, he agreed with the owner of an apartment to buy the apartment for \$200,000. His purchase had to be approved by the co-op's board of directors as well. Lax completed the application, including references, copies of his tax returns and proof of employment.

The board turned down his application. They gave no reason, but the seller told him that the board had turned him down because the sale price was too low. (The apartment had initially been listed at \$219,000.) He agreed to pay a higher price, but then the seller told him that the board "was unwilling to sell to [him] regardless of how much he would be willing to offer for the apartment."

Later, the owner told Lax that the board rejected him because of his

"single male status." The apartment was listed for sale again, at \$215,000. A month later, the asking price had been reduced to \$200,000, Lax's original offer.

Another resident told Lax that the board had a pattern of discriminatory conduct against men who were single because they had a bad experience with a previous single male tenant who "threw loud parties and smoked marijuana." Apparently the Board's prejudice against single men "was commonly known among building residents."

Lax sued the board for sex discrimination in housing, which is prohibited by federal, state and local law. The board argued that marital status is not a protected category under most fair housing laws, which is true. But the Court said that Lax's complaint was based

on his membership in a "specific subtext of a protected class." The Court said that "sex plus discrimination occurs when an individual is subjected to disparate treatment based on gender considered in conjunction with a second characteristic." Such a claim has long been recognized in the employment context, for instance, when an employer treats a woman with children in pre-school differently than it treats a man with children in pre-school.

The Court rejected the board's motion to dismiss.

The case is Lax v. 29 Woodmere Boulevard Owners, Inc., 2011 WL 4425507 (E.D.N.Y. 9/23/11). If you have questions about fair housing, please contact the BHRC.

Goodwill Settles Retaliation Complaint With EEOC

The U.S. Equal Employment Opportunity Commission (EEOC) announced in July that it had settled a lawsuit against Goodwill Industries. According to the EEOC, Goodwill retaliated against an employee in Oklahoma by firing her after she testified on behalf of another Goodwill employee during a sex and age discrimination lawsuit.

Local, state and federal law all prohibit retaliating against someone because she filed a discrimi-

nation complaint or testified on behalf of someone who filed a discrimination complaint.

Under the terms of the settlement, Goodwill will pay the fired employee \$100,000. Goodwill also agreed to notify employees about its fair employment policies and provide training to employees on anti-retaliation laws.

Jeff Lee, an EEOC attorney, said, "Our employment discrimination laws depend on the ability of wit-

nesses to freely provide information to the courts and to the EEOC. American jurisprudence is based on that principle. The EEOC will do whatever is necessary to ensure that witnesses can be confident that when they testify in employment discrimination proceedings, there will be no reprisals against them."



Bloomington Council for Community Accessibility Presents Annual Awards

The City of Bloomington Council for Community Accessibility (CCA) recognized organizations and individuals committed to making Bloomington more accessible to people with disabilities at its annual awards ceremony, held Monday, October 27, at the Fountain Square Ball Room.

The following award recipients were recognized for outstanding service:

Self-Advocacy Award: Cori Mitchell, for her tireless energy and persistence in her ongoing recovery and advocacy for others facing similar struggles.

Professional and Community Service Award: Mary Frasier, for diligently and continually creating opportunities at the Monroe County Public Library to make the library and community more accessible for individuals with autism and their families.

Business Service Award: J.D. Boruff and Barb Dunbar of the City of Bloomington Parks and Recreation Department, for providing unparalleled support and accommodations to make Stone Belt crew members feel that they are an integral part of the day-to-day operations.

Kristin Willison Volunteer Service Award: Trish Ierino, for her resolute passion and for being a positive force as a volunteer and president of the Stone

Belt Board of Directors.

Mayor's Award: Allison Pack, for her 28 years as a valued leader and tireless advocate for individuals supported by Stone Belt.

Special Recognition: Katie Herron, Chair of the Council for Community Accessibility, presented a special recognition award to Craig Brenner, who recently retired as the long-time City staff liaison to the CCA, thanking him for his years of dedication and work on behalf of the Council.

In addition to the awards, five local businesses were presented with AccessAbility Decals. In order to obtain an AccessAbility decal, a business must pass an accessibility screening, conducted by CCA volunteers, that checks ADA compliance for parking, path of travel, entrance, elevators, stairs and railings, common areas, restrooms and customer service. Representatives from Indiana Legal Services, the new Bloomington Transit Downtown Transportation Center, Oliver Winery Downtown, Petsmart and Starbucks West were each presented with a decal to display on their storefront. These decal recipients join the nine other businesses that have received a decal in 2014, including Bloomingtons Elm Heights, Bloomingtons Ivy Tech, Chick-fil-A, Feast Market & Cellar, Function Brewing, Global Gifts, Mr. Hibachi,

Premier Healthcare and Shalom Community Center.

The ceremony included an educational keynote presentation by Kathie Snow, an expert on the subject of disability and author of *Disability is Natural*. Snow is a wife and mother, as well as an author, public speaker, trainer and consultant. She is the parent of two young adults, one of whom has a disability diagnosis, and she combines her earlier career in media with personal experiences in the disability arena to ignite positive and long-lasting change.

The awards ceremony was presented by the City of Bloomington's Community and Family Resources Department, along with the following sponsors: CFC Properties, City of Bloomington Human Rights Commission, Down Syndrome Family Connection, e2Taxi, Indiana Institute on Disability and Community, IU Credit Union, Ivy Tech Community College, Kappa Kappa Sigma Philanthropic Sorority Iota Chapter, Kiwanis of Bloomington, LifeDesigns, Inc., Oliver Winery, Southern Indiana Center for Independent Living, Stone Belt and United Way of Monroe County.

For more information visit www.bloomington.in.gov/CCA.



Dr. Martin Luther King, Jr. Birthday Celebration Commission Announces 2015 Video Contest

The City of Bloomington Dr. Martin Luther King, Jr. Birthday Celebration Commission announces the guidelines for its 2015 video contest. The Commission invites Bloomington-area students in elementary through high school to submit an original video that addresses the legacy of Dr. Martin Luther King, Jr.

Successful videos will include specific references to the life and legacy of Dr. King. Videos must be between 45 seconds and 3 minutes long and posted to YouTube in order to be considered for the contest. Students entering the contest also should complete the online submission form, which must include the URL to the YouTube video. In addition, the Participant Release Form is required

for any non-historical person appearing in the video, including but not limited to persons videotaped, quoted or recorded. The online submission and release forms can be found on the MLK Commission website at www.bloomington.in.gov/MLK. The deadline for submissions is Friday, December 12 at 5 p.m.

All videos posted by the submission deadline and deemed acceptable by the Dr. Martin Luther King, Jr. Commission will be available for viewing and voting by the public. The winning video will be shown at the City of Bloomington Dr. Martin Luther King, Jr. Birthday Celebration on Monday, January 19, at the Buskirk-Chumley Theater. Also, the creators of the winning

video may receive a \$50 prepaid gift card (for an individual submission) or a pizza party (for a group submission).

The City of Bloomington Dr. Martin Luther King, Jr. Commission exists to celebrate the life and legacy of Dr. King and to promote the acceptance of diversity. More information on the Commission may be found at www.bloomington.in.gov/MLK.

For more information on providing the URL or the video contest guidelines and release form, contact MLK Commission liaison Michael Shermis at 349.3471 or shermism@bloomington.in.gov.

BHRC Seeks Nominations for Annual Human Rights Award

The BHRC is seeking nominations for its annual Human Rights Award. Nominees should be individuals or groups who have made specific, significant contributions to improving civil rights, human relations or civility in our community.

The BHRC especially welcomes nominations demonstrating success in ensuring rights to equal access to housing, employment

or education; in ensuring equal access to community life for people with disabilities and of people or organizations who have done exemplary work and advocacy in increasing civility and tolerance. The recipient(s) will be honored at a public ceremony. Nominations are due by 5 p.m. on Friday, December 12. The nomination form is available on the City's web page at www.bloomington.in.gov/bhrc.

For a nomination form or for more information, contact the Bloomington Human Rights Commission at 349.3429 or human.rights@bloomington.in.gov.

