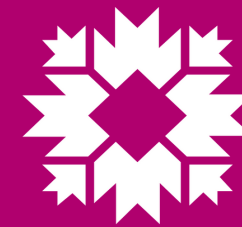


# RIGHTS STUFF

A Publication of The City Of Bloomington Human Rights Commission



CITY OF BLOOMINGTON

## HOA May Be Responsible for Not Taking Prompt Action Against Biased Resident

Donata Banks, a Black woman, rented a home in Indianapolis, beginning in 2016. Her house was in the Twin Creeks subdivision and subject to rules of a homeowners association (HOA). Kirkpatrick Management managed the subdivision and was responsible for maintaining common areas, addressing any rules violations and communicating with the HOA board.

Vicki New is a white woman who began renting a home in the subdivision in 2015. Her house was across the street from Banks' home. She said the HOA board was not properly elected and thus did not have the power to hire Kirkpatrick. She never had a position with the HOA, but she asserted throughout the neighborhood that she was in charge of the HOA. She demanded that her neighbors follow the rules as she interpreted them. The HOA attorney sent her a letter addressing her belief that the HOA was not legitimate.

A few months later, the attorney sent her another letter, telling New to stop harassing her neighbors. But the harassment continued. She repeatedly used the n word towards her Black neighbors and also used hostile language against Mexicans and

gays. A Black woman who had rented Banks' house before Banks moved out because of New's behavior, which included threats against the woman's life.

More complaints to the HOA about New followed. New told one neighbor that her licensed, in-home day care was illegal, and that the neighbor should "go back to her own country." The neighbor moved out. She told another neighbor that he had no right to be mowing his neighbor's yard, called him a racial slur and told him to "get his Black a\_\_ back home." She told yet another neighbor she was going to call Child Services to have her children taken away and said she would be a "dead Mexican." When this neighbor put up "no trespassing" signs in her yard, as police had suggested, New pulled up the signs, broke them over her knee and told the resident "Touch me and I'll kill you." And on and on.

When the neighbors complained to the HOA, the HOA told them to call the police. After more complaints, a meeting between residents and the board and a story about the ordeal on local news, the HOA finally wrote New and told her that if she caused

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# City Women's Commission Seeks Nominations for Annual Awards

The City of Bloomington Commission on the Status of Women is seeking nominees for the 2022 Woman of the Year, Toby Strout Lifetime Contribution, Emerging Leader and Young Woman of the Year awards. Although nominations for these awards are accepted year-around, the deadline for submission of nominations for 2022 is February 11. The awards will be presented during Women's History Month in March 2022.

The Woman of the Year Award is presented to a woman who has improved the quality of life for other women through inspiration, community service, or professional accomplishments above and/or outside normal job responsibilities. The recipient is someone who serves as a positive role model for girls and women and who has made outstanding contributions to the community.

Named for the former director of Middle Way House and former member of the Bloomington Commission on the Status of Women, the Toby Strout Lifetime Contribution Award recognizes a woman whose work has significantly advanced the status of women through leadership and service.

The Emerging Leader Award acknowledges a woman with a relatively short (fewer than five years) history of significant achievements and recognizes the potential for future contributions.

The Young Woman of the Year Award recognizes a young woman between the ages of 11-18 years who has already impacted girls/

women issues in the community. Self-nominations are encouraged in this category.

Nomination forms are available online at <https://bton.in/bdj-i>, in the City of Bloomington's Community and Family Resources Department, Suite 260 or by contacting Marissa Parr-Scott at [marissa.parrscott@bloomington.in.gov](mailto:marissa.parrscott@bloomington.in.gov).

Nominations should include the name, address, telephone number and e-mail address of the nominee in addition to the reasons why the nominee merits the award, and how her community service has benefited women. The nominator also should include his or her name, address, telephone number and e-mail address.

Send completed nomination forms by email to [marissa.parrscott@bloomington.in.gov](mailto:marissa.parrscott@bloomington.in.gov) or by mail to The Commission on the Status of Women, P.O. Box 100, Bloomington, IN 47402.

The 2021 award recipients were Penny Caudill – Woman of the Year Award, Cathleen Ingle Weber – Toby Strout Lifetime Contribution Award and Abby Ang – Emerging Leader Award.

**The Human Rights Award Deadline is quickly approaching. The deadline to submit nominations is 5 p.m. Friday, February 11, 2022. Nomination forms can be found online at the BHRC's website.**

## RIGHTS STUFF'S MISSION

*The purpose of Rights Stuff is to provide information about civil rights litigation as a way to encourage adherence to best practices for landlords, providers of public accommodations and employers. We do this by publishing relevant and timely articles from around the country. Please see the reports in this issue to learn more.*

# Court Rules that Landlord May Have to Accept Section 8 Tenant as Reasonable Accommodation

Suellen Klossner, a woman with a disability, bought a mobile home in 2009. It was located in a mobile home park called Table Mound in Dubuque, Iowa.

Her rent for the lot began at \$235 a month; by 2019, after the park was purchased by IADU Table Mound MHP, her rent increased to \$380 a month. The owner also increased other fees.

Klossner, who is unable to work because of her disability, asked the park to accept a housing choice voucher to help her pay her rent. The park refused and she sued.

Klossner said she could not move her mobile home because of its age and condition, but she provided no proof of that to the court. Both parties provided evidence that it would cost about \$10,000 to move the home.

She briefly listed the home for sale and received a few calls, but admitted that “the bottom line is, I really didn’t want to sell my home.”

Her mental health nurse practitioner testified that Klossner

“would not do well” living in a multi-family housing setting.

Table Mound said it didn’t accept Section 8 vouchers because of the burdens doing so places on landlords, including additional contracts, extra administrative work, inefficiencies of recordkeeping, the need to enforce two contracts and decreased control over ensuring the home is maintained.

Klossner argued that Table Mound needed to make an exception to its no voucher policy as a reasonable accommodation for her disability.

Table Mound said that she didn’t need a voucher because of her disability but because she is low income.

The court found that Klossner had shown a nexus between her disability and her lack of income; her disability prevents her from working, and her inability to work limits her income.

The court said that the accommodation was reasonable because it would require the landlord to accept Section 8 only

from tenants who could show that doing so would accommodate the effects of a legitimate disability.

Klossner’s expert testified that the costs of accepting vouchers in the manufactured home setting are minimal, and the court found that the landlord was able to pay for these costs because of its financial position.

The court said that accepting the vouchers would not cause an undue burden, as the landlord accepts vouchers where it is required by law or by existing leases.

Most courts that have considered this issue have not required landlords to accept Section 8 vouchers. Iowa is not in the Seventh District Court of Appeals and thus this is not controlling precedent for Indiana.

*The case is [Klossner v. IADU Table Mound MHP](#), 2021 WL 4739311 (N.D. Iowa 2021). If you have questions about fair housing, please contact the BHR.*

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another incident, the HOA would take legal action against her. She didn’t cause any more incidents and eventually moved out.

The neighbors sued New and Kirkpatrick for negligence and intentional infliction of emotional distress because of the time it had taken for their issues to be resolved.

Kirkpatrick argued that New was not its agent or employee, and that it had no responsibility to people like Banks, who was a renter, not a homeowner. The court disagreed, saying Kirkpatrick arguably owed some duty to the residents to take appropriate action against discriminatory conduct in the neighborhood. Thus, the court denied Kirkpatrick’s motion for summary judgment.

The litigation will continue unless the parties reach a settlement. The case is [Fair Housing Center of Indiana, Inc. and Banks v. New, Kirkpatrick Management Company, Inc. and Twin Creeks Homeowners Association, Inc.](#), 2021 WL 5988397 (S.D.IN 2021). If you have questions about fair housing, please contact the BHR.

# At-home COVID Tests Not Accessible to Blind People

**A**s of this writing, people across the country are scrambling to find at-home COVID-19 tests. Tests continue to be in short supply. But people who are blind or visually impaired often can't use them without assistance.

The instructions on the test have to be read, and they are available only in print. And the result has to be read as well. There are no accessibility features.

Some blind people use video call apps, which pair a blind person with a sighted person who can help the blind person through the testing process. But these can be difficult, and not everyone has access to video calls.

Martin Wingfield of the Royal National Institute of Blind People in Britain noted that his team had developed a pregnancy test that delivers results through raised bumps that a blind woman can read on her own, without someone else reading the results for her and knowing the results before she does. In theory, the technology could be applied to COVID-19 tests.

Another way to make test results available to the blind would be through a change in smell or temperature. But smell changes would not be effective for people who have lost their sense of smell due to COVID-19 or other reasons.



As more home medical tests become available for a variety of health issues, developers need to assess how to make the tests accessible for all.

If you have questions about accessibility, please contact the BHRC.

*(Article based on "COVID Tests Inaccessible to the Blind," by Amanda Morris, published in The New York Times on January 11, 2022, page D4.)*

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## BHRC Issues Annual Hate Incidents Report

**T**he Bloomington Human Rights Commission collects data on hate incidents in our community. We add the incidents to our on-line hate incident report (available at <https://bloomington.in.gov/boards/human-rights>) as we receive them, and at the end of the year, we publish the report.

In 2021, we received eight reports of hate incidents. Most of these seemed to be motivated by racial bias, including racial slurs, references to Aunt Jemima, and making fun of residents' accents and calling them "intruders."

We received six reports of swastika graffiti in December. (We counted this as one incident.) These were crudely painted on public and private locations. Such graffiti naturally is greatly troubling to observers, and quite difficult to investigate. We also received a report of someone painting offensive graffiti on the trail, apparently Nordic runes that praised Nazism.

We also received reports that in October, someone removed four mezuzahs from students' doors. A mezuzah is a scroll that Jewish

people affix to their doors as a symbol of God's presence.

One Asian man reported that he had been attacked by a passenger. He said the passenger asked him if he ate bats and physically attacked him when he called the police.

Visit <https://bloomington.in.gov/boards/human-rights> to see the entire hate incident report. If you want to report a hate incident, go to <https://bloomington.in.gov/boards/human-rights>, email [human.rights@bloomington.in.gov](mailto:human.rights@bloomington.in.gov) or call 812-349-3429.