

RIGHTS STUFF

A Publication of The City Of Bloomington Human Rights Commission



CITY OF BLOOMINGTON



Cindy Stone awarded 2020 Human Rights Award

Cindy Stone received the 2020 Human Rights Award from Bloomington Human Rights Commission Chair Ryne Shadday. Due to the COVID-19 pandemic, Stone was presented with the award during a virtual meeting of the Bloomington Common Council on September 1.

“Cindy has distinguished herself as a pioneering leader, passionate educator, tireless volunteer, stellar role model,

particularly for young women, and champion of LGBTQ+ rights. As such, she is an integral part of the LGBTQ+, and broader Bloomington community, and a powerful inspiration to all who know her — indeed, a treasure to both Bloomington and the IU community and beyond,” Shadday wrote in his nomination.

Stone was the first university staff member and the first openly-gay person to serve on the IU Board of Trustees.

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Being a Veteran is a Legally Protected Classification



Under the Bloomington Human Rights Ordinance, and other laws, it's illegal for an employer to discriminate against a person because he or she is a veteran. No one has yet to file a complaint with the BHRC alleging discrimination on the basis of veteran status, but the United States District Court in Fort Wayne decided such as case in September.

Donald Tricarico worked for Marion General Hospital (MGH) as a chief administrative officer beginning in March, 2016. He was fired in January, 2019 and sued the hospital, alleging discrimination on the basis of disability and/or veteran status.

MGH won summary judgment on the disability claim, but not on the veteran status claim.

Tricarico alleged that his supervisor made negative comments about his "military style." He said she told him she didn't like being called "ma'am" and told him "I'm still here, and I'm still evaluating your military ways."

His supervisor, Stephanie Hilton-Siebert, said that it was not "his military service she took issue with, but rather his militaristic style to performing his job." She said in her affidavit that she "considered Tricarico to have an authoritarian style of work and leadership and I informed him of my belief that he acted in an authoritarian manner." The court agreed that the law does not protect people against

discrimination on the basis of having a "military style," but said that a reasonable jury could interpret her comments as relating to Tricarico's military background and service. Or a jury could interpret her comments to mean that she objected to his military style, not his status as a veteran. The judge said that this question would have to be resolved by a jury.

The case is Tricarico v. Marion General Hospital, 2021 WL 4078066 (N.D. IN 2021). If you have questions about discrimination against veterans, please contact the BHRC.

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.

Fair Housing Laws Do Not Apply to Business Properties

Eddie Hatch and Michelle Davis-Hatch, a Black couple, said they spent more than two years working with the Milwaukee Department of City Development (DCD) to buy a commercial building the city owned. They planned to use the building to create a training facility for entrepreneurs in the food service industry. They said the DCD “entertained offers from several Black entrepreneurs,” but that it gave “unfair support and privilege” to a “white, unfunded developer.” They sued the city under the Fair Housing Act (FHA) and lost.

The FHA makes it unlawful to “refuse to sell . . . or otherwise make available or deny, a dwelling to any person because of race, color, religion, sex, familial status or national origin.” It defines a dwelling as “any building, structure, or portion thereof which is occupied as, or designed or intended for occupancy as, a residence by one or more families, and any vacant land which is offered for sale or lease for the construction or location thereon of any such building, structure, or portion thereof.”

The city argued that the building the plaintiffs wanted to buy, a commercial building, was not a

dwelling and was thus not protected by the FHA. The plaintiffs argued, creatively, that if they had bought the building, their business would have “dwelled in” and “resided in” the property.

The court disagreed. The Fair Housing Act applies to property intended for occupancy as a residence for one or more families. It does not apply to commercial buildings or buildings where businesses reside.

The case is Hatch v. City of Milwaukee, 2021 WL 4149485 (E.D. Wis. 2021). If you have questions about fair housing, please contact the BHRC.

DOJ Settles Discrimination Complaint Against Dental Offices

In June, the U.S. Department of Justice (DOJ) announced that it had reached a settlement agreement with Night and Day Dental. Night and Day Dental operates nine dental offices throughout North Carolina.

The DOJ said that it had investigated Night and Day and found that it refused a woman with HIV as a new patient because of her HIV status. She was seeking routine care,

including a check-up and a cleaning. The DOJ found that the office also required certain bloodwork results from patients with HIV before deciding whether to provide dental care. According to the DOJ, requiring bloodwork results from dental patients with HIV is neither medically necessary nor recommended. The DOJ said that Night and Day’s practices violated the Americans with Disabilities Act (ADA).

Under the agreement, Night and Day Dental must pay \$30,000 to the victim of the discrimination. The office also must train its staff on the ADA, develop and implement a nondiscrimination policy and report and explain to the DOJ every time it either refuses to treat a person with HIV or stops providing treatment after learning of a patient’s HIV.

EEOC Sues Employer for Disability Discrimination

In September, the Equal Employment Opportunity Commission (EEOC) announced that it was suing Agropur, Inc., a dairy processor.

According to the EEOC, one of Agropur's employees had severe dyshidrotic eczema, a skin condition. She is allergic to rubber and plastics. She asked for a reasonable accommodation, including the ability to wear a different type of glove while at work.

Instead of allowing her to wear different gloves, the EEOC alleges, Agropur required the employee to leave work when she had flare-ups. When she left work, the company penalized her by giving her attendance points. And when she had accumulated too many attendance points under the company's policy, Agropur fired her.

Nedra Campbell, a trial attorney for the EEOC, said that "Agropur could have explored ways to accommodate this employee. Instead, the company violated federal law by using a no-fault attendance



policy to discharge this employee. This is a classic example of how an employer caused itself a great deal of unnecessary trouble by refusing an accommodation request."

The EEOC is seeking monetary relief for the employee and an injunction prohibiting the employer from engaging in this type of conduct in the future.

If you are an employer or an employee with questions about accommodation requirements, please contact the BHRC.

Need Help Getting Your High School Diploma?

According to the Census Bureau, more than 30 million adults in the United States do not have a high school diploma. If you don't have a high school diploma, or know someone who doesn't, you might want to consider the Excel Center. The Excel Center Bloomington is a free high school for adults that provides students with an opportunity to earn their high school diploma along with dual college credits and industry-recognized certifications. According to their materials, they provide free childcare onsite, transportation support and a life coach. The program is sponsored by Goodwill.

Students may enroll in the program year-round by going to www.excelcenter.org. Once you enroll, you attend an orientation and then meet with a life coach whose goal is to help you remove barriers and map out a path to success. For more information, call 812-353-8084. The Bloomington school is located at 2088 S. Liberty Drive, Suite 101.

Join us at our next meeting

The next BHRC meeting will take place at 5:30 p.m. on October 25
For more info, visit bloomington.in.gov/boards/human-rights.