

Municipality
of
Anchorage



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George P. Wuerch, Mayor

EQUAL RIGHTS COMMISSION
632 W. 6th Avenue, Suite 110
Anchorage, Alaska 99501

June 11, 2002

Honorable George P. Wuerch, Mayor
Office of the Mayor
Municipality of Anchorage
P.O. Box 196650
Anchorage, Alaska 99519-6650

Anchorage Municipal Assembly Members
Anchorage Assembly Office
P.O. Box 196650
Anchorage, Alaska 99519-6650

Re: Special Report Regarding Activities of the Anchorage Equal Rights Commission

Dear Mayor Wuerch and Anchorage Assembly Members:

On behalf of the Commissioners and staff, we are eager to present this special report on the activities of the Anchorage Equal Rights Commission. On the following pages, you will find the names of the Commissioners and staff who carry out the mission and services of the Commission, and a report and statistics regarding the Commission's accomplishments towards its mission and services.

In January 2002, the Anchorage Equal Rights Commission staff created, and the Commission acknowledged, a new mission statement to demonstrate our dedication and commitment to civil rights in Anchorage. **Therefore, the Anchorage Equal Rights Commission unequivocally states: "The mission of the Anchorage Equal Rights Commission is to enforce municipal anti-discrimination laws and provide equal opportunity to all persons in Anchorage."** The Commission articulated three goals to meet that mission. Those goals are to 1. Respond to inquiries; 2. Respond to complaints and investigate allegations of discrimination, and 3. Eliminate discriminatory practices. The statistics presented throughout this report demonstrate that the Commission and staff are on track to successfully accomplish these goals.

The Anchorage Equal Rights Commission has and is facing many challenges in 2002, yet anticipates many new opportunities in this and upcoming years. The Commission and staff are confident that we will create and renew partnerships with other entities, organizations and citizens, to work toward preventing and eliminating discrimination in the Municipality of Anchorage.

Sincerely,

A handwritten signature in cursive script that reads "Barbara A. Jones".

Barbara A. Jones, Executive Director

**SPECIAL REPORT OF THE
ANCHORAGE EQUAL RIGHTS COMMISSION
JUNE 11, 2002**

I. The Commission and Staff

A. Commission Members

Chris Lyou, Chair, Executive Committee Member
Valorie Moore, Vice-Chair, Executive Committee Member
Elary Gromoff, Jr., Secretary, Executive Committee Member
Holly Hill, Member
Denise Morris, Member
Julie Eaton, Member
Rosalie Sandoval, Member
Wilbur Hooks, Member
Susan Brady, Member
Rosalie Sandoval, Member

B. Staff

Barbara A. Jones, Executive Director
Vacant, Staff Attorney
Daniel L. Nix, Investigator
Sue Winton, Investigator
Vacant, Investigator
Lynda Richards, Administrative Assistant

II. Report on Services: Inquiries, Investigations, and Education

A. Responding to Inquiries or Informational Outreach

The Commission staff receives daily calls from citizens and visitors to Anchorage who are seeking information and assistance. These calls are generated by persons who are confronted with a problem or concern, such as an employee questioning a situation in the workplace that is believed to be discriminatory, or a community member seeking information about housing discrimination laws, or a business entity seeking to ensure compliance with the non-discrimination requirements of the municipal code. If the issue is not within the Commission's jurisdiction, lack of jurisdiction is explained and the caller is immediately referred to the appropriate forums.

In the first five months of 2002, the staff responded to 433 inquiries from citizens, visitors, and businesses in Anchorage; based on that number, during the 2002, the Commission anticipates over 1,000 inquiries and requests for assistance. The staff initiated a goal in 2002 to respond to 100% of all inquiries within 24 hours of the request for assistance. To date, the staff responded to 99.08%, or 429 of the 433 inquiries, within the first 24 hours. In 2001, the commission staff responded to 982 inquiries¹ and in 2000, the staff responded to 898 inquiries; during those years, records were not maintained reflecting the response time to those requests for assistance.

Year	Number of Inquiries	Percent Responded to w/i 24 hours
2000	898	N/A
2001	982 (adjusted) ¹	N/A
2002	1039 (projected)	99.08% (actual through 5 months)

B. Responding to Complaints and Investigating Allegations of Discrimination

1. New Complaints and Caseload

When the Anchorage Equal Rights Commission has jurisdiction in an allegation brought before it, a commission staff investigator assists the individual alleging discrimination in writing a complaint. The investigator then impartially investigates the allegations(s) by gathering relevant information from the involved parties, including witness interviews, collecting and reviewing documents, and in many cases, analyzing comparative information.

¹ This number has been adjusted to reflect different measurement of number of inquiries.

In the first five months of 2002, the Commission staff processed 25 new complaints. Based on this number, and additional staffing, the agency anticipates processing 65-80 complaints in 2002. In 2001, the staff processed 77 new complaints and in 2002, the staff processed 58 new complaints. As noted in the following table, Commission's case load per investigator increased significantly in 2001 and 2002, resulting in an increase in inventory, or the number of pending cases, and a decrease in the number of case closures. To address this bottleneck, the Commission instructed staff to focus its resources on enforcement and investigations. This strategy has been effective since in the first five months of 2002, the staff has closed 15 cases; 3 times the number of five cases closed in the same period in 2001!

	2000	2001	2002
Inquiries	898	982 ¹	1039 (projected)
Investigative Staff	2.5	1.9	2.17 (actual as of 5 months)
New Complaints	58	77	80 (projected)
Closures	67	33	40 (projected)
Inventory	36	77	86 (actual as of 5 months)

2. Completing of Investigations and Time Periods

After completing the investigation, the staff is required by Title 5 to issue written findings with 240 days from filing the complaint. The findings propose either that the complaint be closed for lack of substantial evidence of discrimination; or that there is substantial evidence to support the allegations of the complaint. Cases with findings of substantial evidence of discrimination require that staff attempt to conciliate a settlement. If settlement is not reached, the complaint is taken to a public hearing.

In 2002, to ensure timely completion of investigations, the Commission staff initiated as a measure of its success that 100% of cases must be closed within 240 days. Currently, the greatest challenge before the Commission is to improve the ability of staff to resolve cases within this timeframe. As of May 31, 2002, 86 cases were over 240 days old. In targeting this backlog of cases, 11 of the 15 cases staff closed in the first five months of 2002 were over 240 days old! In 2001, only 55% of cases were closed within 240 days, and in 2000, only 57% were closed within 240 days.

¹ This number has been adjusted to reflect a more accurate method of recording inquiries in 2001.

3. Integrity of the Investigative Process

To ensure the integrity of the investigative process, the Commission requires that staff maintain confidentiality, have mechanisms for review of staff's determinations, and provides notice of rights to the parties. All complaints, including the names of the parties, documents, and witness interview remain confidential unless the complaint is taken to a public hearing. Internal procedures specify that the staff attorney reviews all investigative matters and findings and the Executive Director approves the findings. Moreover, after the findings are issued, the complaint may ask the Commission for reconsideration of the staff's findings. Further, after exhausting the Commission's procedures, either party has a right to appeal the Commission's decision to the Alaska Superior Court.

In 2002, to measure the completeness, thoroughness and expected impartiality of investigations, staff articulated as one of the measures of its success, the number of its cases not appealed or reconsidered. In the first five months of 2002, out of 15 cases that were closed, none were appealed or reconsidered, i.e., 100% - staff exceeded its goal! In 2000 and 2001, 95.5% and 85% of the cases closed were not appealed or reconsidered.

4. Case Resolutions Geared to Eliminate and Prevent Discrimination

The resolution of most complaints is brought about at the end of the investigation by a finding of either substantial or no substantial evidence of discrimination. However, there are a number of other resolutions of complaints authorized by Title 5. These other resolutions are often affected by the ability and interest of the parties in reaching a resolution. The Commission believes it eliminates and prevents discrimination by requiring certain provisions in case resolutions, which have a broad affect on parties other than those in the case being resolved.

In the closures to date for 2002, the Commission was successful in requiring terms and provisions to prevent and eliminate discrimination in 100% of the cases in which the parties reached a resolution. The terms that the Commission was successful in obtaining include the following:

- Training for respondents in three housing discrimination cases and five other discrimination cases;
- The review and implementation of new policies in seven cases; and the redistribution of existing policies and/or new procedures in eight cases;
- Posting of Anchorage Equal Rights Commission posters in all cases.

5. Public Hearings and Litigation

The Anchorage Equal Rights Commission takes cases in which there is a finding of substantial evidence to public hearings. It also may enforce settlement agreements and defend decisions of the Commission in appeals to Superior Court, as well as may be involved in other litigation. The public hearings and litigation involving the Commission in 2002 include the following:

Killpatrick v. Delta Global Services, Inc., is a race discrimination case alleging failure to hire, failure to train, and failure to promote. Although the parties were engaged in settlement discussion, the discussions were ultimately unsuccessful. Thus, the public hearing scheduled for October 15-17, 2002.

Nguyen v. AERC/MOA, was filed as an appeal of the AERC Commission's decision to deny reconsideration of the determination of no substantial evidence. The parties agreed to dismiss the case with prejudice on February 27, 2002; the court signed the order on March 20, 2002.

Thomas et al. v. AERC et al., was filed by plaintiffs seeking a declaratory judgment that the anti-discrimination provisions of Title 5's marital status provisions are unconstitutional with respect to them.

II. C. Report on Prevention and Elimination of Discriminatory Practices, Education and Outreach

This year, although focusing on the backlog of cases and timely completion of new investigations, the Commission, in the new mission statement, has renewed its intent to participate in activities and programs committed to eliminate and prevent discrimination. Some of those opportunities occur during case processing. For example, the inquiry and assistance calls received by Commission staff are a primary contact with the public and the first opportunity to provide education and information about the prohibitions of discrimination and discriminatory practices as defined in Title 5. Although the Commission staff does not provide advisory opinions, often the staff can provide landlords, businesses, and employers sufficient information to help prevent non-discriminatory action and procedures.

In addition to the assistance staff provides to individuals through phone calls, letters, or e-mails, the Commission staff requires education and training in most settlement agreements. In two instances, the staff has been able to build on case-required training to initiate education programs not directly related to the case and thus provide training to prevent discrimination before it occurs. Similarly, if the commission staff

becomes aware of policies or procedures that are or may be discriminatory, the staff requires a revision of policies, procedures, or practices often re-asserting anti-discrimination policies that are not being followed or require revisions. As noted above, this policy has resulted in drafting, redrafting or restating policies and procedures in 100% of all cases resolved in 2002.

When citizens and businesses call to request specific education and training from the Commission staff, these calls are handled on an individual basis and the Commission is capable of providing assistance depending on resources. In 2002, Commission staff has provided substantive non-discrimination training to four organizations through its video tape library, three involving non-discrimination in housing, and one involving training in educational institutions. In addition, the commission staff initiated discussions with realtor agencies and the President of the State Board of Realtors to provide housing non-discrimination training in 2002. In 2001, the Commission staff attorney provided substantive training at one public meeting involving 50 individuals. In 2000, the Commission staff attorney provided substantive training to five organizations involving approximately 100 individuals.

II. 2002-2003 Executive Director Goals for the Anchorage Equal Rights Commission

- Complete staff recruitment to ensure 3+ staff allocated to investigations
- Reduce pending cases to under 240 days
- Increase training opportunities for Staff & Commissioners
 - Two Investigators Attend NAHRW Conference annually
 - Staff Attorney Attends EEOC/FEPA training annually
 - One Commissioner & Staff Member to attend IOHRA annually
- Increase funding for professional expenses related to legal fees for public hearings, redrafting Title 5, and other litigation.
- Improve infrastructure within the commission
 - New computers, phones, copier, monitors, printer, laptop, scanner, update cabling
- Improve other structure within the commission
 - Develop, if feasible, Alternative Dispute Resolution/Mediation Program
 - Move to network drive
 - Create new Access database to better monitor statistics
 - Improve internal administrative & investigative policies & procedures
 - Update commission brochures, information and logo
 - Improve docketing system
 - Continue internal staff and commission training

ADDENDUM to Report on Services 2002

To date, the Anchorage Equal Rights Commissioners and staff have participated in the following educational and outreach activities:

- **Minority Community Police Relations Task Force –**
AERC Advisory Member; four Commissioners are Members representing constituencies
- **Mayor's Kitchen Cabinet on Racism -**
AERC staff attended; three Commissioners are Members on Kitchen Cabinet
- **Alaska Bar Association, Employment Law Section –**
Executive Director, Co-Chair, planning and attending monthly meetings
- **US Equal Employment Opportunity Commissioner Paul Steven Miller –**
Commission Chair, Executive Director, and staff prepare and attend reception/presentation
- **Alaska Bar Association, Annual Convention –**
Executive Director, Introductory Speaker for Presentations by EEOC Commissioner Miller
- **Fairness in the Workplace Presentation –**
EEOC Commissioner Paul Steven Miller and Seattle District Director Jeanette Lenio, Executive Director attended
- **Fair Housing Open House to Celebrate Fair Housing Month –**
Commission Chair, Executive Director, and all staff assist and attend
- **Diversity Awareness Team –**
AERC Staff attends Team Meetings and Functions
- **YWCA Diversity Planning Committee –**
Executive Director meeting with member
- **Alaska Affordable Housing Partnership Meetings –**
Executive Director Member and Attends Meetings
- **Municipality of Anchorage Investing for Results Steering Committee –**
Executive Director Member and attend meeting
- **Community Development Department –**
Update Activities under Action Plan and Continuity of Care Meetings, Executive Director and AERC Staff member;
- **HAND (Housing and Neighborhood Development) Commission Meeting –**
AERC Executive Director
- **Equal Employment Opportunity Commission/Fair Employment Practice Agency –**
Annual Convention, San Antonio, Texas, Executive Director represented Commission
- **Leadership Transition Training – AERC Staff**
- **U.S. Housing and Urban Development FHIP presentation –**
AERC Staff Member represented Commission
- **AnchorRides –**
Update and presentation, AERC Executive Director and Staff Member
- **Representative of Alaska Law Review, from Duke University Law School**
Executive Director meeting and discussion
- **Municipality of Anchorage, Employee of the Year Celebration –**
AERC Executive Director and Staff attended
- **Anchorage Association of Women Lawyers –**
AERC Executive Director Member and attended bi-monthly meetings

Anchorage Equal Rights Commission
Training Quiz

1. You are the only female employee in your department. Every morning, the “guys” stand around near your desk and tell dirty jokes or recount their sexual prowess from the night before. They don’t include you in the conversation and you don’t participate but occasionally you laugh so as not to be left out, yet you find the conversation uncomfortable.
Is the conduct unwelcome? Yes. No.
Is this verbal or physical conduct of a sexual nature? Yes. No.
2. An employee has multiple sclerosis. She is affected by fatigue, shakiness and some problems with muscle control related to walking. Is this a disability? Yes. No.
3. One of your employees reports to you that she has suffered a back injury and will no longer be able to lift anything over 40 pounds. An essential requirement of her job is that she be able to lift 50 pounds. As the supervisor of the employee, what should you do?
 - a. Excuse her from lifting anything over 40 pounds.
 - b. Put her on light duty until she feels better.
 - c. Ask for documentation from her physician regarding her condition and limitations.
 - d. Tell her to go home and not to return to work until she is able to do her job.
4. Charlie is a black employee with a nearly perfect attendance record. He asks one day if he can leave an hour early so he can beat the traffic out of town for a fishing trip. You tell him that will be fine. Fred is a white employee. He has been written up three times in the last month for being late. One week after Charlie left early for his fishing trip, Fred asks if he can leave an hour early so he can pick his wife up at the airport. Knowing Fred’s habit of being late, you tell him he has to stay until his shift ends. Can Fred show a prima facie case of disparate treatment based on race? Yes. No.

BARBARA A. JONES

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(907) 343-4339

EDUCATION

J.D., UNIVERSITY OF DENVER, DENVER, COLORADO. May 1992. Member: Honor Board, 1989-1992; Honor Board Chairperson 1991-1992. Member: Phi Delta Phi.

B.B.A., UNIVERSITY OF DENVER, DENVER, COLORADO. August 1987. Award for Service to the University of Denver, 1987. Editor, The Weekender.

EMPLOYMENT

MUNICIPALITY OF ANCHORAGE, ANCHORAGE EQUAL RIGHTS COMMISSION, 632 W. 6TH AVENUE, SUITE 110, ANCHORAGE, ALASKA, 99501. STAFF ATTORNEY. February 22, 1999 – present. RESPONSIBILITIES: Conduct legal research to remain current on state and federal civil rights laws. Provide legal opinions and direction to the investigative staff. Provide other legal support to the Executive Director and staff as needed. Review investigative complaint drafts, investigative memorandums, proposed findings and determinations. Represent the agency in public hearings before administrative hearing examiner and in appeals in court. Prepare pleadings including subpoenas, complaints, motions, appellate briefs and other pleadings. Prepare discovery requests and defend and prosecute depositions. Participate in conciliation meetings with respondents and investigators. Provide legal review and approval of co-filed investigative closures issued by co-filing agencies. Draft detailed and routine correspondence to attorneys and other interested persons. Serve as acting Executive Director in his or her absence.

LEE HOLEN LAW OFFICE, 608 W. 4TH AVENUE, ANCHORAGE, ALASKA 99501. ASSOCIATE ATTORNEY and Office Manager. August 15, 1994 – February 21, 1999. Contract Attorney, March 1994 – August 15, 1994. RESPONSIBILITIES: Advise and represent clients in employment matters, including administrative hearings or civil litigation. Conduct extensive legal research regarding state and federal civil rights laws. Prepare pleadings including complaints, answers, motions for and oppositions to summary judgment, motions in limine and to compel, jury instructions, appellate briefs and other pleadings. Prepare discovery requests, defend and prosecute depositions, review and organize documents and trial exhibits. Prepare cases for and attend oral argument, trial, administrative hearing or mediation. Manage office, including supervising two employees plus two or more contract employees, and managing financial aspects of firm.

SEMPLE & JACKSON (NOW SEMPLE & MOONEY 1120 LINCOLN STREET, SUITE 300, DENVER, COLORADO, 80203. ASSOCIATE ATTORNEY, October 1992 – April 1993; Law Clerk, March 1991 – October 1992. RESPONSIBILITIES: Conduct extensive legal research regarding state and federal civil rights laws, including employment law, disability law and school law. Draft legal pleadings including post-arbitration briefs, discovery requests, motions in limine, jury instructions, answers to complaints and other pleadings. Prepare trial and administrative hearing exhibits.

BAR ADMISSION

Alaska, 1994 - present. Colorado, 1992-2000. U.S. District Court for the District of Alaska, 1994-1999. Ninth Circuit Court of Appeals, 1997-1999.

PROFESSIONAL ORGANIZATIONS

American Bar Association (ABA), Labor and Employment Section, Individual Rights, Section, Government Lawyers Section. Alaska Bar Association, Co-Chair, Employment Law Section, 1995-present; Civil Pattern Jury Instruction Committee, 1997-2000; Gender Equality Section, 2000-present; Law Related Education Committee, 2001-present. National Employment Lawyers Association (NELA). Alaska Academy of Trial Lawyers (AATL). Anchorage Association of Women Lawyers (AAWL). Phi Delta Phi Legal Fraternity.

PRESENTATIONS AND PUBLICATIONS

Panel Presentation at Employment Law Section on Pretext in Discrimination Cases, November 2000. Presentation on Sexual Harassment at Anchorage Women Lawyers Association, May 2000. Panel Presentation at EEOC Technical Assistance Program (TAPS) on “Reasonable Accommodation” under the ADA, March 2000. Co-author, 1997-1998, Employment Law Chapter for the Women’s Legal Handbook in cooperation with the Joint Alaska State and Federal Gender Equality Task Force and the Alaska Domestic Violence Association. 1993 Federal Employment Law Update for the Employment Law Section, Alaska Bar Association.

OTHER

Municipality of Anchorage, Investing for Results! Steering Committee, December 2001-present. INSIGHTS! Municipality of Anchorage Training for Supervisors, 2000. Municipality of Anchorage, Diversity Training, 2001. Worldwide Lessons in Leadership Series, “The New Leadership Challenge,” November 7, 2001. EEOC/FEPA Conference, June 2001. Girl Scout Leader, 2000-present; Girl Scouts Susitna Council West Service Unit Team Member and Family Partnership Chair, 2001- present. Computer literate, including good knowledge of word processing; ability to conduct computer legal research on Westlaw and the Internet. Fluent in French. Knowledge of Spanish.