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My Thoughts from experience on Maine Human Rights Commission Task Force
assembled by Governor Paul LePage

It was a privilege to work with the Maine Human Rights Commission review panel. I found the group committed to the task at hand, patient in explaining some of the legal talk and flexible in both location and timing of the meetings. I learned a great deal throughout the process. However I have a few concerns with the report the group has written:

1. Perception of Bias

The perception among businesses that the Human Rights Commission has bias is contributing to many businesses settling cases rather than asking for a hearing. In 2015 65% of the settlements resulted in monetary benefits to the Complainant and in 2014 68/% of settlements reported Complainants receiving monetary benefits.. I do not see this a pro-business outcome but rather a “let’s not have this cost us any more \$ situation”. Legal Counsel from Maine Human Rights Commission said to a group of us at an educational seminar I attended in 2015, “You do not want to come before the Human Rights Commission”. This made a big impression on me – I believed her! A fellow landlord told me she attended an educational conference where an administrator from MHRC stated “It isn’t if you will be in front of the Human Rights Commission, but when”. These comments are intimidating.

2. The Basic Structure of the Human Rights Commission

The Maine Human Rights Commission is intended to perform both an advocacy role and a decision making role. How can the same person or office do both as there seems to be a conflict of interest in combining those 2 roles. The 2 roles should be separated thereby reducing the perception of bias and if there is real bias, likely reduce it! By necessity, these 2 entities would not answer to the same boss.

Imagine a system where the district attorney’s office also acted as judge in the criminal case!

3. Too Easy to File a Complaint

To sue someone for small claims court, you have to pay a \$55 filing fee. If you want to take someone in front of the Human Rights Commission, you just write a

letter complaining with some allegations. There is NO filing fee currently. A filing fee would eliminate some frivolous complaints. A filing fee would also help reduce serial filers – in 2015 one person filed 12 separate complaints. Currently a peer is working to defend herself where the complainant has accumulated over 600 complaints through multiple filings...the landlord has hired an attorney, the case is considered frivolous however the time spent responding and money spent on legal counsel are very real costs.

There could be some waiver for people who legitimately cannot afford the filing fee – possibly modeled after systems currently in the court system. Possibly the filing fee could help fund separating the advocacy role from the decision making role.

4. Intention – currently not considered relevant

A business can be found in violation of the Maine Human Rights Act simply because they did not phrase something properly. For example: a prospective tenant calls about a 1 bedroom apt. The tenant wanted to put for 2 adults and 3 children in the 1 bedroom apt. The prospective tenant is told (and I paraphrase) no, that is too many “children”. If the landlord said “No, too many people”, he would not be considered in violation. He would be found at fault in this case. Currently INTENT does not matter – despite evidence that the landlord does not discriminate against children as children occupy his other apartments.

5. Law or Guidelines seem vague

Most business people want to be successful as well as work within the legal system. Could the guidelines be written more clearly so we can all understand their meaning and not have the guideline subject to interpretation?

In summary, there is much to value, respect and appreciate in the Human Rights Act. I feel however that the current climate at the Maine Human Rights Commission is litigious. I prefer there be an atmosphere of cooperation, education, negotiation saving the litigious instances to repeat offenders, blatant acts of discrimination etc.

Thank you and again, I appreciate the opportunity to work with this esteemed committee assembled to study and comment on the Maine Human Rights Commission.