

COUNCIL OF THE DISTRICT OF COLUMBIA
NOTICE

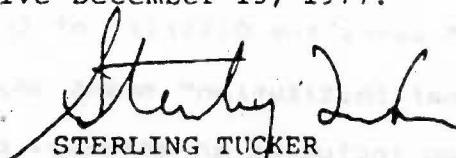
January 6, 1978

Law 2-38

"Human Rights Act of 1977"

Pursuant to Section 412 of the District of Columbia Self-Government and Governmental Reorganization Act, (PL 93-198) the Act, the Council of the District of Columbia adopted Bill No. 2-179 on first and second readings July 26, 1977 and September 13, 1977, respectively. Following the signature of the Mayor on September 28, 1977, this legislation was assigned Act No. 2-83, published in the October 14, 1977, edition of the D.C. Register and transmitted to both Houses of Congress for a 30-day review, in accordance with Section 602 (c) (1) of the Act.

The Council of the District of Columbia hereby gives notice that the 30-day Congressional review period has expired and, therefore, cites the following legislation as D.C. Law 2-38, effective December 13, 1977.


STERLING TUCKER
Chairman of the Council

(Vol. 24, D.C. Register, 2630, October 14, 1977)

To enact Regulation 73-22, A Regulation Governing Human Rights.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA,
That this act may be cited as the "Human Rights Act of
1977".

TITLE I

General provisions

Sec. 101. Intent. It is the intent of the Council of the

District of Columbia, in enacting this act, to secure an end
in the District of Columbia, to discrimination for any
reason other than that of individual merit, including, but
not limited to discrimination by reason of race, color,
religion, national origin, sex, age, marital status,
personal appearance, sexual orientation, family
responsibilities, education, political affiliation,
physical handicap, source of income, and place of residence
or business.

Sec. 102. Definitions. The following words and terms

used in this act have the following meanings:

-2-

(a) "Administrative Procedure Act" means the "District of Columbia Administrative Procedure Act", approved October 21, 1958, as amended (82 Stat. 1204 et seq.; D.C. Code, sec. 1-1501 et seq.);

(b) "Age" means eighteen (18) years of age or older except that, in a case of employment, age shall be defined as eighteen (18) to sixty-five (65) years of age, unless otherwise prohibited by law;

(c) "Chairman" means the duly appointed Chairman of the District of Columbia Commission on Human Rights;

(d) "Commission" means the District of Columbia Commission on Human Rights, as established by Commissioner's Order No. 71-224, dated July 8, 1971;

(e) "Council" means the Council of the District of Columbia as established by section 401(a) of the "District of Columbia Self-Government and Governmental Reorganization Act", approved December 24, 1973 (87 Stat. 785; D.C. Code, sec. 1-141);

(f) "Director" means the Director of the District of Columbia Office of Human Rights, or a designate;

(g) "District" means the District of Columbia;

(h) "Educational Institution" means any public or private institution including an academy, college, elementary or secondary school, extension course,

- 3 -

kindergarten, nursery, school system or university; and a business, nursing, professional, secretarial, technical, or vocational school; and includes an agent of an educational institution;

(i) "Employee" means any individual employed by or seeking employment from an employer;

(j) "Employer" means any person who, for compensation, employs an individual, except for the employer's parent, spouse, children or domestic servants, engaged in work in and about the employer's household; any person acting in the interest of such employer, directly or indirectly; and any professional association;

(k) "Employment Agency" means any person regularly undertaking or attempting, with or without compensation, to procure employees for an employer or to procure for employees, opportunities to work for an employer, and includes an agent of such a person;

(l) "Family Responsibilities" means the state of being, or the potential to become, a contributor to the support of a person or persons in a dependent relationship, irrespective of their number;

(m) "Hearing Tribunal" means members of the Commission, or one or more hearing examiners, appointed by the Commission to conduct a hearing;

-4-

(n) "Housing Business" means a business operated under the authority of a license issued by the Mayor or other authorized District agency pursuant to the Act of July 22, 1967 (D.C. Code sec. 47-2328 (1967)) and the regulations promulgated thereunder;

(o) "Labor Organization" means any organization, agency, employer representation committee, group, association, or plan in which employees participate directly or indirectly; and which exists for the purpose, in whole or in part, of dealing with employers, or any agent thereof, concerning grievances, labor disputes, wages, rates of pay, hours, or other terms, conditions, or privileges of employment; and any conference, general committee, joint or system board, or joint council, which is subordinate to a national or international organization;

(p) "Make public" means disclosure to the public or to the news media of any personal or business data obtained during the course of an investigation of a complaint filed under the provisions of this act, but not to include the publication of EEO-1, EEO-2, or EEO-3 reports as required by the Equal Employment Opportunities Commission, or any other data in the course of any administrative or judicial proceeding under this act; or any judicial proceeding under Title VII of the Civil Rights Act of 1964 involving such

-5-

information; nor shall it include access to such data by staff or the Office of Human Rights, members of the Commission on Human Rights, or parties to a proceeding, nor shall it include publication of aggregated data from individual reports;

(q) "Marital status" means the state of being married, single, divorced, separated, or widowed and the usual conditions associated therewith, including pregnancy or parenthood;

(r) "Matriculation" means the condition of being enrolled in a college, or university; or in a business, nursing, professional, secretarial, technical or vocational school; or in an adult education program;

(s) "Office" means the District of Columbia Office of Human Rights, as established by Commissioner's Order No. 71-726, dated July 8, 1971, as amended;

(t) "Owner" means one of the following:

(1) any person, or any one of a number of persons in whom is vested all or any part of the legal or equitable ownership, dominion, or title to any real property;

(2) the committee, conservator, or any other legal guardian of a person who for any reason is non sui

-6-

juris, in whom is vested the legal or equitable

ownership, dominion or title to any real property; or

(3) a trustee, elected or appointed or required by law to execute a trust, other than a trustee under a deed of trust to secure the payment of money; or one who as agent of, or fiduciary, or officer appointed by the court for the estate of the person defined in paragraph (i) of this definition shall have charge, care or control of any real property.

The term "owner" shall also include the lessee, the sublessee, assignee, managing agent, or other person having the right of ownership or possession of, or the right to sell, rent or lease, any real property;

(u) "Person" means any individual, firm, partnership, mutual company, joint stock company, corporation, association, organization, unincorporated organization, labor union, government agency, incorporated society, statutory or common law trust, estate, executor, administrator, receiver, trustee, conservator, liquidator, trustee in bankruptcy, committee, assignee, officer, employee, principal or agent, legal or personal representative, real estate broker or salesman or any agent or representative of any of the foregoing;

-7-

(v) "Personal appearance" means the outward appearance of any person, irrespective of sex, with regard to bodily condition or characteristics, manner or style of dress, and manner or style of personal grooming, including, but not limited to, hair style and beards. It shall not relate, however, to the requirement of cleanliness, uniforms, or prescribed standards, when uniformly applied for admittance to a public accommodation, or when uniformly applied to a class of employees, for a reasonable business purpose; or when such bodily conditions or characteristics, style or manner of dress or personal grooming presents a danger to the health, welfare or safety of any individual;

(w) "Physical handicap" means a bodily or mental disablement which may be the result of injury, illness or congenital condition for which reasonable accommodation can be made;

(x) "Place of public accommodation" means all places included in the meaning of such terms as inns, taverns, road houses, hotels, motels, whether conducted for the entertainment of transient guests or for the accommodation of those seeking health, recreation or rest; restaurants or eating houses, or any place where food is sold for consumption on the premises; buffets, saloons, barrooms, or any store, park or enclosure where spirituous or malt

Liquors are sold; ice cream parlors, confectionaries, soda fountains and all stores where ice cream, ice and fruit preparation or their derivatives, or where beverages of any kind are retailed for consumption on the premises; wholesale and retail stores, and establishments dealing with goods or services of any kind, including, but not limited to the credit facilities thereof; banks, savings and loan associations, establishments of mortgage bankers and brokers, all other financial institutions, and credit information bureaus; insurance companies and establishments of insurance policy brokers; dispensaries, clinics, hospitals, bath-houses, swimming pools, laundries and all other cleaning establishments; barber shops, beauty parlors, theatres, motion picture houses, airdromes, roof gardens, music halls, race courses, skating rinks, amusement and recreation parks, trailer camps, resort camps, fairs, bowling alleys, golf courses, gymnasiums, shooting galleries, billiards and pool parlors; garages, all public conveyances operated on land or water or in the air, as well as the stations and terminals thereof; travel or tour advisory services, agencies or bureaus; public halls and public elevators of buildings and structures, occupied by two (2) or more tenants, or by the owner and one (1) or more tenants. Such term shall not include any institution, club,

-9-

or place of accommodation which is in its nature distinctly private except that any such institution, club or place of accommodation shall be subject to the provisions of section 267 of this act;

(y) "Political affiliation" means the state of belonging to or endorsing any political party;

(z) "Real Estate and Business Brokers' License Act" means the Act of August 25, 1937, as amended (D.C. Code, sections 45-1401--45-1418 (1967), as amended, Supp. V, 1972).

(aa) "Real estate broker (or salesman)" means any person duly licensed as such in accordance with the provisions of the "Real Estate and Business Brokers' License Act";

(bb) "Real Estate Commission" means the agency by that name created to carry out the provisions of Chapter 14 of Title 45 of D.C. Code;

(cc) "Sexual orientation" means male or female homosexuality, heterosexuality and bisexuality, by preference or practice;

(dd) "Source of income" means the point, the cause, or the form of the origination, or transmittal, of gains of property accruing to a person in a stated period of time; including but not limited to, money and property secured from any occupation, profession or activity, from any

contract, agreement or settlement, from federal payments, court-ordered payments, from payments received as gifts, bequests, annuities, life insurance policies and compensation for illness or injury, except in a case where conflict of interest may exist;

(ee) "Transaction in real property" means the exhibiting, listing, advertising, negotiating, agreeing to transfer or transferring, whether by sale, lease, sublease, rent, assignment or other agreement, any interest in real property or improvements thereon, including, but not limited to, households and other real chattels; and

(ff) "Unlawful discriminatory practice" means those discriminatory practices which are so specified in Title II of this act.

Sec. 103. Exceptions.

(a) Any practice which has a discriminatory effect and which would otherwise be prohibited by this act shall not be deemed unlawful if it can be established that such practice is not intentionally devised or operated to contravene the prohibitions of this act and can be justified by business necessity. Under this act, a "business necessity" exception is applicable only in each individual case where, it can be proved by a respondent that, without such exception, such business cannot be conducted; a "business necessity"

-11-

exception cannot be justified by the factors of increased cost to business, business efficiency, the comparative characteristics of one group as opposed to another, the stereotyped characterization of one group as opposed to another, and the preferences of co-workers, employers, customers or any other person.

(b) Nothing contained in the provisions of this act shall be construed to bar any religious or political organization, or any organization operated for charitable or educational purposes, which is operated, supervised or controlled by or in connection with a religious or political organization, from limiting employment, or sales, or rental of housing accommodations, or admission to or giving preference to persons of the same religion or political persuasion as is calculated by such organization to promote the religious or political principles for which it is established or maintained.

(c) Nothing in this act shall be construed to supersede any federal rule, regulation or act.

Sec. 104. Severability of provisions. If any provision, _____ or part thereof of this act or application thereof to any person or circumstances is held invalid, the remainder of the act and the application of the provision, or part

thereof, to other persons not similarly situated or to other circumstances is not to be affected thereby.

TITLE II

Prohibited Acts of Discrimination

PART A -- General

Sec. 201. **General.** Every individual shall have an equal opportunity to participate fully in the economic, cultural and intellectual life of the District and to have an equal opportunity to participate in all aspects of life, including, but not limited to, in employment, in places of public accommodation, resort or amusement, in educational institutions, in public service, and in housing and commercial space accommodations.

PART B -- Employment

Sec. 211. **Prohibitions.**

(a) **General.** It shall be an unlawful discriminatory practice to do any of the following acts, wholly or partially for a discriminatory reason based upon the race, color, religion, national origin, sex, age, marital status, personal appearance, sexual orientation, family responsibilities, physical handicap, matriculation, or political affiliation, of any individual:

(1) **By an employer.** To fail or refuse to hire, or

to discharge, any individual; or otherwise to discriminate

-13-

against any individual with respect to his compensation, terms, conditions, or privileges of employment, including promotions; or to limit, segregate, or classify his employees in any way which would deprive or tend to deprive any individual of employment opportunities, or otherwise adversely affect his status as an employee;

(2) By an employment agency. To fail or refuse to refer for employment, or to classify or refer for employment, any individual, or otherwise to discriminate against, any individual; or

(3) By a labor organization. To exclude or to expel from its membership, or otherwise to discriminate against, any individual; or to limit, segregate, or classify its membership; or to classify, or fail, or refuse to refer for employment any individual in any way, which would deprive such individual of employment opportunities, or would limit such employment opportunities, or otherwise adversely affect his status as an employee or as an applicant for employment; or

(4) By an employer, employment agency or labor organization.

(A) To discriminate against any individual in admission to or the employment in, any program established

to provide apprenticeship or other training or retraining,
including an on-the-job training program;

(B) To print or publish, or cause to be
printed or published, any notice or advertisement, or use
any publication form, relating to employment by such an
employer, or to membership in, or any classification or
referral for employment by such a labor organization, or to
any classification or referral for employment by such an
employment agency, unlawfully indicating any preference,
limitations, specification, or distinction, based on the
race, color, religion, national origin, sex, age, marital
status, personal appearance, sexual orientation, family
responsibilities, matriculation, physical handicap, or
political affiliation of any individual.

(b) Subterfuge. It shall further be an unlawful
discriminatory practice to do any of the above said acts for
any reason that would not have been asserted but for, wholly
or partially, a discriminatory reason based on the race,
color, religion, national origin, sex, age, marital status,
personal appearance, sexual orientation, family
responsibilities, matriculation, physical handicap, or
political affiliation of any individual.

Sec. 212. Exception. It shall not be an unlawful
discriminatory practice for an employer to observe the

-15-

conditions of a bona fide seniority system or a bona fide employee benefit system such as retirement, pension or insurance plan which is not a subterfuge to evade the purposes of this act, except that no such employee seniority system or benefit plan shall excuse the failure to hire any individual.

Sec. 213. Reports and records. Every employer,

employment agency, and labor organization, subject both to this act and to Title VII of the Civil Rights Act of 1964 as amended, is to furnish to the Office, all reports that may be required by the Equal Employment Opportunities Commission established under the Civil Rights Act of 1964.

PART C -- Housing and Commercial Space

Sec. 221. Prohibitions.

(a) **General.** It shall be an unlawful discriminatory

practice to do any of the following acts, wholly or partially for a discriminatory reason based on the race, color, religion, national origin, sex, age, marital status, personal appearance, sexual orientation, family responsibilities, physical handicap, matriculation, political affiliation, source of income, or place of residence or business of any individual:

(1) To interrupt or terminate, or refuse or fail to initiate or conduct any transaction in real property; or to

-16-

require different terms for such transaction; or to represent falsely that an interest in real property is not available for transaction;

(2) To include in the terms or conditions of a transaction in real property, any clause, condition or restriction;

(3) To refuse to lend money, guarantee a loan, accept a deed of trust or mortgage, or otherwise refuse to make funds available for the purchase, acquisition, construction, alteration, rehabilitation, repair or maintenance of real property; or impose different conditions on such financing; or refuse to provide title or other insurance relating to the ownership or use of any interest in real property;

(4) To refuse or restrict facilities, services, repairs or improvements for a tenant or lessee;

(5) To make, print, or publish, or cause to be made, printed, or published any notice, statement, or advertisement, with respect to a transaction, or proposed transaction, in real property, or financing relating thereto, which notice, statement, or advertisement unlawfully indicates or attempts unlawfully to indicate any preference, limitation, or discrimination based on race, color, religion, national origin, sex, age, marital status,

personal appearance, sexual orientation, family responsibilities, physical handicap, matriculation, political affiliation, source of income, or place of residence or business, of any individual; or

(b) To discriminate in any financial transaction involving real property, on account of the location of residence or business (i.e., to "red-line").

(b) Subterfuge. It shall further be an unlawful

discriminatory practice to do any of the above said acts for any reason that would not have been asserted but for, wholly or partially, a discriminatory reason based on the race, color, religion, national origin, sex, responsibilities, physical handicap, matriculation, political affiliation, source of income, or place of residence or business of any individual.

Sec. 222. Blockbusting and steering. It shall be an

unlawful discriminatory practice for any person, whether or not acting for monetary gain, directly or indirectly to engage in the practices of "blockbusting" and "steering", including, but not limited to the commission of any one or more of the following acts:

(a) To promote, induce, influence, or attempt to promote, induce, or influence a transaction in real property through my representation, means or device whatsoever

-18-

calculated to induce a person to discriminate or to engage in such transaction wholly or partially in response to discrimination, prejudice, fear or unrest adduced by such means, device or representation.

(b) To place a signs or display any other device, either purporting to offer or tending to lead to the belief that an offer is being made for a transaction in real property that is not in fact available or offered for transaction, or which purports that any transaction in real property has occurred that in fact has not.

Sec. 223. Acts of discrimination by broker or salesman.

Any real estate broker or real estate salesman who commits any act of discrimination prohibited under the provisions of this act, if such act or the property involved is within the District of Columbia, or if such act occurs outside of the District of Columbia, in a place where such act is prohibited by State or local law, ordinance or regulation, without regard to location of the property, shall be considered by the Real Estate Commission, for the purposes of the section 8(h) of the Act of August 25, 1937, as amended (D.C. Code, sec. 45-1408(h) (1967)), as having endangered the interests of the public; and shall be subject to the procedures set forth in section 317 of this act.

Sec. 224. Exceptions.

-19-

(a) Nothing in this act is to be construed to apply to the rental or leasing of housing accommodations in a building in which the owner, or members of his family occupy one of the living units and in which there are, or the owner intends, that there be, accommodations for not more than:

(1) five (5) families, and only with respect to a prospective tenant, not related to the owner-occupant with whom the owner-occupant anticipates the necessity of sharing a kitchen or bath; and

(2) two (2) families living independently of each other.

(b) Nothing contained in the provisions of this act, shall be deemed to permit any rental or occupancy otherwise prohibited by any statute, or by any regulation previously enacted and not repealed herein.

PART D - Public Accommodations

Sec. 231. Prohibitions.

(a) General. It shall be an unlawful discriminatory practice to do any of the following acts, wholly or partially for a discriminatory reason based on the race, color, religion, national origin, sex, age, marital status, personal appearance, sexual orientation, family responsibilities, physical handicap, matriculation,

political affiliation, source of income, or place of residence or business of any individual;

(1) to deny, directly or indirectly, any person the full and equal enjoyment of the goods, services, facilities, privileges, advantages, and accommodations of any place of public accommodations;

(2) to print, circulate, post, or mail, or otherwise cause, directly or indirectly, to be published a statement, advertisement, or sign which indicates that the full and equal enjoyment of the goods, services, facilities, privileges, advantages, and accommodations of a place of public accommodation will be unlawfully refused, withheld from or denied an individual; or that an individual's patronage of, or presence at, a place of public accommodation is objectionable, unwelcome, unacceptable, or undesirable.

(b) Subterfuge. It is further unlawful to do any of the

above said acts for any reason that would not have been asserted but for, wholly or partially, a discriminatory reason based on the race, color, religion, national origin, sex, age, marital status, personal appearance, sexual orientation, family responsibilities, physical handicap, matriculation, political affiliation, source of income, or place of residence or business, of any individual.

-21-

PART E - Educational Institutions

Sec. 241. Prohibitions. It is an unlawful

discriminatory practice, subject to the exemptions in section 103(b) of this act, for an educational institution:

(1) to deny, restrict, or to abridge or condition the use of, or access to, any of its facilities and services to any person otherwise qualified, wholly or partially, for a discriminatory reason, based upon the race, color, religion, national origin, sex, age, marital status, personal appearance, sexual orientation, family responsibilities, political affiliation, source of income or physical handicap of any individual; or

(2) to make or use a written or oral inquiry, or form of application for admission, that elicits or attempts to elicit information, or to make or keep a record, concerning the race, color, religion, or national origin of an applicant for admission, except as permitted by regulations of the Office.

Sec. 242. Exceptions Regarding Sex Discrimination.

Nothing in this chapter regarding sex discrimination in admission policy shall apply to any private undergraduate college or to any private preschool, elementary or secondary school; except that, when any of the above exempted colleges offers a course nowhere else available in the District,

-22-

opportunity for admission to that course must be open to students of both sexes who otherwise meet lawful requirements for admission.

PART I - General Requirements

Sec. 251. Posting of notice. Every person subject to this act shall post and keep posted in a conspicuous location where business or activity is customarily conducted or negotiated a notice whose language and form has been prepared by the Office, setting forth excerpts from or summaries of, the pertinent provisions of this act and information pertinent to the filing of a complaint.

Sec. 252. Records and reports.

(a) Every person subject to this act shall preserve any regularly kept business records for a period of six (6) months from the date of the making of the records or from the date of the action which is the subject of the records, whichever is longer; such records shall include, but not be limited to, application forms submitted by applicants, sales and rental records, credit and reference reports, personnel records, and any other records pertaining to the status of an individual's enjoyment of the rights and privileges protected or granted under this act.

(b) Where a charge of discrimination has been filed against a person under this act, the respondent shall

-23-

preserve all records which may be relevant to the charge or action until a final disposition of the charge in accordance with subsection (c) of this section.

(c) All persons subject to this act shall furnish to the Office at the time and in the manner prescribed by the Office such reports relating to information under their control as the Office may require. The identities of persons and properties contained in reports submitted to the Office under the provisions of this section shall not be made public.

Sec. 253. Affirmative action plans. It shall not be an unlawful discriminatory practice for any person to carry out an affirmative action plan that has been approved by the Office. An affirmative action plan is any plan devised to effectuate remedial or corrective action in response to past discriminatory practices prohibited under this act and may also include those plans devised to provide preferential treatment for a class or classes of persons, which preferential treatment by class would otherwise be prohibited by this act and which plan is not devised to contravene the intent of this act.

PART G - Other Prohibited Practices

Sec. 261. Coercion or retaliation.

(a) It shall be an unlawful discriminatory practice to coerce, threaten, retaliate against, or interfere with any person in the exercise or enjoyment of, or on account of having exercised or enjoyed, or on account of having aided or encouraged any other person in the exercise or enjoyment of any right granted or protected under this act.

(b) It shall be an unlawful discriminatory practice for any person to require, request, or suggest that a person retaliate against, interfere with, intimidate or discriminate against a person, because that person has opposed any practice made unlawful by this act, or because that person has made a charge, testified, assisted or participated in any manner in an investigation, proceeding or hearing authorized under this act.

(c) It shall be an unlawful discriminatory practice for any person to cause or coerce, or attempt to cause or coerce, directly or indirectly, any person to prevent any person from complying with the provisions of this act.

Sec. 262. Aiding or abetting. It shall be an unlawful

discriminatory practice for any person to aid, abet, invite, compel or coerce the doing of any of the acts forbidden under the provisions of this act or to attempt to do so.

-25-

Sec. 263. Conciliation agreements. It shall be an unlawful discriminatory practice for a party to a conciliation agreement, made under the provisions of this act, to violate the terms of such agreement.

Sec. 264. Resisting the Office or Commission.

(a) Any person who shall willfully resist, prevent, impede or interfere with the Office or the Commission or any of their representatives, in the performance of any duty under the provisions of this act; or shall willfully violate an order of the Commission, shall upon conviction be punished by imprisonment for not more than ten (10) days, or by a fine of not more than three hundred dollars (\$300), or by both, except that filing a petition for review of an order, pursuant to the provisions of this act, shall not be deemed to constitute such willful conduct, nor shall compliance with any procedure regarding a subpoena in accord with section 1-237, D.C. Code, 1967 Ed., be deemed to constitute such willful conduct.

(b) It shall be an unlawful discriminatory practice for a person subject to this act to fail to post notices, maintain records, file reports, as required by Part F of this act, or to supply documents and information requested by the Office in connection with a matter under investigation.

Sec. 265. Falsifying documents and testimony.

It shall be unlawful to willfully falsify documents, records or reports, which are required or subpoenaed pursuant to this act, or willfully to falsify testimony, or to intimidate any witness or complainant; such violations shall be punishable by imprisonment for not more than ten (10) days, or by a fine of not more than three hundred dollars (\$300), or by both.

Sec. 266. Arrest records. It shall be an unlawful

practice, punishable by a fine of not more than three hundred dollars (\$300) or imprisonment for not more than ten (10) days, or both, for any person to require the production of any arrest record or any copy, extract, or statement thereof, at the monetary expense of any individual to whom such record may relate. Such "arrest records" shall contain only listings of convictions and forfeitures of collateral that have occurred within ten (10) years of the time at which such record is requested.

Sec. 267. District of Columbia licenses. All permits,

licenses, franchises, benefits, exemptions or advantages issued by or on behalf of the Government of the District of Columbia shall specifically require and be conditioned upon full compliance with the provisions of this act; and shall further specify that the failure or refusal to comply with

-27-

any provision of this act shall be a proper basis for revocation of such permit, license, franchise, benefit, exemption or advantage.

Sec. 268. Effects clause. Any practice which has the effect or consequence of violating any of the provisions of this act shall be deemed to be an unlawful discriminatory practice.

TITLE III

Procedures

Sec. 301. Authority of the Director and Commission.

(a) The activities of the Office and the Commission, under the provisions of this act, shall be considered investigations or examinations of municipal matters, within the meaning of the Act of July 1, 1902 (D.C. Code, sec. 1-237; and Reorganization Plan No. 3, 402 (9)); and the Commission, the individual members thereof, and the Director shall possess the powers vested in the Council of the District of Columbia.

(b) The Office is hereby empowered to undertake its own investigations and public hearings on any racial, religious, and ethnic group tensions, prejudice, intolerance, bigotry and disorder; and on any form of, or reason for, discrimination, in accordance with sections 101 and 201 of this act, against any person, group of persons,

organizations or corporations, whether practiced by private persons, associations, corporations, city officials or city agencies; for the purpose of making appropriate recommendations for action, including legislation, against such discrimination.

(c) The Office and the Commission may make, issue, adopt, promulgate, amend and rescind such rules and procedures as they deem necessary to effectuate and which are not in conflict with the provisions of this act. Such rules and procedures and amendments thereto, shall be adopted and promulgated in accordance with procedures promulgated pursuant to the D.C. Administrative Procedure Act.

(d) In taking any action authorized or required by the provisions of this act, the Commission may act through panels or a division of not less than three (3) of its members, a majority of whom shall constitute a quorum.

(e) The Mayor shall recommend to the Council, any additional regulations.

(f) Investigations relating to the enforcement of provisions of this act shall be given priority over all other duties and activities of the Office.

(g) The Mayor shall report annually to the Council as to the progress with regard to the enforcement of this act, and

-29-

any other activity related to the field of human rights deemed valuable to the Council in the pursuit of its responsibilities.

Sec. 302. Complaints filed with other District agencies.

Nothing in the provisions of this act is deemed to relieve any agency or authority of the government of the District of its obligation to take immediate and independent action regarding a matter filed with it, in accord with its jurisdiction, that also may be the subject of a complaint filed with the Office.

Sec. 303. Complaints against District agencies.

Notwithstanding any other provision of this act, the Mayor shall establish rules of procedure for the investigation, conciliation and hearing of complaints filed against District government agencies, officials and employees alleging violations of this act. The final determination in such matters shall be made by the Mayor or his designee.

Sec. 304. Filing of complaints.

(a) Any person or organization, whether or not an aggrieved party, may file with the Office a complaint of a violation of the provisions of this act, including a complaint of general discrimination, unrelated to a specific person or instance. The complaint shall state the name and address of the person alleged to have committed the

-30-

violations hereinafter called the respondent, and shall set forth the substance thereof, and such other information as may be required by the Office. The Director, sua sponte,

may investigate individual instances and patterns of conduct prohibited by the provisions of this act and may initiate complaints in connection therewith. Any complaint under this act shall be filed with the Office within one (1) year of the occurrence of the unlawful discriminatory practice, or the discovery thereof, except as may be modified in accordance with section 303 of this act.

(b) Complaints filed with the Office under the provisions of this act may be voluntarily withdrawn at the request of the complainant at any time prior to the completion of the Office's investigation and findings as specified in section 305 below, except that the circumstances accompanying said withdrawal may be fully investigated by the Office.

Sec. 305. Investigation.

(a) After the filing of any complaint, the Office shall serve, within fifteen (15) days of said filing, a copy thereof upon the respondent, and upon all persons it deems to be necessary parties; and shall make prompt investigation in connection therewith.

-31-

(b) Within one hundred and twenty (120) days after service of the complaint upon all parties thereto, the Office shall determine whether, in accord with its own rules, it has jurisdiction; and if so, whether there is probable cause to believe that the respondent has engaged or is engaging in an unlawful discriminatory practice.

(c) If the Office finds, with respect to any respondent, that it lacks jurisdiction or that probable cause does not exist, the Director forthwith shall issue and cause to be served on the appropriate parties, an order dismissing the allegations of the complaint.

Sec. 306. Conciliation.

(a) If, in the judgment of the Office, the circumstances so warrant, it may, at any time after the filing of the complaint, endeavor to eliminate such unlawful discriminatory practice by conference, conciliation or persuasion.

(b) The terms of a conciliation agreement may require a respondent to refrain, in the future, from committing specified discriminatory practices, and to take such affirmative action as, in the judgment of the Office, will effectuate the purposes of this act; and may include consent, by the respondent, to the entry in court of a

consent decree, embodying the terms of the conciliation agreement.

(c) Upon agreement of all parties to a complaint and upon notice to all parties thereto, a conciliation agreement shall be deemed an order of the Commission, and shall be enforceable as such. Except for the terms of the conciliation agreement, employees of the Office shall not make public, without the written consent of the respondent, information concerning conciliation efforts.

Sec. 307. Injunctive relief. If, at any time after a
complaint has been filed, the Office believes that appropriate civil action to preserve the status quo or to prevent irreparable harm appears advisable, the Office shall certify the matter to the Corporation Counsel, who shall bring, in the name of the District of Columbia, any action necessary to preserve such status quo or to prevent such harm, including the seeking of temporary restraining orders and preliminary injunctions. The appropriate parties shall be notified of such certification and the complainant may initiate independently, or in cooperation with the Corporation Counsel, appropriate civil action to seek a temporary restraining order or preliminary injunction.

Sec. 308. Posting of housing accommodations. If a finding of probable cause has been made, as to a complaint

- 33 -

of discrimination in housing, and the property owners, or his duly authorized agent, will not agree voluntarily to withdraw from the market the subject housing accommodations for a period of ten (10) days from the date of such finding of probable cause, the Office may cause to be posted on the door of said housing accommodations for a period of ten (10) days from the date of said finding a notice advising that said accommodations are the subject of a complaint before the Office and that prospective transferees will take such housing accommodations at their peril. Any destruction, defacement, alteration or removal of the notice therefrom by the owner or his agents, servants and employees, shall be punishable upon conviction by a fine of up to three hundred dollars (\$300), or by imprisonment for not more than ten (10) days, or both.

Sec. 309. Service of Notice. In all cases where the

Office is required to effect service, it shall be accomplished by registered or certified mail, return receipt requested, or by personal service and shall otherwise be in accordance with rules of the Office regarding service and notices.

Sec. 310. Notice of hearing. In case of failure of

conciliation efforts, or in advance of conciliation efforts, as determined by the Office, and after a finding of probable

cause the Office shall cause to be issued and served in the name of the Commission, a written notice, together with a copy of the complaint, as the same may have been amended, requiring the respondent to answer the charges of such complaint at a public hearing before one (1) or more members of the Commission or before a hearing examiner, such hearing to be scheduled not less than ten (10) days or not more than thirty (30) days after such service and at a place to be specified in such notice. Notice shall be served by registered or certified mail, return receipt requested, or by personal service.

Sec. 311. Hearing tribunal.

(a) After a complaint has been noticed for hearing, a hearing tribunal consisting of three (3) members of the Commission, sitting as the Commission, shall be appointed to make a determination upon such complaint. At the discretion of the Commission, one (1) or more hearing examiners may be delegated to hear and report back to the Commission, on any case or question before the Commission.

(b) A hearing examiner may be an employee of the District Government or may be selected from a list of qualified hearing examiners prepared by the Commission. Commission members may serve as hearing examiners. Hearing examiners shall be paid on a per diem basis, while actually

-35-

sitting and hearing a case; PROVIDED, That funds are available for such purpose.

Sec. 312. Conduct of hearing.

(a) The hearing shall be conducted in accordance with procedures promulgated pursuant to the Administrative Procedure Act.

(b) The case in support of the complaint shall be presented by an agent or attorney of the Office.

(c) Any Commissioner or hearing examiner who has participated in the investigation, conciliation or processing of a complaint, or has participated in any decision related to the merits of a complaint, may not sit with a hearing tribunal appointed to make a determination upon such complaint.

(d) Efforts at conciliation by the Office, or the parties, shall not be received in evidence.

(e) If the respondent fails to answer the complaint, the hearing tribunal, or the hearing examiner designated to conduct the hearing, may enter the default; and the hearing shall proceed on the basis of the evidence in support of the complaint. Such default may be set aside only for good cause shown, and upon equitable terms and conditions.

Sec. 313. Decision and order.

(a) If, at the conclusion of the hearing, the Commission determines that a respondent has engaged in an unlawful discriminatory practice or has otherwise violated the provisions of this act, the Commission shall issue, and cause to be served upon such respondent, a decision and order, accompanied by findings of fact and conclusions of law, requiring such respondent to cease and desist from such unlawful discriminatory practice, and to take such affirmative actions, including but not limited to:

- (1) the hiring, reinstatement or upgrading of employees, with or without back pay;
- (2) the restoration to the membership in any respondent labor organization, admission to or participation in a program, apprenticeship training program, on-the-job training program or other occupational training or retraining program;
- (3) the extension of full, equal and unsegregated accommodations, advantages, facilities and privileges to all persons;
- (4) the payment of compensatory damages to the person aggrieved by such practice;
- (5) the payment of reasonable attorney fees; and
- (6) the payment of hearing costs, as, in the judgment of the Commission, will effectuate the purposes

-37-

of this act, and including a requirement for a report as to the manner of compliance with such decision and order. With regard to compensatory damages and attorney's fees, the Commission shall develop guidelines which shall be submitted to the Council for review prior to implementation.

(b) If, upon all the evidence, the Commission finds that a respondent has not engaged in any unlawful discriminatory practice, the Commission shall issue and cause to be served on the complainant, an order dismissing the complaint as to such respondent.

(c) Whenever a case has been heard by one (1) or more hearing examiners who do no have the power to render a final order or decision, the Commissioners, assigned to decide the case, shall serve upon the parties a proposed order or decision, including findings of fact and conclusions of law, with a notice providing that each party adversely affected may file exceptions and present arguments to the Commissioners, on a date not less than ten (10) days from the date of service of the proposed order or decision.

(d) Findings of fact and conclusions of law shall be supported by, and in accordance, with reliable, probative, and substantial evidence.

Sec. 314. Review. Any person suffering a legal wrong,

or adversely affected or aggrieved by, an order or decision of the Commission in a matter, pursuant to the provisions of this act is entitled to a judicial review thereof, in accordance with section 11 of the Administrative Procedure Act, upon filing, in the District of Columbia Court of Appeals, a written petition for such review.

Sec. 315. General Enforcement Provision.

(a) The decision and order of the Commission shall be served on the respondent, with notice that, if the Commission determines that the respondent has not, after thirty (30) calendar days following service of its order, corrected the unlawful discriminatory practice and complied with the order, the Commission will certify the matter to the Corporation Counsel, and to such other agencies as may be appropriate for enforcement.

(b) The Corporation Counsel shall institute in the name of the District, civil proceedings including the seeking of such restraining orders and temporary or permanent injunctions as are necessary to obtain complete compliance with the Commission's orders. In the event that successful civil proceedings do not result in securing such compliance, the Corporation Counsel shall institute criminal action.

-39-

(c) No enforcement action shall be instituted pending review as provided in section 314 of this act.

(d) Nothing in this section shall be construed to deprive any person of rights in the criminal justice process.

Sec. 316. Enforcement by a private person.

(a) Any person claiming to be aggrieved by an unlawful discriminatory practice shall have a cause of action in any court of competent jurisdiction for damages and such other remedies as may be appropriate, unless such person has filed a complaint hereunder: PROVIDED, That where the Office has dismissed such complaint on the grounds of administrative convenience, or where the complainant has withdrawn a complaint, such person shall maintain all rights to bring suit as if no complaint had been filed. No person who maintains in a court of competent jurisdiction, any action based upon an act which would be an unlawful discriminatory practice under this act may file the same complaint with the Office.

(b) The court may grant such relief as it deems appropriate, including but not limited to, such relief as is provided in section 313(a) of this act.

Sec. 317. District licenses.

(a) Whenever it appears that the holder of a permit, license, franchise, benefit, or advantage, issued by any

-40-

agency or authority of the government of the District is a person against whom the Office has made a finding of probable cause pursuant to section 305 of this act, the Office, notwithstanding any other action it may take or may have taken under the authority of the provision of this act, may refer to the proper agency or authority the facts and identities of all persons involved in the complaint, for such action as such agency or authority, in its judgment, considers appropriate, based upon the facts thus disclosed to it.

(b) The Commission, upon a determination of a violation of any of the provisions of this act by a holder of, or applicant for any permit, license, franchise, benefit, exemption or advantage issued by or on behalf of the government of the District of Columbia, and upon failure of the respondent to correct the unlawful discriminatory practice and comply with its order, in accordance with section 315(a), shall refer this determination to the appropriate agency or authority. Such determination shall constitute prima facie evidence that the respondent, with

respect to the particular business in which the violation was found is not operating in the public interest. Such agency or authority shall, upon notification, issue to said holder or applicant an order to show cause why such

privileges related to that business should not be revoked, suspended or denied or otherwise restricted.

Sec. 318. (a) "A Regulation Governing Human Rights - Title 36," enacted November 16, 1973 (Reg. No. 73-22) is hereby repealed: EXCEPT, That any proceeding instituted under Regulation No. 73-22 or Articles 40, 45 or 47 of the "Police Regulations of the District of Columbia" or any violation thereof, which occurred prior to the effective date of this act, shall not be nullified by this act.

(b) The procedures and remedies set forth in this act are to apply to any civil litigation or administrative proceeding pending on or instituted after the effective date of this act as a result of any act, omission or violation of Regulation No. 73-22 or Articles 40, 45, or 47 of the "Police Regulations of the District of Columbia", (as they were before they were repealed by Regulation No. 73-22) which act, omission or violation occurred prior to the effective date of this act.

Sec. 319. Effective date. This act shall take effect upon becoming law pursuant to the "District of Columbia Self-Government and Governmental Reorganization Act", approved December 24, 1973 (87 Stat. 814; D.C. Code, sec. 1-147(c)(1)).

RECORD OF OFFICIAL COUNCIL ACTION

Docket No: 2-179First Reading Action: July 26, 1977 VOICE VOTE: Adopted by Majority (All present)

Robert Williams
Secretary to the Council

 ROLL CALL VOTE:

COUNCIL MEMBER	AYE	NAY	N.V.	A.S.	COUNCIL MEMBER	AYE	NAY	N.V.	A.S.	COUNCIL MEMBER	AYE	NAY	N.V.	A.S.
TUCKER					MASON					SPAULDING				
HARDY					MOORE, D.					WILSON				
BARRY					MOORE, J.					WINTER				
CLARKE					ROLARK									
DEON					SHACKLETON									

X—Indicates Vote A. S.—Absent N. V.—Not Voting

Secretary to the Council

Amended First Reading Action: _____

 VOICE VOTE: _____

Secretary to the Council

 ROLL CALL VOTE:

COUNCIL MEMBER	AYE	NAY	N.V.	A.S.	COUNCIL MEMBER	AYE	NAY	N.V.	A.S.	COUNCIL MEMBER	AYE	NAY	N.V.	A.S.
TUCKER					MASON					SPAULDING				
HARDY					MOORE, D.					WILSON				
BARRY					MOORE, J.					WINTER				
CLARKE					ROLARK									
DEON					SHACKLETON									

X—Indicates Vote A. S.—Absent N. V.—Not Voting

Secretary to the Council

Final Reading or Emergency Action: September 13, 1977 VOICE VOTE: Adopted by Majority (All Present)

Robert Williams
Secretary to the Council

 ROLL CALL VOTE:

COUNCIL MEMBER	AYE	NAY	N.V.	A.S.	COUNCIL MEMBER	AYE	NAY	N.V.	A.S.	COUNCIL MEMBER	AYE	NAY	N.V.	A.S.
TUCKER					MASON					SPAULDING				
HARDY					MOORE, D.					WILSON				
BARRY					MOORE, J.					WINTER				
CLARKE					ROLARK									
DEON					SHACKLETON									

X—Indicates Vote A. S.—Absent N. V.—Not Voting

Secretary to the Council