

**City of Chicago**  
**COMMISSION ON HUMAN RELATIONS**

**ADJUDICATION DIVISION**

**2002 Activity**  
**Concerning Discrimination Cases**  
filed under the  
**Chicago Human Rights Ordinance**  
and  
**Chicago Fair Housing Ordinance**



**Chicago Commission on Human Relations**  
740 N. Sedgwick, Third Floor  
Chicago, IL 60610  
312.744.4111(voice) - 312.744.1088 (TTY) - 312.744.1081 (fax)

**City of Chicago**  
**Richard M. Daley, Mayor**

**Commission on Human Relations**  
**Clarence N. Wood, Chairman**

## Adjudication of Discrimination Complaints

The Enabling Ordinance of 1990 gave the reorganized Commission on Human Relations powers to enforce the Chicago Human Rights Ordinance and the Chicago Fair Housing Ordinance. These powers are exercised through the Adjudication Division. The work of the Division is:

- To receive and investigate complaints of discrimination under the Chicago Human Rights Ordinance and the Chicago Fair Housing Ordinance.
- To facilitate the settlement of cases, where possible.
- To determine, after investigation and hearing, whether discrimination occurred in violation of the City of Chicago ordinances.
- To order remedies if the complainant proves at a hearing that discrimination has occurred.

The orders of the Commission's Adjudication Division carry the force of law. The cooperation of the alleged discriminator in any case where discrimination has been alleged is mandatory, and the Commission has powers of subpoena, default, and negative inference to support its investigations. If the Commission finds, after an administrative hearing, that discrimination occurred, it has the power to order injunctive relief as well as the payment of out-of-pocket damages, emotional distress damages, punitive damages, attorney's fees and costs, and fines.

The role of the Adjudication Division is neutral. It does not serve as either side's lawyer, advisor, or advocate. It is not a prosecutor of the complaint. It does not take the side of either the complainant (the person who filed the complaint) or the respondent (the alleged discriminator).

### Ordinance Amendment

#### Adds Gender Identity as Discrimination Basis

In response to the need of transgender people to be protected against discrimination, in November 2002 the City Council added Gender Identity as a protected classification in the Chicago Human Rights Ordinance and the Chicago Fair Housing Ordinance. Gender Identity is defined as the actual or perceived appearance, expression, identity or behavior of a person as being male or female, whether or not that appearance, expression, identity or behavior is different from that traditionally associated with the person's designated sex at birth. This amendment prohibits discrimination against people whose appearance or behavior is regarded as outside traditional gender norms.

## Filing a Discrimination Complaint

Adjudication intake staff are available during business hours to answer inquiries about filing a complaint under the Chicago Human Rights Ordinance or Chicago Fair Housing Ordinance. Telephone 312/344-4111. Intake staff assist the public with preparation of complaints on a walk-in basis or provide forms for self-preparation of complaints and filing by mail. There is no filing fee.

### What is Discrimination?

To win a discrimination case under the City of Chicago ordinances, a complainant must be able to prove by a preponderance of the evidence that:

- The complainant was subjected to unfavorable treatment by a covered individual, business, or government entity (the respondent).
- This conduct was based on the complainant's status in one or more of these protected categories:

Race	Sex	Age
Color	Sexual Orientation	Disability
National Origin	Gender Identity	Source of Income
Ancestry	Marital Status	Military Discharge Status
Religion	Parental Status	

- The conduct was in one of the following covered areas:

Housing	Public Accommodation
Employment	Credit or Bonding Transactions
- The adverse action took place in the City of Chicago.
- The complainant filed the complaint within 180 days of the date of the alleged discriminatory action.
- The complainant was treated differently *because of* his or her protected status, and not for other legitimate, non-discriminatory reasons.

## How Cases Proceed

People who believe they have been subjected to discrimination as defined in the City of Chicago ordinances must file written complaints with the Commission following a prescribed form. Once they do so, the Commission requires each respondent to provide a written answer and submit supporting documentation and information. The Commission then investigates the claims and defenses of the parties. An investigator typically interviews the complainant, the respondent/s, and any witnesses. The investigator also gathers relevant documents and information, which may include information about the experiences of other people whose situations are comparable to the complainant's.

The investigator will also talk with the parties about whether they wish to try to settle the case before the investigation is completed. Settlement is voluntary.

If the case does not settle (or otherwise close), the investigator completes the evidence-gathering and writes a report summarizing the evidence. Commission senior staff review the report and determine whether or not there is substantial evidence of discrimination. A finding of "substantial evidence" does not mean that the complainant has won the case, only that there is enough evidence of discrimination to proceed further. If the Commission finds that there is not substantial evidence of discrimination, it dismisses the case; the complainant may request a review of the dismissal.

If the Commission finds that there is substantial evidence of discrimination, it holds a mandatory settlement conference. If the parties do not reach a settlement agreement, the Commission then holds an administrative hearing. The administrative hearing is a trial, but somewhat less formal than in a court. A hearing officer, who is an attorney, presides over the hearing and manages the hearing process. The Commission does not prosecute the case or represent the complainant at this hearing; it is the complainant's responsibility to prove the case and to prove entitlement to injunctive and monetary relief as well as attorney fees and costs. Based on the Hearing Officer's recommendation and the rest of the hearing record, the Commission's Board of Commissioners makes the final determination about whether the complainant has proved that the respondent has violated the Chicago Human Rights Ordinance or Chicago Fair Housing Ordinance. If the Board of Commissioners rules that there has been a violation, it also determines what relief will be awarded to Complainant.

## Annual Summary of Adjudication Division Activity

	Housing	Employment	Public Accommodation	Credit	TOTAL
COMPLAINTS FILED	94	247	135	2	478
CASES CLOSED	83	177	105		365
Settled	36	76	35		147
Complainant Failed to Cooperate	21	34	27		82
Complainant Withdrew Case	9	33	13		55
Lack of Jurisdiction	2	4	12		18
No Substantial Evidence	13	29	16		58
Ruling After Hearing	2	1	2		5
CASES FORWARDED TO HEARING STAGE	18	11	7		36
Substantial Evidence	9	6	6		21
Default	9	5	1		15
REQUESTS FOR REVIEW after involuntary dismissal					
Filed	5	7	4		16
Granted	3	0	0		3

Data on new complaints and on requests for review covers calendar year 2002.

Data on cases closed and cases forwarded to the hearing stage covers the period from February 2002 - January 2003, except for rulings after hearing, which cover calendar year 2002.

## DISCRIMINATION BASES CLAIMED IN COMPLAINTS FILED

PROTECTED CLASSES	Hsn g		Empl		Public Accom		Credit		Total Claims	
Race	25	27%	122	49%	47	35%	2	100%	196	41%
Color	2	2%	6	2%	2	1%			10	2%
National Origin	6	6%	19	8%	8	6%			33	7%
Ancestry	2	2%	10	4%	9	7%			21	4%
Religion	3	3%	9	4%	2	1%			14	3%
Sex	15	16%	62	25%	11	8%			88	18%
Sexual Orientation	1	1%	33	13%	5	4%			39	8%
Marital Status	7	7%	5	2%	3	2%			15	3%
Parental Status	19	20%	9	4%	0				28	6%
Age	3	3%	45	18%	4	3%			52	11%
Disability	26	28%	52	21%	73	54%			151	32%
Source of Income	36	38%	0		9	7%			45	9%
Military Discharge	0		0		0				0	
Retaliation	0 <sup>1</sup>		16	6%	3	2%			20	4%
TOTAL COMPLAINTS	94	100%	247	100%	135	100%		100%	478	100%

Percentage figures are based on the percentage of *complaints* containing a claim of discrimination on the basis named. A complaint may claim discrimination on more than one basis (e.g. sex and age) arising out of the facts alleged. This is a change from previous annual reports, which showed percentages of the total *bases* claimed.

---

<sup>1</sup>The Chicago Fair Housing Ordinance does not cover retaliation claims.

## Substantial Evidence Determinations

	Housing	Employment	Public Accommodation	TOTAL
Substantial Evidence	9	6	6	21
No Substantial Evidence	13	29	16	58
<b>TOTAL FULL INVESTIGATIONS</b>	22	35	22	79

The data above covers only those cases in which a determination of Substantial Evidence or No Substantial Evidence of discrimination was made after a full investigation. This does not include all cases which the Commission completed in 2002. Many cases are settled, withdrawn, or dismissed for other reasons before completion of the full investigation. A finding of Substantial Evidence means that there is sufficient evidence that discrimination may have occurred to enable the case to go forward to mandatory conciliation and an administrative hearing if the case does not settle.

## Summary of Administrative Hearing Actions

Number of hearings held in 2002	8
Rulings for respondents (no liability)	1
Liability Rulings for Complainants	4
Damages awarded to complainants	\$55,966.32
Fines awarded to City	\$ 3,085.00
Attorney's Fee Rulings	2
Fees & costs awarded to complainants	\$85,085.72

*Note: Data on number of hearings and number of rulings will not match, as some hearings are held in one year with rulings made in the subsequent year. In addition, some scheduled hearings do not go forward because the parties settle the case prior to the hearing.*

## Summary of Liability Rulings After Administrative Hearings

### Housing

*Rogers & Slomba v. Diaz*, CCHR No. 01-H-33/34  
National Origin and Ancestry

In a default case, the Commission found that the Complainants had established a *prima facie* case of housing discrimination based on their Polish national origin and ancestry, and so were entitled to relief. Each Complainant was living in an apartment building when it was sold to Respondents, a Hispanic husband and wife. After the sale, one Respondent told Complainants as well as a Hispanic tenant that he planned to remove the Polish tenants from the building, thus establishing direct evidence of discriminatory intent. Respondents refused to make repairs requested by Complainants although they responded to repair requests of a Hispanic tenant. Respondents also threatened Complainants when they reported the lack of heat to City agencies, raised Complainant's rents, and in other respects created a hostile environment for Polish tenants. Each Complainant was awarded compensatory damages of \$1,500 and punitive damages of \$3,000, for a total of \$9,000 in damages. The City was awarded fines totaling \$1,085.

### Employment

*Claudio v. Chicago Baking Co.*, CCHR No. 99-E-76  
Race

The Commission found that Complainant's employer discriminated against him based on his race, Hispanic, when it discharged him for leaving work before his replacement arrived, although similarly-situated Caucasian supervisors who violated work rules that were terminable offences (leaving work early and sleeping on the job) were not discharged. The Commission awarded \$41,466.32 in back pay, \$1,000 in emotional distress damages, and a fine to the City of \$500. Complainant was also awarded \$58,017.50 in attorney fees and \$2040.99 in costs.

*Nuspl v. Marchetti*, CCHR No. 98-E-207  
Sexual Orientation

The Commission found Respondent, a restaurant co-owner, liable for discrimination based on sexual orientation when he subjected Complainant, a kitchen manager, to a hostile working environment. Respondent engaged in offensive verbal tirades about gay men which increased in intensity over a relatively short period of time, culminating in a direct attack against Complainant, in front of his staff, using expressions derogatory of him as a gay man. This caused Complainant to quit his job. The Commission awarded Complainant compensatory damages of \$2,500 and imposed a fine of \$1,000. Complainant was also awarded attorney's fees of \$3,837.50 and \$1,122.03 in costs (in 2003).



## **Public Accommodation**

*Schell v. United Center*, CCHR No. 98-PA-30  
Disability

The Commission found no liability for disability discrimination. Complainant, who uses crutches, was not allowed to keep his crutches with him in regular seating while attending a Bulls game at the United Center. The United Center responded that safety issues were presented by allowing crutches to be kept in regular seating areas. The United Center provided a seating area for individuals needing disability accommodations, where Complainant could have kept his crutches with him, but Complainant preferred to sit in the regular seating. The Commission ruled that there was no violation of the Human Rights Ordinance under these circumstances.

*Trujillo v. Cuauhtemoc Restaurant*, CCHR No. 01-PA-52  
Race, National Origin, Color, and Ancestry

In a default case, the Commission found that Complainant had established a *prima facie* case of discrimination and so was entitled to relief. Complainant, who is black and Afro-Hispanic, was left unattended in the Respondent restaurant for approximately 45 minutes while customers of Mexican ancestry were immediately and politely assisted. The server and the restaurant owner were seen whispering to each other and looking in Complainant's direction. After Complainant complained, a server took his order from the center of the room rather than coming to his table, then served his food by pushing it across the table to him. The Commission awarded Complainant \$1,000 in compensatory damages and assessed a fine of \$500.

## **Settlements**

A high percentage of discrimination cases close as a result of settlements between the parties. Complainants as a group obtain a great deal more relief through settlements than through awards after administrative hearings. In 2002, for example, 40% of all closed cases ended with settlements.

Settlement is voluntary between the parties and may occur at any stage of the investigation and adjudication process. When cases settle, the respondents do not admit liability and the Commission makes no judgment as to whether a violation occurred. The Commission does not require or advocate particular settlement terms, although staff, conciliators, and hearing officers do encourage and facilitate settlement.

Individual settlement terms vary and, because many cases settle privately between the parties, the Commission does not always know the terms of settlements including their monetary value to complainants. In the interest of promoting settlement in the future, the Commission does not announce or publicize the terms of particular settlements (although parties may choose to do so if they have not agreed to the contrary).