

Minneapolis Department of Civil Rights

History of Public Accommodation Antidiscrimination Law and Rationale for Resolution

**Supporting Information**

Background

In 1964, Congress enacted Title II of the Civil Rights Act banning discrimination in public accommodations such as hotels, restaurants, gas stations, and places of entertainment based on: race, color, or national origin.<sup>i</sup> Federal law has since expanded its protected classes to include religion and disability. Some states and local municipalities have expanded its class protections, such as the City of Minneapolis which also provides protections for: creed; ancestry; sex; sexual orientation; gender identity; marital status; or status with regarding to public assistance.<sup>ii</sup>

Importance of public services

Because, public accommodations are establishments that provide goods and services to the general public which include, but are not limited to: restaurants; theaters; hotels; hospitals; libraries; gas stations; private transportation and retail stores<sup>iii</sup>-equal access for all people is paramount to meet basic necessities as well as increasing residents overall community satisfaction.

National, state and local discrimination data is limited in the public accommodations arena as it pertains to protected classes at the various governmental levels. Nonetheless, in the City’s most recent Resident Survey in 2012, there was a two percent (2%) increase from eleven percent (11%), to thirteen percent (13%) of participants who believe they were being discriminated against in two areas of public service-retail stores and restaurants.

FIGURE 14: TYPE OF SITUATION WHERE DISCRIMINATION WAS EXPERIENCED COMPARED OVER TIME

In what type of situation did you experience the discrimination?	2012	2011	2008	2005	2003	2001
Getting a job, or at work	14%	21%	16%	18%	NA	NA
In dealing with the City	14%	7%	8%	12%	NA	NA
Getting service in a restaurant or store	13%	11%	11%	11%	NA	NA
General public statements	13%	6%	14%	9%	NA	NA
In my neighborhood	12%	14%	16%	15%	NA	NA
Getting housing	5%	4%	4%	1%	NA	NA
On public transportation (bus)	2%	8%	2%	2%	NA	NA
Other	26%	30%	30%	30%	NA	NA

*"Other" responses were not recorded and not available for analysis. Total may exceed 100% as respondents were able to choose more than one response. This question was asked only of respondents who said they had experienced discrimination. Question wording differed between survey years.*

We do not know if the percentages have increased as of 2016. Nonetheless, these numbers should not be ignored. Long gone are the days where an establishment will say “we don’t serve blacks.”<sup>iv</sup> The discrimination is more insidious, such as: slow service, following, relegating protected classes to less desirable tables, and differing application in dress codes.<sup>v</sup> Specifically in regards to the latter, there has been intense social media conversation over Facebook and Yelp about Minneapolis bars using seemingly innocuous dress code policies to discriminate against people of color.

There is also growing academic concern in the area of public accommodation discrimination in regards to sharing economy platforms-such as Uber and Lyft. There have been growing accusations about race based discrimination in pick-ups and refusals for drop-offs in neighborhoods that are predominately populated by people of color.<sup>vi</sup> The Civil Rights Department has heard informal allegations of the same happening within the City. Many of the economy sharing platforms require drivers and passengers to create profiles, with their names and commonly with pictures of themselves-both of which can correlate to race or ethnic identity.<sup>vii</sup> This in and of itself can create discrimination in passenger pick-up. Because ratings are attached to each person’s profile-the cause of the rating being unclear, there is great potential to use the system as a way to discriminate against people of certain groups.<sup>viii</sup> The worse the rating, the least likely a passenger will be able to utilize the service.

Furthermore, some business owners reject outright providing service to same sex couples or transgender persons, based on religious or moral grounds despite being in the public accommodation sphere.<sup>ix</sup> This, like everything mentioned above, flies in the face of the City of Minneapolis’ laws and its 2016 resolution to support efforts to further transgender equity. However, to determine the scope of such discrimination further inquiry is also needed.

In order to fully comprehend the amorphous ways of public accommodation discrimination and combat its known instances, strategies that are recommended for approval as part of the resolution include:

- That the City of Minneapolis research the prevalence of discrimination in public accommodations and the protected classes it is aimed at.
- Engage in metropolitan wide, multi-jurisdictional public, private and nonprofit collaborative educational training to business owners and community members about the ordinance’s prohibitive activities and protections.
- Work with various enterprise departments and external collaborators to identify business and business sectors engaged in continuous and persuasive behavior.
- Work with various enterprise departments to implement progressive investigatory and enforcement proceedings to hinder discriminatory behavior.
- Implement testing procedures when appropriate.

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<sup>i</sup> Brian K. Landsberg, *Public Accommodations and the Civil Rights Act of 1964: A Surprising Success*, 36 Hamline J. PUB. L. & POL’Y. 1 (2015).

<sup>ii</sup> Minneapolis, Minn., City Ordinance Title 7, Chapter 139.40 (i)(1) (2011).

<sup>iii</sup> Nat’l Center for Transgender Equality, <http://www.transequality.org/know-your-rights/public-accommodations>.

<sup>iv</sup> Landsberg, *supra* note 1 at 17.

<sup>v</sup> *Id.*

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<sup>vi</sup> Nancy Leong, *New Economy, Old Biases*, 100 U. Minn. L. Rev. 2153, 2162 (2016).

<sup>vii</sup> *Id.* at 2163-64.

<sup>viii</sup> *Id.*

<sup>ix</sup> See generally Landsberg, *supra* note 1 at 25.