



JOHNS, FLAHERTY & COLLINS, SC

Good neighbors. Great lawyers.

205 Fifth Avenue S, Suite
600
P.O. Box 1626
La Crosse, WI 54602-1626
Phone: 608-784-5678
Fax: 608-784-0557

June 21, 2023

VIA: EMAIL

501 Empire Street, Suite 102
P.O. Box 50
Holmen, WI 54636-0050
Phone: 608-526-9320
Fax: 608-526-6394

City of La Crosse Human Rights Commission
c/o La Crosse City Clerk
400 La Crosse Street
La Crosse, WI 54601

E-mail:
general@johnsflaherty.com
Web: www.johnsflaherty.com

RE: Kenzie McCoy Discrimination Complaint

ATTORNEYS

Robert P. Smyth
Maureen L. Kinney
Terence R. Collins
Brent P. Smith *
Ellen M. Frantz
Steve P. Doyle
Sonja C. Davig
Brian G. Weber
Joseph G. Veenstra **
Brandon J. Prinsen
Anthony R. Gingrasso *
Justin W. Peterson *
James M. Burrows
David A. Pierce
Katelyn K. Doyle
Emily M. Iverson

Dear Human Rights Commission,

Please consider this letter to be my client's Notice of Removal of this matter from the Human Rights Commission and directing the City Clerk to remove the matter to La Crosse County Circuit Court. I am aware that there is no requirement to provide an explanation for removing a matter to the Circuit Court; however, as a local attorney, taxpayer of the City of La Crosse, and engaged member of local government, I feel compelled to respectfully inform this Commission that the process and procedure for HRC Complaints does not comport with basic tenets of due process.

James P. Gokey
1949-1998
Michael L. Stoker
1956-2011
Daniel T. Flaherty
1923-2013

First, my client was given one day notice of the first hearing; a hearing at which his business and character would be maligned by a former tenant in an open hearing in the City Council chambers. The ordinance absurdly does not allow for adjourning these meetings as was indicated in the Notice of Complaint. Fortunately for my client, it had an established relationship with my law firm that allowed for a relatively quick response to be drafted. If my client did not have such a relationship or if my client happened to be unavailable on one day notice, my client's reputation would have been defamed with no response. Providing unreasonably short notice of hearing and allowing no reasonable requests for adjournment is not how due process functions in a free society.

RETIRED

Robert D. Johns, Jr.
Gregory S. Bonney
Peder G. Arneson

PARALEGALS

Lisa L. Felt
Jane Peterson

* Admitted to the
Minnesota Bar
** Court Commissioner

Secondly, and probably more importantly, as we sit here today, my client is still unaware of what ordinance was allegedly violated. After a long, closed session during which my client and I were barred from hearing deliberation, there was a mere motion finding suspicion of violation. As the attendees of the meeting are aware, our defense was that there is no section of the ordinance that my client violated; thus, this Commission lacks jurisdiction. No member of the Commission and no formal document has stated about what section of Ordinance 22-25 my client

is accused of violating. There was no finding made in open session. After this Commission's finding, my client is expected to go into another hearing with no idea of what ordinance it is accused of violating and defend itself again. Vague allegations of wrongdoing without providing any law/ordinance the accused is alleged to have committed flies in the face of basic principles of due process that allow a person to know the charges or allegations against them.

I understand that this Commission is not a formal court of law, this Commission exists for purposes other than hearing complaints, and this Commission is on a volunteer basis. I fully believe that each member of the Commission has the best interest of society in their service on the Commission. However, this Commission should be aware – going forward with other cases – that it has the power to make decisions that impact people's lives, businesses, and reputations.

As I stated in my letter, this Commission has very specific, reasonable, and important limits on its jurisdiction, and in my opinion, there was no reasonable way to conclude that this Commission has jurisdiction based on the complaint. This Commission has an important mandate that is quite clearly stated in Ordinance 22-22. However, this Commission does not exist to correct every perceived wrong in landlord-tenant law; we have an entire judicial system to adjudicate civil disputes related to contract. This situation quite clearly fits in the civil court system.

I have been in front of this Commission in previous cases; after that case, I found the process to be fair and clear. I did not feel the process was fair or clear in this case. Whether you agree or disagree, my client and I leave this Commission with the conclusion that basic tenets of due process were not followed by this Commission in this case. As a result, I likely will advise future clients to remove cases to circuit court as soon as possible unless I am made aware of substantive changes to this Commission's procedure.

I want to be clear—I do not object to the process that exists in Chapter 22. I do not object to the mandate given to this Commission. I do not object to this Commission's purpose. My qualm is with the refusal to state a finding on jurisdiction, the lack of notice, and the refusal to inform an accused of their alleged violation.

Very truly yours,

JOHNS, FLAHERTY & COLLINS, S.C.

Electronically signed by David Pierce, Jr.

David Pierce, Jr.
e-mail: david@johnsflaherty.com