

City of Chicago  
COMMISSION ON HUMAN RELATIONS  
740 N. Sedgwick, 3rd Floor  
Chicago, IL 60610  
(312) 744-4111 [Voice]  
(312) 744-1081 [Facsimile] / (312) 744-1088 [TTY]

IN THE MATTER OF )  
)  
Sam J. Maggio )  
COMPLAINANT, ) Case No. 03-P-22  
AND )  
) Date of Order: April 2, 2003  
City of Chicago, Chicago Police Dept., )  
Chicago Dept. of Revenue ) Date Mailed: April 3, 2003  
RESPONDENT. )

To: Sam J. Maggio Terry G. Hilliard, Supt. General Counsel to Superintendent  
26 W. 405 Grand Chicago Police Department Chicago Police Department  
Wheaton, IL 60187 3510 S. Michigan 3510 S. Michigan Ave.  
Chicago, IL 60653 Chicago, IL 60653

Bea Reyna-Hickey, Director Maribeth Anderson  
Chicago Dept. of Revenue Department of Revenue  
121 N. LaSalle St., Rm. 107 333 S. State St., Rm 530  
Chicago, IL 60602 Chicago, IL 60604

**ORDER DISMISSING COMPLAINT  
AS OUTSIDE COMMISSION JURISDICTION**

The Commission on Human Relations hereby dismisses the case captioned above because the Complaint is outside the Commission's jurisdiction for the reasons set forth below:

On March 27, 2003, Complainant filed a complaint of public accommodation discrimination, pursuant to the Chicago Human Rights Ordinance, against the above-named Respondents. A copy of the Complaint is enclosed for Respondents. Complainant alleged that he has a disability, as a result of which he has a handicapped parking permit. On December 10, 2002, he received a parking ticket which he contends was invalid because, based on his handicapped parking permit, he was entitled to park in the spot where he was ticketed. He alleges that he wrote and telephoned "the city" and the Department of Revenue to try to rectify the problem, but they placed him on hold and in other respects did not respond.

Complainant further alleges that he received similarly-invalid City of Chicago parking citations on March 16, 1992 and January 8, 1996 and that Respondents were similarly unresponsive to his efforts to rectify the problem. As a result of these recurring incidents, Complainant alleges generally that Respondents knowingly give tickets to motorists with disabilities even when they know they are wrongly based.

Assuming for the purpose of this motion that all of the facts alleged by Complainant are true, this conduct does not constitute public accommodation discrimination in violation of the Chicago Human Rights Ordinance. That is, even if the Respondent agencies did subject Complainant to differential treatment on the basis of his disability, this particular type of conduct is not covered by the City's anti-discrimination ordinances because it does not involve a public accommodation.

In general, the Chicago Municipal Code prohibits disability discrimination in Employment, Housing, Public Accommodations, Credit and Bonding. Section 2-160-120(j) of the Chicago Municipal Code defines a public accommodation as "a place, business establishment, or agency that sells, leases, provides or offers any product, facility or service to the general public." The Commission has ruled that it must examine the specific function in question to determine whether that function constitutes a public accommodation. That function must be a product, facility or service offered to the general public in order for it to be a covered public accommodation. *Solar v. City Colleges et al.*, 95-PA-16 (Sept. 25, 1998). See also *Blakemore v. Chicago Dept. of Consumer Services et al.*, 99-PA-9/12/20 (Aug. 3, 1999 and Nov. 29, 1999), *Shepard v. IBM Corporation, Chicago Dept. of Revenue, et al.*, 98-PA-73 (Aug. 17, 1999), and *Nyah v. DuSable Museum of African-American History*, 95-PA-33 (June 28, 2000).

In this case, the function of which Complainant complains is giving parking citations and then being unresponsive to efforts to persuade Respondents that the citations were improper.

The Commission has consistently ruled that being arrested is not a public accommodation because it is not a "service" to which the person seeks to gain access. For example, in *Holloway et al. v. Chicago Police Dept. et al*, 97-PA-15 et al. (Sept. 30, 1998), the Commission ruled that, with respect to a person who was arrested, the conduct of police is not a public accommodation, because being arrested is not a service offered to the general public and the person arrested (or stopped or cited) is not using or seeking to use a public service.<sup>1</sup>

By analogy, being issued any type of civil citation or civil process as part of the prosecutorial or law enforcement function of a governmental body also is not a service which a person in Complainant's position has sought to utilize, but rather a legal process imposed involuntarily. Therefore, being issued a parking citation is not a public accommodation. For example, in *Scarse v. Chicago Dept. of Streets and Sanitation*, 01-PA-2 (Aug. 9, 2001), the Commission clarified that having one's car towed and having an impounded car kept by the City are not services open to the general public or services a person seeks to use (and therefore not a public accommodation), although a claim about whether the auto pound's office was open to the general public was found to present an open factual issue about whether the office itself is a public accommodation.

In addition, the Chicago Human Rights Ordinance does not operate as a means to appeal or challenge the decision-making and related procedures of an adjudicator or administrative agency with respect to actions taken *against* a member of the public under color of law. Such procedures are not a service or facility offered to the general public; rather, they are part of the law enforcement process which

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<sup>1</sup>There are, no doubt, certain services which the Police Department and Department of Revenue do offer to the general public. For example, the Police Department offers to the general public the opportunity to contact it for the purpose of reporting criminal activity and making certain inquiries, and those types of functions or services would be public accommodations.

can be utilized only by persons who have been cited for particular ordinance violations. That is, the functions are part of the action taken by the City *against* Complainant.

In sum, although Complainant's allegations are troubling, they do not state a claim of public accommodation discrimination under the Chicago Human Rights Ordinance and so the Commission cannot adjudicate them. Complainant may have other remedies, under other applicable law;<sup>2</sup> however, under the Chicago Human Rights Ordinance the Commission on Human Relations has no jurisdiction in this area and so must dismiss this Complaint.

TO SEEK REVIEW OF THIS ORDER, THE COMPLAINANT MUST FILE WITH THE COMMISSION AND SERVE ON THE RESPONDENT A "REQUEST FOR REVIEW" WITHIN 30 DAYS OF THE MAILING OF THIS ORDER, PURSUANT TO REG. 250.110. REQUEST FOR REVIEW FORMS ARE AVAILABLE AT THE COMMISSION'S OFFICE OR THE COMPLAINANT MAY FILE ONE WITHOUT USING A FORM SO LONG AS HIS OR HER FILING CLEARLY SEEKS A REQUEST FOR REVIEW. REQUESTS FOR REVIEW MAY NOT EXCEED 10 PAGES WITHOUT LEAVE FROM THE COMMISSION.

NoJuris.DsmOrd 4-01

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<sup>2</sup>Complainant may wish to consult an attorney about other legal remedies he may have.