

CITY OF CHICAGO
COMMISSION ON HUMAN RELATIONS
740 N. Sedgwick, 3rd Floor, Chicago, IL 60610
(312) 744-4111 (Voice), (312) 744-1088 (TTY/TDD)

IN THE MATTER OF

Ayo Maat,)	
COMPLAINANT,)	
AND)	Case No. 05-P-5
)	
String-a-Strand)	Date of Order: February 20, 2008
RESPONDENT.)	Date Mailed: February 29, 2008

FINAL ORDER ON LIABILITY & REMEDIES

TO: Ayo Maat	String-a-Strand
6951 N. Sheridan Rd.	c/o Sam and Gloria Wolfson
Chicago, IL 60603	3410 N. Lake Shore Drive, Unit 10LM
	Chicago, IL 60657

YOU ARE HEREBY NOTIFIED that, on February 20, 2008, the Chicago Commission on Human Relations issued a ruling in favor of Complainant in the above-captioned matter. The Commission ordered Respondent to pay damages to Complainant in the amount of \$1,500 plus interest commencing on December 16, 2004, to pay the City of Chicago a fine of \$500, and to comply with the orders for injunctive relief set forth in the enclosed ruling. The findings of fact and specific terms of the ruling are enclosed.

Pursuant to Commission Regulations 100(14) and 250.150, a party may obtain review of this order by filing a petition for a common law *writ of certiorari* with the Chancery Division of the Circuit Court of Cook County according to applicable law at this time. Compliance with this Final Order shall occur no later than 31 days from the later of the date of this order.¹ Reg. 250.210.

CHICAGO COMMISSION ON HUMAN RELATIONS
Dana V. Starks, Chair and Commissioner

¹Payment for a fine should be made by check or money order payable to City of Chicago, delivered to the Commission at the above address, to the attention of the Deputy Commissioner for Adjudication. Payments of damages and interest are to be made directly to the Complainant. See Reg. 240.700 for information on calculating interest on damages. See Reg. 250.220 for information on seeking enforcement of an award of relief.

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IN THE MATTER OF)	
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AYO MAAT,)	
Complainant,)	
AND)	Case No. 05-P-05
)	
STRING-A-STRAND,)	Date of Ruling: February 20, 2008
Respondent.)	

FINAL RULING ON LIABILITY AND DAMAGES

I. Introduction

Complainant, Ayo Maat, alleges that she was discriminated against because of her disability when she attempted to shop at the String-a-Strand bead store, located at 4632 N. Lincoln, Chicago, IL. She claims that the entrance to the store was not fully accessible to her motorized wheelchair because of a two-inch step. She alleges that the aisles of the store were too narrow to accommodate her wheelchair and that the prices were not readily visible to a person in a wheelchair. She further claims that the owner of the store, Sam Wolfson, was hostile to her and treated her differently from non-disabled customers. She claims public accommodation discrimination in violation of the Chicago Human Rights Ordinance, Chapter 2-160 of the Chicago Municipal Code.

II. Procedural History

Complainant filed her complaint with the Chicago Commission on Human Relations on January 7, 2005. Respondent filed a timely response denying that it discriminated. After a finding of substantial evidence, on October 10, 2007, an administrative hearing was held. Respondent was granted leave, at that time, to file an Appearance of Counsel.

On November 7, 2007, the Hearing Officer issued his First Recommended Decision. The parties were given until December 10, 2007, to file any objections. On December 7, 2007, Respondent, *pro se*, sent a letter to the Commission objecting to the First Recommended Decision. The Objection, in its entirety, reads as follows:

To the commission of human relations I object the 1st recommendation [sic]. The hearing officer Jeffery L. Taren was unprofessional and biased regarding this case. I was discriminated against as a business man and request a new hearing with an unprejudiced judge. Not anyone on the payroll of the commission of human relations. I have pictures and other documented proof that would have helped my case but everything was overruled by this hearing officer.

Sincerely,
Sam Wolfson

Respondent's Objections do not comply with the requirements of Reg. 240.610(b). The objections do not include any relevant legal analysis, do not point out specific grounds for reversal or modification of any finding of fact and do not make specific reference to the record and transcript.

To the extent that Respondent asserts that the First Recommended Decision should be reversed or modified because the Hearing Officer was "unprofessional or biased", that Objection is overruled. As this Commission has ruled in *Blakemore v. Starbucks*, CCHR No. 97-PA- 60, (Nov. 18, 1998):

...it is clear that a disagreement with decisions of a hearing officer which are contrary to a party's position does not provide evidence of bias. "[I]t is axiomatic that a motion to recuse because of the appearance of partiality may not be based merely upon unfavorable judicial rulings regardless of the correctness of those rulings." *Spangler v. Sears Roebuck and Co.*, 759 F. Supp. 1327, 1332 (S.D. Ind. 1991) (and cases cited therein); see *Pearce v. Sullivan*, 871 F.2d 61, 63 (7th Cir. 1989) ("Prejudice such as will disqualify a judicial officer . . . refers to prejudgment based on information obtained outside the courtroom, rather than to rulings, even if hasty, or errant, formed on the basis of record evidence and other admissible materials and considerations.")

Respondent has identified no conduct of the Hearing Officer that suggests either bias or unprofessional conduct. He simply disagrees with the rulings made. Further, the fact that the Hearing Officer is paid by the City of Chicago lends no support to Respondent's claim that he did not receive a fair and impartial hearing.

III. Findings of Fact and Conclusions of Law

1. On December 16, 2004, Complainant, Ayo Maat, attempted to enter the String-a-Strand bead store, located at 4632 N. Lincoln, Chicago, IL, to purchase jewelry items. She had been referred to the store by members of a jewelry beading circle. (T. 14) Ms. Maat is a person with a disability, having the spinal disorders of osteoporosis and scoliosis. (T. 15) These conditions require her to use a motorized wheelchair for mobility.
2. Ms. Maat was transported to the Respondent store by a paratransit vehicle. She was accompanied by her personal attendant, Demetrius Frazier. (T. 14) When she arrived at the store, Complainant was unable to enter the store unassisted because there was a two-inch barrier and her power wheelchair could not go over the barrier. (T 15)¹
3. Mr. Frazier went into the store and asked Sam Wolfson, owner of String-a-Strand, whether he had a portable ramp. He said that he did not. Because the paratransit driver was still there, he and Mr. Frazier *bumped* Ms. Maat's wheelchair over the step so that she could gain access to the interior of the store. Ms. Maat credibly testified

¹ Sam Wolfson testified that Ms. Maat had "no trouble whatsoever" entering the store. (T. 50) As will be discussed further in this opinion, Mr. Wolfson was not a credible witness. Mr. Wolfson admitted that to enter the store required the assistance of her driver, who held the door, and her assistant who "lifted her up" - not an easy task given the weight of a motorized wheelchair with an adult seated in the chair.

that because of her disabling conditions, even slight bumps cause her some pain. (T. 15)

4. Once in the store, Ms. Maat told Mr. Wolfson that he should have a ramp and that, in her view, the City ordinance required it. (T. 16) Mr. Wolfson responded, consistent with his expressed attitude throughout this case, that she could not tell him what he needed for his store. (T. 16)
5. Ms. Maat alleges that the String-a-Strand store did not have aisles wide enough for her to access the jewelry directly and did not have items prominently priced so that a person in a wheelchair could view them. (T. 16) Ms. Maat has not sustained her burden of proving these allegations. Mr. Wolfson testified that the aisles were approximately five feet wide and all items were priced and marked. (T. 59). With regard to the items hanging on the wall, these items apparently were too far away for anyone to see the price.
6. Complainant alleges that Mr. Wolfson followed her caregiver around the store until he put all the items but one back, paid for the one item and then left the store. (T. 17) Ms. Maat selected her items, placed them on a tray, and then asked Mr. Wolfson if she could pay by check. (T. 18, 53) She discovered at that time that Mr. Wolfson does not accept checks. The Hearing Officer credited Ms. Maat's testimony about what happened next. She asked Mr. Wolfson to total up the bill so that she could go to an ATM and get cash to pay for the items. Instead, he angrily snatched the tray out of her hand. (T. 18) Ms. Maat testified that Mr. Wolfson was very angry. He treated her as if he did not want her business. He raised his voice and, through his actions, caused Ms. Maat to leave the store. (T.32) Having observed Mr. Wolfson at the hearing, the Hearing officer believed Ms. Maat's testimony in this regard and did not believe Mr. Wolfson when he denied snatching the tray from her hands or when he testified, "It's all a lie. It never happened." (T.51)
7. The Hearing Officer noted that Sam Wolfson could barely control his temper at the Administrative Hearing. During Complainant's testimony, he made frequent hostile comments. During the hearing, the Hearing Officer observed him to be physically aggressive with his wife, who was sitting next to him at the witness table, forcibly pushing her arm away in an angry manner. On two occasions during the hearing, the Hearing Officer admonished Mr. Wolfson to be quiet (T. 28) and not to raise his voice while testifying. (T. 80) The Hearing Officer found Mr. Wolfson's hostility to Complainant and his disrespect for the administrative process to be palpable and related to his hostility to Complainant because she had informed him that he should install a ramp at his store. On cross-examination he retorted to Complainant, "I believe that people in wheelchairs are using the system to get money from small companies and they are using every lie possible they could do." [sic] (T. 83)
8. The Hearing Officer found that Mr. Wolfson's demeanor at the Administrative Hearing was consistent with the demeanor described by Complainant. The Hearing Officer found that, in contrast to Mr. Wolfson, Ms. Maat's testimony was detailed, consistent, relatively impassionate, and credible. She testified that unlike the treatment she received from Mr. Wolfson, she observed Mr. Wolfson's interaction with two other shoppers in the store and he was "quite patient with them." (T. 18) The Hearing Officer found that Mr. Wolfson treated Ms. Maat in a hostile manner

because of her disability and differently than he would have treated her if she did not have a disability requiring her to use a wheelchair.

9. After the unpleasant encounter at the register, Ms. Maat exited the store over the same two-inch obstruction. She testified, "I was hurt more going down and out of the store than going up because my caregiver was by himself. He did not have two people helping him. So, I got bumped." (T. 19) She testified that outdoors there were sub-zero wind chills and she and her caregiver went up and down the street to find an ATM and a restaurant where they could wait until her ride finally came. (T. 20)²

10. Section 2-160-070 of the Chicago Human Rights Ordinance ("CHRO") states:

No person that owns, leases, rents, operates, manages or in any manner controls a public accommodation shall withhold, deny, curtail, limit or discriminate concerning the full use of such public accommodation by any individual because of the individual's ... disability.

11. The Commission's Rules and Regulations set forth additional standards used in public accommodation cases. With respect to disability cases, Reg. 520.100 states that no person covered by CHRO §2-160-070 may:

withhold, deny, curtail, limit or discriminate concerning the full use of the public accommodation to any person with a disability unless such person in control can prove that the facilities or services cannot be made fully accessible without undue hardship. In such a case, the owner, lessor, renter, operator, manager or other person in control must reasonably accommodate persons with disabilities unless such person in control can prove that he or she cannot reasonably accommodate the person with a disability without undue hardship.

12. Regulation 520.110 defines "full use" of a public accommodation to mean:

that all parts of the premises open for public use shall be available to persons who are members of one of the protected classes at all times and under the same conditions as the premises are available to all other persons, and that the services offered to persons who are members of one of the protected classes shall be offered under the same terms and conditions as are applied to all other persons.

13. To prove a *prima facie* case of disability discrimination with respect to a public accommodation, Complainant must show that: 1) she is disabled within the meaning of the CHRO; 2) she is a qualified individual in that she satisfied all non-discriminatory standards for service; and 3) she did not have full use of the facility, as other customers did. *Doering v. Zum Deutchen Eck*, CCHR No. 94-PA-35 (Sept. 29, 1995).

² Contrary to Ms. Maat's testimony, Mr. Wolfson testified, "Her driver was there in my store. And her assistant. And they helped her out and her driver, she did not wait two hours in the cold. Her driver was right there." (T. 58) The Hearing Officer did not find this testimony believable, in that it is highly unlikely that a paratransit driver would wait outside a retail establishment for a disabled rider during the 20-25 minutes that Mr. Wolfson said the Complainant was in his store. The Hearing Officer found it much more plausible that the driver left, as the Complainant testified, after Ms. Maat entered the store.

14. Once such a showing is made, the burden is on the Respondent, not the Complainant, to prove by a preponderance of the evidence that the requested accommodation cannot be made without undue hardship. See, e.g., *Smith v. Owner of Baby Gap*, CCHR Case No. 02-PA-125 (Apr. 11, 2003); *Dawson v. YWCA*, CCHR No. 93-E-128 (Jan. 19, 1994) citing *Santiago v. Bickerdike Apts.* CCHR No. 91-FHO-54-5639 (May 20, 1992); *Doering v. Zum Deutchen Eck*, CCHR No. 94-PA-35 (Sept. 29, 1995); *Massingale v. Ford City Mall et al.*, CCHR No. 99-PA-11 (Sept. 14, 2000).
15. The Commission has held that an individual may be deprived of the full use of a facility where he or she cannot readily enter the front entrance in a wheelchair because of the existence of a barrier. *Smith, supra*. A person who must utilize a wheelchair should not be required to choose between risking health and safety and entering a public accommodation, where that facility can be made fully accessible without imposing a substantial hardship.³
16. Ms. Maat has proven her *prima facie* case. Although non-disabled customers are able to enter and exit String-a-Strand without assistance, because of the two-inch barrier, she cannot. She has therefore been deprived of the full use of the facility. Respondent introduced no testimony even suggesting that it would be a hardship to install a permanent ramp or to procure a portable ramp for persons who use wheelchairs. Indeed, Mr. Wolfson stated, when asked whether it would be a hardship to obtain a ramp or eliminate the two-inch step, "I'll put in a ramp if its – if I have to, but I don't think anybody ever had the problem....If I get something from the City of Chicago that says please put in a ramp, I will put in a ramp" (T.88)
17. The Commission accepts and adopts the aforesaid findings of fact and conclusions of law as recommended by the Hearing Officer. The Commission finds that Respondent has violated Chapter 2-160 of the Chicago Municipal Code by depriving Ms. Maat of the full use of its retail store because of her disability.

IV. Compensatory Damages

Ms. Maat has asked for \$1,500 in damages to compensate her for her emotional injuries related both to the denial of access and the disparate treatment she endured at the hands of Mr. Wolfson. The Commission finds that the requested amount is supported by the evidence and consistent with awards in similar cases. See, e.g., *Maat v. Villareal Agencia de Viajes*, CCHR No. 05-P-28 (Aug. 16, 2006) (\$1,000 emotional injury award for inaccessible store entrance) *Maat v. El Novillo Steak House*, CCHR No. 05-P-31 (Aug.16, 2006) (\$1,000 emotional injury award for inaccessible restaurant entrance); *Carter v. CV Snack Shop*, CCHR No. 98-PA-3 (Nov. 18, 1998); and *Macklin v. F & R Concrete et al.*, CCHR No. 95-PA-35 (Nov. 21, 1996).

Ms. Maat testified that she suffered pain from being jostled while entering and exiting the store. While in the store, Mr. Wolfson was disrespectful and rude. He raised his voice to her and snatched the tray of items she had selected to purchase out of her hand. His actions would have

³ Mr. Wolfson asserted that in his six (6) years doing business at his current location, only one other person came into his store in a wheelchair. (T. 79) This is not surprising, as most people tend to avoid places that are difficult to enter.

caused any reasonable customer to become upset and leave the store. Once she left the store, Ms. Maat encountered sub-zero temperatures and had to find a restaurant in which to wait until her paratransit ride returned.

The Hearing Officer noted that Ms. Maat was noticeably upset at the Administrative Hearing when she recounted her experiences with Mr. Wolfson almost three years ago. The lasting effects of this conduct evidences a level of emotional injury that justifies the award of damages. The Commission awards emotional distress damages of \$1,500 as recommended by the Hearing Officer.

V. Interest on the Damages

Reg. 240.700 provides for pre-and post-judgment interest on all damages awarded, at the prime rate, adjusted quarterly, and compounded annually from the date of the violation. Such interest is awarded to Complainant and shall be calculated from December 16, 2004, the date of the violation.

VI. Fine

Pursuant to Section 2-160-120, Chicago Municipal Code, the Commission may impose a fine between \$100 and \$500 if a party is found to have violated the Chicago Human Rights Ordinance. In this case, Respondent has been found to have violated the Ordinance. Ms. Maat's Complaint was filed in January 2005. Respondent has chosen to maintain his premises inaccessible to persons in wheelchairs in violation of the Ordinance at least through the date of the Administrative Hearing. His testimony shows that unless he is specifically ordered to provide an accessible facility, he will not do so. The Commission accepts the recommendation of the Hearing Officer and imposes the maximum fine of \$500 to be paid to the City of Chicago for this violation.

VII. Injunctive Relief

Complainant requests that the Commission enter an Order granting injunctive relief requiring Respondent to install or maintain a ramp and, further, Complainant seeks an order requiring the Respondent to attend "disability awareness and etiquette training." (T. 20)

Injunctive relief is specifically authorized by Section 2-120-510(l), Chicago Municipal Code. Commission case law has also made it clear that the Commission is authorized to grant injunctive relief to remedy past violations of the Ordinance and to prevent future violations. *Frazier v. Midlakes Mgmt., LLC*, CCHR No. 03-H-41 (Sept. 15, 2003); *Sellers v. Outland*, CCHR No. 02-H-73 (Oct. 15, 2003); *Leadership Council for Metro. Open Communities v. Souchet*, CCHR No. 98-H-107 (Jan. 17, 2001).

There is authority for requiring a respondent to attend mandatory training designed to educate him about the law and sensitize him to the issues faced by the victims of discrimination. In *Florez v. Delbovo*, 939 F. Supp. 1341 (N.D. Ill. 1996), for example, the Court ordered the defendant to "enroll in a one-day program or seminar on the subject of discrimination against nonwhite persons and the psychological and emotional injury that can result from such discrimination." Such an order is designed not to punish a respondent but to promote future compliance with the law.

The Commission has ordered training and other tailored forms of injunctive relief for the purpose of promoting future compliance. See, e.g., *Houck v. Inner City Horticultural Found.*, CCHR No. 97-E-93 (Oct. 21, 1998); *Pudelek and Weinmann v. Bridgeview Garden Condo. Assn. et al.*, 99-H-39/53 (Apr. 18, 2001); *Leadership Council for Metro. Open Communities v. Souchet*, CCHR No. 98-H-107 (Jan. 17, 2001) (also ordering the institution of new practices, testing, record-keeping, and monitoring); *Metro. Tenants Org. v. Looney*, CCHR 96-H-16 (June 18, 1997); *Walters and Leadership Council for Metro. Open Communities v. Koumbis*, CCHR No. 93-H-25 (May 18, 1994) (also ordering record-keeping and posting); and *Blake v. Bosnjakovski*, CCHR No. 91-H-149 (Jan 17, 1993).

In this case, the Hearing Officer recommended that an injunction requiring that the entrance to String-a-Strand be made accessible is necessary, but was not convinced that ordering Mr. Wolfson to attend training would be effective. The Board of Commissioners understands the Hearing Officer's viewpoint and recognizes that an appropriate training program tailored to the circumstances of this case may not be readily available. But the Board does believe that Mr. Wolfson should be required to expand his understanding of the needs and rights of persons with disabilities, especially wheelchair users. The Board believes that a reasonable approach is for Mr. Wolfson to contribute a modest amount of time in direct assistance to such individuals, as outlined below.

Accordingly, the Commission adopts the Hearing Officer's recommended injunctive relief with an added requirement, as follows:

1. Within fourteen (14) days of entry of the Final Order of this Commission, Respondent shall eliminate all physical barriers to access by persons in a wheelchair at the front entrance of String-a-Strand. All modifications to the retail store shall, at a minimum, be in accordance with the Illinois Accessibility Code and the American National Standards Institute standards for persons with disabilities ANSI.1-1986. If a permanent ramp cannot be installed in accordance with the above standards, a portable ramp may be used. Respondent must then install a doorbell or intercom (with an appropriate sign) to summon an employee to bring the ramp to the door.
2. Within forty-eight hours after completion of all modifications, Respondent shall file with the Commission on Human Relations and serve on Complainant a certification by an architect licensed by the State of Illinois that all physical barriers to access to String-a-Strand by persons in wheelchairs have been made in accordance with the above standards.
3. In addition, Sam Wolfson, owner of Respondent, shall donate at least ten hours of personal volunteer service to a governmental or not-for-profit organization which assists persons with disabilities. Mr. Wolfson must complete this service no later than six (6) months from the date of issuance of this ruling. Within fourteen (14) days of completion of the volunteer service, Respondent must file with the Commission on Human Relations and serve on Complainant a certification by the organization for which the service was performed, attesting to its completion. An acceptable organization with a structured volunteer program is the Vaughan Chapter of Paralyzed Veterans of America (see www.pva.org and www.vaughanpva.org), 2235 Enterprise Drive, Suite 3501, West Chester, IL 60154, telephone 708-947-9790 or 800-727-2234. By telephoning and speaking with Maria Hernandez at the Vaughan Chapter, Mr. Wolfson can obtain information about submitting an

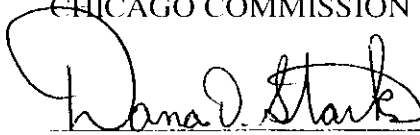
application and receiving notices about a variety of PVA volunteer opportunities in the Chicago area from which he can select.

VIII. Conclusion

For the reasons set forth herein, the Commission finds Respondent String-a-Strand liable for disability discrimination in violation of the Chicago Human Rights Ordinance. As detailed above, the Commission orders the following relief:

1. \$1,500 payable to Complainant as emotional distress damages, plus interest on the damages pursuant to Reg. 240.700.
2. \$500 fine payable to the City of Chicago.
3. Injunctive relief as detailed above.

CHICAGO COMMISSION ON HUMAN RELATIONS



By: Dana V. Starks, Chair and Commissioner