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Saint Paul Human Rights & Equal Economic Opportunity Commission



Administrative Hearing Procedures

HREEO Champions Justice and Equity by confronting issues of discrimination and providing innovative avenues for accessibility and economic opportunities for all residents and businesses

Procedures Adopted and Effective: November 18, 2014
Revised, September 29, 2015

These procedures are adopted by the Human Rights & Equal Economic Opportunity Commission pursuant to Saint Paul Legislative Code Section 183.19(7) to govern housing and other hearings conducted pursuant to Section 183.24.

1. Definitions

The following Definitions shall apply to these Procedures as well as the Definitions found in Saint Paul Legislative Code § 183.02.

Chair: The Chairperson of the Commission.

Complaint of Discrimination: A formal statement served on the Complainant and Respondent by certified mail, signed by the Director, which sets forth a clear and concise statement of the facts constituting the violation of Saint Paul Legislative Code Chapter 183.

City: The City of Saint Paul, Minnesota.

Commission: The Saint Paul Human Rights & Equal Economic Opportunity (HREEO) Commission.

Complainant: The party that filed a Charge of Discrimination with the Department.

Department: The Saint Paul Human Rights & Equal Economic Opportunity (HREEO) Department.

Director: The Director of the Saint Paul Human Rights & Equal Economic Opportunity (HREEO) Department.

Final Decision: The Panel Decision becomes the final decision of the Commission once it has either been approved or amended by the Commission or thirty (30) days have expired without Commission action.

Hearing Panel: The three-person group composed of Commissioners of HREEO designated by the Chair to hear the contested case.

Hearing Panel Decision: The written findings of fact and conclusions of law written by the Panel to address the complaint.

Intervenor: The Complainant or any other aggrieved person who has filed written notice to the Department. The Intervenor shall not have an independent right to a hearing and shall participate only in connection with issues directly affecting him or her as determined by the Presiding Attorney.

Panel Commissioner: Each of the three Commissioners on the Hearing Panel.

Parties: The Department (represented by the City Attorney's Office), the Respondent and any Intervenor.

Presiding Attorney: The Licensed Minnesota Attorney designated by the Chair to serve as the law officer of the three-person Hearing Panel. This position is referred to as the law officer in the City of Saint Paul Legislative Code § 183.24(4). The Presiding Attorney shall not be a Commissioner. The Presiding Attorney shall preside over the hearing and shall decide all questions of law raised during the proceedings. Whenever the Presiding Attorney deems it appropriate, he or she may consult with the Panel Commissioners before ruling on a question of law. To avoid the appearance of impropriety, the Presiding Attorney rather than any of the members of the Hearing Panel, may attend any pre-hearing conference or proceeding prior to the Hearing, where issues of fact are likely to be discussed or raised by the parties.

Respondent: The party accused by the Complainant of discrimination.

2. Pre-Hearing Procedures

- a. **Service of Complaint:** If the Department finds cause exists following a Charge of Discrimination, and conciliation attempts have been unsuccessful, the Department may serve by Certified Mail a Complaint of Discrimination, signed by the Director, on the Respondent and the Complainant. The Complaint shall contain a clear and concise statement of the facts constituting the violation and shall advise the Respondent of the right to file an answer, to appear in person or by an attorney, and to examine and cross-examine witnesses. The Respondent and Complainant shall be notified that further information from the Commission will be forthcoming. For cases involving an alleged violation of §183.06, the Complaint shall be based on the final report and need not be limited to the facts or grounds alleged in the Charge of Discrimination. At the same time, the Department shall give notice to the Commission that a Complaint of Discrimination has been filed.
- b. **Hearing Panel:** The Commission shall as soon as is practical appoint a Hearing Panel. The Hearing Panel shall be made up of three (3) Commissioners, designated by the Chair of the Commission, and one (1) Presiding Attorney who shall be designated by the Chair of the Commission. All Panel Commissioners shall be paid ten dollars (\$10.00) per hour spent in performance of their duties; provided, however, that the payments hereunder shall not exceed for any person fifteen hundred dollars (\$1,500.00) per year.
- c. **Presiding Attorney:** Within seven (7) days of appointment by the Commission: the Presiding Attorney shall serve on Respondent a notice of Respondent's right to be represented and a notification of these procedures, the Presiding Attorney

shall serve on Complainant a notice of Complainant's Right to Intervene and notification of these procedures.

- d. **Scheduling of Hearing:** Within seven (7) days of appointment by the Commission, the Presiding Attorney shall set the time and place for the Hearing. The hearing shall be held not less than thirty (30) days after service of the notice referenced in paragraph (c) above. At any time up to seven (7) days prior to the hearing, the Respondent may file an answer. Respondent's failure to file an answer may be deemed to constitute an admission of the allegations contained in the Complaint.
- e. **Hearing Postponement:** The date of the hearing may be postponed or extended by mutual agreement of the Parties with the consent of the Presiding Attorney.

3. Hearing Guidelines

- a. **Role of Presiding Attorney:** The Presiding Attorney shall conduct the hearing and shall rule on procedural and evidentiary matters, but shall not participate in actual deliberations.
- b. **Subpoenas:** Parties must be prepared to proceed on the day of the hearing. If subpoenas are needed to obtain the presence of witnesses to the case, these should be obtained prior to the hearing by calling the Presiding Attorney. Subpoenas are served on the witnesses in advance of the hearing unless the witness has agreed otherwise.
- c. **Rules of Evidence:** Strict rules of evidence and procedures are not required so long as the proceedings are conducted in such a manner as to allow both sides to fairly and fully explain the circumstances. Decisions regarding the admissibility of evidence and the weight to be given to same shall be made by the Presiding Attorney. In cases involving an alleged violation of §183.06, the Minnesota Rules of Evidence shall apply.
- d. **Respondent Fails to File an Answer:** Testimony may be heard on behalf of the Complainant if a Respondent fails to file an answer.
- e. **Burden of Proof:** The burden of proof shall be upon the Department, which shall be represented by the Saint Paul City Attorney's Office, to prove the case by a preponderance of the evidence.
- f. **Representation by Counsel:** The Respondent shall have the right to consult with counsel of his or her own choosing who may present witnesses and documentary information as may be pertinent, and to question witnesses offered by other parties.

- g. **Recording of Hearing:** The Presiding Attorney shall have all proceedings of the hearing recorded. A copy of the recording may be obtained from the Presiding Attorney. The hearing will not be transcribed, unless the Department or the Respondent has arranged for a court reporter at their own expense.

4. Order and Procedures for Hearing

- a. **Statement by Presiding Attorney:** The hearing will begin with the reading of a formal statement by the Presiding Attorney, introduction of the Hearing Panel members, and a statement of appearances noted for the record.
- b. **Motions:** Consideration of preliminary motions or objections, if applicable, will follow.
- c. **Complainant's Case:** The Department shall present its case first. The Department will call witnesses, each of whom will be sworn and subject to direct examination by the Department. The Respondent will be given an opportunity to cross-examine each of the witnesses. The Department may then ask questions on re-direct, and the Respondent may then ask questions on re-cross.
- d. **Witnesses:** Witnesses who testify must have personal knowledge of the subject of their testimony.
- e. **Exhibits:** If a party has documents or exhibits to introduce, they are asked to bring nine (9) copies (one for each Hearing Panel Member and the Presiding Attorney, one for the witness, one for the opposing party, one for the Intervenor, one for the record, and one for the offering party).
- f. **Respondent's Case:** Once the Department is finished with its case, the Respondent will present his or her case, following the same format as the Department.
- g. **Rebuttal:** Following the Respondent's case, the Department may present a rebuttal case, after which the Respondent may do the same.
- h. **Closing Arguments & Post-Hearing Briefs:** Once all of the evidence has been presented, the parties may make a brief closing argument. If either party wishes to submit written briefs or arguments, the Presiding Attorney will set a date by which such submission must be received.
- i. **Admission of Evidence:** The Presiding Attorney may admit and give probative effect to evidence that possesses probative value commonly accepted by reasonable prudent persons in the conduct of their affairs. The Presiding Attorney shall give effect to the rules of privilege recognized by law. The

Presiding Attorney may exclude incompetent, irrelevant, immaterial and repetitious evidence.

- j. **Record of Hearing:** All evidence which is offered into evidence shall be made a part of the hearing record of the case. No factual information or evidence shall be considered in the determination of the case unless it is part of the record. Documentary evidence may be received in the form of copies or excerpts, or by incorporation by reference.
- k. **Behavior of Parties:** Although the hearing is conducted less formally than most court procedures, the Presiding Attorney has the ability to control the conduct of the hearing, and all the parties will be expected to maintain a civil demeanor and to present only relevant evidence.
- l. **Close of Hearing:** The evidentiary record is generally closed at the conclusion of the hearing, unless the Presiding Attorney has allowed for a period after the hearing for the receipt of additional evidence. After the Presiding Attorney closes the evidentiary record, additional evidence may not be admitted.

5. Post-Hearing Procedures

- a. **Hearing Panel Decision:** The Hearing Panel shall make its Hearing Panel Decision within sixty (60) days of the hearing. If the Hearing Panel is unable to issue a decision within sixty (60) days, it shall notify the Parties in writing of the reason for not doing so. The Hearing Panel Decision shall be served on the Parties and each member of the Commission by mail.
- b. **Content of Hearing Panel Decision:** The Hearing Panel Decision must contain a statement of the issues; findings of fact on material issues and the grounds in the record for those findings; any related conclusions of law or policy; any aggravating or mitigating circumstances that are pertinent to the decision; any award of damages or other relief and the basis for such award.
- c. **Damages:** If, after the hearing, the Hearing Panel concludes that a violation has occurred, it may require the Respondent to pay a Complainant, who has suffered discrimination, damages as allowed by law, including, but not limited to:
 - (i) Compensatory damages in an amount up to three (3) times the actual damages sustained;
 - (ii) Damages for mental anguish or suffering, including those caused by humiliation and embarrassment;
 - (iii) Punitive damages in conformance with Minnesota laws.
- d. **Injunctive Relief:** The written order may also include provisions requiring the Respondent to specifically perform any of the following:

- (i) Rent, sell, or lease particular real property to the Complainant. The Respondent shall also be responsible for any actual damages sustained by any subsequent tenants as a result of a final order requiring the subsequent tenants to be evicted from a dwelling unit to allow the Complainant to return to the dwelling unit;
 - (ii) Place or reinstate the Complainant in his or her particular job with or without back pay;
 - (iii) File periodic compliance reports;
 - (iv) Do anything that the Hearing Panel determines is just.
- e. **Reimbursement to City:** The written order may also require the Respondent to pay the City for investigation and enforcement costs and reasonable attorney's fees.
- f. **Monetary Sanctions:** The Hearing Panel may assess monetary sanctions against either Complainants or Respondents for any delays in the investigation or hearing or any other aspect of the proceedings caused by their intentional or frivolous actions.
- g. **Licensing and Regulatory Sanctions:** In the case of a Respondent that is subject to the licensing or regulatory power of the City, if the Hearing Panel determines that the Respondent has engaged in a discriminatory practice, the Hearing Panel may request the Director to so certify to the relevant City licensing or regulatory agency. Unless such determination of discriminatory practice is reversed in the course of judicial review, a final determination is binding on the licensing or regulatory agency. Such agency may take appropriate administrative action, including suspension or revocation of the Respondent's license or certificate of public convenience and necessity, if such agency is otherwise authorized to take such action.
- h. **Interest:** Interest shall be awarded at the rate set by the Minnesota Court Administrator pursuant to Minnesota Statutes §549.09 applicable for certain state court judgments, verdicts, and arbitration awards. Interest shall be calculated on a daily basis starting from the date of the violation and shall be compounded annually.
- i. **Enforcement:** The Complainant may seek enforcement of the Final Decision through the Minnesota District Court, Second District serving Ramsey County. Upon recommendation of the Hearing Panel, the Director may ask any City agency to investigate whether the Respondent has violated any City ordinance. Upon recommendation of the Hearing Panel, the Director may request any appropriate public agency to investigate whether the Respondent has violated any State or Federal law. Within one year after issuance of the Decision, the Department shall investigate whether the Respondent is complying with the terms of the Final Decision.

- j. **Immunity:** Parties shall be deemed to have consented that neither the Department, the Commission, or any Commissioner shall be liable to any party in any action for damages or injunctive relief for any act or omission in connection with any action under these Procedures. Parties may not call any Commissioner, the Department or any Department employee as a witness in litigation or any other proceeding relating to the action. The Commissioners, the Department, or any Department employee are not competent to testify as witnesses in any such proceeding.

- k. **Final Order:** Following receipt of the Hearing Panel Decision, the Commission may revoke or amend the Hearing Panel Decision within thirty (30) days after the mailing of the decision, by adopting a separate Final Order of the Commission, which shall explain the basis for any deviation from the Hearing Panel Decision. If the Commission fails to adopt a Final Order, the Hearing Panel Decision shall be the Final Order of the Commission. The Presiding Attorney shall serve the Parties by mail with the Final Order of the Commission after the expiration of the thirty (30) days from the service of the Hearing Panel Decision.