



TESTIMONY OF CARMELYN P. MALALIS
Commissioner/Chair
New York City Commission on Human Rights
Before the Committee on Civil Rights
October 19, 2015

BILL DE BLASIO
Mayor

CARMELYN P. MALALIS
Commissioner/Chair

100 Gold Street, Suite 4600
New York, NY 10038

nyc.gov/humanrights
f i t @NYCCHR

Int. No. 805:

In relation to expanding the protections of the city of New York human rights law with regard to public accommodations, and making certain technical corrections

Int. No. 817:

In relation to clarifying the definition of “place or provider of public accommodation” in the city human rights law

Int. No. 827-A:

In relation to expanding the prohibition against source of income discrimination in housing accommodations

Int. No. 832:

In relation to prohibiting discrimination in housing accommodations on the basis of an individual’s status as a victim of domestic violence

Good afternoon, Chair Mealy, and members of the Civil Rights Committee, and thank you for convening today’s hearing. I am Carmelyn P. Malalis, Commissioner and Chair of the New York City Commission on Human Rights. Today I am joined by Melissa Woods, my First Deputy Commissioner and General Counsel, and Dana Sussman, Special Counsel to the Office of the Chairperson. As you know, I was unable to attend the last hearing, on September 21, and Mses. Woods and Sussman testified in my place. I want to take this opportunity to personally convey my appreciation for the Council’s support for the Commission and its interest in strengthening the Commission as a venue for justice for all New Yorkers.

Since Mses. Woods and Sussman provided you with an update on the Commission’s activities less than a month ago, I will focus my remarks on the four bills that are the subject of today’s hearing: Intros. 805, 817, 827-A, and 832. My testimony reflects the Commission’s desire to safeguard the integrity of the City Human Rights Law in accomplishing its “uniquely broad and remedial purposes,” over and above what’s provided under federal or New York State civil and human rights laws, a promise codified in the law’s construction provision as well as the Civil Rights Restoration Act of 2005. In composing today’s testimony, my staff and I considered the conversations we have had with the Council’s legislative drafting unit, our colleagues in the administration, and stakeholders who would be affected by the proposed legislation. Members of my staff have several years’ experience – some of them multiple decades of experience – litigating and/or advocating on behalf of individuals with housing and public accommodations claims under the City Human Rights Law and other civil rights and human rights laws. Their input also informs my testimony on these four bills.



BILL DE BLASIO
Mayor
CARMELYN P. MALALIS
Commissioner/Chair

100 Gold Street, Suite 4600
New York, NY 10038

nyc.gov/humanrights
f i t @NYCCHR

■ **INTRO. 805: Amending the public accommodations provisions to add “franchisor, franchisee, lessor,” “full and equal enjoyment,” and “purported”**

The proposed bill contains several amendments to the provisions of the City Human Rights Law that protect against discrimination in public accommodations. I will address each amendment in turn. The bill adds “franchisor, franchisee,” and “lessor,” to the list of types of providers that are covered under the City Human Rights Law as public accommodations and replaces the word “subdivision” with “section” in Section 107(4)(e). The Commission supports these two changes.

Third, the proposed bill adds the word “purported” to Section 107(4)(a) of the City Human Rights Law. Because the word “purported” is already in the law and this bill simply moves it to another part of the provision, the Commission does not take a position on this proposed change.

The bill also adds language to prohibit the denial of “full and equal enjoyment, on equal terms and conditions,” of public accommodations and adds language to prohibit the publication of advertisements to the effect that “full and equal enjoyment, on equal terms and conditions,” shall be refused, withheld from, or denied to any person on account of their membership in a protected group. The Commission believes the current wording of the public accommodations provisions in the City Human Rights Law, i.e., Section 8-107, subdivision 4, already provides the protections sought in Intro. 805. Certainly, the Commission interprets the City Human Rights Law to include those protections and I am not aware of any courts that have interpreted the City Human Rights Law to not include those protections. To the extent that Intro. 805 clarifies and makes explicit those protections, the Commission does not object to the bill and supports the clarification.

■ **INTRO. 817: In relation to clarifying the definition of “place or provider of Public accommodation” in the city human rights law**

The proposed bill will add the words “any person” to the list of providers of public accommodations in Section 8-102(9). To the extent this change is intended to clarify existing protections in the law, the Commission does not object to it.

■ **INTRO. 827-A: Source of income discrimination**

The proposed bill will make existing source of income discrimination protections consistent with all other protections against housing discrimination in the City Human Rights Law. Currently, the law’s provisions protecting against source of income discrimination do not cover housing accommodations with less than six units. This size limitation does not apply in the context of other types housing discrimination (e.g., based on race, disability, age, etc.). Smaller housing accommodations were intentionally carved out of the City Human Rights Law’s source of income protections when the original bill passed in 2008. It’s my understanding that they were carved out so as not to prejudice smaller landlords waiting on payments for Section 8 vouchers. I believe that at the time the law was passed in 2008, there could be significant delays before landlords received the first payment on a Section 8 voucher, and those delays were considerable enough to cause financial hardship on smaller landlords. I understand that while the waiting time on initial voucher payments has been significantly reduced in recent years, the wait on a payment is still long enough such



BILL DE BLASIO
Mayor
CARMELYN P. MALALIS
Commissioner/Chair

100 Gold Street, Suite 4600
New York, NY 10038

nyc.gov/humanrights
f i t @NYCCHR

that smaller landlords may not be able to cover their mortgage and other expenses during the waiting period.

To be clear, the Commission supports the intent of this bill. We recognize that source of income discrimination is a major issue in New York City and we have been using our testing program to root out this insidious form of discrimination, which impacts some of the most vulnerable New Yorkers. The Commission welcomes the opportunity to work with the Council and other stakeholders to discuss alternatives that protect already-vulnerable New Yorkers, while also acknowledging that smaller landlords should not risk defaulting on bills or their mortgage while waiting for payments from a federal rental assistance program.

There are also two other significant concerns regarding how the bill is currently drafted that appear to contradict the bill's intent. First, the bill would only apply to "a person with a section 8 voucher," which is significantly narrower than current source of income protections. Section 8-102(25) of the City Human Rights Law defines "source of income" as "income derived from social security, or any form of federal, state or local public assistance or housing assistance including section 8 vouchers." Second, the bill creates a defense for landlords that has not previously existed in the law, which would allow housing providers to not accept Section 8 vouchers where the housing accommodations are "not in compliance with any rules or regulations promulgated under section eight of the United States housing act of 1937." We are concerned that this provision creates a loophole that could be exploited by unscrupulous landlords who want to discriminate against Section 8 voucher holders. If a housing accommodation is not in compliance with any applicable housing standard, the appropriate response is for the landlord to make repairs. Unscrupulous landlords could allow the premises to fall into disrepair to intentionally bring the premises outside of compliance with the law, and allow them to reject Section 8 vouchers.

Again, I want to make clear that the Commission supports the intent of the bill addressing source of income discrimination. As we continue to discuss this bill with the Council and stakeholders, we hope to find ways to address the concerns we have raised today.

■ **INTRO. 832: Protections for Victims of Domestic Violence in Housing**

It is fitting to discuss this bill now, as October is Domestic Violence Awareness Month, a time when we are all reminded of the need to support victims and survivors of domestic violence. Frequently, when Commission staff discuss the impact of the City Human Rights Law, we stress the importance and impact of our law particularly in protecting the City's most vulnerable populations. In our eyes, this bill is another great example of how the City Human Rights Law would function to do just that. Over the past several months, the Commission and the Mayor's Office to Combat Domestic Violence (OCDV) have partnered to cross-train staff and ensure that domestic violence victims experiencing discrimination in employment or in other areas already protected by the City Human Rights Law are referred directly to specific staff at the Commission. The partnership has resulted in direct referrals from OCDV's NYC Family Justice Centers, as well their Domestic Violence Response Team (DVRT). We look forward to continuing our partnership with the Mayor's Office to Combat Domestic Violence and the City Council to raise awareness regarding the rights of victims of domestic violence, sexual violence, and stalking and to increase protections.



BILL DE BLASIO
Mayor

CARMELYN P. MALALIS
Commissioner/Chair

100 Gold Street, Suite 4600
New York, NY 10038

nyc.gov/humanrights
f i t @NYCCHR

The proposed bill would make it unlawful to discriminate against actual or perceived victims of domestic violence, sexual violence, or stalking in housing. The Commission supports this legislation and believes it is critical in protecting some of the most vulnerable New Yorkers and helping them to keep stable and safe housing for themselves and their families.

The Commission thanks Chair Mealy and the members of the Committee for calling this hearing. We look forward to continuing our dialogue on how to strengthen the Commission and the City Human Rights Law to ensure respect and dignity for all New Yorkers. I welcome your questions and comments. Thank you.