



## **Meeting Minutes**

First Floor Conference Room, City Hall

January 20, 2016

3:00pm

**Commission members present:** Deb Aden, Kendra Gottsleben, Joyce Heiser, Kevin Horner, Sarah Jo Jorgensen, Sheila Sandness, Walter Schaefer, Lori Lewison, Tana Zwart

**Commission members absent:**

**Staff present:** Colleen Moran, Human Relations Manager; Tina Lemieux, Human Relations Technician; Julie Briggs, Human Rights Community Coordinator

**Guest(s) present:** Kristi Eisenbraun, Ms. Wheelchair South Dakota

### **Call to Order**

Co-Chair Lori Lewison called the meeting to order at 3:00 P.M.

### **Welcome Guest(s)**

The Commission welcomed Kristi Eisenbraun, Ms. Wheelchair South Dakota

### **Approval of Minutes**

Aden moved to approve the meeting minutes from November 18, 2015. Jorgensen seconded. The minutes were unanimously approved.

### **Disability Rights Updates**

The first update involved a wholesale liquor distribution company in Colorado, Beverage Distributors Company. The company has been ordered to pay \$160,000 and furnish other relief to settle a disability discrimination lawsuit filed by the U.S. Equal Employment Opportunity Commission (EEOC).

According to EEOC's lawsuit, Michael Sungaila, who is legally blind, worked for Beverage for over four years as a driver's helper. When the company decided to eliminate his position and instead use contract laborers, Sungaila applied for a position as a night warehouse associate. Beverage offered Sungaila the position subject to a pre-employment medical examination. Following the examination, Beverage withdrew the job offer to Sungaila due to his poor eyesight. The position involves, among other things, loading cases of liquor and kegs of beer into the back of trucks. EEOC contended Sungaila could safely perform the job.

**Co-Chairs:** Walter Schaefer & Lori Lewison | **3<sup>rd</sup> Chair:** Deb Aden

The settlement entered into by the parties in the form of a court-approved public consent decree requires Beverage to pay Sungaila \$160,000 to resolve the case. Beverage will also conduct ADA training for all employees and managers on the ADA's requirements, including limitations on post-offer / pre-employment medical screening and the need to provide reasonable accommodation to qualified individuals with disabilities; revise and distribute its ADA policy and procedures, including those related to providing reasonable accommodations to employees; and report to EEOC if there are any complaints of disability discrimination. The district court approved the settlement and will retain jurisdiction for purposes of compliance for two years.

The second update involved United Airlines Inc. who has agreed to pay more than \$1 million and implement changes to settle a federal disability lawsuit filed by the U.S. Equal Employment Opportunity Commission (EEOC).

The EEOC's lawsuit charged that United's competitive transfer policy violated the Americans with Disabilities Act (ADA). The law requires an employer to provide reasonable accommodation to an employee or job applicant with a disability, unless doing so would impose an undue hardship for the employer. By requiring workers with disabilities to compete for vacant positions for which they were qualified and which they needed in order to continue working, the company's practice frequently prevented employees with disabilities from continuing employment with United, the EEOC said.

The consent decree requires United to pay \$1,000,040 to a small class of former United employees with disabilities and to make changes nationally. United will revise its ADA reassignment policy, train employees with supervisory or human resource responsibilities regarding the policy changes, and provide reports to the EEOC regarding disabled employees who were denied a position as part of the ADA reassignment process.

A third case also involved fined United Airlines who has been ordered to pay \$2.75 million for violating the Department of Transportation's rules protecting air travelers with disabilities and for violating the Department's rule prohibiting long tarmac delays.

A review of these disability-related complaints revealed that United failed to provide passengers with disabilities prompt and adequate assistance with enplaning and deplaning aircraft and with moving through the terminal at Houston International Airport, Chicago O'Hare International Airport, Denver International Airport, Newark International Airport, and Dulles International Airport.

In addition, the Enforcement Office's investigation revealed that in numerous instances United failed to return passengers' wheelchairs, other mobility aids, or other assistive devices in a timely manner or in the condition in which the airline received them.

Of the \$2 million assessed for these violations, United will spend \$150,000 to improve quality assurance audits of United's wheelchair vendor(s), including

tracking the time period within which wheelchair assistance is provided to passengers with disabilities, and \$500,000 towards a pilot program to develop and implement technology that assists passengers with disabilities in making requests for wheelchair and other disability-related assistance at the airport via United's mobile app. DOT is also crediting United with \$650,000 for compensation it provided to consumers who filed a disability-related complaint with the airline in 2014.

Under DOT rules, U.S. airlines operating aircraft with 30 or more passenger seats are prohibited from allowing their domestic flights to remain on the tarmac for more than three hours and their international flights to remain on the tarmac for more than four hours at U.S. airports without giving passengers an opportunity to leave the plane. Exceptions to the time limits are allowed only for safety, security or air traffic control-related reasons. The rules also require airlines to provide adequate food and water, ensure that lavatories are working and, if necessary, provide medical attention to passengers during long tarmac delays.

Of the \$750,000 assessed for the tarmac delay violations, United will spend \$375,000 toward the cost of acquiring and installing an automated visual docking and guidance system that will allow aircraft to be parked in all-weather conditions and during irregular operations without marshallers.

## **Continuing Business**

- A. Artability 2016 – The Commission is currently accepting art for the 2016 Artability show. The deadline to submit art is January 29, 2016. Commissioners discussed how to best secure art for the show. In addition, Commissioners discussed organizations and contacts that can help promote the Call for Art. The art will be displayed in March and April; the reception will take place April 8<sup>th</sup> 2016, from 6-8 P.M.

## **New Business**

### **A. Fair Housing:**

- a. Lemieux discussed the fair housing awareness partnership between the Human Relations Office and Community Development. Through this partnership, the Human Relations Office will further the fair housing program's goal of promoting equal access in housing. To meet this goal, the Human Relations Office will provide education, outreach, and technical assistance specifically related to fair housing laws. In addition, the Human Relations Office will continue to investigate claims of housing discrimination based on a protected class. Lemieux encouraged Commissioners to provide her with a list of places that could benefit from such education and outreach.

### **B. Outreach/Education Opportunities:**

- a. Lemieux discussed education and outreach opportunities the Human Relations Office currently provides. Lemieux asked that each Commissioner provide the office with at least one group or organization that could benefit from education on ADA issues, community resources, fair housing, or diversity. In addition, Commissioners were encouraged to provide education and outreach to community groups as well.

### **C. Spread the Word to End the Word:**

- a. Briggs presented on the Special Olympics project, Spread the Word to End the Word (STWTETW). The project is a national campaign to end the word “retard” or “retarded”. The event will take place on March 2, 2016 and promotional materials are available. Briggs reported support from schools across the state as well as businesses. For more information, Commissioners were encouraged to contact Briggs.

### **Roundtable/Public Comment**

Eisenbraun discussed her role as Ms. Wheelchair South Dakota. Eisenbraun’s platform is to raise awareness of service dogs. In addition, Eisenbraun plans to work with businesses on inexpensive ways to become more accessible.

Horner reported the Sanford Wellness/Great Bear ski event has been moved to February 20, 2016. The event will begin at 8:30 a.m.

Schaefer reported LifeScape is hosting a play at Augustana University on January 29, 2016 at 7 p.m. In addition, LifeScape’s annual fundraiser, MallWalk, will take place on February 6, 2016 beginning at 8 a.m.

Jorgensen reported she is currently working on the application for the summer program at Independent Living Choices. The program runs 3 hours a day and is open to individuals who are 16-21 years old and have a disability.

### **Adjournment**

Having no further business, Horner moved to adjourn; Aden seconded. The meeting adjourned at 3:58 p.m.

The next DAC meeting is scheduled for February 17, 2016, 3 p.m. in the First Floor Conference Room, City Hall.

*These minutes submitted by Tina Lemieux*