

Maine Human Rights Commission

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INVESTIGATOR'S REPORT PA12-0483

November 15, 2013

Jim C. Ramnaraine (Minneapolis, MN)

v.

The Ogunquit Inn, LLC (Ogunquit)

I. Complainant's Complaint:

Complainant Jim C. Ramnaraine (hereinafter "Complainant" or "Ramnaraine") alleged that Respondent The Ogunquit Inn, LLC (hereinafter "Respondent" or "the Inn") treated him less favorably than other guests because of his disability and service animal.

II. Respondent's Answer:

Respondent denied that Complainant was treated unlawfully.

III. Jurisdictional Data:

- 1) Date of alleged discrimination: August 15, 2012.
- 2) Date complaint filed with the Maine Human Rights Commission: October 9, 2012.
- 3) Respondent is subject to the Maine Human Rights Act ("MHRA") as well as state accessibility regulations.
- 4) The parties are not represented by counsel.
- 5) Investigative methods used: A thorough review of the written materials provided by the parties and responses to follow-up questions. This preliminary investigation is believed to be sufficient to enable the Commissioners to make a finding of reasonable grounds or no reasonable grounds in this case.

IV. Development of Facts:

- 1) The parties and issues in this case are as follows:

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- a) Complainant is [REDACTED] and travels with a service dog that was trained by [REDACTED] [REDACTED] a nationally recognized breeder and trainer of service animals.
 - b) Respondent owns a small inn with six rooms located in Ogunquit, Maine. There are two guest rooms on the third floor. There is one internal stairway and one external stairway to the third floor. Photographs of the internal and external stairways are attached.
 - c) "Innkeeper" owns Respondent and manages the Inn.
 - d) On August 15, 2012, Complainant and his wife checked in to the Inn. Complainant alleges that Respondent treated him less favorably than other guests because of his disability and service animal. Respondent denies that any unlawful discrimination occurred.
- 2) Complainant provided the following:
- a) On August 15, 2012, when Mr. Ramnaraine and his wife checked in, the Innkeeper told them that he had the right to refuse to allow them to stay because his Inn had a no-pet policy. Mr. Ramnaraine told the Innkeeper that his service dog was not a pet and that it was his understanding that the Inn was required to let him bring his guide dog into his public accommodation. The Innkeeper told Mr. Ramnaraine and the Inn did not have to allow the service dog in because the Inn was exempt from compliance with the ADA (Americans with Disabilities Act). Mr. Ramnaraine dropped the point, not knowing Maine law since he was a visitor.
 - b) The Innkeeper allowed Mr. Ramnaraine and his wife to stay at the Inn with his service dog provided that they use the outside fire escape constructed with wood and covered in paint to enter and exit a third floor room. The Innkeeper made it very clear that Mr. Ramnaraine and his wife were forbidden from using the internal stairway. This was a clear term or condition of Respondent allowing Complainant to stay at the Inn. There was no suggestion that Respondent offered Complainant the use of the outside stairs as a convenience, for example, because it was close to the parking lot. Prior to Mr. Ramnaraine's arrival at the Inn on August 15, a heavy rain had fallen across southern Maine. Mr. Ramnaraine's guide dog had a difficult time guiding him up and down the stairs carrying heavy luggage.
 - c) The Innkeeper further specified that he did not want the dog bothering the other guests, in essence demanding that he and his wife be isolated from other guests.
 - d) The Innkeeper's hostile and demeaning tone and treatment made it clear that he would not put up with any negotiations. It would be "his terms" or Complainant was "free to leave." The Innkeeper made it clear that he did not believe that access laws applied to him and that he was allowing Mr. Ramnaraine to stay at the Inn with his guide dog as a courtesy. Allowing Mr. Ramnaraine to stay was conditioned on him using the outside stairs and not "bothering" his other guests. Neither of these conditions was imposed on other guests who were not accompanied by service dogs.
- 3) The Innkeeper provided the following:

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- a) Mr. Ramnaraine arrived for his stay at the Inn several hours before check in which is quoted as 3:00 PM. As the only employee, he was still cleaning rooms and was not available in the office when Mr. Ramnaraine arrived.
- b) When he was alerted to Mr. Ramnaraine's arrival and went to the office, he was very surprised to see a guest with a large dog as his policies clearly state that he cannot accommodate pets. Mr. Ramnaraine informed him that the dog was not a pet but a service dog. He also acknowledged that he knew that the Inn did not accept pets.
- c) The Innkeeper told Mr. Ramnaraine that he did not have to accommodate his stay but that of course he was going to. He suggested that Mr. Ramnaraine use the outdoor stairs that lead directly from the parking lot up to the third floor to his room. (Mr. Ramnaraine had reserved Room 6, which is on the third floor.) The outdoor stairs are the most direct and easiest access to the guest rooms on the third floor.
- d) "At that point in the morning, I understood that the number of rooms requiring compliance to be 6. Later that day, I learned that the number of rooms requiring compliance was 5."
- e) When the Innkeeper was asked what made him think that there was an exemption from service dog laws for inns with 6 rooms, the Innkeeper replied that he was told by the Inn's previous owner or by a fellow innkeeper that the number of rooms for compliance was six. The Innkeeper indicated that after Mr. Ramnaraine and his wife checked in, he contacted the Maine Innkeepers Association and "learned the actual number."¹
- f) He would not describe his conversation with Mr. Ramnaraine as an argument, but it may have seemed like an argument as it was frustrating that Mr. Ramnaraine arrived before check in time.
- g) He did not "forbid" Mr. Ramnaraine from using the internal stairway. While it is true that the external stairway is a second means of egress from the house in the event of a fire or emergency, it is not a fire escape. In the nine years that Innkeeper has managed the Inn, 90% or more of guest traffic occurs using the external stairway due to its convenience to the guest rooms.
- h) He did not demand that Mr. Ramnaraine and his wife be isolated from other guests. Mr. Ramnaraine and his wife, with Mr. Ramnaraine's guide dog, participated in the breakfast in the company of other guests. The Innkeeper did not object to this or demand that Mr. Ramnaraine stay away.

¹ It is worth noting here that there is no general exemption to the MHRA's prohibition against discrimination in public accommodations for an inn or other type of lodging based upon its size. There is an exception to the requirement that a public accommodation for lodging allow children at their establishment if the accommodation: 1) serves breakfast; 2) contains no more than five rooms for lodgers; and 3) is the residence of the owner of the accommodation. 5 M.R.S. § 4592(3). There is no such exemption for allowing service animals at a place of public accommodation. 5 M.R.S. § 4592(8)

V. Analysis:

- 1) The MHRA provides that the Commission or its delegated investigator "shall conduct such preliminary investigation as it determines necessary to determine whether there are reasonable grounds to believe that unlawful discrimination has occurred." 5 M.R.S.A. § 4612(1)(B). The Commission interprets the "reasonable grounds" standard to mean that there is at least an even chance of Complainant prevailing in a civil action.
- 2) The MHRA, 5 M.R.S. §4592(8), also makes it unlawful public accommodation discrimination:

For any public accommodation or any person who is the owner . . . proprietor, operator, manager . . . agent or employee of any place of public accommodation to refuse to permit the use of a service animal or otherwise discriminate against an individual with a . . . disability who uses a service animal at the public accommodation unless it is shown by defense that the service animal poses a direct threat to the health or safety of others or the use of the service animal would result in substantial physical damage to the property of others or would substantially interfere with the reasonable enjoyment of the public accommodation by others. The use of a service animal may not be conditioned on the payment of a fee or security deposit, although the individual with a . . . disability is liable for any damage done to the premises or facilities by such a service animal.

- 3) "Disability" is defined to include [REDACTED] [REDACTED] [REDACTED]. 5 M.R.S. § 4553-A(1)(B).
- 4) "Public accommodation" is defined as a public or private entity that owns, leases, leases to or operates a place of public accommodation. 5 M.R.S. § 4553(8-A).
- 5) "Place of public accommodation" is defined to include inns. 5 M.R.S. § 4553(8)(A).
- 6) "Service animal" is defined, in relevant part, as follows:

[A] dog that is individually trained to do work or perform tasks for the benefit of an individual with a disability, including a . . . sensory . . . disability. . . . The work or tasks performed by a service animal must be directly related to the individual's disability. Examples of such work or tasks include, but are not limited to, assisting an individual who is totally or partially blind with navigation and other tasks . . .

5 M.R.S. § 4553(9-E)(B).

- 7) In order to establish a prima-facie case of public accommodations discrimination, Complainant may show that he "(1) is a member of a protected class, (2) attempted to contract for services and afford himself . . . the full benefits and enjoyment of a public accommodation, (3) was denied the full benefits or enjoyment of a public accommodation, and (4) such services were available to similarly situated persons outside his . . . protected class who received full benefits or were treated better." *Jackson v. Waffle House, Inc.*, 413 F.Supp.2d 1338, 1361 (N.D.Ga. 2006) (Title II).
- 8) With respect to the fourth element, "similarly situated persons" need not be identical, "but there should be a reasonably close resemblance of facts and circumstances. What is key is that they be

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similar in significant respects.” *Id.* at 1358 (citing *Lizardo v. Denny's Inc.*, 270 F.3d 94, 101 (2nd Cir. 2001)).

- 9) Once Complainant has established a prima-facie case, Respondent must (to avoid liability) articulate a legitimate, nondiscriminatory reason for the adverse treatment. *Id.* at 1355-56. See also *Doyle v. Department of Human Services*, 2003 ME 61, ¶ 15, 824 A.2d 48, 54; *Maine Human Rights Comm'n v. City of Auburn*, 408 A.2d 1253, 1262 (Me. 1979). After Respondent has articulated a nondiscriminatory reason, Complainant must (to prevail) demonstrate that the nondiscriminatory reason is pretextual or irrelevant and that unlawful discrimination brought about the adverse action. See *id.* Complainant's burden may be met either by the strength of Complainant's evidence of unlawful discriminatory motive or by proof that Respondent's proffered reason should be rejected. See *Cookson v. Brewer School Department*, 2009 ME 57, ¶ 16; *City of Auburn*, 408 A.2d at 1262, 1267-68. Thus, Complainant can meet his overall burden at this stage by showing that (1) the circumstances underlying the articulated reason are untrue, or (2) even if true, those circumstances were not the actual cause of the decision. *Cookson v. Brewer School Department*, 2009 ME 57, ¶ 16.
- 10) In order to prevail, Complainant must show that he would not have suffered the adverse treatment but for membership in the protected class, although protected-class status need not be the only reason for the decision. See *City of Auburn*, 408 A.2d at 1268.
- 11) Complainant here established a prima-facie case by showing that (1) he has [REDACTED] and uses a service dog to guide him; (2) he (accompanied by his guide dog) and his wife rented a room at Respondent's inn; (3) he was denied the full benefits or enjoyment of a public accommodation in that (a) he was told that Respondent was not required to rent a room to him, (b) he was told to use the outside staircase and, (c) not to "bother" other guests with his guide dog; and (4) similarly situated persons outside his protected class were treated better.
- 12) Respondent here did not offer a legitimate, nondiscriminatory reason for the alleged adverse treatment. Instead, Respondent denied that any adverse treatment occurred. Respondent agrees that he told Complainant that the inn was not required to accommodate his stay. Respondent explained that at the time he made this statement, he was under the impression that the inn was exempt from service animal laws. Respondent denied that he "forbid" Mr. Ramnaraine from using the internal stairway and stated that he suggested that Mr. Ramnaraine use that stairway for his convenience. He further stated that 90% or more of guest traffic occurs using the external stairway due to its convenience to the guest rooms. Finally, Respondent denied that he demanded that Mr. Ramnaraine and his wife be isolated from other guests (although he did not deny telling Mr. Ramnaraine that he did not want the dog bothering other guests).
- 13) At the final stage of analysis, Complainant met his overall burden of proving that unlawful disability discrimination occurred, with reasoning as follows:
 - a) Evidence that supports Respondent's position is that he did not, ultimately, refuse to permit Complainant the use of his guide dog at the Inn, nor did he demand that Mr. Ramnaraine stay away from breakfast with other guests with his dog.

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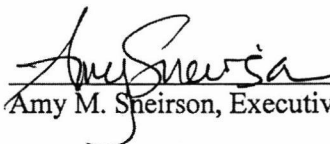
- b) In spite of this, it is apparent that Complainant did not enjoy the full benefits and enjoyment of Respondent's inn as compared to guests who does not use guide dogs to manage the effects of a disability.
- c) Complainant, unlike a nondisabled guest without a guide dog, was told that Respondent was not required to serve him. Respondent admits that he was frustrated when he made that statement and that the discussion might have "seemed like an argument." Nondisabled guests are not told that Respondent is doing them a favor by serving them, nor do they need to argue to secure a reservation.
- d) In addition, Complainant, unlike a nondisabled guest without a guide dog, was told not to bother other guests. This directive was given to Complainant even though there are no facts to suggest that Complainant's trained guide dog was disruptive.
- e) Complainant alleged that Respondent treated him less favorably by telling him to use the outside stairway. Respondent denied the claim but the circumstances suggest otherwise. Respondent has a no-pet policy and does not, in general, want animals inside the Inn. That makes it likely that Respondent preferred to have Complainant use the outside stairway and told him so. Even if 90% of Respondent's guests use the outside stairway to access the third floor, guests may well prefer to use the inside stairway after a downpour, to avoid climbing and descending wet painted steps. Complainant's claim on this point is credible.
- f) In short, the evidence shows that although Respondent permitted Complainant the use of his guide dog at the Inn, the permission was based on terms and conditions that are not imposed on nondisabled guests.

14) The claim of disability discrimination by Complainant against Respondent is founded.

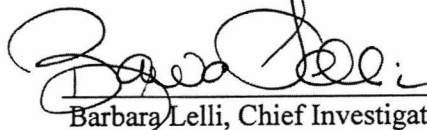
VI. RECOMMENDATION:

For the reasons stated above, it is recommended that the Maine Human Rights Commission issue the following finding:

1. There are **Reasonable Grounds** to believe that Respondent The Ogunquit Inn, LLC denied Complainant Jim C. Ramnaraine the full benefits and enjoyment of a place of public accommodation on the basis of disability; and
2. Conciliation should be attempted in accordance with 5 M.R.S.A. § 4612(3).



Amy M. Sheirson, Executive Director



Barbara Lelli, Chief Investigator