

**LOCAL LAWS
OF
THE CITY OF NEW YORK
FOR THE YEAR 2016**

No. 36

Introduced by Council Members Mealy, Lander, Johnson, King, Mendez, Rosenthal, Menchaca, Rose and Kallos.

A LOCAL LAW

To amend the administrative code of the city of New York, in relation to the provision of attorney's fees under the city human rights law.

Be it enacted by the Council as follows:

Section 1. Subdivision a of section 8-120 of the administrative code of the city of New York, as amended by local law number 85 for the year 2005, is amended to read as follows:

§ 8-120 Decision and order. a. If, upon all the evidence at the hearing, and upon the findings of fact, conclusions of law and relief recommended by an administrative law judge, the commission shall find that a respondent has engaged in any unlawful discriminatory practice or any act of discriminatory harassment or violence as set forth in chapter six of this title, the commission shall state its findings of fact and conclusions of law and shall issue and cause to be served on such respondent an order requiring such respondent to cease and desist from such unlawful discriminatory practice or acts of discriminatory harassment or violence. Such order shall require the respondent to take such affirmative action as, in the judgment of the commission, will effectuate the purposes of this chapter including, but not limited to:

- (1) hiring, reinstatement or upgrading of employees;
- (2) the award of back pay and front pay;
- (3) admission to membership in any respondent labor organization;

(4) admission to or participation in a program, apprentice training program, on-the-job training program or other occupational training or retraining program;

(5) the extension of full, equal and unsegregated accommodations, advantages, facilities and privileges;

(6) evaluating applications for membership in a club that is not distinctly private without discrimination based on race, creed, color, age, national origin, disability, marital status, partnership status, gender, sexual orientation or alienage or citizenship status;

(7) selling, renting or leasing, or approving the sale, rental or lease of housing accommodations, land or commercial space or an interest therein, or the provision of credit with respect thereto, without unlawful discrimination;

(8) payment of compensatory damages to the person aggrieved by such practice or act;[and]

(9) submission of reports with respect to the manner of compliance[.]; *and*

(10) payment of the complainant's reasonable attorney's fees, expert fees and other costs.

The commission may consider matter-specific factors when determining the complainant's attorney's fee award, including, but not limited to:

(i) novelty or difficulty of the issues presented;

(ii) skill and experience of the complainant's attorney; and

(iii) the hourly rate charged by attorneys of similar skill and experience litigating similar cases in New York county.

§ 2. Subdivision g of section 8-502 of the administrative code of the city of New York, as amended by local law number 71 for the year 2013, is amended to read as follows:

g. In any civil action commenced pursuant to this section, the court, in its discretion, may award the prevailing party[costs and] reasonable attorney’s fees, *expert fees and other costs*. For the purposes of this subdivision, the term “prevailing” includes a plaintiff whose commencement of litigation has acted as a catalyst to effect policy change on the part of the defendant, regardless of whether that change has been implemented voluntarily, as a result of a settlement or as a result of a judgment in such plaintiff’s favor. *The court shall apply the hourly rate charged by attorneys of similar skill and experience litigating similar cases in New York county when it chooses to factor the hourly rate into the attorney’s fee award.*

§ 3. This local law takes effect immediately.

THE CITY OF NEW YORK, OFFICE OF THE CITY CLERK, s.s.:

I hereby certify that the foregoing is a true copy of a local law of The City of New York, passed by the Council on March 9, 2016 and approved by the Mayor on March 28, 2016.

MICHAEL M. McSWEENEY, City Clerk, Clerk of the Council.

CERTIFICATION OF CORPORATION COUNSEL

I hereby certify that the form of the enclosed local law (Local Law No. 36 of 2016, Council Int. No. 818-A of 2015) to be filed with the Secretary of State contains the correct text of the local law passed by the New York City Council and approved by the Mayor.

STEPHEN LOUIS, Acting Corporation Counsel.