

**RECORD GROUP:**

**Office of the Mayor  
David N. Dinkins**

**SUBGROUP:**

**City Legislative Affairs**

**SERIES:**

**Local Laws**

**DATES:**

**1990-1993**

**ACCN NO 99-07**



**99-07**

**BOX:**

**26**

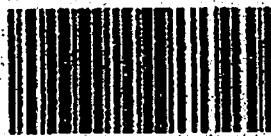
**FOLDER:**

**349**

**DESCRIPTION:**

**#11 Remedies for Incidents of Bias-  
Related Violence and Harassment  
in the Human Rights Law**

**1993**



99-07

INT. 558-B

LOCAL LAW # 11 of '93

Local law ref. to the remedial for incidents of bias-related violence and harassment in the human rights law

Passed by Council - 1/6/93

Rev'd in Mayor's Off. -

Adopted - 1/13/93, City Record & the New York Post

Hearing before Mayor - 1/22/93

Last day for Mayor to act -

Expiration -



THE COUNCIL  
OF  
THE CITY OF NEW YORK  
CITY HALL  
NEW YORK, N. Y. 10007

MEMORANDUM IN SUPPORT

**TITLE:** To amend the administrative code of the city of New York in relation to the remedies for incidents of bias-related violence and harassment in the human rights law.

**TYPE OF LEGISLATION - Intro**

**SUBMITTED BY:** Council Member Freed

**REASONS FOR SUPPORT:** The city of New York is currently under siege from an onslaught of hatred and intolerance which is being exhibited by actions threatening the very fabric of our society, where numerous vicious acts are perpetrated on residents and visitors to our City based on race, color, creed, age, national origin, alienage or citizenship status, gender, sexual orientation, disability, marital status, whether children are or would be residing with a person or conviction or arrest record. Prejudice and intolerance, bigotry and discrimination and disorder occasioned thereby threaten the rights and proper privileges of its inhabitants and menace the institutions and foundation of a free democratic state. This bill would increase the civil penalties for bias related violence or harassment and allow a victim to pursue remedies either through the City Human Rights Commission or through a private right of action where an individual can be awarded punitive damages, attorney's fees and court costs. This bill indicates a disgust with the wave of bias related violence which has swept our City. This increased penalty sends a message to individuals who would perpetrate these acts that they will pay a heavy price for them, and, it is hoped, by increasing penalties help to deter any such additional hateful acts.

**SIGNATURE:**

*Bill*  
*1400 phul tool*  
*def of harassment*  
*[April, 1973]*  
*Broad*  
*Other City employees*  
*ops*  
*Gen. Welfare*  
*expected course*  
*city expense*  
*Civil penalties*  
*v. Damages*

Int. No. 558

By Council Member Freed

A LOCAL LAW

To amend the administrative code of the city of New York in relation to the remedies for incidents of bias-related violence and harassment in the human rights law.

Be it enacted by the Council as follows:

Section 1. Section 8-101 of the administrative code of the city of New York is hereby amended to read as follows:

**§8-101 Policy.** In the City of New York, with its great cosmopolitan population, there is no greater danger to the health, morals, safety and welfare of the city and its inhabitants than the existence of groups prejudice against one another and antagonistic to each other because of their actual or perceived differences, including those based on race, color, creed, age, national origin, alienage or citizenship status, gender, sexual orientation, disability, marital status, whether children are, may be or would be residing with a person or conviction or arrest record. The Council hereby finds and declares that prejudice, intolerance, bigotry, and discrimination, bias related violence or harassment and disorder occasioned thereby threaten the rights and proper privileges of its inhabitants and menace the institutions and foundation of a free democratic state. A city agency is hereby created with power to eliminate and prevent discrimination from playing any role in actions relating to employment, public accommodations, and housing and other real estate, and to take other actions

against prejudice, intolerance, bigotry, [and] discrimination and bias related violence or harassment as herein provided; and the commission established hereunder is hereby given general jurisdiction and power for such purposes.

§2. Section 8-109 of the administrative code of the city of New York is hereby amended to read as follows:

§8-109 Complaint. a. Any person aggrieved by an unlawful discriminatory practice or an act of discriminatory harassment or violence as defined by chapter six of this title may, by himself or herself or such person's attorney, make, sign and file with the commission a verified complaint in writing which shall (i) state the name of the person alleged to have committed the unlawful discriminatory practice or act of discriminatory harassment or violence complained of, and the address of such person if known; (ii) set forth the particulars of the alleged unlawful discriminatory practice or act of discriminatory harassment or violence; and (iii) contain such other information as may be required by the commission. The commission shall acknowledge the filing of the complaint and advise the complainant of the time limits set forth in this chapter.

(b) Any employer whose employee or agent refuses or threatens to refuse to cooperate with the provisions of this chapter may file with the commission a verified complaint asking for assistance by conciliation or other remedial action.

(c) Commission-initiated complaints. The commission may itself make, sign and file a verified complaint alleging that a

person has committed an unlawful discriminatory practice or an act of discriminatory harassment or violence.

- (d) The commission shall serve a copy of the complaint upon the respondent and all persons it deems to be necessary parties and shall advise the respondent of his or her procedural rights and obligations as set forth herein.
- (e) The commission shall not have jurisdiction over any complaint that has been filed more than one year after the alleged unlawful discriminatory practice or act of discriminatory harassment or violence occurred.
- (f) The commission shall not have jurisdiction to entertain a complaint if:
  - (i) the complainant has previously initiated a civil action in a court of competent jurisdiction alleging an unlawful discriminatory practice as defined in this chapter or an act of discriminatory harassment or violence as defined in chapter six with respect to the same grievance which is the subject of the complaint under this chapter, unless such civil action has been dismissed without prejudice or withdrawn without prejudice; or
  - (ii) the complainant has previously filed and has an action or proceeding before any administrative agency under any other law of the state alleging an unlawful discriminatory practice as defined by this chapter or an act of discriminatory harassment or violence as defined by chapter six with respect to the same

grievance which is the subject of the complaint under this chapter; or

- (iii) the complainant has previously filed a complaint with the state division of human rights alleging an unlawful discriminatory practice as defined by this chapter or an act of discriminatory harassment or violence as defined by chapter six with respect to the same grievance which is the subject of the complaint under this chapter and a final determination has been made thereon.
- (g) In relation to complaints filed on or after September first, nineteen hundred ninety one, the commission shall commence proceedings with respect to the complaint, complete the investigation of the allegations of the complaint and make a final disposition of the complaint promptly and within the time periods to be prescribed by rule of the commission. If the commission is unable to comply with the time periods specified for completing its investigation and for final disposition of the complaint, it shall notify the complainant, respondent, and any necessary party in writing of the reasons for not doing so.
- (h) Any complaint filed pursuant to this section may be amended pursuant to procedures prescribed by rule of the commission by filing such amended complaint with the commission and serving a copy thereon upon all parties to the proceeding.
- (i) Whenever a complaint is filed pursuant to paragraph (d) of subdivision five of section 8-107 of this chapter, no



member of the commission nor any member of the commission staff shall make public in any manner whatsoever the name of any borrower or identify by a specific description the collateral for any loan to such borrower except when ordered to do so by a court of competent jurisdiction or where express permission has been first obtained in writing from the lender and the borrower to such publication; provided, however, that the name of any borrower and a specific description of the collateral for any loan to such borrower may, if otherwise relevant, be introduced in evidence in any hearing before the commission or any review by a court of competent jurisdiction of any order or decision by the commission.

§3. Subdivision d of section 8-113 of the administrative code of the city of New York is hereby amended to read as follows:

d. If after investigation the commission determines that probable cause does not exist to believe that the respondent has engaged or is engaging in an unlawful discriminatory practice or an act of discriminatory harassment or violence, the commission shall dismiss the complaint as to such respondent.

§4. Subdivision a of section 8-116 of the administrative code of the city of New York is hereby amended to read as follows:

a. Except in connection with commission-initiated complaints which shall not require a determination of probable

cause, where the commission determines that probable cause exists to believe that the covered entity has engaged or is engaging in an unlawful discriminatory practice or an act of discriminatory harassment or violence, the commission shall issue a written notice to complainant and respondent so stating. A determination of probable cause is not a final order of the commission and shall not be administratively or judicially reviewable.

§5. Section 8-120 of the administrative code of the city of New York is hereby amended to read as follows:

§8-120 Decision and order. a. If, upon all the evidence at the hearing, and upon the finding 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, 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 judgement 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, 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; and
- (9) submission of reports with respect to the manner of compliance;

b. If, upon all the evidence at the hearing, and upon the findings of fact and conclusions of law recommended by the administrative law judge, the commission shall find that a respondent has not engaged in any unlawful discriminatory practice or act of discriminatory harassment or violence, the commission shall state its findings of fact and conclusions of law and shall issue and cause to be served on the complainant, respondent, and any necessary party and on any complainant who has

not intervened an order dismissing the complaint as to such respondent.

§6. Section 8-122 of the administrative code of the city of New York is hereby amended to read as follows:

§8-122 Injunction and temporary restraining order. At any time after the filing of a complaint alleging an unlawful discriminatory practice or an act of discriminatory harassment or violence under this chapter, if the commission has reason to believe that the respondent or other person acting in concert with respondent is doing or procuring to be done any act or acts, tending to render ineffectual relief that could be ordered by the commission after a hearing as provided by section 8-120 of this chapter, a special proceeding may be commenced in accordance with article sixty-three of the civil practice law and rules on behalf of the commission in the supreme court for an order to show cause why the respondent and such other persons who are believed to be acting in concert with respondent should not be enjoined from doing or procuring to be done such acts. The special proceeding may be commenced in any county within the city of New York where the alleged unlawful discriminatory practice or act of discriminatory harassment or violence was committed, or where the commission maintains its principal office for the transaction of business, or where any respondent resides or maintains an office for the transaction of business, or where any person aggrieved by the unlawful discriminatory practice or act of discriminatory harassment or violence resides, or, if the complaint alleges an unlawful discriminatory

practice under paragraphs (a), (b) or (c) of subdivision five of section 8-107 of this chapter, where the housing accommodation, land or commercial space specified in the complaint is located. The order to show cause may contain a temporary restraining order and shall be served in the manner provided therein. On the return date of the order to show cause, and after affording the commission, the person aggrieved and the respondent and any person alleged to be acting in concert with the respondent an opportunity to be heard, the court may grant appropriate injunctive relief upon such terms and conditions as the court deems proper.

§7. Subdivision b of section 8-123 of the administrative code of the city of New York is hereby amended to read as follows:

- b. Such proceeding shall be brought in the supreme court of the state within any county within the city of New York wherein the unlawful discriminatory practice or act of discriminatory harassment or violence which is the subject of the commission's order occurs or wherein any person required in the order to cease and desist from an unlawful discriminatory practice or discriminatory harassment or violence or to take other affirmative action resides or transacts business.

§8. Section 8-126 of the administrative code of the city of New York is hereby amended to read as follows:

§8-126 Civil penalties imposed by commission for unlawful discriminatory practices or acts of discriminatory harassment or

violence. a. Except as otherwise provided in subdivision thirteen of section 8-107 of this chapter, in addition to any remedies and penalties set forth in subdivision a of section 8-120 of this chapter, where the commission finds that a person has engaged in an unlawful discriminatory practice, the commission may, to vindicate the public interest, impose a civil penalty of not more than fifty thousand dollars. Where the commission finds that an unlawful discriminatory practice was the result of the respondent's willful, wanton or malicious act or where the commissioner finds that an act of discriminatory harassment or violence has occurred, the commission may, to vindicate the public interest, impose a civil penalty of not more than one hundred thousand dollars.

b. A covered entity that is found liable for an unlawful discriminatory practice or an act of discriminatory harassment or violence may, in relation to the determination of the appropriate amount of civil penalties to be imposed pursuant to subdivision a of this section, plead and prove any relevant mitigating factor.

c. In addition to any other penalties or sanctions which may be imposed pursuant to any other law, any person who knowingly makes a material false statement in any proceeding conducted, or document or record filed with the commission, or record required to be preserved or made and kept and subject to inspection by the commission pursuant to this chapter shall be liable for a civil penalty of not more than ten thousand dollars.

d. An action or proceeding may be commenced in any court of competent jurisdiction on behalf of the commission for the recovery of the civil penalties provided for in this section.

§9. Subdivision a of section 8-502 of the administrative code of the city of New York is hereby amended to read as follows:

a. Except as otherwise provided by law, any person claiming to be aggrieved by an unlawful discriminatory practice as defined in chapter one of this title or by an act of discriminatory harassment or violence as defined in chapter six of this title shall have a cause of action in any court of competent jurisdiction for damages, including punitive damages, and for injunctive relief and such other remedies as may be appropriate, unless such person has filed a complaint with the city commission on human rights or with the state division of human rights with respect to such alleged unlawful discriminatory practice or discriminatory harassment or violence. For purposes of this subdivision, the filing of a complaint with a federal agency pursuant to applicable federal law prohibiting discrimination which is subsequently referred to the city commission on human rights or to the state division of human rights pursuant to such law shall not be deemed to constitute the filing of a complaint under this subdivision.

§10. Chapter six of title eight of the administrative code of the city of New York is hereby renamed and amended to read as follows:

CHAPTER 6

DISCRIMINATORY HARASSMENT OR VIOLENCE

§8-602 Civil action to enjoin discriminatory harassment or violence; equitable remedies. a. Whenever a person interferes by threats, intimidation or coercion or attempts to interfere by threats, intimidation or coercion with the exercise or enjoyment by any person of rights secured by the constitution or laws of the United States, the constitution or laws of this state, or local law of the city in whole or in part because of the person's actual or perceived race, creed, color, national origin, gender, sexual orientation, age, whether children are, may or would be residing with such person, marital status, disability, or alienage or citizenship status as defined in chapter one of this title, the corporation counsel, at the request of the city commission on human rights or on his or her own initiative, may bring a civil action on behalf of the city for injunctive and other appropriate equitable relief in order to protect the peaceable exercise or enjoyment of the rights secured.

b. An action pursuant to subdivision a may be brought in any court of competent jurisdiction.

c. Violations of an order issued pursuant to subdivision a of this section may be punished by a proceeding for contempt brought pursuant to article nineteen of the judiciary law and, in addition to any relief thereunder, a civil penalty may be imposed not exceeding ten thousand dollars for each day that the violation continues.



§8-603 Discriminatory harassment; civil penalties. a. No person shall by force or threat of force, knowingly injure, intimidate or interfere with, oppress, or threaten any other person in the free exercise or enjoyment of any right or privilege secured to him or her by the constitution or laws of this state or by the constitution or laws of the United States or by local law of the city in whole or in part because of the other person's actual or perceived race, creed, color, national origin, gender, sexual orientation, age, marital status, disability or alienage or citizenship status, as defined in chapter one of this title.

b. No person shall knowingly deface, damage or destroy the real or personal property of any person for the purpose of intimidating or interfering with the free exercise or enjoyment of any right or privilege secured to the other person by the constitution or laws of this state or by the constitution or laws of the United States or by local law of the city in whole or in part because of the other person's actual or perceived race, creed, color, national origin, gender, sexual orientation, age, marital status, or whether children are, may be, or would be residing with such person, disability or alienage or citizenship status, as defined in chapter one of this title.

c. Any person who violates subdivision a or b of this section shall be liable for a civil penalty of not more than [fifty] one hundred thousand dollars for each violation, which may be recovered by the corporation counsel in an

action or proceeding in any court of competent jurisdiction.

§8-604 Disposition of civil penalties. Any civil penalties recovered by the corporation counsel pursuant to this chapter shall be paid into the general fund of the city. Nothing contained herein shall be construed to mean that any civil penalties recovered by an individual pursuant to this chapter shall be paid into the general fund of the city.

§12. This local law shall take effect immediately.

AS  
ls# 162  
4/21/92

[Apr 21, 1992]

Int. No. 558 Gen. Welfare

By Council Member Freed

A LOCAL LAW

To amend the administrative code of the city of New York in relation to the remedies for incidents of bias-related violence and harassment in the human rights law.

Be it enacted by the Council as follows:

Section 1. Section 8-101 of the administrative code of the city of New York is hereby amended to read as follows:

§8-101 Policy. In the City of New York, with its great cosmopolitan population, there is no greater danger to the health, morals, safety and welfare of the city and its inhabitants than the existence of groups prejudice against one another and antagonistic to each other because of their actual or perceived differences, including those based on race, color, creed, age, national origin, alienage or citizenship status, gender, sexual orientation, disability, marital status, whether children are, may be or would be residing with a person or conviction or arrest record. The Council hereby finds and declares that prejudice, intolerance, bigotry, and discrimination, bias related violence or harassment and disorder occasioned thereby threaten the rights and proper privileges of its inhabitants and menace the institutions and foundation of a free democratic state. A city agency is hereby created with power to eliminate and prevent discrimination from playing any role in actions relating to employment, public accommodations, and housing and other real estate, and to take other actions

against prejudice, intolerance, bigotry, [and] discrimination and bias related violence or harassment as herein provided; and the commission established hereunder is hereby given general jurisdiction and power for such purposes.

§2. Section 8-109 of the administrative code of the city of New York is hereby amended to read as follows:

§8-109 Complaint. a. Any person aggrieved by an unlawful discriminatory practice or an act of discriminatory harassment or violence as defined by chapter six of this title may, by himself or herself or such person's attorney, make, sign and file with the commission a verified complaint in writing which shall (i) state the name of the person alleged to have committed the unlawful discriminatory practice or act of discriminatory harassment or violence complained of, and the address of such person if known; (ii) set forth the particulars of the alleged unlawful discriminatory practice or act of discriminatory harassment or violence; and (iii) contain such other information as may be required by the commission. The commission shall acknowledge the filing of the complaint and advise the complainant of the time limits set forth in this chapter.

(b) Any employer whose employee or agent refuses or threatens to refuse to cooperate with the provisions of this chapter may file with the commission a verified complaint asking for assistance by conciliation or other remedial action.

(c) Commission-initiated complaints. The commission may itself make, sign and file a verified complaint alleging that a

person has committed an unlawful discriminatory practice or an act of discriminatory harassment or violence.

- (d) The commission shall serve a copy of the complaint upon the respondent and all persons it deems to be necessary parties and shall advise the respondent of his or her procedural rights and obligations as set forth herein.
- (e) The commission shall not have jurisdiction over any complaint that has been filed more than one year after the alleged unlawful discriminatory practice or act of discriminatory harassment or violence occurred.
- (f) The commission shall not have jurisdiction to entertain a complaint if:
  - (i) the complainant has previously initiated a civil action in a court of competent jurisdiction alleging an unlawful discriminatory practice as defined in this chapter or an act of discriminatory harassment or violence as defined in chapter six with respect to the same grievance which is the subject of the complaint under this chapter, unless such civil action has been dismissed without prejudice or withdrawn without prejudice; or
  - (ii) the complainant has previously filed and has an action or proceeding before any administrative agency under any other law of the state alleging an unlawful discriminatory practice as defined by this chapter or an act of discriminatory harassment or violence as defined by chapter six with respect to the same

grievance which is the subject of the complaint under this chapter; or

(iii) the complainant has previously filed a complaint with the state division of human rights alleging an unlawful discriminatory practice as defined by this chapter or an act of discriminatory harassment or violence as defined by chapter six with respect to the same grievance which is the subject of the complaint under this chapter and a final determination has been made thereon.

- (g) In relation to complaints filed on or after September first, nineteen hundred ninety one, the commission shall commence proceedings with respect to the complaint, complete the investigation of the allegations of the complaint and make a final disposition of the complaint promptly and within the time periods to be prescribed by rule of the commission. If the commission is unable to comply with the time periods specified for completing its investigation and for final disposition of the complaint, it shall notify the complainant, respondent, and any necessary party in writing of the reasons for not doing so.
- (h) Any complaint filed pursuant to this section may be amended pursuant to procedures prescribed by rule of the commission by filing such amended complaint with the commission and serving a copy thereon upon all parties to the proceeding.
- (i) Whenever a complaint is filed pursuant to paragraph (d) of subdivision five of section 8-107 of this chapter, no

member of the commission nor any member of the commission staff shall make public in any manner whatsoever the name of any borrower or identify by a specific description the collateral for any loan to such borrower except when ordered to do so by a court of competent jurisdiction or where express permission has been first obtained in writing from the lender and the borrower to such publication; provided, however, that the name of any borrower and a specific description of the collateral for any loan to such borrower may, if otherwise relevant, be introduced in evidence in any hearing before the commission or any review by a court of competent jurisdiction of any order or decision by the commission.

§3. Subdivision d of section 8-113 of the administrative code of the city of New York is hereby amended to read as follows:

d. If after investigation the commission determines that probable cause does not exist to believe that the respondent has engaged or is engaging in an unlawful discriminatory practice or an act of discriminatory harassment or violence, the commission shall dismiss the complaint as to such respondent.

§4. Subdivision a of section 8-116 of the administrative code of the city of New York is hereby amended to read as follows:

a. Except in connection with commission-initiated complaints which shall not require a determination of probable

cause, where the commission determines that probable cause exists to believe that the covered entity has engaged or is engaging in an unlawful discriminatory practice or an act of discriminatory harassment or violence, the commission shall issue a written notice to complainant and respondent so stating. A determination of probable cause is not a final order of the commission and shall not be administratively or judicially reviewable.

§5. Section 8-120 of the administrative code of the city of New York is hereby amended to read as follows:

§8-120 Decision and order. a. If, upon all the evidence at the hearing, and upon the finding 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, 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 judgement 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, 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; and
- (9) submission of reports with respect to the manner of compliance;

b. If, upon all the evidence at the hearing, and upon the findings of fact and conclusions of law recommended by the administrative law judge, the commission shall find that a respondent has not engaged in any unlawful discriminatory practice or act of discriminatory harassment or violence, the commission shall state its findings of fact and conclusions of law and shall issue and cause to be served on the complainant, respondent, and any necessary party and on any complainant who has

not intervened an order dismissing the complaint as to such respondent.

§6. Section 8-122 of the administrative code of the city of New York is hereby amended to read as follows:

§8-122 Injunction and temporary restraining order. At any time after the filing of a complaint alleging an unlawful discriminatory practice or an act of discriminatory harassment or violence under this chapter, if the commission has reason to believe that the respondent or other person acting in concert with respondent is doing or procuring to be done any act or acts, tending to render ineffectual relief that could be ordered by the commission after a hearing as provided by section 8-120 of this chapter, a special proceeding may be commenced in accordance with article sixty-three of the civil practice law and rules on behalf of the commission in the supreme court for an order to show cause why the respondent and such other persons who are believed to be acting in concert with respondent should not be enjoined from doing or procuring to be done such acts. The special proceeding may be commenced in any county within the city of New York where the alleged unlawful discriminatory practice or act of discriminatory harassment or violence was committed, or where the commission maintains its principal office for the transaction of business, or where any respondent resides or maintains an office for the transaction of business, or where any person aggrieved by the unlawful discriminatory practice or act of discriminatory harassment or violence resides, or, if the complaint alleges an unlawful discriminatory

practice under paragraphs (a), (b) or (c) of subdivision five of section 8-107 of this chapter, where the housing accommodation, land or commercial space specified in the complaint is located. The order to show cause may contain a temporary restraining order and shall be served in the manner provided therein. On the return date of the order to show cause, and after affording the commission, the person aggrieved and the respondent and any person alleged to be acting in concert with the respondent an opportunity to be heard, the court may grant appropriate injunctive relief upon such terms and conditions as the court deems proper.

§7. Subdivision b of section 8-123 of the administrative code of the city of New York is hereby amended to read as follows:

- b. Such proceeding shall be brought in the supreme court of the state within any county within the city of New York wherein the unlawful discriminatory practice or act of discriminatory harassment or violence which is the subject of the commission's order occurs or wherein any person required in the order to cease and desist from an unlawful discriminatory practice or discriminatory harassment or violence or to take other affirmative action resides or transacts business.

§8. Section 8-126 of the administrative code of the city of New York is hereby amended to read as follows:

§8-126 Civil penalties imposed by commission for unlawful discriminatory practices or acts of discriminatory harassment or

violence. a. Except as otherwise provided in subdivision thirteen of section 8-107 of this chapter, in addition to any remedies and penalties set forth in subdivision a of section 8-120 of this chapter, where the commission finds that a person has engaged in an unlawful discriminatory practice, the commission may, to vindicate the public interest, impose a civil penalty of not more than fifty thousand dollars. Where the commission finds that an unlawful discriminatory practice was the result of the respondent's willful, wanton or malicious act or where the commissioner finds that an act of discriminatory harassment or violence has occurred, the commission may, to vindicate the public interest, impose a civil penalty of not more than one hundred thousand dollars.

b. A covered entity that is found liable for an unlawful discriminatory practice or an act of discriminatory harassment or violence may, in relation to the determination of the appropriate amount of civil penalties to be imposed pursuant to subdivision a of this section, plead and prove any relevant mitigating factor.

c. In addition to any other penalties or sanctions which may be imposed pursuant to any other law, any person who knowingly makes a material false statement in any proceeding conducted, or document or record filed with the commission, or record required to be preserved or made and kept and subject to inspection by the commission pursuant to this chapter shall be liable for a civil penalty of not more than ten thousand dollars.

d. An action or proceeding may be commenced in any court of competent jurisdiction on behalf of the commission for the recovery of the civil penalties provided for in this section.

§9. Subdivision a of section 8-502 of the administrative code of the city of New York is hereby amended to read as follows:

a. Except as otherwise provided by law, any person claiming to be aggrieved by an unlawful discriminatory practice as defined in chapter one of this title or by an act of discriminatory harassment or violence as defined in chapter six of this title shall have a cause of action in any court of competent jurisdiction for damages, including punitive damages, and for injunctive relief and such other remedies as may be appropriate, unless such person has filed a complaint with the city commission on human rights or with the state division of human rights with respect to such alleged unlawful discriminatory practice or discriminatory harassment or violence. For purposes of this subdivision, the filing of a complaint with a federal agency pursuant to applicable federal law prohibiting discrimination which is subsequently referred to the city commission on human rights or to the state division of human rights pursuant to such law shall not be deemed to constitute the filing of a complaint under this subdivision.

§10. Chapter six of title eight of the administrative code of the city of New York is hereby renamed and amended to read as follows:

CHAPTER 6

DISCRIMINATORY HARASSMENT OR VIOLENCE

§8-602 Civil action to enjoin discriminatory harassment or violence; equitable remedies. a. Whenever a person interferes by threats, intimidation or coercion or attempts to interfere by threats, intimidation or coercion with the exercise or enjoyment by any person of rights secured by the constitution or laws of the United States, the constitution or laws of this state, or local law of the city in whole or in part because of the person's actual or perceived race, creed, color, national origin, gender, sexual orientation, age, whether children are, may or would be residing with such person, marital status, disability, or alienage or citizenship status as defined in chapter one of this title, the corporation counsel, at the request of the city commission on human rights or on his or her own initiative, may bring a civil action on behalf of the city for injunctive and other appropriate equitable relief in order to protect the peaceable exercise or enjoyment of the rights secured.

b. An action pursuant to subdivision a may be brought in any court of competent jurisdiction.

c. Violations of an order issued pursuant to subdivision a of this section may be punished by a proceeding for contempt brought pursuant to article nineteen of the judiciary law and, in addition to any relief thereunder, a civil penalty may be imposed not exceeding ten thousand dollars for each day that the violation continues.

§8-603 Discriminatory harassment; civil penalties. a. No person shall by force or threat of force, knowingly injure, intimidate or interfere with, oppress, or threaten any other person in the free exercise or enjoyment of any right or privilege secured to him or her by the constitution or laws of this state or by the constitution or laws of the United States or by local law of the city in whole or in part because of the other person's actual or perceived race, creed, color, national origin, gender, sexual orientation, age, marital status, disability or alienage or citizenship status, as defined in chapter one of this title.

b. No person shall knowingly deface, damage or destroy the real or personal property of any person for the purpose of intimidating or interfering with the free exercise or enjoyment of any right or privilege secured to the other person by the constitution or laws of this state or by the constitution or laws of the United States or by local law of the city in whole or in part because of the other person's actual or perceived race, creed, color, national origin, gender, sexual orientation, age, marital status, or whether children are, may be, or would be residing with such person, disability or alienage or citizenship status, as defined in chapter one of this title.

c. Any person who violates subdivision a or b of this section shall be liable for a civil penalty of not more than [fifty] one hundred thousand dollars for each violation, which may be recovered by the corporation counsel in an

action or proceeding in any court of competent jurisdiction.

§8-604 Disposition of civil penalties. Any civil penalties recovered by the corporation counsel pursuant to this chapter shall be paid into the general fund of the city. ~~Nothing contained herein shall be construed to mean that any civil penalties recovered by an individual pursuant to this chapter shall be paid into the general fund of the city.~~

§12: This local law shall take effect immediately.

AS  
ls# 162  
4/21/92





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**Kathryn E. Freed**



*Council Member, 1st District*

51 Chambers Street, Room 429, New York, New York 10007  
(212) 732-5675

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FOR IMMEDIATE RELEASE  
May 18, 1993  
10:30 A.M.

Contact: Marty Algaze  
(212) 732-5675

**FIRST BIAS LAW SUIT FILED UNDER NEW LAW**

Council Member Kathryn Freed (D-Manhattan), Human Rights Commissioner Dennis deLeon, and Council Member Sam Horwitz announced today, that the first complaint filed under Freed's Anti-Bias Law will be filed today. It involves an harassment and intimidation, complaint made by an African American woman from Bay Ridge who is filing suit against a white neighbor in the apartment building that she lives in.

On January 6, 1993, the New York City Council passed Local Law 11. Freed was the author and prime sponsor of the new law. The Mayor signed it on January 22 and it became law immediately. The law permits the victim of a bias incident to sue the perpetrator through a private right of action, for an unlimited amount of money for damages, legal fees, court costs and punitive damages. It also gives the victim the option to ask the New York City Commission on Human Rights (CCHR) to sue on his or her behalf. The Commission can award damages and also collect a fine of up to \$100,000, which goes into the City treasury.

"Today we send a message throughout our City that we will not tolerate actions rising out of hatred. Almost every day the media reports stories about another hate crime being committed against a person based on who they are or are perceived to be. These vicious crimes strike at the very heart and vitality of our city. They happen in all five boroughs and in all communities, wherever hate and ignorance exist. We are putting the people who commit these incidents on notice that they will pay, literally for their crimes.

"I would like to thank Speaker Peter Vallone, Chair of the City Council General Welfare Committee Sam Horwitz, Commissioner Dennis deLeon, and all my colleagues who supported the passage of this law. I'd also like to thank Mayor Dinkins for quickly signing it into law." said Freed.

"This law is the strongest blow that the City of New York can strike against bigotry and intolerance. I hope this will also send a message to the New York State Legislature, specifically the State Senate, because they have failed dismally to address the vital issue of passing an anti-bias crime bill for more than six years. In our hearing on this bill, we heard testimony about lives being cut short or permanently damaged as a result of such hate filled actions. They must stop! We hope that this law will help bring these sorts of heinous incidents to an end." said Freed.

We encourage anyone who has been a victim of bias violence or harassment to either call the CCHR at (212) 306-7500 or if you have questions, please feel free to call my office at (212) 732-5675.

U 11/2

K  
X



LAW DEPARTMENT  
100 CHURCH STREET  
NEW YORK, NY 10038  
BY PETER SHERWOOD  
Corporation Counsel

TELECOPIER TRANSMITTAL SHEET

TO: Martha Kost X 2920  
AGENCY: \_\_\_\_\_  
FROM: Ken Younkens  
AGENCY: \_\_\_\_\_  
DATE: \_\_\_\_\_  
PAGES TO FOLLOW: \_\_\_\_\_

This fax number is (212) 788-1621

FYI - Richard Weinberg  
asked for this opinion in  
view of Fred's proposal to  
create a private right of  
action to enforce the discriminatory  
harassment provisions of the Human  
Rights Law.



LAW DEPARTMENT  
100 CHURCH STREET  
NEW YORK, N.Y. 10007

O. PETER SHERWOOD  
Corporation Counsel

(212) 788-1081

**MEMORANDUM**

TO: RICHARD WEINBERG  
Director, Legal Division  
City Counsel

FROM: RONALD P. YOUNKINS *RPY*  
Deputy Chief  
Division of Legal Counsel

RE: R.A.V. v. City of St. Paul

DATE: August 6, 1992.

You asked for our view of the continued validity of certain provisions of the City Human Rights Law in light of R.A.V. v. City of St. Paul, Minnesota, 60 U.S.L.W. 4467 (June 22, 1992), in which the Supreme Court held invalid under the First Amendment an ordinance that prohibited display of a symbol that "one knows or has reasonable grounds to know arouses anger, alarm or resentment in others on the basis of race, color, creed, religion or gender."

The provisions about which you ask are the discriminatory harassment provisions of Chapter 6 of the Human Rights Law.

Section 8-602(a) of that chapter provides:

Whenever a person interferes by threats, intimidation or coercion or attempts to interfere by threats, intimidation or coercion with the exercise or enjoyment by any person of rights secured by the constitution or laws of the United States, the constitution or laws of this state, or local law of the city because of the person's actual or perceived race, creed, color, national origin, gender, sexual orientation, age, whether children are, may or would be residing with such person, marital status, disability, or alienage or citizenship status as defined in chapter one of this title, the corporation counsel, at the request of the city commission on human rights or on his or her own initiative, may bring a civil action on behalf of the city for injunctive and other appropriate equitable relief in order to protect the peaceable exercise or enjoyment of the rights secured.

Section 8-603(a) of that chapter provides:

No person shall by force or threat of force, knowingly injure, intimidate or interfere with, oppress, or threaten any other person in the free exercise or enjoyment of any right or privilege secured to him or her by the constitution or laws of this state or by the constitution or laws of the United States or local law of the city because of the other person's actual or perceived race, creed, color, national origin, gender, sexual orientation, age, marital status, disability or alienage or citizenship status, as defined in chapter one of this title.

As explained below, it is our view that these provisions of the City's Human Rights Law are not invalid under the reasoning of the St. Paul decision.

The statute at issue in St. Paul provided that:

Whoever places on public or private property a symbol, object, appellation, characterization or graffiti, including, but not limited to, a burning cross or Nazi swastika, which one knows or has reasonable grounds to know arouses anger, alarm or resentment in others on the basis of race, color, creed, religion or gender commits disorderly conduct and shall be guilty of a misdemeanor.

The petitioner in St. Paul, who had been convicted of cross-burning in violation of the ordinance, challenged the ordinance on First Amendment grounds. Justice Scalia, writing for a five judge majority, held that the ordinance was facially unconstitutional. For purposes of his analysis, Justice Scalia assumed, arguendo, that all expression covered by the ordinance was prescribable under the "fighting words" doctrine, which permits regulation of words that "by their very utterance inflict injury or tend to incite an immediate breach of the peace." Chaplinsky v. New Hampshire, 315 U.S. 568, 572 (1942). The majority nevertheless found the ordinance unconstitutional in that it applied only to speakers who expressed views on certain "disfavored subjects," but imposed no penalties on those who used fighting words in connection with "other ideas -- to express hostility, for example, on the basis of political affiliation, union membership, or homosexuality." 60 U.S.L.W. at 4671. The Court thus held that while an ordinance may lawfully ban fighting

words, the ordinance could not distinguish between fighting words based on content, and proscribe only those words addressed to "specified disfavored topics." Id.<sup>1</sup>

Justice Scalia set forth a number of "exceptions" to the prohibition on "content-based discrimination." Of relevance to the present inquiry is the "secondary effects" exception, which permits the regulation of "even a content-defined subclass of proscribable speech" if the speech is associated with certain conduct, and the regulation can therefore be justified "without reference to the content of the ... speech." 80 U.S.L.W. at 4870, quoting Ranton v. Playtime Theatres, Inc., 475 U.S. 41, 48 (1986). The Court explained this exception as follows:

[S]ince words can in some circumstances violate laws directed not against speech but against conduct (a law against treason, for example, is violated by telling the enemy the nation's defense secrets), a particular content-based subcategory of a proscribable class of speech can be swept up incidentally within the reach of a statute directed at conduct rather than speech. Thus, for example, sexually derogatory "fighting words," among other words, may produce a violation of Title VII's general prohibition against sexual discrimination in employment practices. Where the

<sup>1</sup> Four justices concurred in the judgment, but rejected the majority's "content-based discrimination" analysis. The four concurring justices found the ordinance unconstitutional on the ground that it was overbroad in that while it did prohibit some unprotected conduct, it also made criminal speech that only causes hurt feelings, offense, or resentment, effects that do not strip speech of First Amendment protection. 80 U.S.L.W. at 4873 (White, J., concurring).

government does target conduct on the basis of its expressive content, acts are not shielded from regulation merely because they express a discriminatory idea or philosophy.

60 U.S.L.W. at 4671. See also 60 U.S.L.W. at 4668 n.1 (noting that the cross-burning might have violated a number of Minnesota statutes, including one prohibiting "terrorist threats").

Similarly here, the target of the "discriminatory harassment" provisions of the City Human Rights Law is conduct. Specifically, the law prohibits conduct that interferes or attempts to interfere with a person's exercise of lawful rights. Such conduct may be speech in the form of "threats, intimidation or coercion," Ad. Code. §§-602(a), but, according to the majority in St. Paul, the First Amendment does not prohibit regulation of such speech because the speech is only "swept up incidentally within the reach of a statute directed at conduct rather than speech." 60 U.S.L.W. at 4671.

It is thus our view that the City's discriminatory harassment provisions are distinguishable from the content-based prohibition on speech at issue in St. Paul, and that the majority's reasoning in that case does not raise questions as to the continued validity of the City's law.

cc: Hon. Dennis DeLeon  
Commission on Human Rights



**Kathryn E. Freed**



**Council Member, 1st District**

51 Chambers Street, Room 429, New York, New York 10007  
(212) 732-5675

FOR IMMEDIATE RELEASE  
September 24, 1992  
12 Noon  
City Hall

Contact: Marty Algaze  
(212) 732-5675

**FREED, VALLONE, AND HOROWITZ INTRODUCE MAJOR HATE CRIMES BILL**

City Council Member Kathryn Freed (D-Manhattan), Speaker Peter Vallone (D-Queens), General Welfare Committee Chairman, Council Member Sam Horowitz (D-Brooklyn), and Human Rights Commissioner Dennis de Leon, were joined by other members of the Council and human rights activists to announce the introduction today of a major piece of legislation to address the explosive problems of bias related crime in New York City.

Council Member Freed said, "The City of New York is currently under siege from an onslaught of hatred and intolerance which is being exhibited by actions threatening the very fabric of our society. The people of our city are being viciously attacked because of who they are, because of their race, color, creed, age, gender, sexual orientation, disability, or marital status."

"Almost every day the media reports stories about another hate crime being committed against a person based on who they are or what they appear to be. These vicious crimes strike at the very heart and vitality of our city; draining our energy with their hatred. Whether it is the vandalism of a real estate office in Canarsie, the trashing of a black family's home in Gerritsen Beach, the savage beating deaths of Yankel Rosenblum in Crown Heights, or Yusef Hawkins in Bensonhurst, or Julio Rivera in Jackson Heights, the painting of a swastika on a synagogue, the desecration of a church, or the senseless beatings of lesbians and gay men by roving gangs in Greenwich Village or Chelsea. All decent New Yorkers must rise up and say these crimes are an abomination and will not be tolerated in New York City, before it's too late," said Freed.

This bill will increase the civil penalties for bias related violence or harassment and allow a victim to pursue remedies either through the City Commission on Human Rights or with their own attorney, through a private right of action. They can sue and be awarded civil damages, attorney's fees, and court costs not to exceed \$100,000 for each violation. Under this bill, by definition, hate crimes are considered to be wanton or wilful. This increased penalty sends a message to individuals who would perpetrate these acts, that we will not condone these actions and that they will pay a heavy price for their crime.

"This is a major step to ensure not only that bias crimes will be handled seriously but that victims will be better able to get redress in court, and seek monetary damages" said Speaker Vallone.

"The state legislature, specifically the Senate, has failed dismally to address this vital and important issue. A state bias crime bill has been stalled by the Senate for almost five years. I am proud to say that Speaker Vallone and Chairman Horowitz have been sensitive and compassionate enough to understand the importance of this legislation and have agreed to make its passage a top priority," said Freed.





COMMISSION ON HUMAN RIGHTS

40 RECTOR STREET, NEW YORK, N. Y. 10006

Telephones: (212) 306-7670 TDD (212) 306-7686 FAX (212) 306-7658

DENNIS deLEON, Commissioner/Chair



*Staff & Board*

September 24, 1992

Dear Concerned New Yorker:

The Commission on Human Rights will be sponsoring a special public forum on Thursday, October 27 on violence and hatred motivated by prejudice and bias. As you are undoubtedly aware, there has been much uncertainty about the legality of hate crimes legislation as a result of recent court decisions. This uncertainty has resulted in a certain amount of inertia in efforts to combat hate motivated violence on the legislative and community organizing fronts.

The public forum is intended to address these concerns and to rededicate ourselves to the struggle to combat bigotry. Panelists will analyze the impact of the recent United States Supreme Court decision, talk about the social and political context of hate crimes, and review the most recent national data.

I hope that you can attend. Please pass the attached flyer to coworkers, staff, interested organizations, and anyone else you think might benefit from such an exchange. For further information, call Ms. Elise Winterhoff at 306-7552.

Sincerely,

Dennis deLeon

Att.



## *Hate Crimes and Acts of Bias*

*Are They No Longer  
Prohibited by Law?*

*Public Forum  
Tuesday, October 27, 1992  
5:30 pm - 7:00 pm  
Public Hearings Chambers  
2nd Floor, City Hall*

*Moderated by Dennis deLeon, Commissioner  
NYC Commission on Human Rights*

### *Speakers*

*Adele Terrell*

*Program Director*

*National Institute Against  
Prejudice and Violence*

*Burt Neuborne*

*Professor of Law*

*New York University*


*Luke Harris*

*Assistant Professor of Institutional Law  
and American Race and Ethnic Relations*

*Vassar College*

*Part of a continuing series of public forums  
sponsored by the  
NYC Commission on Human Rights*

*For information call 212 306-7550*





40 Rector Street  
New York, N.Y. 10007

Mr. Frank T.W. New  
Director  
Mayor's Office of  
City Legislative Affairs  
52 Chambers Street, Room 309  
New York, New York 10007

[Sept 24, 1992]

✓ Home RIs  
✓ PD  
✓ Law

File Copy

# THE COUNCIL

The City of New York

Int. No. 558

September 24, 1992

Introduced by Council Members Freed and the Speaker (Council Member Vallone), Horwitz, Duane, DiBrienza, Eldridge, Eisland, Fisher, Linares, Marshall, Robles, White and Millard; also Council Members Alter, Clarke, Malave-Djian, Koslowitz, Maloney, Michels, Povman, Sabini and Williams—read and referred to the Committee on General Welfare.

## A LOCAL LAW

To amend the Administrative Code of the City of New York in relation to the remedies for incidents of bias-related violence and harassment in the human rights law.

Be it enacted by the Council as follows:

1 Section 1. Section 8-101 of the administrative code of the City of New York is  
2 hereby amended to read as follows:

3 § 8-101 Policy. In the City of New York, with its great cosmopolitan population,  
4 there is no greater danger to the health, morals, safety and welfare of the city and its  
5 inhabitants than the existence of groups prejudiced against one another and antagonistic  
6 to each other because of their actual or perceived differences, including those based on  
7 race, color, creed, age, national origin, alienage or citizenship status, gender, sexual ori-  
8 entation, disability, marital status, whether children are, may be or would be residing  
9 with a person or conviction or arrest record. The Council hereby finds and declares that  
10 prejudice, intolerance, bigotry, and discrimination, *bias related violence or harassment*  
11 and disorder occasioned thereby threaten the rights and proper privileges of its inhabi-  
12 tants and menace the institutions and foundation of a free democratic state. A city agen-

Note: Matter in *italics* is new; matter in brackets [ ] to be omitted.

1 cy is hereby created with power to eliminate and prevent discrimination from playing  
2 any role in actions relating to employment, public accommodations, and housing and  
3 other real estate, and to take other actions against prejudice, intolerance, bigotry, [and]  
4 discrimination *and bias related violence or harassment* as herein provided; and the com-  
5 mission established hereunder is hereby given general jurisdiction and power for such  
6 purposes.

7 § 2. Section 98-109 of the administrative code of the City of New York is hereby  
8 amended to read as follows:

9 § 8-109. Complaint. a. Any person aggrieved by an unlawful discriminatory prac-  
10 tice or an act of discriminatory harassment or violence as defined by chapter six of this  
11 title may, by himself or herself or such person's attorney, make, sign and file with the  
12 commission a verified complaint in writing which shall (i) state the name of the person  
13 alleged to have committed the unlawful discriminatory practice or act of discriminatory  
14 harassment or violence complained of, and the address of such person if known; (ii) set  
15 forth the particulars of the alleged unlawful discriminatory practice or act of discrimina-  
16 tory harassment or violence; and (iii) contain such other information as may be required  
17 by the commission. The commission shall acknowledge the filing of the complaint and  
18 advise the complainant of the time limits set forth in this chapter.

19 (b) Any employer whose employee or agent refuses or threatens to refuse to coop-  
20 erate with the provisions of this chapter may file with the commission a veri-  
21 fied complaint asking for assistance by conciliation or other remedial action.

22 (c) Commission-initiated complaints. The commission may itself make, sign and  
23 file a verified complaint alleging that a person has committed an unlawful dis-  
24 criminatory practice or an act of discriminatory harassment or violence.

25 (d) The commission shall serve a copy of the complaint upon the respondent and

1 all persons it deems to be necessary parties and shall advise the respondent of  
2 his or her procedural rights and obligations as set forth herein.

3 (e) The commission shall not have jurisdiction over any complaint that has been  
4 filed more than one year after the alleged unlawful discriminatory practice or  
5 act of discriminatory harassment or violence occurred.

6 (f) The commission shall not have jurisdiction to entertain a complaint if:

7 (i) the complainant has previously initiated a civil action in a court of compe-  
8 tent jurisdiction alleging an unlawful discriminatory practice as defined in  
9 this chapter or an act of discriminatory harassment or violence as defined  
10 in chapter six with respect to the same grievance which is the subject of  
11 the complaint under this chapter, unless such civil action has been dis-  
12 missed without prejudice or withdrawn without prejudice; or

13 (ii) the complainant has previously filed and has an action or proceeding  
14 before any administrative agency under any other law of the state alleging  
15 an unlawful discriminatory practice as defined by this chapter or an act of  
16 discriminatory harassment or violence as defined by chapter six with  
17 respect to the same grievance which is the subject of the complaint under  
18 this chapter; or

19 (iii) the complainant has previously filed a complaint with the state division of  
20 human rights alleging an unlawful discriminatory practice as defined by  
21 this chapter or an act of discriminatory harassment or violence as defined  
22 by chapter six with respect to the same grievance which is the subject of  
23 the complaint under this chapter and a final determination has been made  
24 thereon.

25 (g) In relation to complaints filed on or after September first, nineteen hundred

1           ninety one, the commission shall commence proceedings with respect to the  
2           complaint, complete the investigation of the allegations of the complaint and  
3           make a final disposition of the complaint promptly and within the time periods  
4           to be prescribed by rule of the commission. If the commission is unable to  
5           comply with the time periods specified for completing its investigation and for  
6           final disposition of the complaint, it shall notify the complainant, respondent,  
7           and any necessary party in writing of the reasons for not doing so.

8           (b) Any complaint filed pursuant to this section may be amended pursuant to pro-  
9           cedures prescribed by rule of the commission by filing such amended com-  
10          plaint with the commission and serving a copy thereon upon all parties to the  
11          proceeding.

12          (i) Whenever a complaint is filed pursuant to paragraph (d) of subdivision five of  
13          section 8-107 of this chapter, no member of the commission nor any member  
14          of the commission staff shall make public in any manner whatsoever the name  
15          of any borrower or identify by a specific description the collateral for any loan  
16          to such borrower except when ordered to do so by a court of competent juris-  
17          diction or where express permission has been first obtained in writing from the  
18          lender and the borrower to such publication; provided, however, that the name  
19          of any borrower and a specific description of the collateral for any loan to such  
20          borrower may, if otherwise relevant, be introduced in evidence in any hearing  
21          before the commission or any review by a court of competent jurisdiction of  
22          any order or decision by the commission.

23          § 3. Subdivision d of section 8-113 of the administrative code of the city of New  
24          York is hereby amended to read as follows:

25          d. If after investigation the commission determines that probable cause does not



1 exist to believe that the respondent has engaged or is engaging in an unlawful  
2 discriminatory practice or an act of discriminatory harassment or violence, the  
3 commission shall dismiss the complaint as to such respondent.

4 § 4. Subdivision a of section 8-116 of the administrative code of the city of New  
5 York is hereby amended to read as follows:

6 a. Except in connection with commission-initiated complaints which shall not  
7 require a determination of probable cause, where the commission determines  
8 that probable cause exists to believe that the covered entity has engaged or is  
9 engaging in an unlawful discriminatory practice or an act of discriminatory  
10 harassment or violence, the commission shall issue a written notice to com-  
11 plainant and respondent so stating. A determination of probable cause is not a  
12 final order of the commission and shall not be administratively or judicially  
13 reviewable.

14 § 5. Section 8-120 of the administrative code of the city of New York is hereby  
15 amended to read as follows:

16 § 8-120. Decision and order. a. If, upon all the evidence at the hearing, and upon  
17 the finding of fact, conclusions of law and relief recommended by an administrative law  
18 judge, the commission shall find that a respondent has engaged in any unlawful discrim-  
19 inatory practice or any act of discriminatory harassment or violence, the commission  
20 shall state its findings of fact and conclusions of law and shall issue and cause to be  
21 served on such respondent an order requiring such respondent to cease and desist from  
22 such unlawful discriminatory practice or acts of discriminatory harassment or violence.  
23 Such order shall require the respondent to take such affirmative action as, in the judg-  
24 ment of the commission, will effectuate the purposes of this chapter, including, but not  
25 limited to:

- 1 (1) hiring, reinstatement or upgrading of employees;
- 2 (2) the award of back pay and front pay;
- 3 (3) admission to membership in any respondent labor organization;
- 4 (4) admission to or participation in a program, apprentice training program, on-the-
- 5 job training program or other occupational training or retraining program;
- 6 (5) the extension of full, equal and unsegregated accommodations, advantages,
- 7 facilities and privileges;
- 8 (6) evaluating applications for membership in a club that is not distinctly private
- 9 without discrimination based on race, creed, color, age, national origin, disabil-
- 10 ity, marital status, gender, sexual orientation or alienage or citizenship status;
- 11 (7) selling, renting or leasing, or approving the sale, rental or lease of housing
- 12 accommodations, land or commercial space or an interest therein, or the provi-
- 13 sion of credit with respect thereto, without unlawful discrimination;
- 14 (8) payment of compensatory damages to the person aggrieved by such practice;
- 15 and
- 16 (9) submission of reports with respect to the manner of compliance;

17 b. If, upon all the evidence at the hearing, and upon the findings of fact and  
18 conclusions of law recommended by the administrative law judge, the  
19 commission shall find that a respondent has not engaged in any unlawful  
20 discriminatory practice or act of discriminatory harassment or violence,  
21 the commission shall state its findings of fact and conclusions of law and  
22 shall issue and cause to be served on the complainant, respondent, and any  
23 necessary party and on any complainant who has not intervened an order  
24 dismissing the complaint as to such respondent.

25 § 6. Section 8-122 of the administrative code of the city of New York is hereby

1 amended to read as follows:

2 § 8-122 Injunction and temporary restraining order. At any time after the filing of  
3 a complaint alleging an unlawful discriminatory practice or an act of discriminatory  
4 harassment or violence under this chapter, if the commission has reason to believe that  
5 the respondent or other person acting in concert with respondent is doing or procuring to  
6 be done any act or acts, tending to render ineffectual relief that could be ordered by the  
7 commission after a hearing as provided by section 8-120 of this chapter, a special pro-  
8 ceeding may be commenced in accordance with article sixty-three of the civil practice  
9 law and rules on behalf of the commission in the supreme court for an order to show  
10 cause why the respondent and such other persons who are believed to be acting in con-  
11 cert with respondent should not be enjoined from doing or procuring to be done such  
12 acts. The special proceeding may be commenced in any county within the city of New  
13 York where the alleged unlawful discriminatory practice or act of discriminatory  
14 harassment or violence was committed, or where the commission maintains its principal  
15 office for the transaction of business, or where any respondent resides or maintains an  
16 office for the transaction of business, or where any person aggrieved by the unlawful  
17 discriminatory practice or act of discriminatory harassment or violence was committed,  
18 or where the commission maintains its principal office for the transaction of business, or  
19 where any respondent resides or maintains an office for the transaction of business, or  
20 where any person aggrieved by the unlawful discriminatory practice or act of discrimi-  
21 natory harassment or violence resides, or, if the complaint alleges an unlawful discrimi-  
22 natory practice under paragraphs (a), (b) or (c) of subdivision five of section 8-107 of  
23 this chapter, where the housing accommodation, land or commercial space specified in  
24 the complaint is located. The order to show cause may contain a temporary restraining  
25 order and shall be served in the manner provided therein. On the return date of the order

1 to show cause, and after affording the commission, the person aggrieved and the respon-  
2 dent and any person alleged to be acting in concert with the respondent an opportunity  
3 to be heard, the court may grant appropriate injunctive relief upon such terms and condi-  
4 tions as the court deems proper.

5 § 7. Subdivision b of section 8-123 of the administrative code of the city of New  
6 York is hereby amended to read as follows:

7 b. Such proceeding shall be brought in the supreme court of the state within any  
8 county within the city of New York wherein the unlawful discriminatory prac-  
9 tice or act of discriminatory harassment or violence which is the subject of the  
10 commission's order occurs or wherein any person required in the order to cease  
11 and desist from an unlawful discriminatory practice or discriminatory harass-  
12 ment or violence or to take other affirmative action resides or transacts busi-  
13 ness.

14 § 8. Section 8-126 of the administrative code of the city of New York is hereby  
15 amended to read as follows:

16 § 8-126 Civil penalties imposed by commission for unlawful discriminatory prac-  
17 tices or acts of discriminatory harassment or violence. a. Except as otherwise provided  
18 in subdivision thirteen of section 8-107 of this chapter, in addition to any remedies and  
19 penalties set forth in subdivision a of section 8-120 of this chapter, where the commis-  
20 sion finds that a person has engaged in an unlawful discriminatory practice, the commis-  
21 sion may, to vindicate the public interest, impose a civil penalty of not more than fifty  
22 thousand dollars. Where the commission finds that an unlawful discriminatory practice  
23 was the result of the respondent's wilful, wanton or malicious act or where the commis-  
24 sioner finds that an act of discriminatory harassment or violence has occurred, the com-  
25 mission may, to vindicate the public interest, impose a civil penalty of not more than

1 one hundred thousand dollars.

2 b. A covered entity that is found liable for an unlawful discriminatory practice or  
3 *an act of discriminatory harassment or violence* may, in relation to the deter-  
4 mination of the appropriate amount of civil penalties to be imposed pursuant to  
5 subdivision a of this section, plead and prove any relevant mitigating factor.

6 c. In addition to any other penalties or sanctions which may be imposed pursuant  
7 to any other law, any person who knowingly makes a material false statement  
8 in any proceeding conducted, or document or record filed with the commission,  
9 or record required to be preserved or made and kept and subject to inspection  
10 by the commission pursuant to this chapter shall be liable for a civil penalty of  
11 not more than ten thousand dollars.

12 d. An action or proceeding may be commenced in any court of competent juris-  
13 diction on behalf of the commission for the recovery of the civil penalties pro-  
14 vided for in this section.

15 § 9. Subdivision a of section 8-502 of the administrative code of the city of New  
16 York is hereby amended to read as follows:

17 a. Except as otherwise provided by law, any person claiming to be aggrieved by  
18 an unlawful discriminatory practice as defined in chapter one of this title or by  
19 *an act of discriminatory harassment or violence as defined in chapter six of*  
20 *this title* shall have a cause of action in any court of competent jurisdiction for  
21 damages, including punitive damages, and for injunctive relief and such other  
22 remedies as may be appropriate, unless such person has filed a complaint with  
23 the city commission on human rights or with the state division of human rights  
24 with respect to such alleged unlawful discriminatory practice or *discriminatory*  
25 *harassment or violence*. For purposes of this subdivision, the filing of a com-

1     plaint with a federal agency pursuant to applicable federal law prohibiting dis-  
 2     crimination which is subsequently referred to the city commission on human  
 3     rights or to the state division of human rights pursuant to such law shall not be  
 4     deemed to constitute the filing of a complaint under this subdivision.

5     § 10. Chapter six of title eight of the administrative code of the city of New York  
 6     is hereby renamed and amended to read as follows:

7   CHAPTER 6

8   DISCRIMINATORY HARASSMENT OR VIOLENCE

9     § 8-602. Civil action to enjoin discriminatory harassment *or violence*; equitable  
 10  remedies. a. Whenever a person interferes by threats, intimidation or coercion or  
 11  attempts to interfere by threats, intimidation or coercion with the exercise or enjoyment  
 12  by any person of rights secured by the constitution or laws of the United States, the con-  
 13  stitution or laws of this state, or local law of the city *in whole or in part* because of the  
 14  person's actual or perceived race, creed, color, national origin, gender, sexual orienta-  
 15  tion, age, whether children are, may or would be residing with such person, marital sta-  
 16  tus, disability, or alienage or citizenship status as defined in chapter one of this title, the  
 17  corporation counsel, at the request of the city commission on human rights or on his or  
 18  her own initiative, may bring a civil action on behalf of the city for injunctive and other  
 19  appropriate equitable relief in order to protect the peaceable exercise or enjoyment of  
 20  the rights secured.

21     b. An action pursuant to subdivision a may be brought in any court of competent  
 22     jurisdiction.

23     c. Violations of an order issued pursuant to subdivision a of this section may be  
 24     punished by a proceeding for contempt brought pursuant to article nineteen of  
 25     the judiciary law and, in addition to any relief thereunder, a civil penalty may

1           be imposed not exceeding ten thousand dollars for each day that the violation  
2           continues.

3           § 8-603 Discriminatory harassment; civil penalties. a. No person shall by force  
4           or threat of force, knowingly injure, intimidate or interfere with, oppress, or threaten  
5           any other person in the free exercise or enjoyment of any right or privilege secured to  
6           him or her by the constitution or laws of this state or by the constitution or laws of the  
7           United States or by local law of the city *in whole or in part* because of the other per-  
8           son's actual or perceived race, creed, color, national origin, gender, sexual orientation,  
9           age, marital status, disability or alienage or citizenship status, as defined in chapter one  
10          of this title.

11          b. No person shall knowingly deface, damage or destroy the real or personal  
12          property of any person for the purpose of intimidating or interfering with the  
13          free exercise or enjoyment of any right or privilege secured to the other person  
14          by the constitution or laws of this state or by the constitution or laws of the  
15          United States or by local law of the city *in whole or in part* because of the  
16          other person's actual or perceived race, creed, color, national origin, gender,  
17          sexual orientation, age, marital status, or whether children are, may be, or  
18          would be residing with such person, disability or alienage or citizenship status,  
19          as defined in chapter one of this title.

20          c. Any person who violates subdivision a or b of this section shall be liable for a  
21          civil penalty of not more than [fifty] *one hundred* thousand dollars for each  
22          violation, which may be recovered by the corporation counsel in an action or  
23          proceeding in any court of competent jurisdiction.

24          § 8-604 Disposition of civil penalties. Any civil penalties recovered by the corpo-  
25          ration counsel pursuant to this chapter shall be paid into the general fund of the city.

- 1 *Nothing contained herein shall be construed to mean that any civil penalties recovered*
- 2 *by an individual pursuant to this chapter shall be paid into the general fund of the city.*
- 3 **§ 12. This local law shall take effect immediately.**



6 Oct. 92

Bias Crime: Int. 558

- A. Colon
- P. Rephen / law
- Cheryl Howard
- S. Wilmes / 0143
- J. Abernathy
- D. DeLeon

- Chapter 6: broad action v. documenting doesn't require it be a crime

Municipal services

FREEED press release: private receive \$100,000 damages

→ civil penalties → gen. fund

unless v. City agency compensation

comm. tool cost.

Fed Civil Rts.

City exposure CCRB

mini-83 Court of action. Only this CC public accommodation cases

Harassment pattern, mediation Bureau Case law approach; back log = empl.

Modifications > not in housing & pub accom.

Analysis of impact of City definition of bias crime

F.I.D.E. . Cop can't be penalized before any other city board → repeal

Oct 9-15, '92

BROOKLYN PAPER PUBLICATIONS

# Stein stumps Slope gays

By Tracy Connor  
Brooklyn Paper Publications

City Council President Andrew Stein, a likely mayoral contender in 1993, visited Park Slope last week to court gay and lesbian voters.

Stressing his commitment to AIDS funding, a domestic partnership bill and an anti-bias bill, Stein spoke to about 20 members of the Park Slope-based Lambda Independent political club on Sept. 23.

Lambda President David Shanton said the club likes to meet with "potential candidates" for in-depth discussion before the frenzy of the political season.

Stein has not officially announced for Dinkins' seat, but he referred to Mayor Dinkins as his "opponent."

He slammed Dinkins' record on issues of importance to the gay community and said the mayor had not kept "progressive" promises made during the last campaign.

"We talk about Washington in terms of the Bush administration's record when it comes to AIDS funding. But New York City Democrats don't have a much better record," Stein said, accusing the mayor of cutting city AIDS funding.

He was particularly hard on former Department of Health Commissioner Woodrow Meyers, faulting him for his stand on free needle exchange and bleach programs that are used in some cities to stem the transmission of AIDS among

intravenous drug users.

"I would never have appointed a health commissioner that was against that," Stein said.

"This city needs to have a leader in that area. It's an area that I'm very familiar with."

He also criticized Dinkins for not pushing a domestic partnership bill that would recognize gay marriages.

"I know that [in the last campaign] he said he would support that, but he is not supporting that and, again, it's a matter of leadership."

Stein said that if he were mayor he would lobby the City Council to pass the bill.

"Dinkins was able to do it with the incinerator," he said, referring to the mayor's deal-making with the Council before it voted in favor of the Brooklyn Navy Yard burner.

Stein also avowed his support for anti-bias legislation, the right of gays to march in the St. Patrick's Day Parade, and the new Children of the Rainbow curriculum, which encourages teachers to address the subject of same-sex families.

"It all comes down to leadership. Dinkins did not deliver on his promises," he said.

If the gay community does not register its displeasure with Dinkins for that, "people will say that's a community you can con and they'll still support you."

"When I promise something I will fulfill my promises," Stein said.

"I will know how to go into [Council Speaker] Peter Val-lone's office and negotiate these issues."

"You have to let him know what's important and what's not," he added. Dinkins "hasn't put one ounce of his political capital on the line to fight for these issues."

Shanton said the club would not endorse until all candidates have announced.

## Advice in JJ Byrne fight

# Take back park slowly

By Karen O'Shea  
Brooklyn Paper Publications

Finding Police and Parks Department officials efforts to monitor raucous, messy park visitors are limited, some residents around JJ Byrne Park have formed committees to deal with safety, sanitation and renovation issues.

Residents who look out from their Third Street homes at JJ Byrne Park said they have grown tired of homeless people who drink, break bottles and leave piles of trash in their wake.

The community is in the process of forming a "Friends of JJ Byrne Park" association in time for the start of a park renovation expected next year at the three-acre site. Forming such an association, others say, is crucial to breaking abusive patterns in the park and getting community input back into the area.

A recent clash of tempers between residents and homeless inhabitants of the park on Fifth Avenue and Third Street highlighted the problem. Residents say their gripe is not that people use the park as a substitute for a home, but that they don't treat it with the respect and dignity a home deserves.

"People in this neighborhood have a lot of compassion for these people and we know a lot of people are hurting right now. We don't want to kick them out, but the filth and broken glass that surrounds them is too much. We have a bocci ball court where they sit and it's just filled with garbage, bottles and paper," said Diane Romano, who headed up the formation of the committees.

"We think the park has tremendous potential and it's not be-

ty?

REQUEST FOR MEETING

NAME MM/MCA DATE 10/15/92

TOPIC mtg for Eric Cline / MCA  
Rooms 1, 2, 3

SPECIAL INSTRUCTIONS (must be before..., location, etc.)

INVITEES (please include agency and/or phone number)

<sup>10 and</sup>  
7. A. Cohen LAU 8-1066  
P. Repner LAU 8-1080  
DeLeon 1:00 HRC 306-7670  
Sherry Wilmes DMB 2-5918

APPROVED \_\_\_\_\_

*MCH*  
*EX-11*  
*BP*  
*REMAN*

The Mayor's Office of Correspondence Services  
52 Chambers Street - Room 122  
(212) 788-2445

D E G N I  
OCT 26 1992  
DIRECTOR CH  
LEGISLATIVE AFF

**Attached are copies of Mayoral letters**

**F. Y. I.**

*to*  
*Meeting*  
*to discuss*  
*will*

**Note:** These copies are for your information only. These letters have been assigned for response to the person indicated in the upper right hand corner of each letter. If you wish to contribute to the response, please contact that person directly. Do not respond to the attached without consulting the assigned person and Correspondence Services. Please do not forward copies to other offices as it will become confusing and may generate multiple responses.

WKT / ~~KM~~  
FYI

file

(JJB

with  
the  
local  
law



RECEIVED

OCT 13 5 18 PM '92

OFFICE  
CITY

OFFICE OF THE BRONX BOROUGH PRESIDENT

THE BRONX COUNTY BUILDING  
851 GRAND CONCOURSE  
BRONX, NEW YORK 10461

FERNANDO FERRER  
BOROUGH PRESIDENT

TEL. 590-3500

October 13, 1992

Honorable David N. Dinkins  
Mayor  
City Hall  
New York, N.Y. 10007

Dear Mayor Dinkins:

I write to solicit your support in apprehending the persons responsible for the recent bias incidents in Riverdale directed against the Jewish community.

One incident was on Friday morning, October 9th, on Johnson Avenue. An unknown person or persons painted swastikas on a clothing sign on an inside wall of a Succoth hut. In a second incident, a woman and a child (six years old) were walking (Kappock Street and Independence Avenue) Saturday afternoon, October 10th, when a car with six white males drove up, yelled epithets, and threw a lit cigarette at them.

I know of your strong concern for reducing bias in our City. I urge you to have the City offer a reward for aid in the capture and successful prosecution of the perpetrators of these vile incidents. Privately, I am offering a \$1,000 reward, and I understand that the Hebrew Institute also is offering a reward.

I am sure I speak for the Riverdale Community and all of the good people of The Bronx when I say that I thank you for all your efforts to achieve justice and ultimately reduce the number of such bias incidents and crimes in our city.

Sincerely,

FERNANDO FERRER

FF/jh/mal

RECEIVED

NAME	Andrea Cohen <sup>KM</sup> <del>Feobroad</del>				
DATE					
TIME					
AM					
PM					
AREA CODE					
NUMBER					
EXTENSION					
OPERATOR					
Ammendation to the PT. Can get authentic to judicial court James other Police					
PLEASE CALL	RETURNED YOUR CALL	WANTS TO SEE YOU	WILL CALL AGAIN	WAS IN	SEE OPERATOR

Annexed  
law dept  
bring civil  
action  
control/discussion

bas could  
incl. criminal  
prosecution  
policy  
city's legal liability



10/19

2:30

Andrea Cohen

- came out City "color of law"
- govt officials
- Dennis power = CEKRB jurisdiction
- Koo & city connection ↓
- already have consent provision
- spousal abuse

Peter prob. why this light  
meeting would narrower

23 Nov. 92

Bias Bill - Int 558

D. DeLeon  
Steve Wright  
P. Rephen  
A. Cohen  
K. Miller  
M. Hirst

+ Civil Penalties

drafting bill written so<sup>th</sup> goes to indiv. v. fund.

+ fiscal impact

+ CCRB, city employees, Corrections

50(k) standard

harassment too broadly defined  
private right of action

Practical remedies - financial

D. Strong Support

P.S. concerns implications for City  
incl city emps

met today law, GD, D.DL  
hearing coming up

Not yet met  
w/council

F. New  
cc: P. Shen

G. Dan

P. Rephen

S. Wright

D. DeLeon

move in Dec  
drafting / tech / defnitic

Monday: Council Meeting



*file*

THE CITY OF NEW YORK  
OFFICE OF THE MAYOR  
NEW YORK, N. Y. 10007

MARTHA K. HIRST  
CHIEF LEGISLATIVE REPRESENTATIVE  
CITY LEGISLATIVE AFFAIRS

52 CHAMBERS STREET  
ROOM 309  
(212) 788-2902

M E M O R A N D U M

TO: First Deputy Mayor Steisel  
FROM: Martha K. Hirst *Martha*  
DATE: November 24, 1992  
SUBJECT: Bias-related Crime Bill, Intro. 558

Council Member Katherine Freed introduced a bias-related crime bill on September 24 that has received fairly widespread support in the Council. A General Welfare Committee hearing on the bill has been scheduled for next Tuesday, December 1. As you will see below, the Administration's position is not yet firm. Given the nature and timing of this issue and the intent of Freed's bill (see attached press release) I wanted to be sure you are aware of it.

The bill would give the Commission on Human Rights (CCHR) jurisdiction over claims of discriminatory harassment. Discriminatory harassment is defined broadly in the bill to include threats or attempts to interfere with the exercise of rights guaranteed by federal and state constitutions and laws and local law because of a persons race, creed, color, national origin, gender, sexual orientation, age, familial status, marital, disability, alienage or citizenship status.

Currently, CCHR has jurisdiction over discriminatory harassment only in the context of defined forms of discrimination such as employment, housing, and public accommodation discrimination and not acts of harassment that take place in the community (i.e. gay bashing on the street). The existing law gives only the Corporation Counsel the authority to institute civil actions based on the broad definition of discriminatory harassment. The proposed legislation would cover conduct of members of the public and officials and employees of the City and thus allow an aggrieved person to file a complaint with CCHR against the City. The bill would also give a harmed person an option to pursue his or her complaint by bringing a private action in a court instead of going to the CCHR. In both forums, whether court or CCHR, a person

could recover compensatory damages. CCHR could also impose upon the violator civil penalties which go into the general fund of the City.

Human Rights Commissioner Dennis DeLeon has publicly stated his strong support for this bill. Peter Sherwood has expressed a number of concerns; while some are technical or drafting issues, his primary concern is that the bill obviously covers the conduct of City officials and employees (as other Human Rights law provisions now do -- Dennis estimates 1/3 of the cases heard at the Commission are against the City). The bill would allow alleged victims of police brutality or the harmful acts of correction officers, to use Sherwood's examples, to file a complaint with CCHR and recover compensatory damages against the City.

I met yesterday for the second time with the Law department, George Daniels' office and the Human Rights Commission to discuss the Administration's position on Intro. 558, how testimony should be handled, and by whom. There still was no resolution of the differing points of view. I asked them to review the issues among themselves in order to quickly bring a recommendation to you and the Mayor. You should also know that Council Member Freed called Barbara Fife today to see if the Mayor was interested to testify next week.

While next week's hearing is the first on this bill, the bill will likely move through the Council during December.

cc:  F. New  
G. Daniels  
P. Sherwood  
P. Rephen  
D. DeLeon  
S. Wright  
K. Miller



COMMISSION ON HUMAN RIGHTS

40 RECTOR STREET, NEW YORK, N. Y. 10006

Telephones: (212) 306-7670 TDD (212) 306-7686 FAX (212) 306-7658

DENNIS deLEON, Commissioner/Chair

November 27, 1992

To: Martha Hirst  
Debra Henderson

From: Dennis deLeon *JA*

Re: Intro. No 558

Set out below is an estimate of the possible fiscal impact of Intro. No. 558 on the New York City Commission on Human Rights.

1. It is not anticipated there will be a need for additional investigatory staff. We currently have seven human rights specialists whose primary task is to investigate bias incidents reported to the police or to the Commission's NO2BIAS Hotline. Currently their inquiry is currently limited to assisting the victim and factgathering. It is expected the additional responsibilities for investigation and probable cause determination could be carried with existing investigatory staff and the addition of an administrative support person. This position should be at the level of a PAA 2.

2. The creation of the new cause of action will require the hiring of a staff attorney in FY 95. Because the Commission will need at least 6 months to launch a public information campaign about the existence of the new cause of action and what it means, it is anticipated that the Commission will only receive a few cases during the first year of the law's effective period. This estimate is based on past experience with the addition of new covered groups or causes of action.

3. In order to develop the needed promotional materials for informing the public about this new cause of action, Commission staff will require additional funds for the creation and printing of a brochure and poster. This cost is estimated at \$25,000 for FY 94.

In sum, it is expected the Commission will require an additional 31,588 PS (PAAII) and 25,000 OTPS for a total of 56,588 in FY94 and 39,804 PS (staff attorney) in FY95.

The  
City  
of  
New York

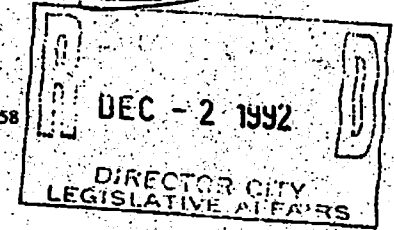


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411193  
File Copy  
[Dec 14, 1992]

Proposed Int. No. 558-B

By Council Member Freed, the Speaker (Council Member Vallone), Council Members Horwitz, Pagan, DiBrienza, Duane, Eldridge, Eisland, Fisher, Linares, Marshall, Robles, White, Millard Cerullo III, Robinson, Watkins, Spigner, Leffler, and Koslowitz; also, Council Members Clarke, Alter, Malave-Dilan, Maloney, Povman, Sabini, Williams, McCaffrey, and Ward, ~~and Foster~~ Foster, Warden and Warden

A LOCAL LAW

To amend the administrative code of the city of New York, in relation to the remedies for incidents of bias-related violence and harassment in the human rights law.

Be it enacted by the Council as follows:

Section 1. Section 8-101 of the administrative code of the city of New York, as amended by local law 39 for the year 1991, is hereby amended to read as follows:

§8-101 Policy. In the city of New York, with its great cosmopolitan population, there is no greater danger to the health, morals, safety and welfare of the city and its inhabitants than the existence of groups prejudiced against one another and antagonistic to each other because of their actual or perceived differences, including those based on race, color, creed, age, national origin, alienage or citizenship status, gender, sexual orientation, disability, marital status, whether children are, may be or would be residing with a person or conviction or arrest record. The council hereby finds and declares that prejudice, intolerance, bigotry, and discrimination, bias-related violence or harassment and disorder occasioned thereby threaten the rights and proper privileges of its inhabitants and menace the institutions and foundation of a free democratic state. A city agency is hereby created with

power to eliminate and prevent discrimination from playing any role in actions relating to employment, public accommodations, and housing and other real estate, and to take other actions against prejudice, intolerance, bigotry, [and] discrimination and bias-related violence or harassment as herein provided; and the commission established hereunder is hereby given general jurisdiction and power for such purposes.

§2. Section 8-109 of the administrative code of the city of New York, as added by local law 39 for the year 1991, is hereby amended to read as follows:

§8-109 Complaint. a. Any person aggrieved by an unlawful discriminatory practice or an act of discriminatory harassment or violence as set forth in chapter six of this title may, by himself or herself or such person's attorney, make, sign and file with the commission a verified complaint in writing which shall: (i) state the name of the person alleged to have committed the unlawful discriminatory practice or act of discriminatory harassment or violence complained of, and the address of such person if known; (ii) set forth the particulars of the alleged unlawful discriminatory practice or act of discriminatory harassment or violence; and (iii) contain such other information as may be required by the commission. The commission shall acknowledge the filing of the complaint and advise the complainant of the time limits set forth in this chapter.

(b) Any employer whose employee or agent refuses or threatens to refuse to cooperate with the provisions of this chapter



may file with the commission a verified complaint asking for assistance by conciliation or other remedial action.

- (c) Commission-initiated complaints. The commission may itself make, sign and file a verified complaint alleging that a person has committed an unlawful discriminatory practice or an act of discriminatory harassment or violence as set forth in chapter six of this title.
- (d) The commission shall serve a copy of the complaint upon the respondent and all persons it deems to be necessary parties and shall advise the respondent of his or her procedural rights and obligations as set forth herein.
- (e) The commission shall not have jurisdiction over any complaint that has been filed more than one year after the alleged unlawful discriminatory practice or act of discriminatory harassment or violence as set forth in chapter six of this title occurred.
- (f) The commission shall not have jurisdiction to entertain a complaint if:
  - (i) the complainant has previously initiated a civil action in a court of competent jurisdiction alleging an unlawful discriminatory practice as defined in this chapter or an act of discriminatory harassment or violence as set forth in chapter six of this title with respect to the same grievance which is the subject of the complaint under this chapter, unless such civil action has been dismissed without prejudice or withdrawn without prejudice; or

- (ii) the complainant has previously filed and has an action or proceeding before any administrative agency under any other law of the state alleging an unlawful discriminatory practice as defined by this chapter or an act of discriminatory harassment or violence as set forth in chapter six of this title with respect to the same grievance which is the subject of the complaint under this chapter; or
- (iii) the complainant has previously filed a complaint with the state division of human rights alleging an unlawful discriminatory practice as defined by this chapter or an act of discriminatory harassment or violence as set forth in chapter six of this title with respect to the same grievance which is the subject of the complaint under this chapter and a final determination has been made thereon.
- (g) In relation to complaints filed on or after September first, nineteen hundred ninety one, the commission shall commence proceedings with respect to the complaint, complete the investigation of the allegations of the complaint and make a final disposition of the complaint promptly and within the time periods to be prescribed by rule of the commission. If the commission is unable to comply with the time periods specified for completing its investigation and for final disposition of the complaint, it shall notify the complainant, respondent, and any necessary party in writing of the reasons for not doing so.

- (h) Any complaint filed pursuant to this section may be amended pursuant to procedures prescribed by rule of the commission by filing such amended complaint with the commission and serving a copy thereof upon all parties to the proceeding.
- (i) Whenever a complaint is filed pursuant to paragraph (d) of subdivision five of section 8-107 of this chapter, no member of the commission nor any member of the commission staff shall make public in any manner whatsoever the name of any borrower or identify by a specific description the collateral for any loan to such borrower except when ordered to do so by a court of competent jurisdiction or where express permission has been first obtained in writing from the lender and the borrower to such publication; provided, however, that the name of any borrower and a specific description of the collateral for any loan to such borrower may, if otherwise relevant, be introduced in evidence in any hearing before the commission or any review by a court of competent jurisdiction of any order or decision by the commission.

§3. Subdivision d of section 8-113 of the administrative code of the city of New York, as added by local law 39 for the year 1991, is hereby amended to read as follows:

- d. If after investigation the commission determines that probable cause does not exist to believe that the respondent has engaged or is engaging in an unlawful discriminatory practice or an act of discriminatory harassment or violence as set forth in chapter six of this

title, the commission shall dismiss the complaint as to such respondent.

§4. Subdivision a of section 8-116 of the administrative code of the city of New York, as added by local law 39 for the year 1991, is hereby amended to read as follows:

a. Except in connection with commission-initiated complaints which shall not require a determination of probable cause, where the commission determines that probable cause exists to believe that the [covered entity] respondent has engaged or is engaging in an unlawful discriminatory practice or an act of discriminatory harassment or violence as set forth in chapter six of this title, the commission shall issue a written notice to complainant and respondent so stating. A determination of probable cause is not a final order of the commission and shall not be administratively or judicially reviewable.

§5. Section 8-120 of the administrative code of the city of New York, as added by local law 39 for the year 1991, is hereby 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 judgement 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, 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[;].

b. If, upon all the evidence at the hearing, and upon the findings of fact and conclusions of law recommended by the administrative law judge, the commission shall find that a respondent has not engaged in any unlawful discriminatory practice or 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 the complainant, respondent, and any necessary party and on any complainant who has not intervened an order dismissing the complaint as to such respondent.

§6. Section 8-122 of the administrative code of the city of New York, as added by local law 39 for the year 1991, is hereby amended to read as follows:

§8-122 Injunction and temporary restraining order. At any time after the filing of a complaint alleging an unlawful discriminatory practice under this chapter or an act of discriminatory harassment or violence as set forth in chapter six of this title, if the commission has reason to believe that the respondent or other person acting in concert with respondent is doing or procuring to be done any act or acts, tending to render ineffectual relief that could be ordered by the commission after a hearing as provided by section 8-120 of this chapter, a special proceeding may be commenced in accordance

with article sixty-three of the civil practice law and rules on behalf of the commission in the supreme court for an order to show cause why the respondent and such other persons who are believed to be acting in concert with respondent should not be enjoined from doing or procuring to be done such acts. The special proceeding may be commenced in any county within the city of New York where the alleged unlawful discriminatory practice or act of discriminatory harassment or violence was committed, or where the commission maintains its principal office for the transaction of business, or where any respondent resides or maintains an office for the transaction of business, or where any person aggrieved by the unlawful discriminatory practice or act of discriminatory harassment or violence resides, or, if the complaint alleges an unlawful discriminatory practice under paragraphs (a), (b) or (c) of subdivision five of section 8-107 of this chapter, where the housing accommodation, land or commercial space specified in the complaint is located. The order to show cause may contain a temporary restraining order and shall be served in the manner provided therein. On the return date of the order to show cause, and after affording the commission, the person aggrieved and the respondent and any person alleged to be acting in concert with the respondent an opportunity to be heard, the court may grant appropriate injunctive relief upon such terms and conditions as the court deems proper.

§7. Subdivision b of section 8-123 of the administrative code of the city of New York, as amended by local law 39 for the year 1991, is hereby amended to read as follows:

- b. Such proceeding shall be brought in the supreme court of the state within any county within the city of New York wherein the unlawful discriminatory practice or act of discriminatory harassment or violence as set forth in chapter six of this title which is the subject of the commission's order occurs or wherein any person required in the order to cease and desist from an unlawful discriminatory practice or act of discriminatory harassment or violence or to take other affirmative action resides or transacts business.

§8. Section 8-126 of the administrative code of the city of New York, as added by local law 39 for the year 1991, is hereby amended to read as follows:

**§8-126 Civil penalties imposed by commission for unlawful discriminatory practices or acts of discriminatory harassment or violence.** a. Except as otherwise provided in subdivision thirteen of section 8-107 of this chapter, in addition to any remedies and penalties set forth in subdivision a of section 8-120 of this chapter, where the commission finds that a person has engaged in an unlawful discriminatory practice, the commission may, to vindicate the public interest, impose a civil penalty of not more than fifty thousand dollars. Where the commission finds that an unlawful discriminatory practice was the result of the respondent's willful, wanton or malicious act



or where the commission finds that an act of discriminatory harassment or violence as set forth in chapter six of this title has occurred, the commission may, to vindicate the public interest, impose a civil penalty of not more than one hundred thousand dollars.

- b. A [covered entity] respondent that is found liable for an unlawful discriminatory practice or an act of discriminatory harassment or violence, as set forth in chapter six of this title, may, in relation to the determination of the appropriate amount of civil penalties to be imposed pursuant to subdivision a of this section, plead and prove any relevant mitigating factor.
- c. In addition to any other penalties or sanctions which may be imposed pursuant to any other law, any person who knowingly makes a material false statement in any proceeding conducted, or document or record filed with the commission, or record required to be preserved or made and kept and subject to inspection by the commission pursuant to this chapter shall be liable for a civil penalty of not more than ten thousand dollars.
- d. An action or proceeding may be commenced in any court of competent jurisdiction on behalf of the commission for the recovery of the civil penalties provided for in this section.

§9. Chapter 1 of title 8 of the administrative code of the city of New York, as amended by local law 39 for the year 1991,

is hereby amended by the addition of a new section 8-131 to read as follows:

§8-131 Applicability. The provisions of this chapter which make acts of discriminatory harassment or violence as set forth in chapter six of this title subject to the jurisdiction of the commission shall not apply to acts committed by members of the police department in the course of performing their official duties as police officers whether the police officer is on or off duty.

§10. Subdivision a of section 8-502 of the administrative code of the city of New York, as added by local law 39 for the year 1991, is hereby amended to read as follows:

a. Except as otherwise provided by law, any person claiming to be aggrieved by an unlawful discriminatory practice as defined in chapter one of this title or by an act of discriminatory harassment or violence as set forth in chapter six of this title shall have a cause of action in any court of competent jurisdiction for damages, including punitive damages, and for injunctive relief and such other remedies as may be appropriate, unless such person has filed a complaint with the city commission on human rights or with the state division of human rights with respect to such alleged unlawful discriminatory practice or act of discriminatory harassment or violence. For purposes of this subdivision, the filing of a complaint with a federal agency pursuant to applicable federal law prohibiting discrimination which is subsequently referred to the city commission on human rights or to the state division of

human rights pursuant to such law shall not be deemed to constitute the filing of a complaint under this subdivision.

§11. Section 8-502 of the administrative code of the city of New York, as added by local law 39 for the year 1991, is hereby amended by the addition of a new subdivision e to read as follows:

e. The provisions of this section which provide a cause of action to persons claiming to be aggrieved by an act of discriminatory harassment or violence as set forth in chapter six of this title shall not apply to acts committed by members of the police department in the course of performing their official duties as police officers whether the police officer is on or off duty.

§12. Subdivision d of section 8-502 of the administrative code of the city of New York, as added by local law 39 for the year 1991, is hereby amended to read as follows:

d. A civil action commenced under this section must be commenced within three years after the alleged unlawful discriminatory practice or act of discriminatory harassment or violence as set forth in chapter six of this title occurred. Upon the filing of a complaint with the city commission on human rights or the state division of human rights and during the pendency of such complaint and any court proceeding for review of the dismissal of such complaint, such three year limitations period shall be tolled.

§13. Chapter six of title eight of the administrative code of the city of New York, as added by local law 39 for the year 1991, is hereby renamed and amended to read as follows:

CHAPTER 6

DISCRIMINATORY HARASSMENT OR VIOLENCE

§8-602 Civil action to enjoin discriminatory harassment or violence; equitable remedies. a. Whenever a person interferes by threats, intimidation or coercion or attempts to interfere by threats, intimidation or coercion with the exercise or enjoyment by any person of rights secured by the constitution or laws of the United States, the constitution or laws of this state, or local law of the city [because of the person's] and such interference or attempted interference is motivated in whole or in part by the victim's actual or perceived race, creed, color, national origin, gender, sexual orientation, age, whether children are, may or would be residing with such [person] victim, marital status, disability, or alienage or citizenship status as defined in chapter one of this title, the corporation counsel, at the request of the city commission on human rights or on his or her own initiative, may bring a civil action on behalf of the city for injunctive and other appropriate equitable relief in order to protect the peaceable exercise or enjoyment of the rights secured.

b. An action pursuant to subdivision a may be brought in any court of competent jurisdiction.

c. Violation of an order issued pursuant to subdivision a of this section may be punished by a proceeding for contempt

brought pursuant to article nineteen of the judiciary law and, in addition to any relief thereunder, a civil penalty may be imposed not exceeding ten thousand dollars for each day that the violation continues.

**§8-603 Discriminatory harassment; civil penalties.** a. No person shall by force or threat of force, knowingly injure, intimidate or interfere with, oppress, or threaten any other person in the free exercise or enjoyment of any right or privilege secured to him or her by the constitution or laws of this state or by the constitution or laws of the United States or by local law of the city [because of the other person's] when such injury, intimidation, interference, oppression or threat is motivated in whole or in part by the victim's actual or perceived race, creed, color, national origin, gender, sexual orientation, age, marital status, disability or alienage or citizenship status, as defined in chapter one of this title.

b. No person shall knowingly deface, damage or destroy the real or personal property of any person for the purpose of intimidating or interfering with the free exercise or enjoyment of any right or privilege secured to the other person by the constitution or laws of this state or by the constitution or laws of the United States or by local law of the city [because of the other person's] when such defacement, damage or destruction of real or personal property is motivated in whole or in part by the victim's actual or perceived race, creed, color, national origin, gender, sexual orientation, age, marital status, or whether

children are, may be, or would be residing with such [person] victim, disability or alienage or citizenship status, as defined in chapter one of this title.

c. Any person who violates subdivision a or b of this section shall be liable for a civil penalty of not more than [fifty] one hundred thousand dollars for each violation, which may be recovered by the corporation counsel in an action or proceeding in any court of competent jurisdiction.

§8-604 Disposition of civil penalties. Any civil penalties recovered by the corporation counsel pursuant to this chapter shall be paid into the general fund of the city.

§14. This local law shall take effect immediately.

I hereby certify that the above bill was passed by the Council of The City of New York on JANUARY 6, 1993 receiving the following votes:

Affirmative ..... 44  
Negative ..... 1  
Not voting ..... 1

*Edward F. Malley* Acting City Clerk  
CARLOS CUEVAS, City Clerk, Clerk of the Council.

AS  
ls# 162  
12/14/92

APPROVED  
ON THE 22<sup>ND</sup> DAY OF JANUARY 1993  
*[Signature]* MAYOR

[Dec 14, 1993]

Proposed Int. No. 558-B

By Council Member Freed, the Speaker (Council Member Vallone), Council Members Horwitz, Pagan, DiBrienza, Duane, Eldridge, Eisland, Fisher, Linares, Marshall, Robles, White, Millard, Cerullo III, Robinson, Watkins, Spigner, Leffler, and Koslowitz; also, Council Members Clarke, Alter, Malave-Dilan, Maloney, Povman, Sabini, Williams, McCaffrey and Ward

A LOCAL LAW

To amend the administrative code of the city of New York, in relation to the remedies for incidents of bias-related violence and harassment in the human rights law.

Be it enacted by the Council as follows:

Section 1. Section 8-101 of the administrative code of the city of New York, as amended by local law 39 for the year 1991, is hereby amended to read as follows:

**§8-101 Policy.** In the city of New York, with its great cosmopolitan population, there is no greater danger to the health, morals, safety and welfare of the city and its inhabitants than the existence of groups prejudiced against one another and antagonistic to each other because of their actual or perceived differences, including those based on race, color, creed, age, national origin, alienage or citizenship status, gender, sexual orientation, disability, marital status, whether children are, may be or would be residing with a person or conviction or arrest record. The council hereby finds and declares that prejudice, intolerance, bigotry, and discrimination, bias-related violence or harassment and disorder occasioned thereby threaten the rights and proper privileges of its inhabitants and menace the institutions and foundation of a free democratic state. A city agency is hereby created with

power to eliminate and prevent discrimination from playing any role in actions relating to employment, public accommodations, and housing and other real estate, and to take other actions against prejudice, intolerance, bigotry, [and] discrimination and bias-related violence or harassment as herein provided; and the commission established hereunder is hereby given general jurisdiction and power for such purposes.

§2. Section 8-109 of the administrative code of the city of New York, as added by local law 39 for the year 1991, is hereby amended to read as follows:

**§8-109 Complaint.** a. Any person aggrieved by an unlawful discriminatory practice or an act of discriminatory harassment or violence as set forth in chapter six of this title may, by himself or herself or such person's attorney, make, sign and file with the commission a verified complaint in writing which shall: (i) state the name of the person alleged to have committed the unlawful discriminatory practice or act of discriminatory harassment or violence complained of, and the address of such person if known; (ii) set forth the particulars of the alleged unlawful discriminatory practice or act of discriminatory harassment or violence; and (iii) contain such other information as may be required by the commission. The commission shall acknowledge the filing of the complaint and advise the complainant of the time limits set forth in this chapter.

(b) Any employer whose employee or agent refuses or threatens to refuse to cooperate with the provisions of this chapter



- may file with the commission a verified complaint asking for assistance by conciliation or other remedial action.
- (c) Commission-initiated complaints. The commission may itself make, sign and file a verified complaint alleging that a person has committed an unlawful discriminatory practice or an act of discriminatory harassment or violence as set forth in chapter six of this title.
- (d) The commission shall serve a copy of the complaint upon the respondent and all persons it deems to be necessary parties and shall advise the respondent of his or her procedural rights and obligations as set forth herein.
- (e) The commission shall not have jurisdiction over any complaint that has been filed more than one year after the alleged unlawful discriminatory practice or act of discriminatory harassment or violence as set forth in chapter six of this title occurred.
- (f) The commission shall not have jurisdiction to entertain a complaint if:
- (i) the complainant has previously initiated a civil action in a court of competent jurisdiction alleging an unlawful discriminatory practice as defined in this chapter or an act of discriminatory harassment or violence as set forth in chapter six of this title with respect to the same grievance which is the subject of the complaint under this chapter, unless such civil action has been dismissed without prejudice or withdrawn without prejudice; or

- (ii) the complainant has previously filed and has an action or proceeding before any administrative agency under any other law of the state alleging an unlawful discriminatory practice as defined by this chapter or an act of discriminatory harassment or violence as set forth in chapter six of this title with respect to the same grievance which is the subject of the complaint under this chapter; or
  - (iii) the complainant has previously filed a complaint with the state division of human rights alleging an unlawful discriminatory practice as defined by this chapter or an act of discriminatory harassment or violence as set forth in chapter six of this title with respect to the same grievance which is the subject of the complaint under this chapter and a final determination has been made thereon.
- (g) In relation to complaints filed on or after September first, nineteen hundred ninety one, the commission shall commence proceedings with respect to the complaint, complete the investigation of the allegations of the complaint and make a final disposition of the complaint promptly and within the time periods to be prescribed by rule of the commission. If the commission is unable to comply with the time periods specified for completing its investigation and for final disposition of the complaint, it shall notify the complainant, respondent, and any necessary party in writing of the reasons for not doing so.

- (h) Any complaint filed pursuant to this section may be amended pursuant to procedures prescribed by rule of the commission by filing such amended complaint with the commission and serving a copy thereof upon all parties to the proceeding.
- (i) Whenever a complaint is filed pursuant to paragraph (d) of subdivision five of section 8-107 of this chapter, no member of the commission nor any member of the commission staff shall make public in any manner whatsoever the name of any borrower or identify by a specific description the collateral for any loan to such borrower except when ordered to do so by a court of competent jurisdiction or where express permission has been first obtained in writing from the lender and the borrower to such publication; provided, however, that the name of any borrower and a specific description of the collateral for any loan to such borrower may, if otherwise relevant, be introduced in evidence in any hearing before the commission or any review by a court of competent jurisdiction of any order or decision by the commission.

§3. Subdivision d of section 8-113 of the administrative code of the city of New York, as added by local law 39 for the year 1991, is hereby amended to read as follows:

- d. If after investigation the commission determines that probable cause does not exist to believe that the respondent has engaged or is engaging in an unlawful discriminatory practice or an act of discriminatory harassment or violence as set forth in chapter six of this

title, the commission shall dismiss the complaint as to such respondent.

§4. Subdivision a of section 8-116 of the administrative code of the city of New York, as added by local law 39 for the year 1991, is hereby amended to read as follows:

a. Except in connection with commission-initiated complaints which shall not require a determination of probable cause, where the commission determines that probable cause exists to believe that the [covered entity] respondent has engaged or is engaging in an unlawful discriminatory practice or an act of discriminatory harassment or violence as set forth in chapter six of this title, the commission shall issue a written notice to complainant and respondent so stating. A determination of probable cause is not a final order of the commission and shall not be administratively or judicially reviewable.

§5. Section 8-120 of the administrative code of the city of New York, as added by local law 39 for the year 1991, is hereby 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 judgement 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, 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[;].

b. If, upon all the evidence at the hearing, and upon the findings of fact and conclusions of law recommended by the administrative law judge, the commission shall find that a respondent has not engaged in any unlawful discriminatory practice or 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 the complainant, respondent, and any necessary party and on any complainant who has not intervened an order dismissing the complaint as to such respondent.

§6. Section 8-122 of the administrative code of the city of New York, as added by local law 39 for the year 1991, is hereby amended to read as follows:

§8-122 Injunction and temporary restraining order. At any time after the filing of a complaint alleging an unlawful discriminatory practice under this chapter or an act of discriminatory harassment or violence as set forth in chapter six of this title, if the commission has reason to believe that the respondent or other person acting in concert with respondent is doing or procuring to be done any act or acts, tending to render ineffectual relief that could be ordered by the commission after a hearing as provided by section 8-120 of this chapter, a special proceeding may be commenced in accordance

with article sixty-three of the civil practice law and rules on behalf of the commission in the supreme court for an order to show cause why the respondent and such other persons who are believed to be acting in concert with respondent should not be enjoined from doing or procuring to be done such acts. The special proceeding may be commenced in any county within the city of New York where the alleged unlawful discriminatory practice or act of discriminatory harassment or violence was committed, or where the commission maintains its principal office for the transaction of business, or where any respondent resides or maintains an office for the transaction of business, or where any person aggrieved by the unlawful discriminatory practice or act of discriminatory harassment or violence resides, or, if the complaint alleges an unlawful discriminatory practice under paragraphs (a), (b) or (c) of subdivision five of section 8-107 of this chapter, where the housing accommodation, land or commercial space specified in the complaint is located. The order to show cause may contain a temporary restraining order and shall be served in the manner provided therein. On the return date of the order to show cause, and after affording the commission, the person aggrieved and the respondent and any person alleged to be acting in concert with the respondent an opportunity to be heard, the court may grant appropriate injunctive relief upon such terms and conditions as the court deems proper.

§7. Subdivision b of section 8-123 of the administrative code of the city of New York, as amended by local law 39 for the year 1991, is hereby amended to read as follows:

- b. Such proceeding shall be brought in the supreme court of the state within any county within the city of New York wherein the unlawful discriminatory practice or act of discriminatory harassment or violence as set forth in chapter six of this title which is the subject of the commission's order occurs or wherein any person required in the order to cease and desist from an unlawful discriminatory practice or act of discriminatory harassment or violence or to take other affirmative action resides or transacts business.

§8. Section 8-126 of the administrative code of the city of New York, as added by local law 39 for the year 1991, is hereby amended to read as follows:

§8-126 Civil penalties imposed by commission for unlawful discriminatory practices or acts of discriminatory harassment or violence. a. Except as otherwise provided in subdivision thirteen of section 8-107 of this chapter, in addition to any remedies and penalties set forth in subdivision a of section 8-120 of this chapter, where the commission finds that a person has engaged in an unlawful discriminatory practice, the commission may, to vindicate the public interest, impose a civil penalty of not more than fifty thousand dollars. Where the commission finds that an unlawful discriminatory practice was the result of the respondent's willful, wanton or malicious act



or where the commission finds that an act of discriminatory harassment or violence as set forth in chapter six of this title has occurred, the commission may, to vindicate the public interest, impose a civil penalty of not more than one hundred thousand dollars.

- b. A [covered entity] respondent that is found liable for an unlawful discriminatory practice or an act of discriminatory harassment or violence, as set forth in chapter six of this title, may, in relation to the determination of the appropriate amount of civil penalties to be imposed pursuant to subdivision a of this section, plead and prove any relevant mitigating factor.
- c. In addition to any other penalties or sanctions which may be imposed pursuant to any other law, any person who knowingly makes a material false statement in any proceeding conducted, or document or record filed with the commission, or record required to be preserved or made and kept and subject to inspection by the commission pursuant to this chapter shall be liable for a civil penalty of not more than ten thousand dollars.
- d. An action or proceeding may be commenced in any court of competent jurisdiction on behalf of the commission for the recovery of the civil penalties provided for in this section.

§9. Chapter 1 of title 8 of the administrative code of the city of New York, as amended by local law 39 for the year 1991,

is hereby amended by the addition of a new section 8-131 to read as follows:

\* §8-131 Applicability. The provisions of this chapter which make acts of discriminatory harassment or violence as set forth in chapter six of this title subject to the jurisdiction of the commission shall not apply to acts committed by members of the police department in the course of performing their official duties as police officers whether the police officer is on or off duty.

§10. Subdivision a of section 8-502 of the administrative code of the city of New York, as added by local law 39 for the year 1991, is hereby amended to read as follows:

a. Except as otherwise provided by law, any person claiming to be aggrieved by an unlawful discriminatory practice as defined in chapter one of this title or by an act of discriminatory harassment or violence as set forth in chapter six of this title shall have a cause of action in any court of competent jurisdiction for damages, including punitive damages, and for injunctive relief and such other remedies as may be appropriate, unless such person has filed a complaint with the city commission on human rights or with the state division of human rights with respect to such alleged unlawful discriminatory practice or act of discriminatory harassment or violence. For purposes of this subdivision, the filing of a complaint with a federal agency pursuant to applicable federal law prohibiting discrimination which is subsequently referred to the city commission on human rights or to the state division of

human rights pursuant to such law shall not be deemed to constitute the filing of a complaint under this subdivision.

§11. Section 8-502 of the administrative code of the city of New York, as added by local law 39 for the year 1991, is hereby amended by the addition of a new subdivision e to read as follows:

e. The provisions of this section which provide a cause of action to persons claiming to be aggrieved by an act of discriminatory harassment or violence as set forth in chapter six of this title shall not apply to acts committed by members of the police department in the course of performing their official duties as police officers whether the police officer is on or off duty.

§12. Subdivision d of section 8-502 of the administrative code of the city of New York, as added by local law 39 for the year 1991, is hereby amended to read as follows:

d. A civil action commenced under this section must be commenced within three years after the alleged unlawful discriminatory practice or act of discriminatory harassment or violence as set forth in chapter six of this title occurred. Upon the filing of a complaint with the city commission on human rights or the state division of human rights and during the pendency of such complaint and any court proceeding for review of the dismissal of such complaint, such three year limitations period shall be tolled.

§13. Chapter six of title eight of the administrative code of the city of New York, as added by local law 39 for the year 1991, is hereby renamed and amended to read as follows:

CHAPTER 6

DISCRIMINATORY HARASSMENT OR VIOLENCE

§8-602 Civil action to enjoin discriminatory harassment or violence; equitable remedies. a. Whenever a person interferes by threats, intimidation or coercion or attempts to interfere by threats, intimidation or coercion with the exercise or enjoyment by any person of rights secured by the constitution or laws of the United States, the constitution or laws of this state, or local law of the city [because of the person's] and such interference or attempted interference is motivated in whole or in part by the victim's actual or perceived race, creed, color, national origin, gender, sexual orientation, age, whether children are, may or would be residing with such [person] victim, marital status, disability, or alienage or citizenship status as defined in chapter one of this title, the corporation counsel, at the request of the city commission on human rights or on his or her own initiative, may bring a civil action on behalf of the city for injunctive and other appropriate equitable relief in order to protect the peaceable exercise or enjoyment of the rights secured.

b. An action pursuant to subdivision a may be brought in any court of competent jurisdiction.

c. Violation of an order issued pursuant to subdivision a of this section may be punished by a proceeding for contempt

brought pursuant to article nineteen of the judiciary law and, in addition to any relief thereunder, a civil penalty may be imposed not exceeding ten thousand dollars for each day that the violation continues.

§8-603. Discriminatory harassment; civil penalties. a. No person shall by force or threat of force, knowingly injure, intimidate or interfere with, oppress, or threaten any other person in the free exercise or enjoyment of any right or privilege secured to him or her by the constitution or laws of this state or by the constitution or laws of the United States or by local law of the city [because of the other person's] when such injury, intimidation, interference, oppression or threat is motivated in whole or in part by the victim's actual or perceived race, creed, color, national origin, gender, sexual orientation, age, marital status, disability or alienage or citizenship status, as defined in chapter one of this title.

b. No person shall knowingly deface, damage or destroy the real or personal property of any person for the purpose of intimidating or interfering with the free exercise or enjoyment of any right or privilege secured to the other person by the constitution or laws of this state or by the constitution or laws of the United States or by local law of the city [because of the other person's] when such defacement, damage or destruction of real or personal property is motivated in whole or in part by the victim's actual or perceived race, creed, color, national origin, gender, sexual orientation, age, marital status, or whether

children are, may be, or would be residing with such [person] victim, disability or alienage or citizenship status, as defined in chapter one of this title.

- c. Any person who violates subdivision a or b of this section shall be liable for a civil penalty of not more than [fifty] one hundred thousand dollars for each violation, which may be recovered by the corporation counsel in an action or proceeding in any court of competent jurisdiction.

**§8-604 Disposition of civil penalties.** Any civil penalties recovered by the corporation counsel pursuant to this chapter shall be paid into the general fund of the city.

§14. This local law shall take effect immediately.

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CITY

# Bias Crime Up a Bit in '92

There have been 620 suspected bias crimes recorded in New York City this year, police said.

In all, 642 crimes were thought to be bias-related since January, but investigations have revealed that 22 of the crimes were not hate crimes, said Officer Peter Friscia, a spokesman.

In 1991, 18 supposed bias crimes were reclassified following investigations, leaving 543 bias crimes for the year, Friscia added. There were also 543 bias crimes recorded in 1990, the spokesman added. (Two more-bias

crimes alleged, Page 30.)

On Monday, Police Commissioner Raymond Kelly ordered that all cases previously "deemed bias" now be dubbed "possible bias" pending an investigation.

Officials said the term "deemed bias" had come to suggest a crime was definitely bias-related, although an investigation was pending. The new phrasing does not affect the number of bias crimes recorded in the past year, police said.

— Wendell Jamieson

**ABOUT URBAN LIFE**

# Two Cities In The Same Boat

By Fred Plotkin

**O**N DEC. 11, AS I WATCHED the Hudson River rise and flood the West Side Highway during the ferocious storm that savaged the New York area, my mind wandered to my other spiritual home, Venice. Just two days before, storms had churned the Adriatic Sea, pushing tidal waves of water into the Venetian lagoon. St. Mark's Square filled with water — 4 feet, 3 inches of it — in that city's third-worst flood on record. In Venice, hip-high rubber boots are as standard a wardrobe item as a Benetton sweater and a mask for Carnival.

People have always questioned my assertion

that no city in the world reminds me more of New York than does Venice. "London, Milan, Tokyo, even Calcutta," they protest, "but Venice?" As I watched fellow New Yorkers dodge javelins of glass cascading from 57th Street office buildings during New York's own *aqua alta*, I considered my thesis anew.

New York and Venice are both insular — that is, composed largely of islands — and stand defiantly, if precariously, off the mainlands of two great nations. Citizens of New York and Venice pay a lot more than mainlanders for the privilege of knowing the exquisite delights and adversities their cities uniquely offer. Each city is, in its way, a decadent one. Venice was the great east/west crossroads from 1204, the time of the Fourth Crusade, until it fell to Napoleon in 1797. Since then, the city has been in slow decline. New York City, the heart of the Empire State and the great east/west crossroads in the century of the American empire, began its own gentle descent in the

*Fred Plotkin, a former performance manager of The Metropolitan Opera, writes and lectures frequently about Italy.*



late 1940s, or so I am told.

New York and Venice each rose as seats of commerce and culture rather than as capitals of national governments (George Washington's sojourn here

notwithstanding). Merchants and artists, whether in Venice or New York, are the ones who spread their city's influence far and wide. Yet, with the Council of Ten and the selection of a Doge who represented the community's interests, Venice also created a model for civil governance that New York more or less emulates. Like it or not, Doge Koch and Doge Dinkins have been representative of the populace.

In our cities, creativity, grace and wit are at least as important as force. In Washington and Rome, raw power is the key to success. In New York and Venice, it is genius. We prize our citizens for what makes them different and special. The gondolier and the older New York cabby, each a singular purveyor of transport who would be little tolerated

—Continued on page 86



Int  
 558-A

# The 'Bias' Tag: Use It Carefully

## NYPD makes wise changes

The last thing New York City needs is a new way to intensify racial and ethnic tensions. That's why Police Commissioner Ray Kelly on Monday was wise to rework the NYPD's procedures regarding bias crimes. As the cops have discovered, a modus operandus that is too quick to label crimes as bias-motivated can exacerbate the very tensions this process is supposed to relieve. It has happened twice recently: in Crown Heights and Williamsburg.



Kelly

The Crown Heights case began early on Dec. 1, when a black man, Ralph Nimmons, told police he had been beaten and called racial names by a group of Hasidic Jews. The cops deemed the case a "bias incident" and Mayor David Dinkins condemned the violence. Yet instead of soothing tensions, these actions wound up angering the Lubavitcher Hasidim, who say Nimmons wasn't a bias victim but someone who was trying to burglarize a yeshiva.

The Williamsburg case began Sunday, when a black man, Robert Johnson, told police he had been beaten earlier that day by 10 or more Hasidic men. The police deemed the case a "bias incident", and again the mayor quickly denounced it. But leaders of the area's Satmar Hasidim objected, saying it's not clear this is a bias crime. They cite reports that Johnson was chased after he broke into a parked car.

Those cases remain open. But in general, a system that errs on the side of the "bias" label can make communities needlessly fearful

and distrustful. It's better to exercise caution. Which is what Kelly's new MO prescribes. From now, on a captain — sometimes relying only on a victim's account — will not "deem" an incident bias-related. Rather, the officer will declare it a "possible bias incident" and turn it over to the NYPD's Bias Unit — which will make a determination. The unit's work will be reviewed quarterly by an NYPD panel. It's a sound approach. It ensures intensive investigation for genuine bias attacks, while taking care not to generate new controversies.

— Continued from page 44

in other towns, pride themselves as custodians of local dialect and lore. Artists, writers, romantics and refugees of every stripe have come to our cities because they have always found a place to be themselves.

New Yorkers and Venetians are highly pragmatic, endowed with a randy sense of humor, and can find many reasons to be festive. They celebrate as a way of asserting identity and to maintain links to a glorious past. Venetians have their unique Carnival celebration; we have our special Halloween. For every annual parade down Fifth Avenue, Venetians have a comparable procession of boats down the Grand Canal.

Culturally, each city was the greatest of its age. Venice was the first major center of publishing. New York has been a long-time leader in that field. Venice was the theater capital of Europe in the 17th Century, when it had 17 public theaters presenting plays and operas to 140,000 citizens. Between 1637 and 1700, 388 operas were produced there. As this century draws to a close, New York tenuously holds the cultural mantle, although we have begun to let it slip away. When glorious theaters are knocked down to be replaced by fortress-like hotels, when artists leave a city in droves because rapacious commercial interests have made their lives untenable, one sees — in New York and in Venice — a beating heart being replaced by a heart of stone.

Yet both cities have places in which greatness can be felt. If you look closely at Lincoln Center Plaza, you will find New York's homage to Venice. The plaza bears a notable resemblance to St. Mark's Square. The five arches of the Metropolitan Opera House recall the five cupolas of St. Mark's Cathedral. The travertine porticoes of the State Theater and Avery Fisher Hall bring to mind the Doge's Palace and the other buildings on the square Napoleon called "the drawing room of Europe." On fine summer days on Lincoln Center Plaza, as pigeons swirl above while people take coffee and listen to music or engage in witty discourse, one discovers that urban civilization is not about automobiles and infrastructure, but about human interaction that can elevate and enrich.

When I look at our two cities, I find myself saying, "Venice was and New York has been," which is a polite way of saying that New York has begun to let go of much of the singularity that is an essential part of its grandeur. Venice remains a supreme example of urban civilization, and New York, at its best, can still bring out what is most noble in humans. You need only recall the Brooklynites of all races and creeds who put aside their battles to help one another as the *aqua alta* of the Atlantic battered sea walls. It's unfortunate that it took Nature's force to bring out the best human intentions.

*Bill Reel is on vacation. The Reel Story will resume on Jan. 6.*

New York and Venice have a similar resonance for me because they represent the greatest in human achievement. They were forged in bravery, hard work and glory; they flourished thanks to genius, reason and the value placed on education, and each, in its own way, is now being consumed by rising tides that are increasingly difficult to contain. But while Venice is being consumed by tides of nature, New York's are harder to see. They are the tides of self-interest that wash over the terra firma of common purpose.

If our valiant response to the tempestuous inundation of Dec. 11 can serve as a metaphor for how we, as inheritors of one of the great urban civilizations, must behave to restore our city to greatness, then New York may again rise. If not, then after us, the deluge. Or, as Byron once wrote:

*Oh Venice, when thy marble walls  
 Are level with the waters, there shall be  
 A cry of nations o'er thy sunken halls,  
 A loud lament upon the sweeping sea!*

NYC LAW DEPT.

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Jan 05'93 18:36 No.036 P.01

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Revised 1/5/93

Proposed Amendments to Int. No. 558-A

Add a new bill section 9.

§ 9. The administrative code of the city of New York is amended by adding a new section 8-131 to read as follows:

§ 8-131 Applicability. The provisions of this chapter which make acts of discriminatory harassment or violence as set forth in chapter six of this title subject to the jurisdiction of the commission shall not apply to acts committed by members of the uniformed force of the police department in the course of performing their official duties as police officers whether the police officer is on duty or off duty.

Add a new bill section 11.

§ 11. Section 8-502 of the administrative code of the city of New York is amended by adding a new subdivision a to read as follows:

a. The provisions of this section which provide a cause of action to persons claiming to be aggrieved by an act of discriminatory harassment or violence as set forth in chapter six of this title shall not apply to acts committed by members of the uniformed force of the police department in the course of performing their official duties as police officers whether the police officer is on duty or off duty.

NYC LAW DEPT.

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Jan 05 '93 18:36 No.036 P.02

is hereby amended by the addition of a new section 8-131 to read as follows:

~~8-131 Applicability. The provisions of this chapter which make acts of discriminatory harassment or violence as set forth in chapter six of this title subject to the jurisdiction of the commission shall not apply to acts committed by members of the police department if such acts are committed in the course of such members' official duties.~~

*whether such member is on-duty or off-duty*

§10. Subdivision a of section 6-302 of the administrative code of the city of New York, as added by local law 39 for the year 1991, is hereby amended to read as follows:

a. Except as otherwise provided by law, any person claiming to be aggrieved by an unlawful discriminatory practice as defined in chapter one of this title ~~or by an act of discriminatory harassment or violence as set forth in chapter six of this title~~ shall have a cause of action in any court of competent jurisdiction for damages, including punitive damages, and for injunctive relief and such other remedies as may be appropriate, unless such person has filed a complaint with the city commission on human rights or with the state division of human rights with respect to such alleged unlawful discriminatory practice ~~or act of discriminatory harassment or violence~~. For purposes of this subdivision, the filing of a complaint with a federal agency pursuant to applicable federal law prohibiting discrimination which is subsequently referred to the city commission on human rights or to the state division of

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Jan 05 '93 18:37 No.036 P.03  
Jan 05 '93 11:49 NO.03 P.14

human rights pursuant to such law shall not be deemed to constitute the filing of a complaint under this subdivision.

§11. Section 0-502 of the administrative code of the city of New York, as added by local law 39 for the year 1991, is hereby amended by the addition of a new subdivision e to read as follows:

~~e. The provisions of this section which provide a cause of action to persons claiming to be aggrieved by an act of discriminatory harassment or violence as set forth in chapter six of this title shall not apply to acts committed by members of the police department if such acts are committed in the course of such members' official duties.~~

*whether such member is on-duty or off-duty*

✓ §11. Subdivision d of section ~~0-502~~ <sup>8-502</sup> of the administrative code of the city of New York, as added by local law 39 for the year 1991, is hereby amended to read as follows:

d. A civil action commenced under this section must be commenced within three years after the alleged unlawful discriminatory practice ~~or act of discriminatory harassment or violence as set forth in chapter six of this title~~ occurred. Upon the filing of a complaint with the city commission on human rights or the state division of human rights and during the pendency of such complaint and any court proceeding for review of the dismissal of such complaint, such three year limitations period shall be tolled.

✓ §13. Chapter six of title eight of the administrative code of the city of New York, as added by local law 39 for the year 1991, is hereby renamed and amended to read as follows:

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Jan 05 '93 18:37 No.036 P.04

- 14 -

## CHAPTER 6

DISCRIMINATORY HARASSMENT OR VIOLENCE

§0-602 Civil action to enjoin discriminatory harassment or violence; equitable remedies. a. Whenever a person interferes by threats, intimidation or coercion or attempts to interfere by threats, intimidation or coercion with the exercise or enjoyment by any person of rights secured by the constitution or laws of the United States, the constitution or laws of this state, or local law of the city (because of the person's) and such interference or attempted interference is motivated in whole or in part by the victim's actual or perceived race, creed, color, national origin, gender, sexual orientation, age, whether children are, may or would be residing with such [person] victim, marital status, disability, or alienage or citizenship status as defined in chapter one of this title, the corporation counsel, at the request of the city commission on human rights or on his or her own initiative, may bring a civil action on behalf of the city for injunctive and other appropriate equitable relief in order to protect the peaceable exercise or enjoyment of the rights secured.

b. An action pursuant to subdivision a may be brought in any court of competent jurisdiction.

✓ c. Violations of an order issued pursuant to subdivision a of this section may be punished by a proceeding for contempt brought pursuant to article nineteen of the judiciary law and, in addition to any relief thereunder, a civil penalty

NEW YORK CITY COUNCIL,  
LEGAL DIVISION

RICHARD M. WEINBERG, DIRECTOR AND GENERAL COUNSEL

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**DRAFT**

Proposed Int. No. 558-B

By Council Member Freed, the Speaker (Council Member Vallone), Council Members Horwitz, Pagan, DiBrienza, Duane, Eldridge, Eisland, Fisher, Linares, Marshall, Robles, White, Millard, Cerullo III, Robinsch, Watkins, Spigner, Leffler, and Koslowitz; also, Council Members Clarke, Alter, Malave-Dilan, Maloney, Povman, Sabini, Williams, McCaffrey and Ward

A LOCAL LAW

To amend the administrative code of the city of New York, in relation to the remedies for incidents of bias-related violence and harassment in the human rights law.

Be it enacted by the Council as follows:

Section 1. Section 8-101 of the administrative code of the city of New York, as amended by local law 39 for the year 1991, is hereby amended to read as follows:

§8-101 Policy. In the city of New York, with its great cosmopolitan population, there is no greater danger to the health, morals, safety and welfare of the city and its inhabitants than the existence of groups prejudiced against one another and antagonistic to each other because of their actual or perceived differences, including those based on race, color, creed, age, national origin, alienage or citizenship status, gender, sexual orientation, disability, marital status, whether children are, may be or would be residing with a person or conviction or arrest record. The council hereby finds and declares that prejudice, intolerance, bigotry, and discrimination, bias-related violence or harassment and disorder occasioned thereby threaten the rights and proper privileges of its inhabitants and menace the institutions and foundation of a free democratic state. A city agency is hereby created with

- 2 -

power to eliminate and prevent discrimination from playing any role in actions relating to employment, public accommodations, and housing and other real estate, and to take other actions against prejudice, intolerance, bigotry, [and] discrimination and bias-related violence or harassment as herein provided; and the commission established hereunder is hereby given general jurisdiction and power for such purposes.

§2. Section 8-109 of the administrative code of the city of New York, as added by local law 39 for the year 1991, is hereby amended to read as follows:

§8-109 Complaint. a. Any person aggrieved by an unlawful discriminatory practice or an act of discriminatory harassment or violence as set forth in chapter six of this title may, by himself or herself or such person's attorney, make, sign and file with the commission a verified complaint in writing which shall: (i) state the name of the person alleged to have committed the unlawful discriminatory practice or act of discriminatory harassment or violence complained of, and the address of such person if known; (ii) set forth the particulars of the alleged unlawful discriminatory practice or act of discriminatory harassment or violence; and (iii) contain such other information as may be required by the commission. The commission shall acknowledge the filing of the complaint and advise the complainant of the time limits set forth in this chapter.

(b) Any employer whose employee or agent refuses or threatens to refuse to cooperate with the provisions of this chapter

- 3 -

may file with the commission a verified complaint asking for assistance by conciliation or other remedial action.

(c) Commission-initiated complaints. The commission may itself make, sign and file a verified complaint alleging that a person has committed an unlawful discriminatory practice or an act of discriminatory harassment or violence as set forth in chapter six of this title.

(d) The commission shall serve a copy of the complaint upon the respondent and all persons it deems to be necessary parties and shall advise the respondent of his or her procedural rights and obligations as set forth herein.

(e) The commission shall not have jurisdiction over any complaint that has been filed more than one year after the alleged unlawful discriminatory practice or act of discriminatory harassment or violence as set forth in chapter six of this title occurred.

(f) The commission shall not have jurisdiction to entertain a complaint if:

(i) the complainant has previously initiated a civil action in a court of competent jurisdiction alleging an unlawful discriminatory practice as defined in this chapter or an act of discriminatory harassment or violence as set forth in chapter six of this title with respect to the same grievance which is the subject of the complaint under this chapter, unless such civil action has been dismissed without prejudice or withdrawn without prejudice, or

- 4 -

- (ii) the complainant has previously filed and has an action or proceeding before any administrative agency under any other law of the state alleging an unlawful discriminatory practice as defined by this chapter or an act of discriminatory harassment or violence as set forth in chapter six of this title with respect to the same grievance which is the subject of the complaint under this chapter; or
- (iii) the complainant has previously filed a complaint with the state division of human rights alleging an unlawful discriminatory practice as defined by this chapter or an act of discriminatory harassment or violence as set forth in chapter six of this title with respect to the same grievance which is the subject of the complaint under this chapter and a final determination has been made thereon.
- (g) In relation to complaints filed on or after September first, nineteen hundred ninety one, the commission shall commence proceedings with respect to the complaint, complete the investigation of the allegations of the complaint and make a final disposition of the complaint promptly and within the time periods to be prescribed by rule of the commission. If the commission is unable to comply with the time periods specified for completing its investigation and for final disposition of the complaint, it shall notify the complainant, respondent, and any necessary party in writing of the reasons for not doing so.

- 5 -

- (h) Any complaint filed pursuant to this section may be amended pursuant to procedures prescribed by rule of the commission by filing such amended complaint with the commission and serving a copy thereof upon all parties to the proceeding.
- (i) Whenever a complaint is filed pursuant to paragraph (d) of subdivision five of section 8-107 of this chapter, no member of the commission nor any member of the commission staff shall make public in any manner whatsoever the name of any borrower or identify by a specific description the collateral for any loan to such borrower except when ordered to do so by a court of competent jurisdiction or where express permission has been first obtained in writing from the lender and the borrower to such publication; provided, however, that the name of any borrower and a specific description of the collateral for any loan to such borrower may, if otherwise relevant, be introduced in evidence in any hearing before the commission or any review by a court of competent jurisdiction of any order or decision by the commission.

§3. Subdivision d of section 8-113 of the Administrative Code of the City of New York, as added by Local Law 39 for the year 1991, is hereby amended to read as follows:

- d. If after investigation the commission determines that probable cause does not exist to believe that the respondent has engaged or is engaging in an unlawful discriminatory practice or an act of discriminatory harassment or violence as set forth in chapter six of this

- 6 -

title, the commission shall dismiss the complaint as to each respondent.

§4. Subdivision a of section 8-116 of the administrative code of the city of New York, as added by local law 39 for the year 1991, is hereby amended to read as follows:

a. Except in connection with commission-initiated complaints which shall not require a determination of probable cause, where the commission determines that probable cause exists to believe that the [covered entity] respondent has engaged or is engaging in an unlawful discriminatory practice or an act of discriminatory harassment or violence as set forth in chapter six of this title, the commission shall issue a written notice to complainant and respondent so stating. A determination of probable cause is not a final order of the commission and shall not be administratively or judicially reviewable.

§5. Section 8-120 of the administrative code of the city of New York, as added by local law 39 for the year 1991, is hereby 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

- 7 -

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 judgement 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, 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

- 8 -

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

b. If, upon all the evidence at the hearing, and upon the findings of fact and conclusions of law recommended by the administrative law judge, the commission shall find that a respondent has not engaged in any unlawful discriminatory practice or 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 the complainant, respondent, and any necessary party and on any complainant who has not intervened an order dismissing the complaint as to such respondent.

§6. Section 8-122 of the administrative code of the city of New York, as added by local law 39 for the year 1991, is hereby amended to read as follows:

§8-122 Injunction and temporary restraining order. At any time after the filing of a complaint alleging an unlawful discriminatory practice under this chapter or an act of discriminatory harassment or violence as set forth in chapter six of this title, if the commission has reason to believe that the respondent or other person acting in concert with respondent is doing or procuring to be done any act or acts, tending to render ineffectual relief that could be ordered by the commission after a hearing as provided by section 8-120 of this chapter, a special proceeding may be commenced in accordance



- 9 -

with article sixty-three of the civil practice law and rules on behalf of the commission in the supreme court for an order to show cause why the respondent and such other persons who are believed to be acting in concert with respondent should not be enjoined from doing or procuring to be done such acts. The special proceeding may be commenced in any county within the city of New York where the alleged unlawful discriminatory practice or act of discriminatory harassment or violence was committed, or where the commission maintains its principal office for the transaction of business, or where any respondent resides or maintains an office for the transaction of business, or where any person aggrieved by the unlawful discriminatory practice or act of discriminatory harassment or violence resides, or, if the complaint alleges an unlawful discriminatory practice under paragraphs (a), (b) or (c) of subdivision five of section 8-107 of this chapter, where the housing accommodation, land or commercial space specified in the complaint is located. The order to show cause may contain a temporary restraining order and shall be served in the manner provided therein. On the return date of the order to show cause, and after affording the commission, the person aggrieved and the respondent and any person alleged to be acting in concert with the respondent an opportunity to be heard, the court may grant appropriate injunctive relief upon such terms and conditions as the court deems proper.

- 10 -

§7. Subdivision b of section 8-123 of the administrative code of the city of New York, as amended by local law 39 for the year 1991, is hereby amended to read as follows:

b. Such proceeding shall be brought in the supreme court of the state within any county within the city of New York wherein the unlawful discriminatory practice or act of discriminatory harassment or violence as set forth in chapter six of this title which is the subject of the commission's order occurs or wherein any person required in the order to cease and desist from an unlawful discriminatory practice or act of discriminatory harassment or violence or to take other affirmative action resides or transacts business.

§8. Section 8-126 of the administrative code of the city of New York, as added by local law 39 for the year 1991, is hereby amended to read as follows:

§8-126 Civil penalties imposed by commission for unlawful discriminatory practices or acts of discriminatory harassment or violence. a. Except as otherwise provided in subdivision thirteen of section 8-107 of this chapter, in addition to any remedies and penalties set forth in subdivision a of section 8-120 of this chapter, where the commission finds that a person has engaged in an unlawful discriminatory practice, the commission may, to vindicate the public interest, impose a civil penalty of not more than fifty thousand dollars. Where the commission finds that an unlawful discriminatory practice was the result of the respondent's willful, wanton or malicious act

- 11 -

or where the commission finds that an act of discriminatory harassment or violence as set forth in chapter six of this title has occurred, the commission may, to vindicate the public interest, impose a civil penalty of not more than one hundred thousand dollars.

- b. A [covered entity] respondent that is found liable for an unlawful discriminatory practice or an act of discriminatory harassment or violence, as set forth in chapter six of this title, may, in relation to the determination of the appropriate amount of civil penalties to be imposed pursuant to subdivision a of this section, plead and prove any relevant mitigating factor.
- c. In addition to any other penalties or sanctions which may be imposed pursuant to any other law, any person who knowingly makes a material false statement in any proceeding conducted, or document or record filed with the commission, or record required to be preserved or made and kept and subject to inspection by the commission pursuant to this chapter shall be liable for a civil penalty of not more than ten thousand dollars.
- d. An action or proceeding may be commenced in any court of competent jurisdiction on behalf of the commission for the recovery of the civil penalties provided for in this section.

§9. Chapter 1 of title 8 of the administrative code of the city of New York, as amended by local law 39 for the year 1991,

- 12 -

is hereby amended by the addition of a new section 8-131 to read as follows:

§8-131 Applicability. The provisions of this chapter which make acts of discriminatory harassment or violence as set forth in chapter six of this title subject to the jurisdiction of the commission shall not apply to acts committed by members of the police department if such acts are committed in the course of such members' official duties.

§10. Subdivision a of section 8-502 of the administrative code of the city of New York, as added by local law 39 for the year 1991, is hereby amended to read as follows:

a. Except as otherwise provided by law, any person claiming to be aggrieved by an unlawful discriminatory practice as defined in chapter one of this title or by an act of discriminatory harassment or violence as set forth in chapter six of this title shall have a cause of action in any court of competent jurisdiction for damages, including punitive damages, and for injunctive relief and such other remedies as may be appropriate, unless such person has filed a complaint with the city commission on human rights or with the state division of human rights with respect to such alleged unlawful discriminatory practice or act of discriminatory harassment or violence. For purposes of this subdivision, the filing of a complaint with a federal agency pursuant to applicable federal law prohibiting discrimination which is subsequently referred to the city commission on human rights or to the state division of

- 13 -

human rights pursuant to such law shall not be deemed to constitute the filing of a complaint under this subdivision.

§11. Section 8-502 of the administrative code of the city of New York, as added by local law 39 for the year 1991, is hereby amended by the addition of a new subdivision e to read as follows:

e. The provisions of this section which provide a cause of action to persons claiming to be aggrieved by an act of discriminatory harassment or violence as set forth in chapter six of this title shall not apply to acts committed by members of the police department if such acts are committed in the course of such members' official duties.

§12. Subdivision d of section 8-107 of the administrative code of the city of New York, as added by local law 39 for the year 1991, is hereby amended to read as follows:

d. A civil action commenced under this section must be commenced within three years after the alleged unlawful discriminatory practice or act of discriminatory harassment or violence as set forth in chapter six of this title occurred. Upon the filing of a complaint with the city commission on human rights or the state division of human rights and during the pendency of such complaint and any court proceeding for review of the dismissal of such complaint, such three year limitation period shall be tolled.

§13. Chapter six of title eight of the administrative code of the city of New York, as added by local law 39 for the year 1991, is hereby renamed and amended to read as follows:

- 14 -

## CHAPTER 6

## DISCRIMINATORY HARASSMENT OR VIOLENCE

§8-602 Civil action to enjoin discriminatory harassment or violence; equitable remedies. a. Whenever a person interferes by threats, intimidation or coercion or attempts to interfere by threats, intimidation or coercion with the exercise or enjoyment by any person of rights secured by the constitution or laws of the United States, the constitution or laws of this state, or local law of the city [because of the person's] and such interference or attempted interference is motivated in whole or in part by the victim's actual or perceived race, creed, color, national origin, gender, sexual orientation, age, whether children are, may or would be residing with such [person] victim, marital status, disability, or alienage or citizenship status as defined in chapter one of this title, the corporation counsel, at the request of the city commission on human rights or on his or her own initiative, may bring a civil action on behalf of the city for injunctive and other appropriate equitable relief in order to protect the peaceable exercise or enjoyment of the rights secured.

b. An action pursuant to subdivision a may be brought in any court of competent jurisdiction.

c. Violations of an order issued pursuant to subdivision a of this section may be punished by a proceeding for contempt brought pursuant to article nineteen of the judiciary law and, in addition to any relief thereunder, a civil penalty

may be imposed not exceeding ten thousand dollars for each

day that the violation continues.

§8-603 Discriminatory harassment; civil penalties. a. No

person shall by force or threat of force, knowingly injure,

intimidate or interfere with, oppress, or threaten any other

person in the free exercise or enjoyment of any right or

privilege secured to him or her by the constitution or laws of

this state or by the constitution or laws of the United States

or by local law of the city [because of the other person's] when

such injury, intimidation, interference, oppression or threat is

motivated in whole or in part by the victim's actual or

perceived race, creed, color, national origin, gender, sexual

orientation, age, marital status, disability or alienage or

citizenship status, as defined in chapter one of this title.

b. No person shall knowingly deface, damage or destroy the

real or personal property of any person for the purpose of

intimidating or interfering with the free exercise or

enjoyment of any right or privilege secured to the other

person by the constitution or laws of this state or by the

constitution or laws of the United States or by local law

of the city [because of the other person's] when such

defacement, damage or destruction of real or personal

property is motivated in whole or in part by the victim's

actual or perceived race, creed, color, national origin,

gender, sexual orientation, age, marital status, or whether

children are, may be, or would be residing with such

- 16 -

[person] victim, disability or alienage or citizenship status, as defined in chapter one of this title.

c. Any person who violates subdivision a or b of this section shall be liable for a civil penalty of not more than [fifty] one hundred thousand dollars for each violation, which may be recovered by the corporation counsel in an action or proceeding in any court of competent jurisdiction.

§8-604 Disposition of civil penalties. Any civil penalties recovered by the corporation counsel pursuant to this chapter shall be paid into the general fund of the city.

§14. This local law shall take effect immediately.

AS  
ls# 162  
12/14/92



Revised 1/5/93

## Proposed Amendments to Int. No. 558-A

Add a new bill section 9.

§ 9. The administrative code of the city of New York is amended by adding a new section 8-131 to read as follows:

§ 8-131 Applicability. The provisions of this chapter which make acts of discriminatory harassment or violence as set forth in chapter six of this title subject to the jurisdiction of the commission shall not apply to acts committed by members of the ~~uniformed force of the~~ police department in the course of performing their official duties as police officers whether the police officer is on duty or off duty.

Add a new bill section 11.

§ 11. Section 8-502 of the administrative code of the city of New York is amended by adding a new subdivision e to read as follows:

e. The provisions of this section which provide a cause of action to persons claiming to be aggrieved by an act of discriminatory harassment or violence as set forth in chapter six of this title shall not apply to acts committed by members of the ~~uniformed force of the~~ police department in the course of performing their official duties as police officers whether the police officer is on duty or off duty.

Int. 558-B



THE CITY OF NEW YORK  
OFFICE OF THE MAYOR  
NEW YORK, N.Y. 10007

Pursuant to authority vested in me by Section twenty of the Municipal Home Rule Law and by Section thirty-seven of the New York City Charter, I hereby certify to the necessity for the immediate passage of a local law, entitled:

A LOCAL LAW

in relation to the remedies for incidents of bias-related violence and harassment in the human rights law

Given under my hand and seal this 6th day of January, 1993, at City Hall in the city of New York.

A handwritten signature in black ink, appearing to read "David N. Dinkins", written over a horizontal line.

David N. Dinkins  
MAYOR

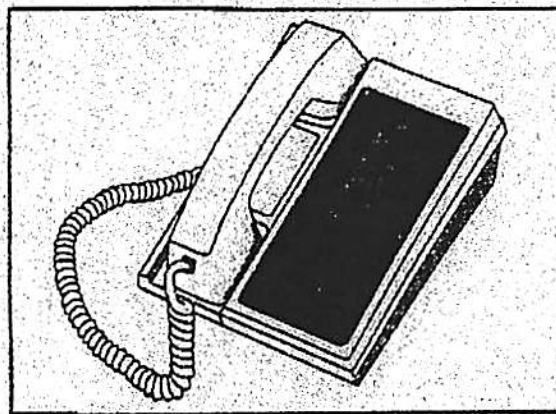
SENT BY:

: 1- 6-93 ; 10:21 ;

12125665918- LEGISLATIVE AFFAIRS:# 1



THE COUNCIL  
OF  
THE CITY OF NEW YORK  
CITY HALL  
NEW YORK, N.Y. 10007



**SPEAKER'S OFFICE**

**FAX COVER SHEET**

TO: Martha Hirst

FROM: Era Pers

DATE: 1-6-93

NO. OF PAGES: 7  
(Including Cover Sheet)

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File  
Int 558A

12 \*2

NEW YORK POST, WEDNESDAY, JANUARY 6, 1993

# BIAS-CRIME BILL HITS SNAG IN COUNCIL

By JOE NICHOLSON

A landmark bias law that had been expected to pass the City Council today has hit a last-minute snag.

It would be the nation's toughest civil law on hate crimes, allowing bias-crime victims to sue for millions of dollars.

With 31 sponsors and no public opponents on the council, it had been expected to pass easily.

But its fate was thrown into doubt when Corporation Counsel Peter Sherwood demanded it exempt police officers from being sued as individuals — and exempt the city from being sued for bias crimes committed by cops.

Sherwood also has demanded

## POST EXCLUSIVE

other city employees be exempted, including correction officers, sanitation workers, Taxi and Limousine Commission employees and fire inspectors, sources said.

The sources said Sherwood asked police union chief Phil Caruso for help — and Caruso began lobbying council members.

Mayor Dinkins and City Council President Andrew Stein have praised the bill, which allows the victim of a bias attack to sue for

an unlimited amount of money.

Sherwood acknowledged his "concern" over applying the bill to cops and correction officers.

He said the new police review board "sets up a mechanism which conflicts with [the bias bill]." And, he said, "a mechanism exists for dealing with complaints by prisoners against correction officers."

But Sherwood denied he has objected to the bill covering other city workers and he denied asking Caruso for help.

# GUILTY PLEA KICKS OFF SHARPTON'S CAMPAIGN

By TIMOTHY McDARRAH  
in New York  
and CHRIS McKENNA  
in Albany

The Rev. Al Sharpton, in a move to clear the decks to run for City Council president, pleaded guilty yesterday to not filing a 1986 tax return.

Sharpton appeared in an Albany court yesterday and agreed to pay a \$5,000 fine on a single misdemeanor conviction and to pay any overdue taxes by April 15.

As part of the deal, state Attorney General Robert Abrams agreed to drop two felony tax charges against Sharpton.

Dressed in a conservative gray suit, the normally bombastic Sharpton mumbled a barely audi-

ble "guilty" when asked by county court Judge John Turner if he had failed to file a 1986 state tax return.

After the 20-minute proceeding, which ended a 4½-year legal battle, Sharpton said: "I'm thrilled it worked out this way. It's a big win for me and a big loss for Bob Abrams."

A spokesman for the attorney general countered that Sharpton won nothing, since most tax cases are settled in similar fashion.

"This is a tax-evasion case handled like any other tax-evasion case," said Nancy Connell.

Sources close to the activist preacher said he cut the deal to make way for another run at political office.

After finishing a surprising third in the Democratic Senate primary

last fall — beating out Comptroller Elizabeth Holtzman — Sharpton said he would run for another office.

"It's going to be City Council president," he told The Post yesterday.

Sharpton said the official announcement will probably come at a Sunday press conference, and he hopes to win the powerful endorsement of Rep. Charles Rangel.

Under the new City Charter, the council president office has vastly diminished powers.

But it is still attracting candidates, such as Consumer Affairs chief Mark Green, Bronx Assemblyman Larry Seabrook, former city personnel director Doug White and several council members.

Current council President Andrew Stein has said that he will run for mayor against David Dinkins.

Sharpton said his tax problems would not be a factor in the race.

"I'm following a great line of New York City and state leaders with tax problems," he cracked.

Both Abrams and Mayor Dinkins have been lax in paying their taxes on time.

Neither Dinkins nor Abrams, however, were ever convicted of any crimes, as Sharpton was yesterday.

On Monday, Sharpton and fellow activist Charles Barron are scheduled to begin serving a 45-day jail sentence for a 1987 Day of Outrage protest that tied up subways.

11/15/75 Monday, Jan 1, 1975

Int  
558-A

## Council Bill Permits Bias Awards

By JAMES C. MCKINLEY Jr.

The New York City Council passed a measure yesterday that would allow victims of bias-motivated violence or harassment to sue in state court for punitive damages.

Proponents of the measure, which passed by a vote of 44 to 1, called it groundbreaking legislation that would give the city one of the toughest civil laws against hate crimes in the country.

Mayor David N. Dinkins is expected to sign the legislation, said Leland T. Jones, his press secretary.

Under current law, victims of violence or harassment can sue in state court for compensation, but incidents motivated by prejudice are treated the same as ordinary claims, Council aides said. If the Council's bill is signed into law, for the first time a judge could award unlimited punitive damages to victims of bias attacks within the city, the bill's sponsors said.

**'Empowering to a Victim'**

"Hopefully this will deter people," Councilwoman Kathryn E. Freed of Manhattan said. "People have to understand that someone can really hurt them financially. It's very em-

powering to a victim."

Previously, victims of bias-related violence could only seek redress before the City Human Rights Commission, which has the power to fine the person responsible for the violence. The fines went to the city.

Under the Council's measure, which would amend the City Human Rights Law, victims would have the option of pursuing their claims in state court or before the City Human Rights Commission. If they choose to go before the commission, the victims could be awarded damages by the commission, while fines would still go to the city.

**Spurious Litigation Feared**

Councilman John A. Fusco, a Staten Island Republican who was the only member to vote against the measure, said he feared it would create a surge of spurious litigation because, he said, people would be tempted to fabricate charges of bias after minor altercations.

"The impact of this bill is to condone a knee-jerk reaction to claim bias as a motive and it will only fuel the fires of racial tensions," Mr. Fusco said.

## Cuomo Proposes Tax on Incomes To Aid Schools

By SARAH LYALL  
Special to The New York Times

ALBANY, Jan. 6 — Gov. Mario M. Cuomo proposed today to allow localities to finance schools using income taxes instead of property taxes, a move he said would ease the burden of the property tax on people with low incomes and address the disparities between rich and poor school districts.

After years of failing to persuade the Legislature to change the state school aid system to give more help to poorer districts, Mr. Cuomo's proposal marks a new approach to the school finance problem, one of the state's most complicated political and governmental issues.

The proposal was part of the State of the State Message Mr. Cuomo presented to the Legislature today. Republicans, who control the state Senate and have blocked all of Mr. Cuomo's previous efforts to overhaul school financing, did not reject Mr. Cuomo's plan outright, a development that the Governor's aides said was encouraging.

The Senate majority leader, Ralph J. Marino, a Republican from the wealthy Long Island community of Oyster Bay, said he agreed with Mr. Cuomo that it would be better to finance schools through income taxes.

But unlike Mr. Cuomo, who proposed to let each county decide whether to make the shift, Mr. Marino said it should be done statewide or not at all. The Governor's plan would provoke an endless series of bruising local battles over which system to use, Mr. Marino said.

"I have a problem with letting each

Continued on Page B6, Column 1

the property-tax system.

If the county decided to switch to the income-tax system, the taxes would be levied as a surcharge on the state income tax. The state would collect the money and give it back to the county to be distributed among local school districts according to a formula set by either the county or the state.

Mr. Cuomo presented the education plan as part of an array of proposals mapping out his legislative agenda for the coming year. Among his plans, he said, are the appointment of a special commission to investigate school district salaries, a renewed effort for a constitutional convention that would propose changes in laws governing politics and ethics and expansion of efforts to alleviate state prison overcrowding.

Many of the legislative proposals have been introduced in previous years, only to fall prey to the legislative gridlock that so often paralyzes Albany. Saying that November's election had showed that the people were tired of inaction, the Governor challenged the Legislature to work harder in the coming year.

Today's speech came at a time of scaled-back expectations for Mr. Cuomo, who saw his presidential ambitions die in 1991's budget morass and who has suffered a series of disappointments in recent months, in-

## Cuomo Offers Income Taxes To Finance School Districts

Continued From Page A1

district decide whether it will use property taxes or income taxes," Mr. Marino said in a news conference. "I think we ought to discuss a statewide approach."

The Nassau County Executive, Thomas S. Gulotta, a Republican who is close to Mr. Marino, said that he detected an ulterior motive in the Governor's plan — to shift political responsibility for levying the new taxes on to the counties.

"What the Governor is trying to do is hold the line on state taxes by passing along the state's obligation to localities," Mr. Gulotta said.

Mr. Cuomo also used his address to answer critics of the state's finances by proposing a reorganization of the way the state borrows money. Under his plan, the state would reduce its dependence on borrowing by quasi-governmental agencies, creating a new authority that could borrow money under tighter voter scrutiny.

The Governor presented his programs in an 59-minute address that was notable for the lack of new spending initiatives. With estimates that the budget deficit for the year that begins April 1 could be as high as \$4 billion, even Mr. Cuomo's aides acknowledged that the centerpiece of his economic development program — more than \$25 billion in capital spending over five years — was little more than a reconstitution and repackaging of previous plans.

### The Governor seeks to ease disparities between rich and poor districts.

Mr. Cuomo has been trying throughout his tenure to force the Legislature to agree to changes in the financing formulas for the state's public schools, which poor districts complain penalize them at the expense of rich districts. But he has always been unsuccessful, and today's plan seemed to be a sign of his frustration at his lack of success.

The proposal could affect 718 school districts around the state, but would do nothing to address the complaints of New York City and Yonkers that they receive too little education aid from the state. Both cities already have income taxes, a portion of which they use to support education. Most other states finance their school districts using real-estate taxes.

Mr. Cuomo said his proposal, which he will present to the Legislature in the form of a bill by April 1, was also aimed at addressing concerns of many voters about spiraling property taxes, particularly at a time when incomes have barely increased at all.

"Instead of some elderly woman living in a house all by herself with the assessment theoretically going up every year because the value goes up every year," the Governor said, "instead of her having to pay more and more for the schoolchildren, why not an income tax? At least it's more progressive. At least it has a closer relationship to what you're able to pay."

But his plan took many people by surprise and left his aides scrambling to provide details of how it would work in practice.

"It fosters progressivity and equity, but it leaves a myriad of practical questions to be addressed and answered," said Thomas Sobol, state education commissioner. "I don't know how we plan to do this."

In Westchester County, Dr. Anthony L. Mazzullo, superintendent of the Greenburgh Central School District and president of the Lower Hudson Council of School Superintendents, said he would welcome changes in a system that he said placed undue burdens on people who may have large homes but small incomes. "People are being taxed out of their homes," he said.

#### Levying Tax as Surcharge

Under the Governor's proposal, each county would be allowed to hold a voter referendum to determine what system it preferred for its school districts: the income-tax or

cluding the voters' rejection of his \$800 million jobs bond act in November.

#### Clapping His Own Hands

The State of the State address is usually a chance for the Governor to burnish his fine oratorical skills and to speak graciously to the Legislature, with whom he is feuding more often than not. But today even those opportunities appeared to elude him, as his Teleprompter malfunctioned several times and the usually voluble Mr. Cuomo appeared to search for words.

And at one point, when the standing-room-only audience in the stately Assembly chamber was applauding one of his proposals, he stopped speaking and began to clap his own hands together. "I have discovered that this is easier to do than to write a bill," he said, rather snappishly. "This you can do, we can all do, that's easy. Monkeys do that."

He quickly included himself in the unflattering characterization, but not quickly enough to assuage members of his legislative audience, who began to grumble audibly. Senator Charles D. Cook, a Republican of Delhi, was so disgruntled that he gave the usually charismatic Mr. Cuomo perhaps the worst insult imaginable. "I think it is the most boring speech I have ever heard from the Governor," he said.

ST. THURSDAY, JAN 1, 1975

file  
Just 556 P

# City Council passes tough bias-crime bill

By MIGUEL GARCILAZO  
The City Council overwhelmingly passed a landmark bias bill yesterday — after a last-minute amendment was added excluding cops from civil suits stemming from bias incidents.

The legislation, approved 44 to 1 (with one abstention), now goes to Mayor Dinkins, who is expected to sign it into law.

The bill would, for the first time, allow victims of bias incidents to file civil suits against their attackers.

Council member Kathryn Freed, the bill's

sponsor, said mayoral aides had lobbied aggressively to exclude all city employees from the bill.

"They wanted a lot [of exemptions]. They had a laundry list," Freed said.

"But this amendment was the only one we were willing to accept."

Advocates who fought for stricter monitoring of cops in the revamped Civilian Complaint Review Board blasted the exemption of police officers.

"It sends a terribly wrong message for people throughout the city that police officers will be exempt from new laws giv-

ing protection to victims of discriminatory harassment and violence," said Norman Siegal of the New York Civil Liberties Union.

"There's no reason to give police an exemption."

The bill would allow victims of bias-related incidents to sue in state Su-

preme Court for damages — or file a complaint with the city Human Rights Commission, which could levy heavy fines and monetary awards.

The bill would also increase the civil penalties that the Human Rights Commission can impose in

bias cases, from \$50,000 to \$100,000 per violation.

Sources said mayoral aides sought additional exemptions for correction officers and other city employees because they fear the city may be sued for millions of dollars in any bias case involving an on-

duty worker.  
Councilman John Fusco (R-Statens Island), the only member to vote against the measure, argued that the legislation would be an incentive for people to "fabricate false charges of bias slurs" in hopes of attaining monetary awards.



# DID BILL'S N.Y. POINT MAN TELL THE TRUTH?

By MARK MOONEY

A report by a federal prosecutor suggested political powerbroker Harold Ickes — who is about to get a top White House job — lied to a grand jury investigating Mayor Dinkins' finances several years ago. The Post has learned.

Ickes, who ran the Democratic Convention for President-elect Bill Clinton and managed Clinton's New York primary, is expected to be named Clinton's deputy chief of staff, possibly as early as today.

The position would give Ickes, 52, tremendous authority over White House staff and policy.

Ickes, whose father served in FDR's Cabinet, could not be reached to comment on the Clinton appointment or the suspicions raised in the federal report.

The allegation came in a 1990 report on a federal grand jury that investigated a controversial stock-transfer deal between Dinkins and his son

## Probers doubted Ickes' testimony, sources say

during the 1989 race for mayor.

Ickes was counsel to Dinkins during the campaign and was called before the grand jury that was trying to determine whether the stock transfer was simply an attempt to avoid paying taxes on the stock.

The deal was sealed with a scrawled letter from David Dinkins Jr. to his father that began, "Dear Dad."

No charges were ever brought against anyone, but The Post has learned that federal prosecutors believed that Ickes lied to the grand jury about circumstances surrounding the creation of the letter.

That suspicion was included in a report former Brooklyn federal prosecutor Andrew Maloney wrote and sent to city investigators, who also investigated the stock deal.

A person familiar with Maloney's report refused to discuss it, except to confirm that the prosecutor did not believe Ickes' testimony before the grand jury.

The source added that the report is "devastating to Ickes."

A second law-enforcement official who has seen the report and discussed it with top investigators said, "It basically indicates that Ickes perjured himself in the grand jury, that he lied about the 'Dear Dad' letter."

"The report concludes that he was uncredible and not truthful," the source said.

The source said Maloney never brought criminal charges against Ickes because there was insufficient evidence, "but they kept hoping for more."

Maloney's report to city

investigators has never been made public because as soon as the results of the city's probe were released, Dinkins' aides had it returned to Maloney's office, where it is protected by grand-jury secrecy rules.

It is unclear whether the FBI, which must carry out a background check on Ickes, will have access to Maloney's report.

Maloney could not be reached for comment on the report, and acting interim federal prosecutor Mary Jo White said only, "Anything we have is 6E material and, therefore, unavailable."

The 6E clause is the secrecy rule protecting grand-jury material.

A subsequent investigation by the special independent investigator found evidence that the stock-transfer letter may have been backdated and that Dinkins and his son may have lied under oath.

But neither probe was able to produce enough evidence to bring charges against anyone in the case.



THE CITY OF NEW YORK  
OFFICE OF THE MAYOR  
NEW YORK, N.Y. 10007

FRANK T. W. NEW  
DIRECTOR  
CITY LEGISLATIVE AFFAIRS

52 CHAMBERS STREET  
ROOM 309  
(212) 788-2902

PUBLIC HEARING ON LOCAL LAWS

The Mayor will hold a Public Hearing on Local Laws on Friday, January 22, 1993 at 10:30 a.m. at the Mayor's Office, Executive Chamber, City Hall, Borough of Manhattan, New York City. The following legislation will be before him for consideration:

Introductory Number 315-A, A LOCAL LAW to amend the Administrative Code of the City of New York in relation to declaring premises located in a residential district, which are occupied for a commercial or manufacturing use in violation of the zoning resolution, to be a public nuisance and providing for the closure of such premises by the commissioner of buildings.

Introductory Number 526-A, A LOCAL LAW to amend the Administrative Code of the City of New York in relation to requiring vehicles that have been towed pursuant to the directed accident response program and the rotation tow program to be secured within the storage facility at all times while the vehicle is in the custody of the towing company.

Introductory Number 527-A, A LOCAL LAW to amend the Administrative Code of the City of New York in relation to the suspension and revocation of towing licenses.

**Introductory Number 528-A**, A LOCAL LAW to amend the Administrative Code of the City of New York in relation to extending the retrieval period for the removal of towed vehicles from storage facilities.

**Introductory Number 547-A**, A LOCAL LAW to amend the Administrative Code of the City of New York, in relation to increasing the standards and penalties for participation in the directed accident response program and the rotation tow program.

**Introductory Number 558-B**, A LOCAL LAW to amend the administrative code of the city of New York, in relation to the remedies for incidents of bias-related violence and harassment in the human rights law.

**Introductory Number 580-A**, A LOCAL LAW to amend the Administrative Code of the City of New York in relation to extending the time period for a temporary certificate of occupancy for one- to three-family homes.

**Introductory Number 615-A**, A LOCAL LAW to amend the Administrative Code of the City of New York in relation to utilizing lead-free solder for pipe joints.

FTWN/sp

1/11/93

# POST CLASSIFIED

## LEGAL NOTICE

OFFICE OF THE MAYOR  
 NOTICE OF PUBLIC HEARING  
 ON PROPOSED LOCAL LAWS  
 PURSUANT TO STATUTORY  
 REQUIREMENT, NOTICE IS  
 HEREBY GIVEN that local laws  
 numbered and titled hereinafter  
 specified have been passed by the  
 Council and that a public hearing  
 on such local laws will be held at  
 the Mayor's Office, Executive  
 Chamber, City Hall, Borough of  
 Manhattan, New York City, on  
 Friday, January 22, 1993 at 10:30  
 a.m., viz:

Introductory Number 315-A. A  
 LOCAL LAW to amend the Ad-  
 ministrative Code of the City of  
 New York in relation to declaring  
 premises located in a residential  
 district, which are occupied for a  
 commercial or manufacturing use  
 in violation of the zoning resolu-  
 tion, to be a public nuisance and  
 providing for the closure of such  
 premises by the commissioner of  
 buildings.

Introductory Number 526-A. A  
 LOCAL LAW to amend the Ad-  
 ministrative Code of the City of  
 New York in relation to requiring  
 vehicles that have been towed  
 pursuant to the directed accident  
 response program and the rota-  
 tion tow program to be secured  
 within the storage facility at all  
 times while the vehicle is in the  
 custody of the towing company.

Introductory Number 527-A. A  
 LOCAL LAW to amend the Ad-  
 ministrative Code of the City of  
 New York in relation to the sus-  
 pension and revocation of towing  
 licenses.

Introductory Number 528-A. A  
 LOCAL LAW to amend the Ad-  
 ministrative Code of the City of  
 New York in relation to extending  
 the retrieval period for the  
 removal of towed vehicles from  
 storage facilities.

Introductory Number 547-A. A  
 LOCAL LAW to amend the Ad-  
 ministrative Code of the City of  
 New York in relation to increas-  
 ing the standards and penalties  
 for participation in the directed  
 accident response program and  
 the rotation tow program.

Introductory Number 554-B. A  
 LOCAL LAW to amend the Ad-  
 ministrative Code of the City of  
 New York in relation to the  
 remedies for incidents of bias-  
 related violence and harassment  
 in the human rights law.

Introductory Number 580-A. A  
 LOCAL LAW to amend the Ad-  
 ministrative Code of the City of  
 New York in relation to extending  
 certificate of occupancy for one-  
 to three-family homes.

Introductory Number 615-A. A  
 LOCAL LAW to amend the Ad-  
 ministrative Code of the City of  
 New York in relation to utilizing  
 lead-free solder for pipe joints  
 David N. Dinkins  
 MAYOR

LATE NOTICES

OFFICE OF THE MAYOR

HEARINGS

ON PROPOSED LOCAL LAWS

PURSUANT TO STATUTORY REQUIREMENT NOTICE IS HEREBY GIVEN that local laws numbered and titled hereinafter specified have been passed by the Council and that a public hearing on such local laws will be held at the Mayor's Office, Executive Chamber, City Hall, Borough of Manhattan, New York City, on Friday, January 22, 1993 at 10:30 a.m., viz:

Introductory Number 515-A, A LOCAL LAW to amend the Administrative Code of the City of New York in relation to declaring premises located in a residential district, which are occupied for a commercial or manufacturing use in violation of the zoning resolution, to be a public nuisance and providing for the closure of such premises by the Commissioner of Buildings.

Introductory Number 538-A, A LOCAL LAW to amend the Administrative Code of the City of New York in relation to requiring vehicles that have been towed pursuant to the directed accident response program and the relation law program to be secured within the storage facility at all times while the vehicle is in the custody of the towing company.

Introductory Number 537-A, A LOCAL LAW to amend the Administrative Code of the City of New York in relation to the suspension and revocation of towing license.

Introductory Number 536-A, A LOCAL LAW to amend the Administrative Code of the City of New York in relation to extending the retrieval period for the removal of towed vehicles from storage facilities.

Introductory Number 547-A, A LOCAL LAW to amend the Administrative Code of the City of New York in relation to increasing the standards and penalties for participation in the directed accident response program and the relation law program.

Introductory Number 556-B, A LOCAL LAW to amend the administrative code of the City of New York in relation to the penalties for incidents of bias-related violence and harassment in the human rights law.

Introductory Number 590-A, A LOCAL LAW to amend the Administrative Code of the City of New York in relation to extending the time period for a temporary certificate of occupancy for one- to three-family homes.

Introductory Number 615-A, A LOCAL LAW to amend the Administrative Code of the City of New York in relation to utilizing lead-free solder for pipe joints.

DAVID N. DINKINS, Mayor

4/30/93  
Send

Jan 22, 1993

Human Rts  
Constitution  
Office  
Charter  
CAW  
Jeremy  
Benton

**LOCAL LAWS  
OF  
THE CITY OF NEW YORK  
FOR THE YEAR 1993**

**No. 11**

Introduced by Council Member Freed, the Speaker (Council Member Vallone), Council Members Horwitz, Pagan, DiBrienza, Duane, Eldridge, Eisland, Fisher, Linares, Marshall, Robles, White, Millard, Cerullo III, Robinson, Watkins, Spigner, Leffler, Koslowitz, Cruz, Fields, Rivera, and Michels; also Council Members Clarke, Alter, Malave-Dilan, Povman, Sabini, Williams, McCaffrey, Ward, Foster, Warden and Wooten.

**A LOCAL LAW**

To amend the Administrative Code of the City of New York, in relation to remedies for incidents of bias-related violence and harassment in the human rights law.

*Be it enacted by the Council as follows:*

Section 1. Section 8-101 of the city of New York, as amended by local law 39 for the year 1991, is hereby amended to read as follows:

§8-101 Policy. In the city of New York, with its great cosmopolitan population, there is no greater danger to the health, safety and welfare of the city and its inhabitants than the existence of groups prejudice against one another and antagonistic to each other because of their actual or perceived differences, including those based on race, color, creed, age, national origin, alienage or citizenship status, gender, sexual orientation, disability, marital status, whether children are, may be or would be residing with a person or conviction or or arrest record. The council hereby finds and declares the that prejudice, intolerance, bigotry, and discrimination, bias-related violence or harassment and disorder occasioned thereby threaten the rights and proper privileges of its inhabitants and menace the institutions and foundation of a free democratic state. A city agency is hereby created with power to eliminate and prevent discrimination from playing any role in actions relating to employments, public accommodations, and housing and other real estate, and to take other actions against prejudice, intolerance, bigotry, [and] discrimination and bias-related violence or harassment as herein provided; and the commission established hereunder is hereby given general jurisdiction and power for such purposes.

§2. Section 8-109 of the administrative code of the city of New York, as added by local law 39 for the year 1991, is hereby amended to read as follows:

§8-109 Complaint. a. Any person aggrieved by an unlawful discriminatory practice or an act of discriminatory harassment or violence as set forth in chapter six of this title may,

by himself or herself or such persons attorney, make, sign and file with the commission a verified complaint in writing which shall: (i) state the name of the person alleged to have committed the unlawful discriminatory practice or act of discriminatory harassment or violence complained of, and the address of such person if known; (ii) set forth the particulars of the alleged unlawful discriminatory practice or act of discriminatory harassment or violence, and (iii) contain such other information as may be required by the commission. The commission shall acknowledge the filing of the complaint and advise the complainant of the time limits set forth in this chapter.

(b) Any employer whose employee or agent refuses or threatens to refuse to cooperate with the provisions of this chapter may file with the commission a verified complaint asking for assistance by conciliation or other remedial action.

(c) Commission-initiated complaints. The commission may itself make, sign and file a verified complaint alleging that a person has committed an unlawful discriminatory practice or an act of discriminatory harassment or violence as set forth in chapter six of this title. (d) The commission shall serve a copy of the complaint upon the respondent and all persons it deems to be necessary parties and shall advise the respondent of his or her procedural rights and obligations as set forth herein. (e) The commission shall not have the jurisdiction over any complaint that has been filed more than one year after the alleged unlawful discriminatory practice or act of discriminatory harassment or violence as set forth in chapter six of this title occurred. (f) The commission shall not have jurisdiction to entertain a complaint if: (i) the complainant has previously initiated a civil action in a court of competent jurisdiction alleging an unlawful discriminatory practice as defined in this chapter or an act of discriminatory harassment or violence as set forth in chapter six of this title with respect to the same grievance which is the subject of the complaint under this chapter, unless such civil action has been dismissed without prejudice or withdrawn without prejudice; or (ii) the complainant has previously filed and has an action or proceeding before any administrative agency under any other law of the state alleging an unlawful discriminatory practice as defined by this chapter or an act of discriminatory harassment or violence as set forth in chapter six of this title with respect to the same grievance which is the subject of the complaint under this chapter, or (iii) the complainant has previously filed a complaint with the state division of human rights alleging an unlawful discriminatory practice as defined by this chapter or an act of discriminatory harassment or violence as set forth in chapter six of this title with respect to the same grievance which is the subject of the complaint under this chapter and a final determination has been made thereon. (g) In relation to complaints filed on or after September first, nineteen hundred ninety one, the commission shall commence proceedings with respect to the complaint, complete the investigation of the allegations of the complaint and make a final disposition of the complaint promptly and within the time periods prescribed by rule of the commission. If the commission is unable to comply with the time periods specified for completing its investigation and for final disposition of the complaint, it shall notify the complainant, respondent, and any necessary party in writing of the reasons for not doing so. (h) Any complaint filed pursuant to this section may be amended pursuant to procedures prescribed by rule of the commission by filing such amended complaint with the

commission and serving a copy thereof upon all parties to the proceeding. (i) Whenever a complaint is filed pursuant to paragraph (d) of subdivision five of section 8-107 of this chapter, no member of the commission nor any member of the commission staff shall make public in any manner whatsoever the name of any borrower or identify by a specific description the collateral for any loan to such borrower except when ordered to do so by a court of competent jurisdiction or where express permission has been first obtained in writing from the lender and the borrower to such publication; provided, however, that the name of any borrower and a specific description of the collateral for any loan to such borrower may, if otherwise relevant, be introduced in evidence in any hearing before the commission or any review by a court of competent jurisdiction of any order of decision by the commission.

§3. Subdivision d of section 8-113 of the city of New York, as added by local law 39 for the year 1991, is hereby amended to read as follows:

d. If after investigation the commission determines that probable cause does not exist to believe that the respondent has engaged or is engaging in an unlawful discriminatory practice or an act of discriminatory harassment or violence as set forth in chapter six of this title, the commission shall dismiss the complaint as to such respondent.

§4. Subdivision a of section 8-116 of the administrative code of the city of New York, as added by local law 39 for the year 1991, is hereby amended to read as follows:

a. Except in connection with commission-initiated complaints which shall not require a determination of probable cause, where the commission determines that probable cause exists to believe that the [covered entity] respondent has engaged or is engaging in an unlawful discriminatory practice or an act of discriminatory harassment or violence as set forth in chapter six of this title, the commission shall issue a written notice to complainant and respondent so stating. A determination of probable cause is not a final order of the commission and shall not be administratively or judicially reviewable.

§5. Section 8-120 of the administrative code of the city of New York, as added by local law 39 for the year 1991, is hereby 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 from such unlawful and discriminatory harassment or violence. Such order shall require the respondent to take such affirmative action as, in the judgement 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, 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 [;].

b. If, upon all the evidence at the hearing, and upon the findings of fact and conclusions of law recommended by the administrative law judge, the commission shall find that a respondent has not engaged in any unlawful discriminatory practice or 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 the complainant, respondent, or any necessary party and on any complainant who has not intervened an order dismissing the complaint as to such respondent.

§6. Section 8-122 of the administrative code of the city of New York, as added by local law 39 for the year 1991, is hereby amended to read as follows:

§8-122 Injunction and temporary restraining order. At any time after the filing of a complaint alleging an unlawful discriminatory practice under this chapter or an act of discriminatory harassment or violence as set forth in chapter six of this title, if the commission has reason to believe that the respondent or other person acting in concert with respondent is doing or procuring to be done any act or acts, tending to render ineffectual relief that could be ordered by the commission after a hearing as provided by section 8-120 of this chapter, a special proceeding may be commenced in accordance with article sixty-three of the civil practice law and rules on behalf of the commission in the supreme court for an order to show cause why the respondent should not be enjoined from doing or procuring to be done such acts. The special proceeding may be commenced in any county within the City of New York where the alleged unlawful discriminatory practice or act of discriminatory harassment or violence was committed, or where the commission maintains its principal office for the transaction of business, or where any respondent resides or maintains an office for the transaction of business, or where any person aggrieved by the unlawful discriminatory practice or act of discriminatory harassment or violence resides, or, if the complaint alleges an unlawful discriminatory practice under paragraphs (a), (b) or (c) of subdivision five of section 8-107 of this chapter, where the housing accommodation land, or commercial space specified in the complaint is located, the order to show cause may contain a temporary restraining order and shall be served in the manner provided therein. On the return date of the order to show cause, and after affording the commission, the person aggrieved and the respondent and any person alleged to be acting in concert with the respondent an opportunity to be heard, the court may grant appropriate injunctive relief upon such terms and conditions as the court deems proper.

§7. Subdivision b of section 8-123 of the administrative code of the city of New York,

as amended by local law 39 for the year 1991, is hereby amended to read as follows:

b. Such proceeding shall be brought in the supreme court of the state within any county within the city of New York wherein the unlawful discriminatory practice or act of discriminatory harassment or violence as set forth in chapter six of this title which is the subject of the commission's order occurs or wherein any person required in the order to cease and desist from an unlawful discriminatory practice or act of discriminatory harassment or violence or to take other affirmative action resides or transacts business.

§8. Section 8-126 of the administrative code of the city of New York, as added by local law 39 for the year 1991, is hereby amended to read as follows:

§8-126 Civil penalties imposed by commission for unlawful discriminatory practices or acts of discriminatory harassment or violence. a. Except as otherwise provided in subdivision thirteen of section 8-107 of this chapter, in addition to any remedies and penalties set forth in subdivision a of section 8-120 of this chapter, where the commission finds that a person engaged in an unlawful discriminatory practice, the commission may, to vindicate the public interest, impose a civil penalty of not more than fifty thousand dollars. Where the commission finds that an unlawful discriminatory practice was the result of the respondent's willful, wanton or malicious act where the commission finds that an act of discriminatory harassment or violence as set forth in chapter six of this title has occurred, the commission may, to vindicate the public interest, impose a civil penalty of not more than one hundred thousand dollars.

b. A [covered entity] respondent that is found liable for an unlawful discriminatory practice or act of discriminatory harassment or violence, as set forth in chapter six of this title, may, in relation to the determination of the appropriate amount of civil penalties to be imposed pursuant to subdivision a of this section, plead and prove any relevant mitigating factor.

c. In addition to any other penalties or sanctions which may be imposed pursuant to any other law, any person who knowingly makes a material false statement in any proceeding conducted, or document or record filed with the commission, or record required to be preserved or made and kept and subject to inspection by the commission pursuant to this chapter shall be liable for a civil penalty of not more than ten thousand dollars.

d. An action or proceeding may be commenced in any court of competent jurisdiction on behalf of the commission for the recovery of the civil penalties provided for in this section.

§9. Chapter 1 of title 8 of the administrative code of the city of New York, as amended by local law 39 for the year 1991, is hereby amended by the addition of a new section 8-131 to read as follows:

§8-131 Applicability. The provisions of this chapter which make acts of discriminatory harassment or violence as set forth in chapter six of this title subject to the jurisdiction of the commission shall not apply to acts committed by members of the police department in the course of performing their official duties as police officers whether the police officer is on or off duty.

§10. Subdivision a of section 8-502 of the administrative code of the city of New York, as added by local law 39 for the year 1991, is hereby amended to read as follows:

a. Except as otherwise provided by law, any person claiming to be aggrieved by an

unlawful discriminatory practice as defined in chapter one of this title or by an act of discriminatory harassment or violence as set forth in chapter six of this title shall have a cause of action in any court of competent jurisdiction for damages, including punitive damages, and for injunctive relief and such other remedies as may be appropriate, unless such person has filed a complaint with the city commission on human rights or with the state division of human rights with respect to such alleged unlawful discriminatory practice or act of discriminatory harassment or violence. For purposes of this subdivision, the filing of a complaint with a federal agency pursuant to applicable federal law prohibiting discrimination which is subsequently referred to the city commission on human rights or to the state division of human rights pursuant to such law shall not be deemed to constitute the filing of a complaint under this subdivision.

§ 11. Section 8-502 of the administrative code of the city of New York, as added by local law 39 for the year 1991, is hereby amended by the addition of a new subdivision e to read as follows:

e. The provisions of this section which provide a cause of action to persons claiming to be aggrieved by an act of discriminatory harassment or violence as set forth in chapter six of this title shall not apply to acts committed by members of the police department in the course of performing their official duties as police officers whether the police officer is on or off duty.

§ 12. Subdivision d of section 8-502 of the administrative code of the city of New York, as added by local law 39 for the year 1991, is hereby amended to read as follows:

d. A civil action commenced under this section must be commenced within three years after the alleged unlawful discriminatory practice or act of discriminatory harassment or violence as set forth in chapter six of this title occurred. Upon the filing of a complaint with the city commission on human rights or the state division of human rights and during the pendency of such complaint and any court proceeding for review of the dismissal of such complaint, such three year limitations period shall be tolled.

§ 13. Chapter six of title eight of the administrative code of the city of New York, as added by local law 39 for the year 1991, is hereby renamed and amended to read as follows:

#### CHAPTER 6

#### DISCRIMINATORY HARASSMENT OF VIOLENCE

§ 8-602 Civil action to enjoin discriminatory harassment or violence; equitable remedies. a. Whenever a person interferes by threats, intimidation or coercion or attempts to interfere by threats, intimidation or coercion with the exercise or enjoyment by any person of rights secured by the constitution or laws of the United States, the constitution or laws of this state, or local law of the city [because of the person's] and such interference or attempted interference is motivated in whole or in part by the victim's actual or perceived race, creed, color, national origin, gender, sexual orientation, age, whether children are, may or would be residing with such [person] victim, marital status, disability, or alienage or citizenship status as defined in chapter one of this title, the corporation counsel, at the request of the city commission on human rights or on his or her own initiative, may bring a civil action on behalf of the city for injunctive and other appropriate equitable relief in order to protect the

peaceable exercise or enjoyment of the rights secured.

b. An action pursuant to subdivision a may be brought in any court of competent jurisdiction.

c. Violation of an order issued pursuant to subdivision a of this section may be punished by a proceeding for contempt brought pursuant to article nineteen of the judiciary law and, in addition to any relief thereunder, a civil penalty may be imposed not exceeding ten thousand dollars for each day that the violation continues.

§8-603 Discriminatory harassment; civil penalties. a. No person shall be force or threat of force, knowingly injure, intimidate or interfere with, oppress, or threaten any other person in the free exercise or enjoyment of any right or privilege secured to him or her by the constitution or laws of this state or by local law of the city [because of the other person's] when such injury, intimidation, interference, oppression or threat is motivated in whole or in part by the victim's actual or perceived race, creed, color, national origin, gender, sexual orientation, age, marital status, disability or alienage or citizenship status, as defined in chapter one of this title.

b. No person shall knowingly deface, damage or destroy the real or personal property of any person for the purpose of intimidating or interfering with the free exercise or enjoyment of any right or privilege secured to the other person by the constitution or laws of this state or by the constitution or laws of the United States or by local law of the city [because of the other person's] when such defacement, damage or destruction of real or personal property is motivated in whole or in part by the victim's actual or perceived race, creed, color, national origin, gender, sexual orientation, age, marital status, or whether children are, may be, or would be residing with such [person] victim, disability or alienage or citizenship status, as defined in chapter one of this title.

c. Any person who violates subdivision a or b of this section shall be liable for a civil penalty of not more than [fifth] one hundred thousand dollars for each violation, which may be recovered by the corporation counsel in an action or proceeding in any court of competent jurisdiction.

§8-604 Disposition of civil penalties. Any civil penalties recovered by the corporation counsel pursuant to this chapter shall be paid into the general fund of the city.

§14. This local law shall take 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 January 6, 1993, and approved by the Mayor on January 22, 1993.

CARLOS CUEVAS, City Clerk, Clerk of the City.

**LOCAL LAWS  
OF  
THE CITY OF NEW YORK  
FOR THE YEAR 1993**

**No. 11**

Introduced by Council Member Freed, the Speaker (Council Member Vallone), Council Members Horwitz, Pagan, DiBrienza, Duane, Eldridge, Eisland, Fisher, Linares, Marshall, Robles, White, Millard, Cerullo III, Robinson, Watkins, Spigner, Leffler, Koslowitz, Cruz, Fields, Rivera, and Michels; also Council Members Clarke, Alter, Malave-Dilan, Povman, Sabini, Williams, McCaffrey, Ward, Foster, Warden and Wooten.

**A LOCAL LAW**

**To amend the Administrative Code of the City of New York, in relation to remedies for incidents of bias-related violence and harassment in the human rights law.**

*Be it enacted by the Council as follows:*

Section 1. Section 8-101 of the city of New York, as amended by local law 39 for the year 1991, is hereby amended to read as follows:

§8-101 Policy. In the city of New York, with its great cosmopolitan population, there is no greater danger to the health, safety and welfare of the city and its inhabitants than the existence of groups prejudice against one another and antagonistic to each other because of their actual or perceived differences, including those based on race, color, creed, age, national origin, alienage or citizenship status, gender, sexual orientation, disability, marital status, whether children are, may be or would be residing with a person or conviction or or arrest record. The council hereby finds and declares that prejudice, intolerance, bigotry, and discrimination, bias-related violence or harassment and disorder occasioned thereby threaten the rights and proper privileges of its inhabitants and menace the institutions and foundation of a free democratic state. A city agency is hereby created with power to eliminate and prevent discrimination from playing any role in actions relating to employments, public accommodations, and housing and other real estate, and to take other actions against prejudice, intolerance, bigotry, [and] discrimination and bias-related violence or harassment as herein provided; and the commission established hereunder is hereby given general jurisdiction and power for such purposes.

§2. Section 8-109 of the administrative code of the city of New York, as added by local law 39 for the year 1991, is hereby amended to read as follows:

§8-109 Complaint. a. Any person aggrieved by an unlawful discriminatory practice or an act of discriminatory harassment or violence as set forth in chapter six of this title may,

by himself or herself or such persons attorney, make, sign and file with the commission a verified complaint in writing which shall: (i) state the name of the person alleged to have committed the unlawful discriminatory practice or act of discriminatory harassment or violence complained of, and the address of such person if known; (ii) set forth the particulars of the alleged unlawful discriminatory practice or act of discriminatory harassment or violence, and (iii) contain such other information as may be required by the commission. The commission shall acknowledge the filing of the complaint and advise the complainant of the time limits set forth in this chapter.

(b) Any employer whose employee or agent refuses or threatens to refuse to cooperate with the provisions of this chapter may file with the commission a verified complaint asking for assistance by conciliation or other remedial action.

(c) Commission-initiated complaints. The commission may itself make, sign and file a verified complaint alleging that a person has committed an unlawful discriminatory practice or an act of discriminatory harassment or violence as set forth in chapter six of this title. (d) The commission shall serve a copy of the complaint upon the respondent and all persons it deems to be necessary parties and shall advise the respondent of his or her procedural rights and obligations as set forth herein. (e) The commission shall not have the jurisdiction over any complaint that has been filed more than one year after the alleged unlawful discriminatory practice or act of discriminatory harassment or violence as set forth in chapter six of this title occurred. (f) The commission shall not have jurisdiction to entertain a complaint if: (i) the complainant has previously initiated a civil action in a court of competent jurisdiction alleging an unlawful discriminatory practice as defined in this chapter or an act of discriminatory harassment or violence as set forth in chapter six of this title with respect to the same grievance which is the subject of the complaint under this chapter, unless such civil action has been dismissed without prejudice or withdrawn without prejudice; or (ii) the complainant has previously filed and has an action or proceeding before any administrative agency under any other law of the state alleging an unlawful discriminatory practice as defined by this chapter or an act of discriminatory harassment or violence as set forth in chapter six of this title with respect to the same grievance which is the subject of the complaint under this chapter, or (iii) the complainant has previously filed a complaint with the state division of human rights alleging an unlawful discriminatory practice as defined by this chapter or an act of discriminatory harassment or violence as set forth in chapter six of this title with respect to the same grievance which is the subject of the complaint under this chapter and a final determination has been made thereon. (g) In relation to complaints filed on or after September first, nineteen hundred ninety one, the commission shall commence proceedings with respect to the complaint, complete the investigation of the allegations of the complaint and make a final disposition of the complaint promptly and within the time periods prescribed by rule of the commission. If the commission is unable to comply with the time periods specified for completing its investigation and for final disposition of the complaint, it shall notify the complainant, respondent, and any necessary party in writing of the reasons for not doing so. (h) Any complaint filed pursuant to this section may be amended pursuant to procedures prescribed by rule of the commission by filing such amended complaint with the

commission and serving a copy thereof upon all parties to the proceeding. (i) Whenever a complaint is filed pursuant to paragraph (d) of subdivision five of section 8-107 of this chapter, no member of the commission nor any member of the commission staff shall make public in any manner whatsoever the name of any borrower or identify by a specific description the collateral for any loan to such borrower except when ordered to do so by a court of competent jurisdiction or where express permission has been first obtained in writing from the lender and the borrower to such publication; provided, however, that the name of any borrower and a specific description of the collateral for any loan to such borrower may, if otherwise relevant, be introduced in evidence in any hearing before the commission or any review by a court of competent jurisdiction of any order of decision by the commission.

§3. Subdivision d of section 8-113 of the city of New York, as added by local law 39 for the year 1991, is hereby amended to read as follows:

d. If after investigation the commission determines that probable cause does not exist to believe that the respondent has engaged or is engaging in an unlawful discriminatory practice or an act of discriminatory harassment or violence as set forth in chapter six of this title, the commission shall dismiss the complaint as to such respondent.

§4. Subdivision a of section 8-116 of the administrative code of the city of New York, as added by local law 39 for the year 1991, is hereby amended to read as follows:

a. Except in connection with commission-initiated complaints which shall not require a determination of probable cause, where the commission determines that probable cause exists to believe that the [covered entity] respondent has engaged or is engaging in an unlawful discriminatory practice or an act of discriminatory harassment or violence as set forth in chapter six of this title, the commission shall issue a written notice to complainant and respondent so stating. A determination of probable cause is not a final order of the commission and shall not be administratively or judicially reviewable.

§5. Section 8-120 of the administrative code of the city of New York, as added by local law 39 for the year 1991, is hereby 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 from such unlawful and discriminatory harassment or violence. Such order shall require the respondent to take such affirmative action as, in the judgement 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, 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 [;].

b. If, upon all the evidence at the hearing, and upon the findings of fact and conclusions of law recommended by the administrative law judge, the commission shall find that a respondent has not engaged in any unlawful discriminatory practice or 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 the complainant, respondent, or any necessary party and on any complainant who has not intervened an order dismissing the complaint as to such respondent.

§6. Section 8-122 of the administrative code of the city of New York, as added by local law 39 for the year 1991, is hereby amended to read as follows:

§8-122 Injunction and temporary restraining order. At any time after the filing of a complaint alleging an unlawful discriminatory practice under this chapter or an act of discriminatory harassment or violence as set forth in chapter six of this title, if the commission has reason to believe that the respondent or other person acting in concert with respondent is doing or procuring to be done any act or acts, tending to render ineffectual relief that could be ordered by the commission after a hearing as provided by section 8-120 of this chapter, a special proceeding may be commenced in accordance with article sixty-three of the civil practice law and rules on behalf of the commission in the supreme court for an order to show cause why the respondent should not be enjoined from doing or procuring to be done such acts. The special proceeding may be commenced in any county within the City of New York where the alleged unlawful discriminatory practice or act of discriminatory harassment or violence was committed, or where the commission maintains its principal office for the transaction of business, or where any respondent resides or maintains an office for the transaction of business, or where any person aggrieved by the unlawful discriminatory practice or act of discriminatory harassment or violence resides, or, if the complaint alleges an unlawful discriminatory practice under paragraphs (a), (b) or (c) of subdivision five of section 8-107 of this chapter, where the housing accommodation land, or commercial space specified in the complaint is located, the order to show cause may contain a temporary restraining order and shall be served in the manner provided therein. On the return date of the order to show cause, and after affording the commission, the person aggrieved and the respondent and any person alleged to be acting in concert with the respondent an opportunity to be heard, the court may grant appropriate injunctive relief upon such terms and conditions as the court deems proper.

§7. Subdivision b of section 8-123 of the administrative code of the city of New York,



as amended by local law 39 for the year 1991, is hereby amended to read as follows:

b. Such proceeding shall be brought in the supreme court of the state within any county within the city of New York wherein the unlawful discriminatory practice or act of discriminatory harassment or violence as set forth in chapter six of this title which is the subject of the commission's order occurs or wherein any person required in the order to cease and desist from an unlawful discriminatory practice or act of discriminatory harassment or violence or to take other affirmative action resides or transacts business.

§8. Section 8-126 of the administrative code of the city of New York, as added by local law 39 for the year 1991, is hereby amended to read as follows:

§8-126 Civil penalties imposed by commission for unlawful discriminatory practices or acts of discriminatory harassment or violence. a. Except as otherwise provided in subdivision thirteen of section 8-107 of this chapter, in addition to any remedies and penalties set forth in subdivision a of section 8-120 of this chapter, where the commission finds that a person engaged in an unlawful discriminatory practice, the commission may, to vindicate the public interest, impose a civil penalty of not more than fifty thousand dollars. Where the commission finds that an unlawful discriminatory practice was the result of the respondent's willful, wanton or malicious act where the commission finds that an act of discriminatory harassment or violence as set forth in chapter six of this title has occurred, the commission may, to vindicate the public interest, impose a civil penalty of not more than one hundred thousand dollars.

b. A [covered entity] respondent that is found liable for an unlawful discriminatory practice or act of discriminatory harassment or violence, as set forth in chapter six of this title, may, in relation to the determination of the appropriate amount of civil penalties to be imposed pursuant to subdivision a of this section, plead and prove any relevant mitigating factor.

c. In addition to any other penalties or sanctions which may be imposed pursuant to any other law, any person who knowingly makes a material false statement in any proceeding conducted, or document or record filed with the commission, or record required to be preserved or made and kept and subject to inspection by the commission pursuant to this chapter shall be liable for a civil penalty of not more than ten thousand dollars.

d. An action or proceeding may be commenced in any court of competent jurisdiction on behalf of the commission for the recovery of the civil penalties provided for in this section.

§9. Chapter 1 of title 8 of the administrative code of the city of New York, as amended by local law 39 for the year 1991, is hereby amended by the addition of a new section 8-131 to read as follows:

§8-131 Applicability. The provisions of this chapter which make acts of discriminatory harassment or violence as set forth in chapter six of this title subject to the jurisdiction of the commission shall not apply to acts committed by members of the police department in the course of performing their official duties as police officers whether the police officer is on or off duty.

§10. Subdivision a of section 8-502 of the administrative code of the city of New York, as added by local law 39 for the year 1991, is hereby amended to read as follows:

a. Except as otherwise provided by law, any person claiming to be aggrieved by an

unlawful discriminatory practice as defined in chapter one of this title or by an act of discriminatory harassment or violence as set forth in chapter six of this title shall have a cause of action in any court of competent jurisdiction for damages, including punitive damages, and for injunctive relief and such other remedies as may be appropriate, unless such person has filed a complaint with the city commission on human rights or with the state division of human rights with respect to such alleged unlawful discriminatory practice or act of discriminatory harassment or violence. For purposes of this subdivision, the filing of a complaint with a federal agency pursuant to applicable federal law prohibiting discrimination which is subsequently referred to the city commission on human rights or to the state division of human rights pursuant to such law shall not be deemed to constitute the filing of a complaint under this subdivision.

§11. Section 8-502 of the administrative code of the city of New York, as added by local law 39 for the year 1991, is hereby amended by the addition of a new subdivision e to read as follows:

e. The provisions of this section which provide a cause of action to persons claiming to be aggrieved by an act of discriminatory harassment or violence as set forth in chapter six of this title shall not apply to acts committed by members of the police department in the course of performing their official duties as police officers whether the police officer is on or off duty.

§12. Subdivision d of section 8-502 of the administrative code of the city of New York, as added by local law 39 for the year 1991, is hereby amended to read as follows:

d. A civil action commenced under this section must be commenced within three years after the alleged unlawful discriminatory practice or act of discriminatory harassment or violence as set forth in chapter six of this title occurred. Upon the filing of a complaint with the city commission on human rights or the state division of human rights and during the pendency of such complaint and any court proceeding for review of the dismissal of such complaint, such three year limitations period shall be tolled.

§13. Chapter six of title eight of the administrative code of the city of New York, as added by local law 39 for the year 1991, is hereby renamed and amended to read as follows:

#### CHAPTER 6

#### DISCRIMINATORY HARASSMENT OF VIOLENCE

§ 8-602 Civil action to enjoin discriminatory harassment or violence; equitable remedies. a. Whenever a person interferes by threats, intimidation or coercion or attempts to interfere by threats, intimidation or coercion with the exercise or enjoyment by any person of rights secured by the constitution or laws of the United States, the constitution or laws of this state, or local law of the city [because of the person's] and such interference or attempted interference is motivated in whole or in part by the victim's actual or perceived race, creed, color, national origin, gender, sexual orientation, age, whether children are, may or would be residing with such [person] victim, marital status, disability, or alienage or citizenship status as defined in chapter one of this title, the corporation counsel, at the request of the city commission on human rights or on his or her own initiative, may bring a civil action on behalf of the city for injunctive and other appropriate equitable relief in order to protect the

peaceable exercise or enjoyment of the rights secured.

b. An action pursuant to subdivision a may be brought in any court of competent jurisdiction.

c. Violation of an order issued pursuant to subdivision a of this section may be punished by a proceeding for contempt brought pursuant to article nineteen of the judiciary law and, in addition to any relief thereunder, a civil penalty may be imposed not exceeding ten thousand dollars for each day that the violation continues.

§8-603 Discriminatory harassment; civil penalties. a. No person shall be force or threat of force, knowingly injure, intimidate or interfere with, oppress, or threaten any other person in the free exercise or enjoyment of any right or privilege secured to him or her by the constitution or laws of this state or by local law of the city [because of the other person's] when such injury, intimidation, interference, oppression or threat is motivated in whole or in part by the victim's actual or perceived race, creed, color, national origin, gender, sexual orientation, age, marital status, disability or alienage or citizenship status, as defined in chapter one of this title.

b. No person shall knowingly deface, damage or destroy the real or personal property of any person for the purpose of intimidating or interfering with the free exercise or enjoyment of any right or privilege secured to the other person by the constitution or laws of this state or by the constitution or laws of the United States or by local law of the city [because of the other person's] when such defacement, damage or destruction of real or personal property is motivated in whole or in part by the victim's actual or perceived race, creed, color, national origin, gender, sexual orientation, age, marital status, or whether children are, may be, or would be residing with such [person] victim, disability or alienage or citizenship status, as defined in chapter one of this title.

c. Any person who violates subdivision a or b of this section shall be liable for a civil penalty of not more than [fifth] one hundred thousand dollars for each violation, which may be recovered by the corporation counsel in an action or proceeding in any court of competent jurisdiction.

§8-604 Disposition of civil penalties. Any civil penalties recovered by the corporation counsel pursuant to this chapter shall be paid into the general fund of the city.

§14. This local law shall take 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 January 6, 1993, and approved by the Mayor on January 22, 1993.

CARLOS CUEVAS, City Clerk, Clerk of the City.

J.N. 558-B  
LL 11/93  
File Copy

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PUBLIC HEARING ON  
LOCAL LAWS  
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January 22, 1993  
10:30 a.m.

City Hall  
The Blue Room  
New York, New York

BEFORE:  
HON. MAYOR DAVID DINKINS

COUNCIL MEMBERS:  
ALTER, CERULLO, MICHELS, SPIGNER

ELLEN P. REACH  
Stenographic Reporting Services  
4313 Arthur Kill Road  
Staten Island, New York 10309  
(718) 317-9875

1  
2 THE MAYOR: Before we begin, I'd like to  
3 welcome the Friends Seminary High School seniors  
4 for joining us this morning with their teacher,  
5 Carter Stewart, who formerly worked at the Office  
6 of Management and Budget. Welcome.

7 You are our future, about that there's no  
8 doubt.

9 There are eight bills before me for  
10 consideration this morning.

11 The first bill is Introductory No. 558-B  
12 sponsored by Council Member Kathryn Freed and  
13 thirty-three of her colleagues.

14 The bill would allow victims of alleged  
15 bias-related violence or harassment to seek  
16 redress by either commencing a private civil  
17 action in a court or filing a complaint with the  
18 City's Commission on Human Rights, to recover  
19 damages.

20 This revision further strengthens the  
21 City's Human Rights Law which was restructured  
22 early in my administration.

23 Bias-related violence and harassment  
24 threaten the social fabric of our city. We  
25 cannot rest until we have taken every measure in

1  
2 our power to eradicate this type of conduct.

3 If a person assaults someone or harasses  
4 someone or kills someone because he is a Jew or  
5 she is a lesbian, because he is African-American  
6 or she is Latino, or because they are disabled or  
7 HIV positive, that person must be punished and  
8 the victim must be provided with remedies to  
9 redress his or her injuries.

10 I've been a strong advocate of anti-bias  
11 legislation both at the state and local level.  
12 I've strongly supported passage in the State  
13 Legislature of legislation concerning  
14 bias-related violence and intimidation.

15 The State Senate continues to block  
16 passage of this legislation.

17 In enacting Intro. 558-B, the city has  
18 done that which can be done locally to prevent  
19 and punish this reprehensible conduct.

20 Intro No. 558-B would expand the remedies  
21 available under local law for victims of  
22 discriminatory harassment or violence.

23 Discriminatory harassment or violence is  
24 conduct such as threats, intimidation or coercion  
25 which interferes or attempts to interfere with a

1  
2 person's rights under federal, state or local  
3 law, when such conduct is motivated in whole or  
4 in part by a victim's race, creed, color,  
5 national origin, gender, sexual orientation, age,  
6 marital status, disability, or alienage of  
7 citizenship status.

8 Such conduct would include using force, as  
9 well as knowingly defacing or damaging real or  
10 personal property.

11 The current law authorizes the Corporation  
12 Counsel to bring a civil action to enjoin  
13 discriminatory harassment and to seek civil  
14 penalties of up to \$50,000 when the harassment  
15 involves force or the threat of force or damage  
16 to property.

17 This bill would add two additional avenues  
18 of redress.

19 Victims of alleged acts of discriminatory  
20 harassment or violence would bring -- could bring  
21 a civil action on their own behalf, and recover  
22 damages and attorney's fees if they prevail.

23 Alternatively, a victim could seek redress  
24 from the City's Human Rights Commission, which  
25 will have the power to order the wrongdoer to pay

1  
2 damages to the victim.

3 The Commission also would be empowered to  
4 impose a civil penalty of up to \$100,000 which  
5 would go into the city's general fund.

6 Some examples of bias-motivated conduct,  
7 examples that are all too real, that could be the  
8 subject of a private action or a complaint filed  
9 with the Commission are painting of swastikas on  
10 synagogues, attacks on people for being in a  
11 neighborhood where they are not wanted,  
12 spray-painting children's faces white,  
13 vandalizing a person's home to discourage him or  
14 her from moving into a neighbor, and assaults of  
15 persons who are perceived to be gay or lesbian.

16 Intro. No. 558-B recognizes that the  
17 jurisdiction to investigate conduct by police  
18 officers committed in the course of performing  
19 their official duties is retained within the new  
20 independent Civilian Complaint Review Board  
21 created by legislation I signed on January 5,  
22 1993.

23 With the enactment of this bill, we have  
24 taken another step forward in our effort to end  
25 intolerance and bigotry in our city.



1  
2 Kathy Freed isn't with us.

3 Mr. Minority Leader, do you wish to be  
4 heard on this, sir?

5 COUNCIL MEMBER CERULLO: Well, sure, Mr.  
6 Mayor. Thank you very much for this opportunity.

7 I would just like to bring some -- a  
8 personal hello to you from the Zappalorti family  
9 this morning.

10 Mr. Zappalorti had intended to be here,  
11 although he's not feeling very well, probably  
12 because, ironically, this is the third  
13 anniversary of the murder of Gene Zappalorti.

14 He was killed three years ago today, a  
15 victim of a hate crime. And I think that it's  
16 very appropriate that this bill is signed this  
17 morning, I know for many Staten Islanders, in his  
18 honor, but certainly for all the religious  
19 institutions and private citizens who are victims  
20 of bias-related incidents.

21 I believe that this legislation will go  
22 very far in deterring this activity which is our  
23 responsibility to help to deter.

24 I'd like to commend you, Mr. Mayor, and  
25 Councilman (sic) Kathryn Freed and the Speaker

1  
2 for seeing this legislation through the process,  
3 and I'm very proud to be a co-prime sponsor of  
4 this bill and urge your signature on this  
5 legislation.

6 THE MAYOR: Thank you.

7 COUNCIL MEMBER CERULLO: Thank you.

8 THE MAYOR: Stanley?

9 COUNCIL MEMBER MICHELS: Mr. Mayor, of  
10 course I'm very much in support of this  
11 legislation, also a co-prime sponsor.

12 As I'm listening to my colleague, Council  
13 Member Cerullo, I'm saying to myself, and I'll  
14 think out loud, oh, if the state Republican  
15 leadership was as enlightened as the City Council  
16 Republican leadership. Because what we are doing  
17 here, as you said, is that which, to their  
18 discredit, the New York State Senate won't do.

19 But it's important, because we are not  
20 only passing legislation, but we are talking  
21 about an issue which is so important to all of us  
22 and so important to you, as I know, because you  
23 have spoken often about your feelings on this  
24 subject. But we are pointing out that this type  
25 of conduct is intolerable.

1  
2 We don't want to have to fine people; we  
3 don't want to have to sue people.

4 What we want people to do is cease and  
5 desist and learn to live together and render  
6 asunder bias of all types, and this is the  
7 message that's going out.

8 This is just pieces of paper, a piece of  
9 legislation.

10 Hopefully it will be enforced very well  
11 but not need to be enforced as it is written.

12 But I think it's an important statement by  
13 the City Council and by you and by the City of  
14 New York as to the fact that this type of conduct  
15 has no place within the bounds of our city and  
16 our state, and even our nation.

17 Thank you very much.

18 THE MAYOR: Thank you.

19 Good morning.

20 COUNCIL MEMBER ALTER: Good morning.

21 Mr. Mayor, whenever you engage in an  
22 activity that brings us together, that relieves  
23 us of the tension of bias, what you are really  
24 doing is following through on what you said would  
25 be the mandate of your administration, and that

1  
2 is that this would be a gorgeous mosaic, a city  
3 of inclusion.

4 And to see an elected official of high  
5 office follow through on a most important mandate  
6 in acts throughout the administration makes you  
7 special, makes us feel special, and we are all  
8 delighted.

9 And I think I speak not only for my  
10 colleagues who are here who spoke for themselves,  
11 but for the rest of the City Council, and I'm  
12 sure for the rest of the city, in saying thank  
13 you for being so swift to act on a most important  
14 piece of legislation.

15 THE MAYOR: Thank you very much.

16 Is there anyone in the audience who wishes  
17 to be heard in opposition to this legislation?

18 MR. CANARIS: Good morning, Mr. Mayor.  
19 George Canaris.

20 Mr. Mayor, on the bill it says, after the  
21 introduction, it says deduced by. It doesn't say  
22 the Mayor; it says just the politicians who are  
23 going to run for the next year. So they always  
24 like to put things in there that doesn't mean  
25 anything.

1  
2 It's sixteen pages and I wonder who  
3 actually read it.

4 Now, in the Mayor's explanation pamphlet  
5 it says \$100,000 the Commission going to have.

6 First of all, it's a political commission.  
7 The man that runs it is very political.  
8 Everything he does is for publicity and not for  
9 the public.

10 It says over here a fine of \$100,000 that  
11 should go to the city funds, to the general fund.

12 Mr. Mayor, what about the victim? He's  
13 not going to get anything.

14 Now, Mr. Mayor, on this wall there's three  
15 mayors, one over there, two over here. If that  
16 was an important bill and not a political year  
17 bill, those gentlemen would have done it long  
18 before, because they were good mayors, give or  
19 take a little.

20 So this bill that hasn't got the Mayor's  
21 name on it, there is a reason, should not be  
22 signed by the Mayor. Lay it over.

23 The sixteen pages gibble-gook over here,  
24 it doesn't mean much. It has good intention, but  
25 won't do anything. It give the Commission the

1 rights that the courts already have.

2 You see, Mr. Mayor?

3 And I don't think it's good for the city,  
4 for the people of the City of New York.

5 Thank you very much, Mr. Mayor.

6 THE MAYOR: Thank you very much.

7 Anyone else who wishes to be heard in  
8 opposition to this legislation?  
9

10 Anyone who wishes to be heard in support  
11 of this legislation?

12 Well, it's my pleasure now to sign this  
13 into law.

14 And let me just take this occasion to,  
15 again, commend the black and Puerto Rican  
16 legislators in Albany who have steadfastly  
17 refused to delete from the legislation and the  
18 litany of persons covered the reference to sexual  
19 orientation, because, were they to do that, that  
20 legislation would pass in Albany, but they have  
21 steadfastly refused, and to their great credit.

22  
23 (Mayor signing bill.)

24 (Picture-taking ceremony.)  
25

Int. 558B  
11/193  
File Copy

THE CITY OF NEW YORK      OFFICE OF THE MAYOR      DAVID N. DINKINS

TEL.: (212) 788-2958      S 28-93

For Immediate Release:  
Friday, January 22, 1993, 10:30 a.m.

REMARKS BY MAYOR DAVID N. DINKINS  
PUBLIC HEARING ON LOCAL LAWS  
CITY HALL  
FRIDAY, JANUARY 22, 1993, 10:30 A.M.

There are eight bills before me for consideration this morning. The first bill before me for consideration is Introductory Number 558-B, sponsored by Council Member Kathryn Freed and thirty-three of her colleagues. The bill would allow victims of alleged bias-related violence or harassment to seek redress by either commencing a private civil action in a court or filing a complaint with the City's Commission on Human Rights to recover damages. This revision further strengthens the City's Human Rights Law, which was restructured early in my administration.

Bias-related violence and harassment threaten the social fabric of our City. We cannot rest until we have taken every measure in our power to eradicate this type of conduct. If a person assaults someone, or harasses someone, or kills someone because he is a Jew or she is a lesbian, because he is African-American or she is Latina, or because they are disabled or HIV positive, that person must be punished and the victim must be provided with remedies to redress his or her injuries.

I have been a strong advocate of anti-bias legislation both at the State and local level. I have strongly supported passage in the State Legislature of legislation concerning bias-related

(more)

violence and intimidation. The State Senate continues to block passage of this legislation. In enacting Intro. 558-B, the City has done that which can be done locally to prevent and punish this reprehensible conduct.

Introductory Number 558-B would expand the remedies available under local law for victims of discriminatory harassment or violence. Discriminatory harassment or violence is conduct such as threats, intimidation or coercion which interferes with or attempts to interfere with a person's rights under federal, state or local law when such conduct is motivated in whole or in part by the victim's race, creed, color, national origin, gender, sexual orientation, age, marital status, disability or alienage or citizenship status. Such conduct would include using force, as well as knowingly defacing or damaging real or personal property.

Current local law authorizes the Corporation Counsel to bring a civil action to enjoin discriminatory harassment and to seek civil penalties of up to \$50,000 when the harassment involves force or the threat of force or damage to property. This bill would add two additional avenues of redress. Victims of alleged acts of discriminatory harassment or violence could bring a civil action on their own behalf and recover damages and attorneys fees if they prevail. Alternatively, a victim could seek redress from the City's Human Rights Commission, which will have the power to order the wrongdoer to pay damages to the victim. The Commission also would be empowered to impose a civil penalty of up to \$100,000 which would go into the City's general fund.

(more)



Some examples of bias-motivated conduct -- examples that are all too real -- that could be the subject of a private action or a complaint filed with the Commission are:

- (1) painting of swastikas on synagogues;
- (2) attacks on people for being in a neighborhood where they are not wanted;
- (3) spray painting children's faces white;
- (4) vandalizing a person's home to discourage him or her from moving into a neighborhood; and
- (5) assaults of persons who are perceived to be gay or lesbian

Introductory Number 558-B recognizes that the jurisdiction to investigate conduct by police officers committed in the course of performing their official duties is retained within the new independent Civilian Complaint Review Board created by legislation I signed on January 5, 1993.

With the enactment of this bill, we have taken another step forward in our effort to end intolerance and bigotry in our City.

I will first turn to the bill's prime sponsor, Kathryn Freed, and then to any of the bill's other sponsors who wish to be heard.

I will now turn to the general audience.

Is there anyone in the general audience to be heard in opposition?

Is there anyone in the general audience to be heard in support?

There being no one else to be heard, and for the reasons previously stated, I will now sign the bill.

(more)

The second bill, Introductory Number 580-A, sponsored by Council Members O'Donovan, Fusco, Cerullo, Spigner and Ognibene, and co-sponsored by Council Members Malave-Dilan, Williams, Castaneira-Colon and Rivera.

Intro. 580-A provides that the Department of Buildings may lengthen the time period for a temporary certificate of occupancy from ninety days to a time between ninety and one hundred eighty days for one-, two-, and three-family dwellings, as well as convents and rectories. This proposed law does not change the current ninety-day time period for temporary certificates issued for all other buildings, nor does it change the time period for renewals. The Buildings Department may continue to issue temporary certificates for a part of a building before all construction covered by a permit is completed, as long as any occupied areas remain safe and hazard free.

This proposed law represents a continuing effort to streamline the administrative process without sacrifice to public health and safety. It is frequently the case that buildings are issued temporary certificates of occupancy; however, the Buildings Department is unable to both inspect these buildings and issue permanent certificates before the end of the ninety-day temporary period. Consequently, building owners are forced to apply for renewals. Allowing temporary certificates to cover a period longer than three months will make the regulatory process less burdensome for homeowners throughout this city.

I will first turn to the prime sponsors of the bill, Council Members O'Donovan, Fusco, Cerullo, Spigner and Ognibene, and Malave-Dilan, and then to any other elected official wishing to

(more)

.. speak.

Now I turn to the general audience.

Is there anyone in the general audience to be heard in opposition?

Is there anyone in the general audience to be heard in support?

There being no one else to be heard, and for the reasons previously stated, I will sign this bill.

The third bill, Introductory Number 615-A was introduced by Housing and Buildings Committee Chair Archie Spigner and Council Members Marshall and Fusco, and co-sponsored by eight other Council Members.

This bill requires that all solder used in water piping and drainage and vent piping be lead free, in accordance with the federal standard--that is, containing less than 0.2 % lead. Since there are a number of solders currently in use that meet this standard, this proposed law identifies the permissible solders and requires the approval of the Department of Buildings for all other available solders.

This legislation reflects the continuing commitment of the City of New York to combat and control lead poisoning. The Federal Government has already banned the use of solder exceeding 0.2 percent lead content in new installation and repair of public water supply systems used for drinking water. However, the federal law allows that solder in one and two family dwellings for drainage and vent piping be a 50-50 tin-lead combination. Intro. 615-A illustrates New York City's leadership in lead poisoning prevention, going beyond what is required in federal

(more)

law by imposing an absolute prohibition on lead-based solders in these drainage and piping systems as well.

I will now turn to the prime sponsor of the bill, Archie Spigner and any other elected official who wishes to speak.

Is there anyone in the general audience to be heard in opposition?

Is there anyone in the general audience to be heard in support?

There being no one else to be heard, and for the reasons previously stated, I will sign this bill.

The fourth bill, Intro. 315-A was introduced by Housing and Buildings Committee Chair Archie Spigner, Leffler, Marshall, Fields, Povman, Watkins and White and eight other Council Members Alter, Duane, Foster, Freed, Harrison, McCaffrey, Michels and Robinson.

This bill authorizes the Department of Buildings to declare as a nuisance any premises in a primarily residential area that is operating in a commercial and/or manufacturing capacity in clear violation of the zoning resolution. After such determination, the Buildings Department may padlock the premises so long it is not occupied primarily as a residence. Committee Chairman Archie Spigner sponsored Intro. 315 last year. Subsequently, the Department of Buildings and Corporation Counsel, worked closely with Chairman Spigner on amendments that resulted in Intro. 315-A, the more comprehensive bill which is before me today.

During the early part of this century, New York City created and implemented the first zoning resolution, the objective of

(more)

which was to separate geographically commercial and manufacturing uses from residential uses. This legislation recognizes the importance of the zoning resolution and moreover, represents an effort to quickly eliminate unlawful noxious uses, restoring the quiet enjoyment for our neighborhoods.

I will now turn to the prime sponsor of the bill, Chairman Archie Spigner and any other elected official who wishes to speak.

Is there anyone in the general audience to be heard in opposition?

Is there anyone in the general audience to be heard in support?

There being no one else to be heard, and for the reasons previously stated, I am pleased to sign Intro. 315-A into law.

The other four bills before me for consideration today concern the towing industry. They are sponsored by Council Consumer Affairs Committee Chair Member Susan Alter, and a number of her Council colleagues.

Introductory Number 526-A, would require that vehicles towed by tow companies under the directed accident response program (DARP) or the rotation towing (RO-TOW) program, be secured, at all times, within the storage facility listed on the tow company's license. This storage facility shall be open to the public and not be used by any other towing company.

Introductory Number 527-A, which Council Members Guillermo Linares and Adam Clayton Powell IV sponsored together with Council Member Alter, would prevent a person who has had his or her tow license revoked from applying for a new tow license for

(more)

three years. Presently, a person is barred from re-applying for one year after the revocation of the tow license.

Introductory Number 528-A, sponsored by Council Members Alter, Linares and Powell, would extend the time period that tow companies participating in the RO-TOW program have before they must bring an unclaimed vehicle to the police pound. Currently, RO-TOW companies can tow a vehicle to the police pound as soon as they get it to their lot, but no later than ten days later. This bill would provide that a tow company participating in RO-TOW bring an unclaimed vehicle to the police pound between the seventh and thirtieth day after the vehicle is brought to the tow company's storage facility. The towing companies shall not be entitled to charge the police department for storage charges incurred after the tenth day of storage.

Introductory Number 547-A would increase the requirements for participation in the DARP and the RO-TOW programs, including such things as having been a licensed tower for at least one year, and possessing a satisfactory record in operating a towing business based upon the towing company's record of violations. The bill sets forth conditions which would result in the suspension and revocation of towing licenses and also increase the penalties for violations to include the suspension or revocation of licenses, removal from the program, and the seizure and forfeiture of towing vehicles.

As a package, these bills are designed to protect consumers by enhancing effective regulations of the tow industry. I will turn first to the prime sponsor of these bills, Susan Alter, and then to any other elected official wishing to speak.

(more)

Now, I will turn to the general audience.

Is there anyone in the general audience to be heard in opposition?

Is there anyone in the general audience to be heard in support?

There being no one else to be heard, and for the reasons previously stated, I will now sign the bill.

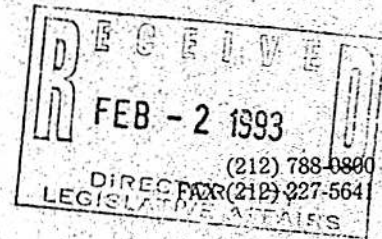
# # #

The  
City  
of  
New York



LAW DEPARTMENT  
100 CHURCH STREET  
NEW YORK, N.Y. 10007

O. PETER SHERWOOD  
Corporation Counsel



February 1, 1993

Hon. Peter F. Vallone  
Speaker  
City Council  
City Hall  
New York, NY 10007

Dear Mr. Vallone: *Peter*

With the passage by the Council, and the signing by the Mayor, of Int. 558-B, the City will provide additional remedies for victims of discriminatory harassment and violence.

As you know, the potential impact of the bill on law enforcement officers, particularly police and correction officers, has been a concern of mine. In meeting with members of the Council and Council staff, I have expressed this concern, as have Police Commissioner Kelly and Correction Commissioner Abate. The Council has responded by amending the bill to address the potential impact of this legislation on police officers. As amended, the bill recognizes the jurisdiction of the new independent Civilian Complaint Review Board to investigate the conduct of police officers committed in the course of performing their official duties.

Correction officers are also subject to independent oversight, by both the Board of Correction and the federal district court pursuant to consent decree. Joe Strasburg and Richard Weinberg have expressed the Council's willingness to consider amending the law further to exclude correction officers if the law leads to an increase in unjustified and unfounded claims by inmates in our correctional institutions. The Department of Correction and my office will keep the Council apprised of the effect of the new law on the number and nature of bias claims brought by inmates. We will propose legislation for the Council's consideration if an amendment to the law should become necessary.



I wish to thank you and your staff for your cooperation in addressing this issue.

Sincerely,

A handwritten signature in cursive script that reads "Peter".

O. PETER SHERWOOD  
Corporation Counsel