

Lexington-Fayette Urban County Human Rights Commission

Annual Report

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**All I can say is I
am sensitive to
discrimination on
any basis because
I have experienced
that upset.**

RUTH BADER GINSBURG

Letter from Executive Director



LEXINGTON-FAYETTE URBAN COUNTY HUMAN RIGHTS COMMISSION

Raymond A. Sexton, Executive Director
rsexton@lexhumanrights.org

The Honorable Mayor Linda Gorton
Urban County Council Members
200 East Main Street
Lexington, KY 40507

Re: FY 2020 Annual Report

Dear Mayor Gorton and Council Members:

On behalf of the Commission, I proudly submit the FY 2020 annual report of the Lexington-Fayette Urban County Human Rights Commission. This report highlights many of our compliance and outreach activities of the last year.

To say this was an unprecedented year is quite an understatement! This fiscal year brought us the challenges of the COVID-19 pandemic, the murder of George Floyd, nation-wide protests and demands for racial justice and police accountability. Locally, FY 2020 was a time of reflection of twenty years of fairness in Lexington, Kentucky marking the passage of the state's second fairness ordinance. Additionally, during the same anniversary year, the Human Rights Commission would up arguing its first true test of the Fairness Ordinance in the Kentucky Supreme Court in the *GLSO v. Hands on Originals* case.

In FY 2020, local jurisdictions across this nation were going through a process of self-reflection and self-auditing on ways to better improve race relations in their localities. Lexington was no different. It is during these times that we point to agencies such as the Lexington Human Rights Commission who have been doing this work for nearly sixty years. Local commissions work to promote and secure mutual understanding and respect among all ethnic groups, to conduct investigations and to act as a conciliator in controversies involving inter-racial relations. We do not need to reinvent the wheel, the HRC is here to help.

We ask Mayor Gorton and councilmembers for your continued support. Without adequate funding for our organization, a majority of the great work that is highlighted in this report would not be possible.

Sincerely,


Raymond A. Sexton

PURPOSE

It is the purpose of the Lexington-Fayette Urban County Human Rights Commission to safeguard all individuals within Lexington-Fayette Urban County from discrimination because of race, color, religion, national origin, sex, age, disability, familial status and sexual orientation/gender identity in connection with housing, employment and public accommodations and to effect the provisions and purposes of the Kentucky Civil Rights Act (K.R.S. Chapter 344), Urban County Ordinance 199-94 and 201-99, provision 7.17 of the Lexington Fayette Merger Charter of 1974, and any other laws enacted by the Lexington-Fayette Urban County relating to the Lexington-Fayette Urban County Human Rights Commission.

The Lexington-Fayette Urban County Human Rights Commission shall act to encourage and effect the guarantee of equal rights to all citizens, which rights are assured by the Constitution and the Laws of the United States, of Kentucky, and of Lexington-Fayette Urban County and to serve as an investigative, consultative, educational, persuasive, and enforcement agency in order to guarantee equal opportunity for all people of the City of Lexington and Fayette County.

UNIQUENESS

The Lexington-Fayette Urban County Human Rights Commission is an independent chartered agency of the Lexington-Fayette Urban County Government, with three (3) specific functions: (1) to receive complaints, conduct investigations, hold hearings and have such studies made as will enable the Lexington-Fayette Urban County Human Rights Commission to carry out the purpose of the Ordinance; (2) to promote and secure a mutual understanding and respect among all ethnic groups in Fayette County; and (3) to act as conciliator in controversies involving inter-group and inter-racial relations.

VALUES

The Lexington-Fayette Urban County Human Rights Commission stands for equal rights, equal opportunity, justice and fair enforcement of the ideals. To carry out this belief, we must strive to follow through on our commitments, maintain objectivity and fairness and provide prompt, responsive and patient attention to all those who seek our assistance. We must respect differences in values and behaviors, support one another, and seek alternatives to divisive conflict. We must commit to meet and exceed contractual, service, and mission related requirements by setting clear expectations and maintaining measurable standards. In addition, we must serve all people in an impartial and fair manner. Equality for all - it's a right, not a privilege.

Executive Committee



Barbara Ellerbrook
Chair
January—June 2020



Brenda Mannino
Vice Chair



Vibert Forsythe
Treasurer
July—December 2019



James Dickinson
Treasurer July—December 2019
Secretary January—June 2020



Theresa Parks
Secretary
July—September 2019
Resigned September 2019

Commissioners



Christian Adair
Appointed August 2019



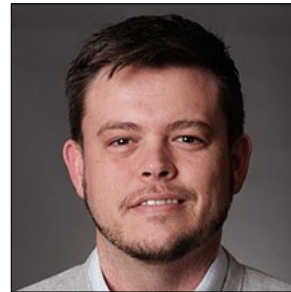
Dr. Jamil Farooqui



Courtney Han



Jason Hope



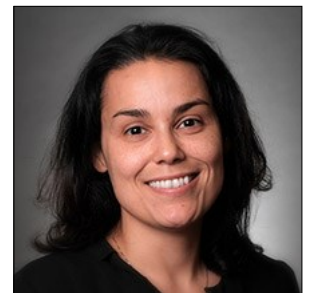
Josh Mers



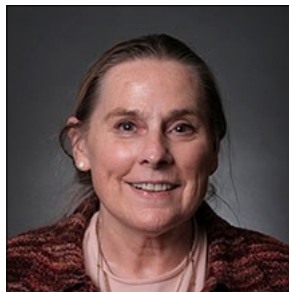
DeVon Peterson
Appointed January 2020



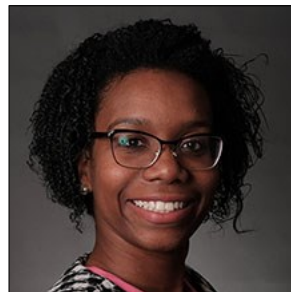
Lance Poston



Marlena Sanchez
Resigned November 2019



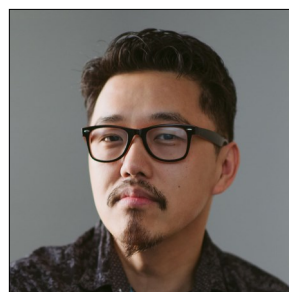
Melanie Tyner-Wilson



Christine Stanley
Resigned September 2019



Cristina Violet
Resigned February 2020



Dan Wu
Appointed January 2020

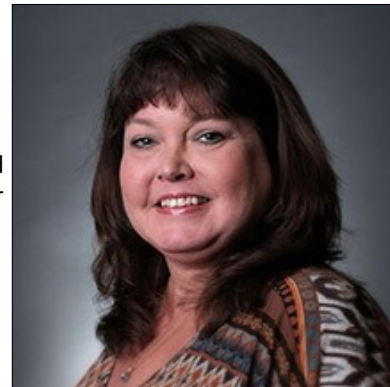


Janice Wyatt-Ross
Appointed February 2020

Staff



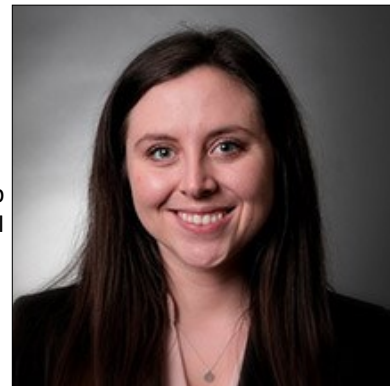
Raymond A. Sexton
Executive Director



Tami J. Reed
Senior Office Manager



Carrie Salter
Investigator I



Marissa Webb
Investigator II



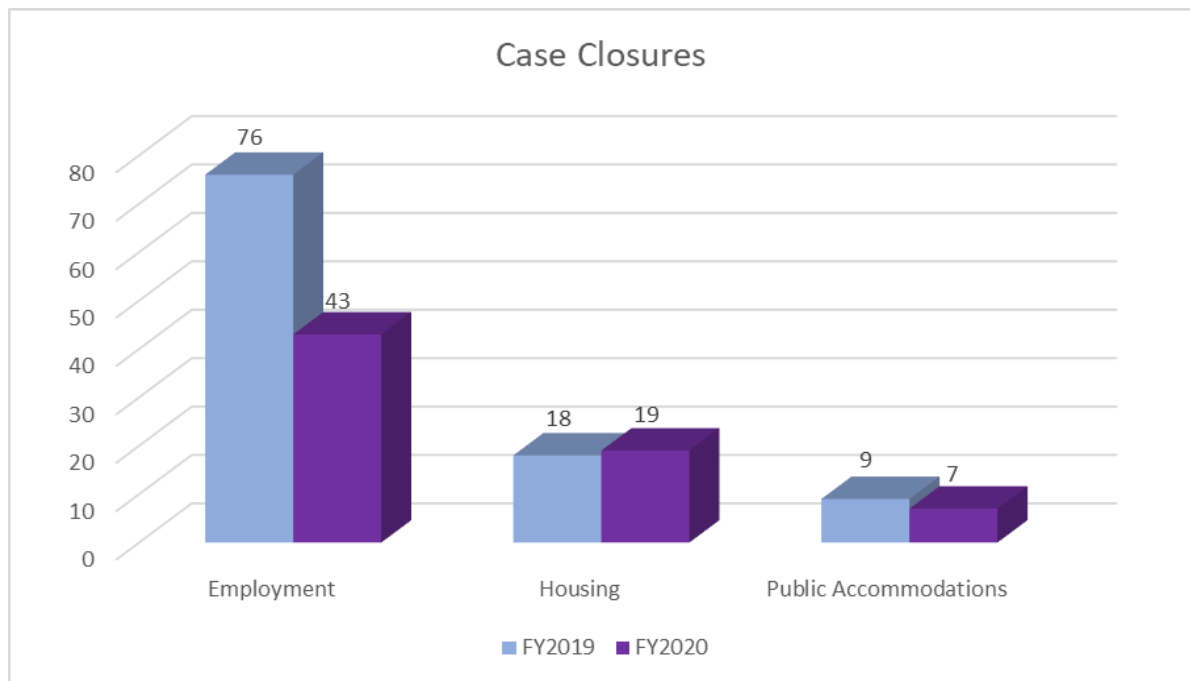
Edward Dove
Commission Attorney

Compliance

The Commission employs two (2) Investigators to conduct its investigations. To ensure the investigators stay up to date on federal procedures and case law updates, they attend training throughout the year.

Whenever possible, our investigators will take a case from beginning (intake) to end. When an investigator has completed their investigation, they will recommend a final determination to the Executive Director. After reviewing the investigative file, the Executive Director will issue a final staff determination.

FY2020 began as a normal year with investigations proceeding as usual. The COVID-19 pandemic started during the fourth quarter. Suddenly businesses closed operations, some temporarily, some permanently. While the Commission stayed in operations, case processing all but came to a halt. The Commission was only able to close 69 cases for FY2020.



Employment

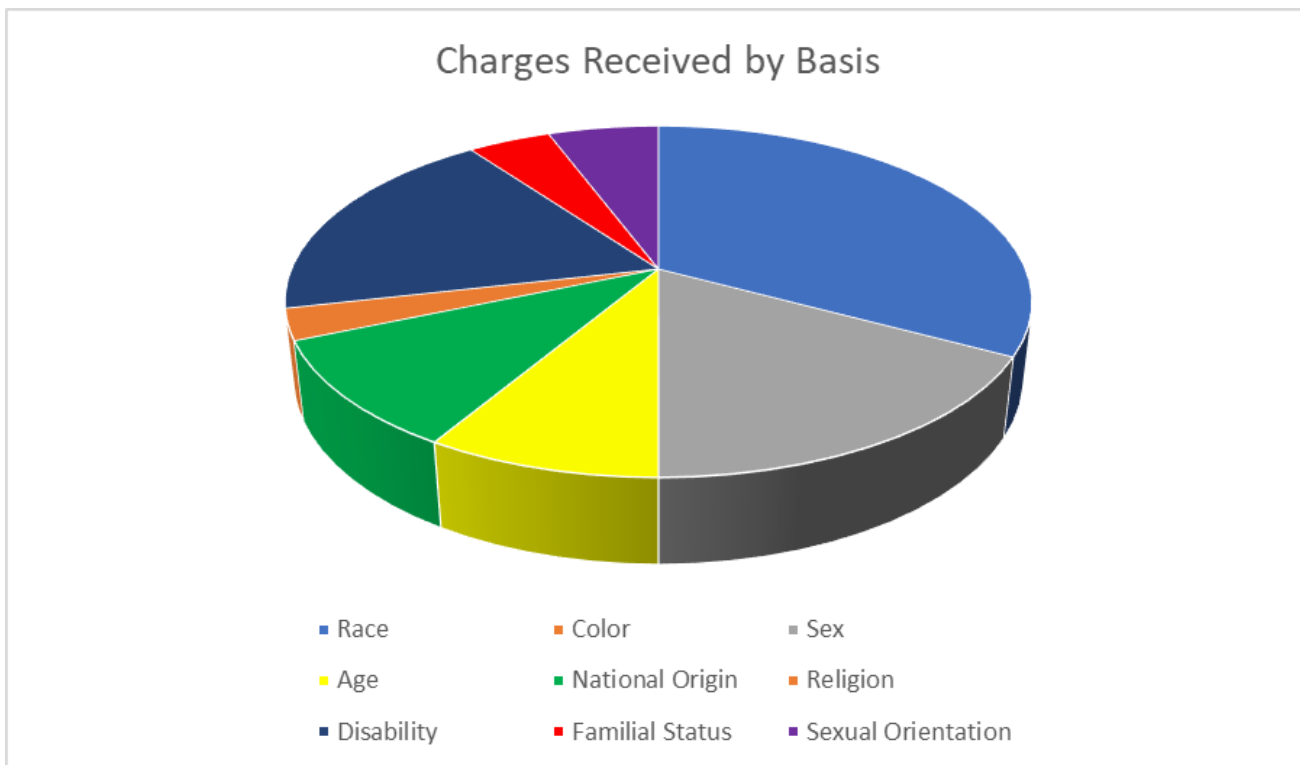
The Commission has a Workshare Agreement with the Equal Employment Opportunity Commission (EEOC) to conduct employment discrimination investigations in Lexington-Fayette County. When all jurisdictional requirements have been met, a case will be dual-filed with the EEOC. If a complaint is jurisdictional with Local Ordinances 199-94 and 201-99, the Commission will investigate a complaint even if it is not jurisdictional with the EEOC.

During the fiscal year, the Commission received 50 new employment cases and closed 43. A case is considered received after it goes through the intake process and the case is formally filed. During the intake process, the investigator will determine if the case is jurisdictional with the Commission. If the case is jurisdictional, then a charging party may file a formal complaint which is notarized.

Housing

The Commission has a Cooperative Agreement with the United States Department of Housing and Urban Development (HUD) to investigate housing discrimination complaints in Lexington-Fayette County. If a complaint is jurisdictional with HUD, we will file a dual filed complaint. As with employment, if a complaint is jurisdictional with Local Ordinances 199-94 and 201-99, the Commission will investigate a complaint even if it is not jurisdictional with HUD.

During the fiscal year, the Commission received 18 new housing complaints and closed 19. The intake process is the same for housing complaints as employment complaints. For the fourth straight year, disability is the leading basis of cases filed, unlike employment whose leading basis in cases filed is race.

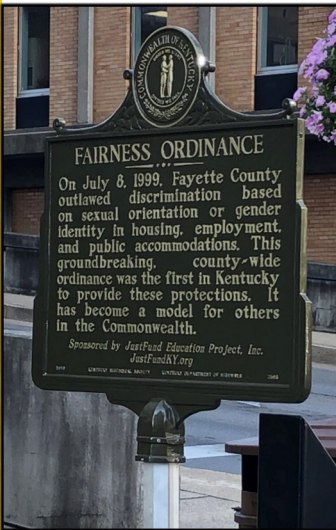


Public Accommodations

The most underused complaint type is public accommodations. A place of public accommodation includes any place, store or other establishment which supplies goods or services to the general public. It is unlawful practice for a person to deny an individual the full and equal enjoyment of the goods, services, facilities, privileges, advantages, and accommodations of a place of public accommodation on the basis of race, color, religion, national origin, disability, sexual orientation and/or gender identity. During FY2020, the Commission received three (3) and closed seven (7) complaints of public accommodations.

20th Anniversary of the

FY2020 marked an important milestone for the history of civil rights in Lexington, Kentucky, the 20th Anniversary of the passage of the Fairness Ordinance.



In January of 1999, Louisville, Kentucky became the first city in Kentucky to pass a local law to offer protections for the LGBT community. Louisville passed an ordinance protecting lesbian, gay, bisexual, and transgender individuals from employment discrimination. Although this ordinance was groundbreaking, it did not include protections from housing and public accommodation discrimination.

On July 8, 1999, the Lexington-Fayette Urban County Council, passed Local Ordinance 201-99, better known as the Fairness Ordinance by a vote of 12 to 3. The passage of this local ordinance by Lexington was instrumental and became a model for cities and counties across the Commonwealth. Lexington's Fairness Ordinance extended protections to include employment, housing and public accommodations; it went into effect immediately upon its adoption and defined gender identity to include protections for the transgendered community.

As history will bear, the Lexington-Fayette Urban County Human Rights Commission was an integral part of the discussions and process leading up to the passage of the Fairness Ordinance. The Commission assisted in organizing support of the passage of the ordinance, built a coalition supporters throughout Lexington and passed a resolution urging the Lexington-Fayette Urban County Council to pass the local ordinance.

The end of FY 2019 and FY 2020, Lexington had many events to commemorate the 20th anniversary of the passage of the Fairness Ordinance that the Commission participated in including:

June 17, 2019: the Commission attended the grand opening of an exhibit at the Lexington public library with images and artifacts gathered by the Lexington Fairness Campaign regarding the passage of the Fairness Ordinance. The Commission contributed several items to this exhibit.



Commissioner Jim Dickinson, Councilmember Jennifer Mossotti, Isabel Taylor, Mayor Linda Gorton, Executive Director Raymond Sexton, Former Commissioner Jeff Jones, Former Commissioner Priscilla Johnson and Hon. Ernesto Scorsone attended the *We Were There* panel discussion on June 23, 2019.

June 23, 2019 - *We Were There: The Lexington Fairness Ordinance of 1999*. A panel discussion featuring

Fairness Ordinance

guest speakers involved in the fairness movement, focusing on the passage of the 1999 ordinance. The panel discussion featured two former Commissioners, Priscilla Johnson and Jeff Jones.

July 1, 2019 - Lexington Fairness Ordinance 20th Anniversary reception. This event held at the Government Center in downtown Lexington was a celebration to mark the 20th anniversary of the passage of the Fairness Ordinance. This event culminated with the unveiling of Historical Marker #2595 in front of the Government Center commemorating the historic passage of the first county-wide fairness ordinance in Kentucky. Several former commissioners who served on the Commission during this key moment in civil rights history in Lexington attended the event.



Former Commissioner Priscilla Johnson, Mayor Linda Gorton, Former Commissioner Jeff Jones, Councilmember Jennifer Mossotti, and Hon. Ernesto Scorsone participated in the *We were There: The Lexington Fairness Ordinance of 1999* panel discussion.

July 7, 2019 - *Our Fair City: The 1999 Lexington Fairness Ordinance*. This event was a panel discussion on the successes of the ordinance, the challenges (such as the Commission's Hands on Originals case) and exploration on how Lexington can move toward greater equality in the future.

Since the passage of Lexington's Fairness Ordinance in 1999, other local municipalities have passed similar laws protecting the LGBT community. As we stand here twenty years later, fourteen (14) cities in Kentucky have passed laws to combat discrimination based on sexual orientation and gender identity. Places such as Frankfort, Georgetown, Covington and Vicco to name a few have prospered due to the hard work, sweat, tears and determination of those Lexingtonians in 1999. We currently do not have any state-wide or federal protection from discrimination against the LGBT community. However, with this model set forth by the city of Lexington twenty years ago, the foundation has been laid for others to follow suit.



Former Commissioners (seated) Carolyn Edwards, Samye Miller Stith, Jon Larson, Priscilla Johnson, James Fender and Carol Straus.

Fairness Ordinance—The First Year

An excerpt from our FY2020 Annual Report:

FAIRNESS ORDINANCE

The First Year:

July 8, 1999 to June 30, 2000

FY 2000 marked a milestone year in several ways for the Human Rights Commission. One of the most significant changes in the Lexington-Fayette County human rights landscape came when the Lexington-Fayette Urban County Council passed Local Ordinance 201-99, more commonly known as the Fairness Ordinance, on July 8, 1999. The Fairness Ordinance added sexual orientation/gender identity as a protected class against discrimination in housing, employment and public accommodation. The Human Rights Commission continues to receive inquiries from people across the country that want to use the Lexington-Fayette County Fairness Ordinance as a model for future local ordinances.

In July 1999, the Commission predicted approximately 25 complaints would be filed concerning sexual orientation/gender identity as a protected class. The results listed below reveal that with little community outreach, the Commission did receive the amount of complaints originally predicted. The Commission's goals for the future include upgrading the community outreach program concerning fairness ordinance issues/education.

FY 2000 Inquiries and Official Discrimination Complaints Filed based on Sexual Orientation/Gender Identity

I. EMPLOYMENT*:

Issue(s):

Termination (6)
Terms and conditions (4)
Discipline (3)
Harassment (1)
Issue not obtained (1)

II. Housing:**

Issue(s):

Terms and conditions-eviction (1)
Failure to rent (1)
Real Estates Sales (1)
Mortgage Lending (1)
Harassment (1)
Other (1)

III. Public Accommodations*:**

Issue(s):

Refusal of service (3)
Denial of full use and enjoyment (2)

***Three official employment complaints have been filed.**

**** No official housing complaints have been filed.**

*****No official public accommodation's complaints have been filed**

Community Relations



Investigator Marissa Webb works the Commission information table at the Chrysalis SHOWcase on October 8, 2019



While attending the IAOHRA Conference in Orlando, FL, Ray Sexton and Tami Reed attended the Pulse Nightclub Memorial honoring the 49 killed and 53 wounded by a lone gunman on June 12, 2016 who targeted the club because it was a gay nightclub.



Executive Director Ray Sexton speaks to the attendees of the September 26, 2019 Coffee with the Chief



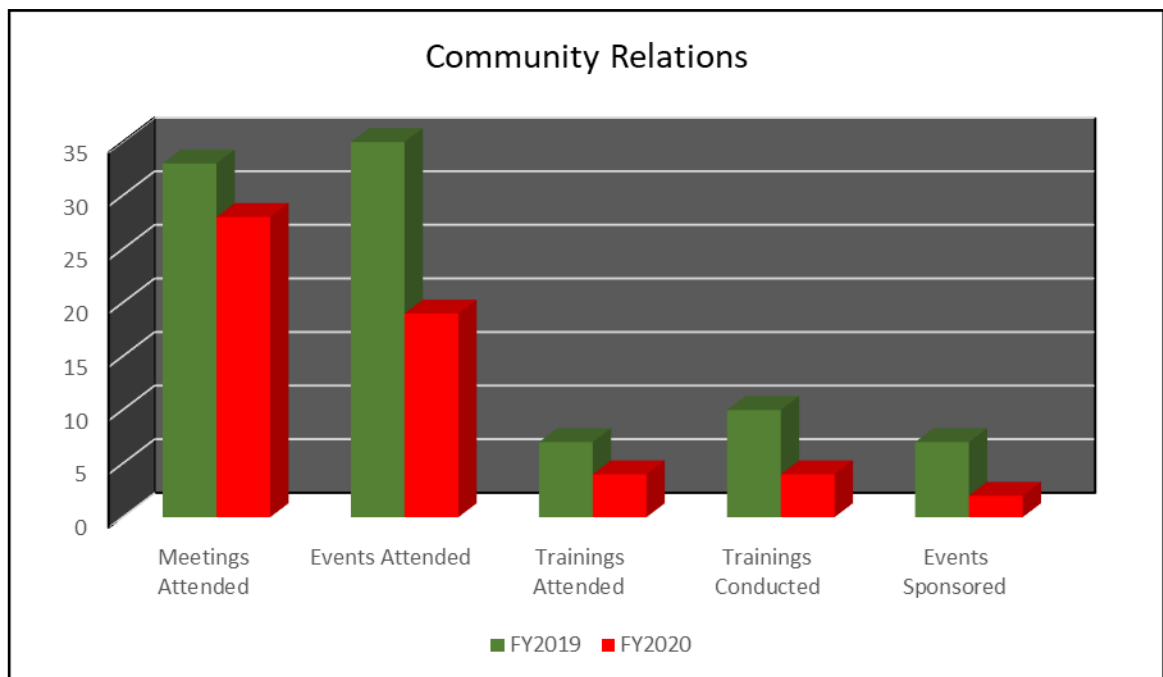
Staff of several KY human rights agencies were in attendance of the 2019 IAOHRA Conference



Executive Director Ray Sexton conducting Fair Housing Training for over 300 Winterwood, Inc. employees.

Georgia Davis Powers Legacy Award

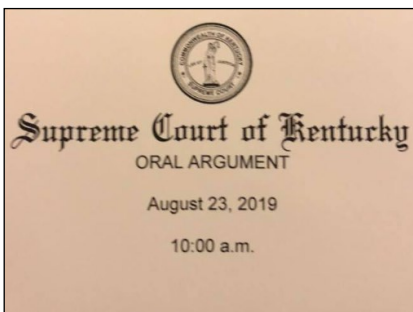
On November 14, 2019, the Kentucky Commission on Human Rights presented the Commission with the Georgia Davis Powers Legacy Award for over 50 years of service in advancing and promoting the cause of Civil and Human Rights in Lexington, Kentucky. Chair Vibert Forsythe and Executive Director Ray Sexton accepted the award on behalf of the Commission.



Kentucky Supreme Court

For the first time in the history of the Commission, a case that was filed with the Commission went all the way to the Kentucky Supreme Court for final decision.

Aaron Baker filed a complaint with the Commission on behalf of the Gay and Lesbian Services Organization (GLSO) against Hands on Originals, Inc. for denying to provide a service to the GLSO based on sexual orientation on March 28, 2012. The case was investigated by the Commission and rendered its decision on November 13, 2012 in favor of the Charging Party Aaron Baker and GLSO. A settlement could not be reached and the case went to a public hearing. The Hearing Examiner issued a Summary Judgment in favor of the Charging Party on October 6, 2014. The Commission adopted the Hearing Examiner's Summary Judgment at its November 19, 2014 monthly meeting. From there, the case entered the court system with appeals filed and eventually made it the Kentucky Supreme Court.



The Commission Attorney Ed Dove presented its case to the Kentucky Supreme Court on August 23, 2019. The Kentucky Supreme Court issued a decision on October 31, 2019 claiming the Ordinance that the complaint was filed under did not allow for individuals to file on behalf of an organization and affirmed the option of the Fayette Circuit Court. The Commission

filed a Motion for Modification of Opinion on November 11, 2019. The Kentucky Supreme Court issued a decision on February 20, 2020 denying the Commission's Motion to Alter, Amend or Vacate.

As expected, the case drew a lot of media attention including an appearance on In Focus.





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