

City of Dubuque



Annual Report

July 1, 2006—June 30, 2007

Mission Statement

The Human Rights Commission shall work to eliminate discrimination and promote the quality of life for every resident in the city of Dubuque.

Dubuque City Council

Roy Buol, Mayor

Ann Michalski	Ric Jones
Kevin Lynch	Karla Braig
Joyce Connors	Patricia Cline

Human Rights Commissioners

Shane Oswald, Chairperson

Mary Coan	Katrina Wilberding
Patricia Foster	Marcos Rubinstein
Bill Ross	Gretel Winterwood
Anthony Allen	Vince Vanden Heuvel

Administrative Staff



Kelly Larson
Director



Molly Menster
Human Relations Specialist



Carol Spinoso
Intake Specialist

Overview

Commission

The Dubuque Human Rights Commission was created in 1963 by passage of the Dubuque Human Rights Ordinance. It consists of nine members serving 3-year terms at City Council appointment. In addition to establishing overall policy, the commission works closely with staff in evaluating community needs and taking appropriate action to satisfy those needs. Regular commission meetings are held at 4:15 p.m. on the second Monday of each month.

Mandate

The commission's mandate is to eliminate discrimination in the areas of employment, housing, public accommodation, credit, and education on the basis of age, race, sex, disability, creed, color, national origin, religion, sexual orientation, familial status, or marital status (in credit only). The authority and responsibility is granted through Chapter 27 of the Code of Ordinances of the City of Dubuque, Iowa.

November 5, 2007

Honorable Mayor and City Council:

As I review the Commission's work contained in the following pages, I am reminded of one of the key themes that emerged at the annual conference of the Regional Executive Council on Civil Rights – the role of Human Rights Commissions in managing conflict. Too often when we think of the work of Human Rights Commissions, we focus on enforcement and litigation. This, of course, is a primary tool in the Commission's overall mission of eliminating discrimination and fostering equal opportunity for residents in our community, and we certainly risk injustice when we fail to recognize the necessity of keeping this tool in working condition. But enforcement is not all that we do, particularly in this day of subtle discrimination, institutional barriers to equality of opportunity, and restrictive legal theories of liability.

The Human Rights ordinance also places squarely on our shoulders the responsibility of taking steps to reduce intergroup tensions. Almost by definition, the work that we do involves tension, as conflict is especially likely to flare around differences in perspective, belief, behavior – in other words, differences in culture. And so, if we are doing our jobs well, we find ourselves trying to strike a balance between addressing inequities by force of law and teaching people better ways to resolve differences before such force becomes necessary.

In order to manage conflict across the cultural divide, we must put our best efforts first into attempts to prevent conflict by ensuring needs are met, teaching people tools to resolve conflict, and building bridges across lines of conflict. A first step in preventing conflict involves taking the time to learn and understand the cultural differences that might be driving behavior in any particular situation. And so, we continue to put tremendous effort into our work with One Ummah Consulting, which involves an organized effort to teach people the tools to handle conflict across cultural differences. Not only are we moving towards identifying and addressing root causes of conflict within our organization, but we also are working to provide a model for others by sharing ideas and skills that we have learned through our work with One Ummah.

Our prevention efforts also included numerous training sessions for the public on legal rights and responsibilities, with a special focus on ensuring that all sides to potential conflicts understand their rights and responsibilities under the law. We especially focused on reaching potential victims of discrimination, and on reaching small businesses that often lack the information on how to ensure fair and equal employment opportunities. We also worked at building bridges across lines of conflict through two of the Commission's recent initiatives: initiation of a speaker's bureau and assisting in the creation of Proudly Accessible Dubuque. The speaker's bureau brings forth the perspectives and experiences of residents from diverse backgrounds to help build a bond of common humanity across differences in our community. Proudly Accessible Dubuque is a mechanism for raising awareness and understanding by encouraging businesses to voluntarily meet the needs of persons with disabilities through the creation of accessible environments.

Our work also recognizes the need to resolve conflict once it arises, and this is heavily influenced by our enforcement efforts. We continue to encourage parties to mediate when cases are filed, and this year we successfully settled 28% of the cases filed with our office. Often, mediation can help us not only work through differences of opinion, but also heal injured relationships between parties. In addition, the very nature of our process, which allows individuals to file complaints without a fee or the necessity of legal representation, helps to bring the powerful to the table and begin to level the playing field. When mediation is not an option or is unsuccessful, we continue with thorough investigations in order to determine disputed rights. This year, 13% of our cases resulted in findings of probable cause that in turn led to immediate redress for Complainants or legal action.

And yet, most of the cases filed with our office continue to result in findings that no law has been violated. This reality in some ways leads us back to our prevention efforts so that we might discover and address the elements that are driving the filing of complaints, whether frustrated needs, the absence of skills to work through conflict, or other human failings. But it also raises the question of containment, and the need to speak out against escalating injustice that may not rise to a violation of our Human Rights ordinance as the law currently stands. Our hate incident response plan plays a key role in this arena as we respond to local incidents by contacting victims and ensuring that graffiti is removed. We also continue to research novel legal theories in an attempt to isolate areas where we might need to strengthen our enforcement process in order to bring true equality of opportunity into existence, particularly in the realm of addressing systemic barriers.

Managing conflict takes time, and it necessarily involves building relationships and trust in order to work effectively across such divisive issues. In today's busy world with its increasing demands, taking the time to listen to truly understand others can feel overwhelming. But the value of solving problems using a comprehensive approach cannot be underestimated. As Marian Wright Edelman reminds us, "we are not going to deal with the violence in our communities, our homes, and our nation, until we learn to deal with the basic ethic of how we resolve our disputes and to place an emphasis on peace in the way we relate to one another." As always, thank you for your leadership and support of the efforts of the Human Rights Commission.

Respectfully submitted,

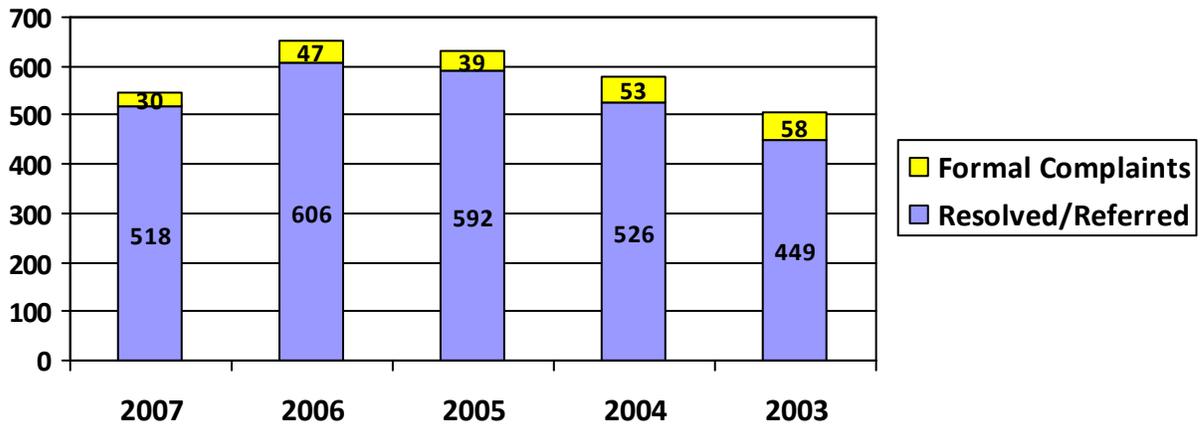
Kelly Larson

Kelly Larson
Human Rights Director

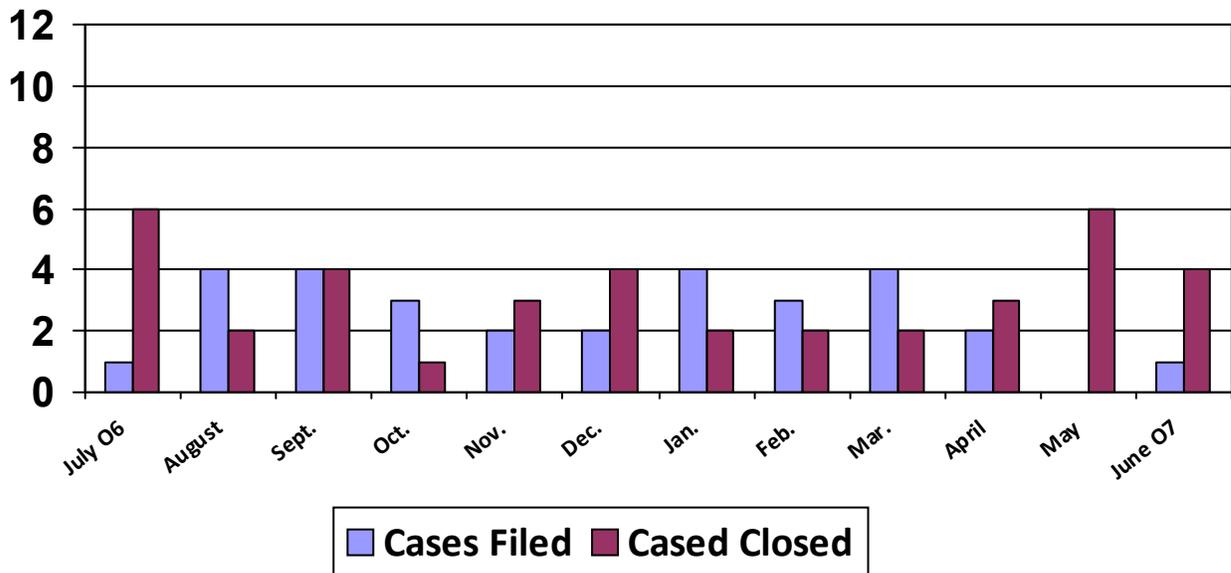
CASELOAD REPORT

During fiscal year 2007, 548 individuals contacted the office requesting assistance or information. Thirty of those inquiries resulted in a formal case filing. Thirty-nine cases were processed and closed.

2007 Intake Summary



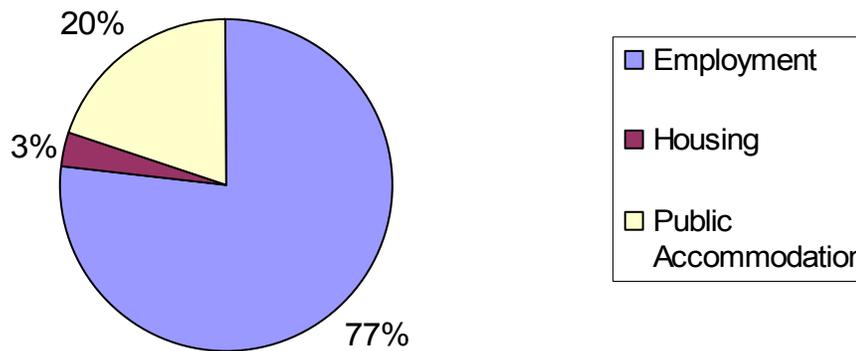
2007 Cases Filed & Cases Closed



CASELOAD SUMMARY

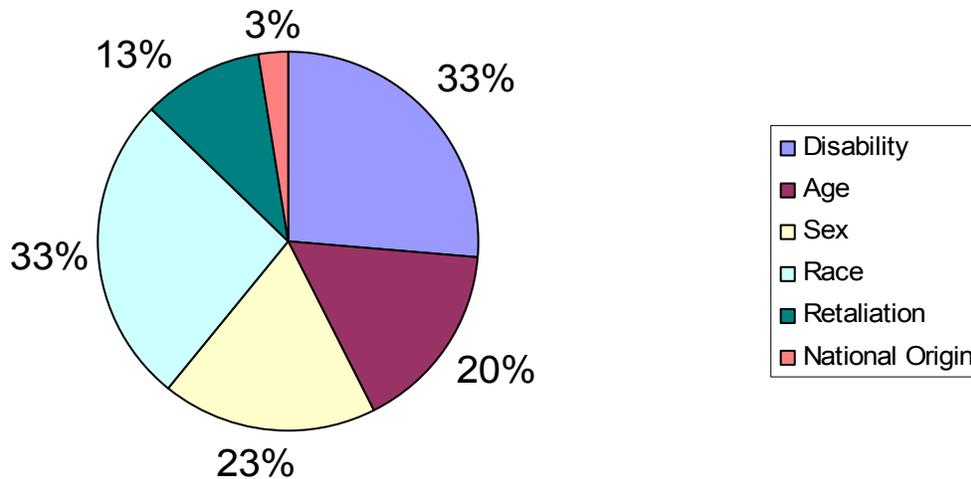
The majority of the cases filed were in the area of employment. In fact, 77% of the 30 cases filed in FY07 were in the area of employment. The area of public accommodation accounted for 20% of the total cases filed, and housing 3%. This breakdown reveals that employment continues to comprise the largest share of the breakdown in past years, though we have seen some increase in public accommodation cases.

2007 Case Breakdown by Area



Disability and race claims encompassed the greatest share of the 30 cases filed in fiscal year 2007, followed by sex, age, retaliation, and national origin. There were no cases filed based on religion, sexual orientation or familial status.

Case Breakdown by Bases



Cases filed in one area (i.e. employment) may have alleged discrimination on one or more bases (i.e. disability and age); therefore the total by basis may be greater than the number of cases by area.

CASELOAD STATISTICAL DATA

Charge	Date Filed	Area/Basis	Status
1. 4187	08/01/06	Employment/Sex/Retaliation	Administrative Closure
2. 4188	07/28/06	Employment/Race	No Probable Cause
3. 4189	08/03/06	Employment/Age/Disa/Retal	Mediated
4. 4190	08/25/06	Employment/Natl Orig/Retal	Conciliated
5. 4191	08/31/06	Employment/Disability	Right-to-Sue
6. 4192	09/13/06	Employment/Disability	No Probable Cause
7. 4193	09/28/06	Public Accommodation/Race	Conciliated
8. 4194	09/28/06	Public Accommodation/Race	Conciliated
9. 4195	09/29/06	Employment/Sex/Retaliation	Conciliated
10. 4196	10/11/06	Employment/Age	No Probable Cause
11. 4197	10/11/06	Employment/Sex	Right-to-Sue
12. 4198	10/13/06	Employment/Race	No Probable Cause
13. 4199	10/22/06	Employment/Age/Disability	Administrative Closure
14. 4200	11/21/06	Employment/Age	Administrative Closure
15. 4201	12/11/06	Employment/Race	Administrative Closure
16. 4202	12/11/06	Employment/Race	Under Investigation
17. 4203	01/05/07	Employment/Disability	Right-to-Sue
18. 4204	01/09/07	Employment/Age/Disability	No Probable Cause
19. 4205	01/10/07	Employment/Race/Sex	No Probable Cause
20. 4207	01/30/07	Employment/Disability	Under Investigation
21. 4208	02/20/07	Public Accommodation/Race	Administrative Closure
22. 4209	02/19/07	Employment/Race	Administrative Closure
23. 4210	02/20/07	Housing/Age	Administrative Closure
24. 4212	03/09/07	Public Accommod/Disability	Mediated
25. 4213	03/09/07	Public Accommod/Disability	Mediated
26. 4214	03/09/07	Employment/Sex	Mediated
27. 4215	03/16/07	Employment/Sex	Under Investigation
28. 4216	04/18/07	Employment/Disability	Mediated
29. 4217	04/20/07	Employment/Sex	Mediated
30. 4218	06/01/07	Public Accommod/Disability	Administrative Closure

CASELOAD STATISTICAL DATA

Breakdown of Cases Into Areas and Basis of Discrimination

Area	FY2005	FY2006	FY2007
Employment.....	27	38	23
Disability	9	18	8
Sex	7	9	7
Race	6	6	6
Age	8	10	5
National Origin	0	3	1
Retaliation	3	5	4
Religion	1	0	0
Public Accommodation....	3	3	6
Disability	2	2	3
Sex	1	1	0
Race	1	1	3
Age	0	1	0
National Origin	0	0	0
Housing	8	6	1
Disability	4	3	0
Sex	0	0	0
Race	2	1	0
Age	1	0	1
National Origin	0	0	0
Familial Status.....	2	3	0
Intimidation	0	0	0
Religion	1	0	0
Education.....	1	0	0
Retaliation	1	0	0
Sex	1	0	0
TOTAL CASES FILED	39	47	30

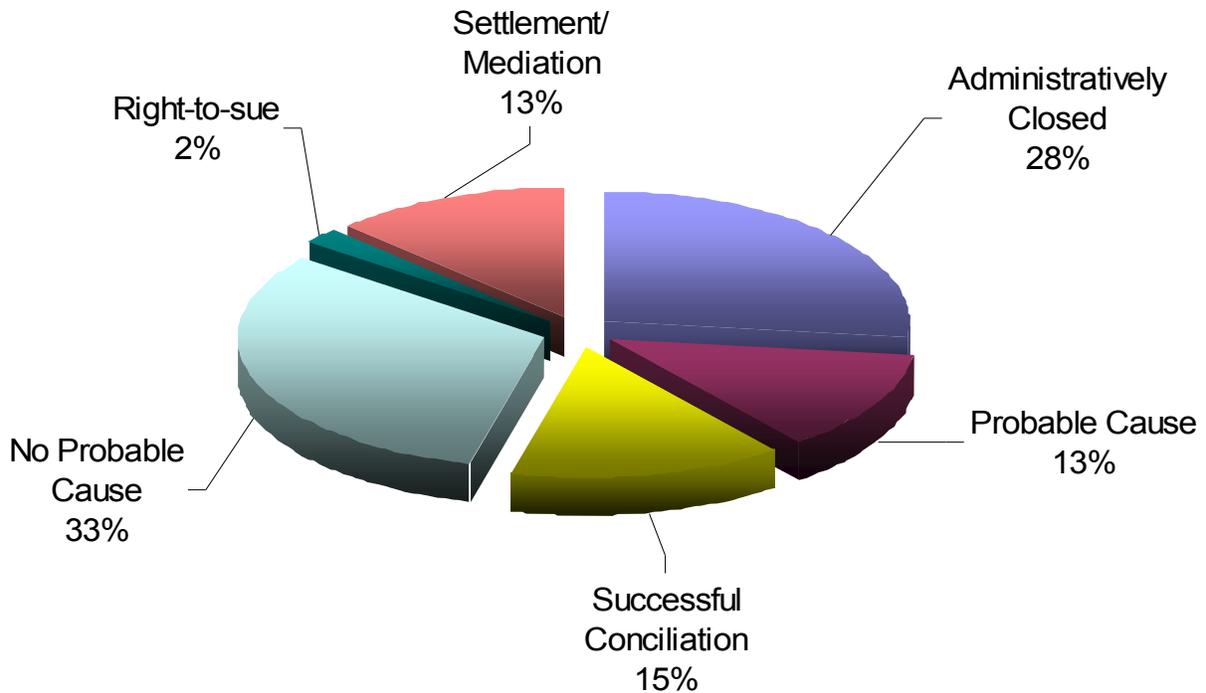
**Cases filed in one area (i.e. employment) may have alleged discrimination on one or more bases (i.e. sex and age); therefore the total number by basis may be greater than the number of cases by area.*

CASES CLOSED/RESOLVED

July 1, 2006—June 30, 2007

Employment	36
Disability	16
Sex	10
Race	6
Age.....	9
Retaliation	6
National Origin	3
Public Accommodation	3
Disability	1
Race	2
Total Cases Closed	39

DISPOSITION OF CLOSED COMPLAINTS IN 2007



Total monetary awards: \$71,749

CASE SETTLEMENT SCENARIOS

▶ A sixty-three year old female alleged that her employer, for whom she had worked for ten years, discriminated against her because of her age and then fired her in retaliation for having complained to the manager. The Complainant alleged that she was denied promotion opportunities, denied certain work assignments, was disciplined differently than the younger employees, and was subjected to frequent rude and insulting ageist comments by supervisors. The Complainant voiced her concerns to the human resource manager, and six days later she was terminated for having a negative attitude which affected work place morale. The investigation revealed that there was basis for concluding there was favoritism in the work place based on age. A review of scheduling showed preference for younger females when compared to females in their mid-fifties and older. In addition, there was evidence that younger employees who engaged in behavior arguably as problematic as the Complainant's in terms of the impact on morale and company operations were retained. The administrative law judge determined there was probable cause for discrimination based on age and retaliation. The parties settled for \$44,000.

▶ An administrative law judge issued a probable cause finding in an employment claim where the Complainant alleged discrimination and retaliation on the basis of sex. The Complainant informed her supervisor that she was being sexually harassed by the team leader. Specifically, that he made sexual innuendos toward her and touched her by poking her in the ribs and tugging on her elastic waist shorts. Weekly, he would tell her that they needed to go make love, and on one occasion he kissed her. It was revealed that this team leader had a prior suspension for sexually harassing behavior. The Respondent took no action to remedy the harassing behavior, and failed to conduct a thorough objective investigation into the Complainant's sexual harassment allegations. The Complainant was suspended the same day she reported the harassment, and subsequently terminated twenty days later. The administrative law judge found probable cause for hostile work environment based on sexual harassment and retaliation. Parties entered into conciliation and settled for \$10,000.00.

▶ A female Complainant alleged that her employer discriminated against her based on a disability. The Complainant stated that she has experienced epileptic seizures for most of her life, and regardless of her disability, the Complainant could otherwise perform the essential functions of her job without any difficulty. The Complainant stated that she experienced a seizure while on break, but that she remained at work and completed her remaining tasks. The Complainant alleged that once her employer learned she experienced a seizure while on the job, they terminated her employment based on the fear that she would injure herself. The administrative law judge found probable cause for discrimination based on the Respondent not considering whether there was a reasonable accommodation that could be made, or whether Complainant was in fact a risk of harm to herself or others. The parties negotiated a settlement in the amount of \$7,100.

CASE SETTLEMENT SCENARIOS

▶ A Complainant alleged that a local business failed to comply with accessibility requirements in their place of business. The Complainant uses a wheelchair and specifically alleged that the business's two accessible parking stalls were located on a steep location which prevented his wheelchair brakes from holding while trying to exit his vehicle. As a result, his chair would roll farther to the rear of his vehicle requiring him to maneuver a steep slope to reach the sidewalk. During mediation, the Respondent agreed to construct two accessible stalls with one being van accessible, and to display accessible signage.

▶ Two African American females alleged public accommodation discrimination on the basis of race when they were denied entrance to a local establishment. The Complainants stated that they presented valid out-of-state ID cards to the security person, but were denied entrance as the security personnel felt their ID cards looked suspicious and that they were not valid Iowa ID cards. The Complainants alleged that white patrons with a similar form of identification were allowed to enter the establishment without incident. After an administrative law judge found probable cause for discrimination on the basis of race, the parties entered into conciliation and the two Complainants agreed to settle for \$1,000 each. The Respondent also agreed to develop an Admission Policy and have all employees attend intercultural competence training.

EDUCATION AND OUTREACH ACTIVITIES

Community Outreach and Education

Staff spoke to the following community organizations on the functions, responsibilities, and priorities of the Human Rights Commission: Valley View Neighborhood Group, Friends of the Community, Washington Neighborhood Group, Loras College, DACU, Sertoma Club, The Shriners, PFLAG, Project Concern, Scenic Valley Agency on Aging, Hills & Dales, ECIA, Operation: New View, and the Women's Wellness Center. Approximately 227 people were in attendance.

The Director continues working with Step by Step, a non-profit organization that is developing housing for low income persons with disabilities, on fair housing concerns for housing serving specialized populations.

The Keynote speaker for the September 14, 2006, Human Rights Commissions Banquet was Alex Orozco. Mr. Orozco co-founded United for Dignity and Safety of Immigrants, and is director of Network Against Human Trafficking. Approximately 135 people were in attendance.

The Director worked with faces & voices in the planning of the Dr. King breakfast celebration with keynote speaker John Paul Chaisson-Cardenas with the Minneapolis-based Northwest Area Foundation.

The Director presented a overview of fair housing law to employees of the Canfield Hotel and Five-Star Housing Management. In addition to the overview, she presented information related to the complaint process and discrimination on the basis of sex and familial status for Maria House staff and residents.

The Human Relations Specialist gave a presentation on racial profiling, steering and the ADA to realtors at American Realty.

The Director continues to participate in meetings with Iowa Workforce Development and other community members on diversity issues related to workforce recruitment and retention.

The Human Relations Specialist presented a session on sexual harassment in the workplace to employees at DBQ Data Services.

The Human Relations Specialist spoke to employees of State Central Bank and O'Connor Insurance and Sedona Staffing on the ADA, harassment, and religious accommodations.

The Director presented an overview and provided information on working with individual differences, and provided guidance related to the ADA and accessible parking spaces to employees of Apel Parking Lot Service.

EDUCATION AND OUTREACH ACTIVITIES

The Department distributed fair housing material to approximately 2,500 residents at City Expo.

The Department displayed fair housing billboards and advertisements during fair housing month.

The Director provided small business training to employees at Gin Rickey's, with a focus on public accommodation discrimination.

The Director, as president of the League of Iowa Civil Rights Agencies, facilitated an ICN session related to the jurisdiction and role of the commission for small local Iowa commissions across the state.

The Director participated in a panel discussion on stereotypes surrounding socio-economic status at Clarke College, and spoke about immigration issues to students at the University of Dubuque Theological Seminary.

Internal Work with City Staff

The Human Relations Specialist facilitated a committee that developed a plan for intercultural competence training and organizational development for all City staff. Approximately 592 city employees attended the first round of this training. Both the Director and Human Relations Specialist are on the training team.

The Director participated on the interview panels for police and fire.

The Director continued to chair the City's ADA/504 Compliance Committee, facilitating progress on projects, assisting with review of design and construction plans, and drafting an annual progress report for the City Manager. She continues to work with city staff in investigating how best to insure compliance during the design and construction phase of projects.

The Director arranged for representatives from the Disability Business Technical Assistance Center, and Michele Ohmes, an ADA Consultant, to provide training to city staff on improving ADA compliance.

The Director and Human Relations Specialist served on the steering committee to carry out the recommendations of One Ummah Consulting for organizational development around issues of intercultural competence and equal opportunity. The steering committee and two subcommittees of employees have begun offering intercultural competence tips in employee newsletters and for monthly management team meetings, have begun creation of a web page, and have begun identifying brochures for translation into Spanish.

COMPLAINT PROCESS

A complaint is filed when a person feels that he/she is the victim of unlawful discrimination. A complainant may file a complaint with the Human Rights Department within 180 days of the alleged discriminatory act. Any of the Department's staff can perform the intake interview establishing that the Department has authority in the matter (jurisdiction and gathering the necessary information about the alleged act, such as time, place, the person involved, and the details of the act.) Note that the complainant has the right to withdraw the complaint at any time.

A respondent is notified once jurisdiction is established and intake is complete.

A conciliation conference is encouraged at this time because it offers all parties the possibility of a speedy and satisfactory resolution. If conciliation fails, the Director or Human Relations Specialist begins an investigation.

An investigation can include field investigations, site visits, interviews with witnesses, documentation examination, and face-to-face meetings with both the complainant and the respondent to discuss the complaint and gather facts.

Probable cause is determined at the end of the investigation by an administrative law judge (ALJ). If the facts/evidence support the charge, a determination of probable cause is issued. If the evidence does not support the charge, a determination of no probable cause (NPC) is issued and the case is then dismissed. The complainant can request to reopen the case if he/she feels the NPC is in error.

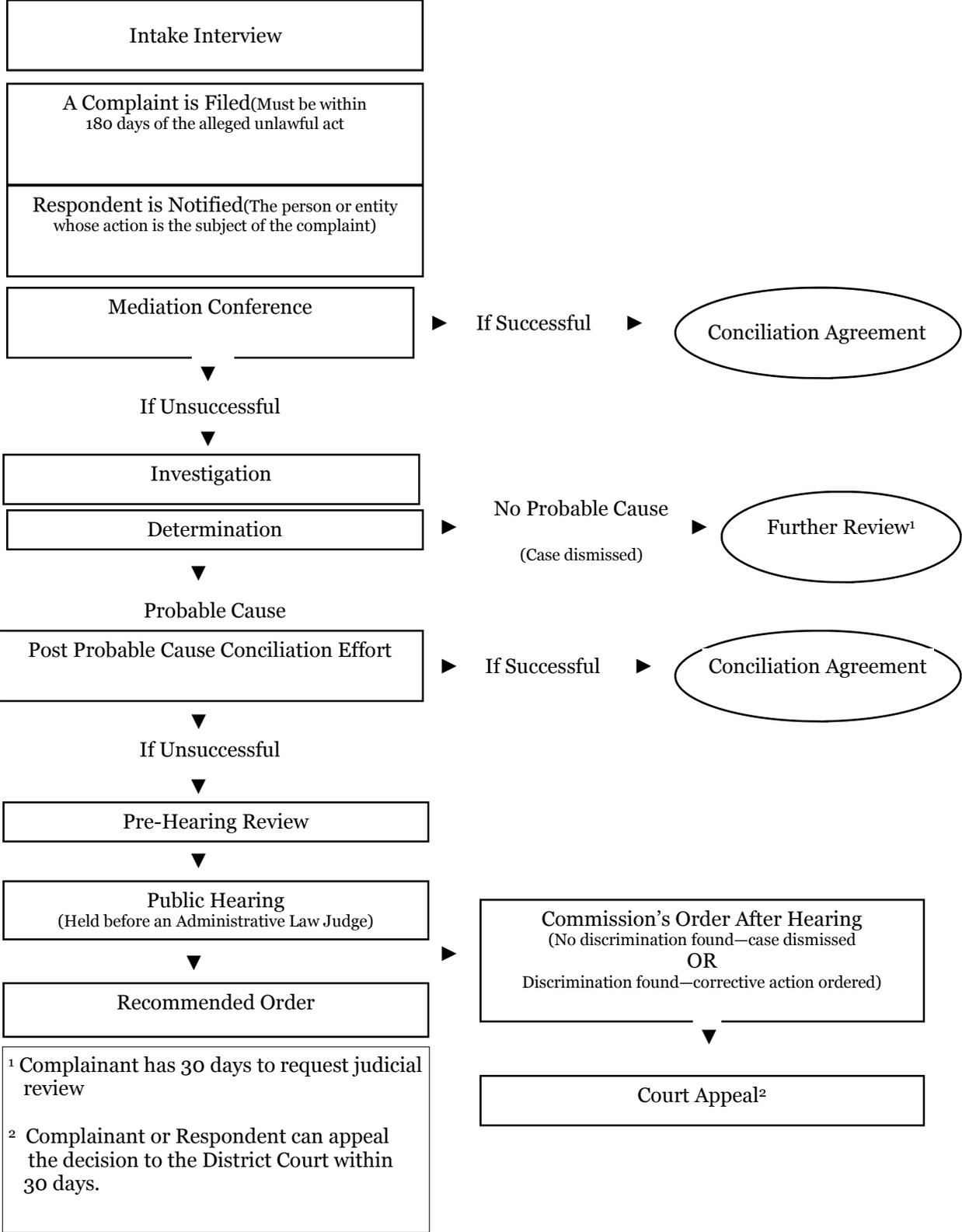
A post probable cause conciliation is undertaken to try and bring the complainant and the respondent to a mutually agreeable arrangement saving all the parties time, and possibly, legal fees.

The pre-hearing review is intended to determine whether or not the case needs to proceed to public hearing.

The public hearing is presided over by an administrative law judge. At the hearing, the complainant is often represented by private counsel. The respondent is often represented by private counsel. The attorneys present the facts of the case to the administrative law judge. The City Solicitor represents the public interest.

The full commission reviews the recommended order and the record of the hearing. If the commission finds that discrimination has not occurred, the case is dismissed, but if the finding is that discrimination has occurred, the respondent is ordered to take appropriate action to redress the effects of the discrimination. The Commission may order employment, promotion, raise, back pay, letter of reference, housing, credit, formal apology, a change in the respondent's policies, and cash awards in compensation for humiliation, suffering, and mental anguish. Both the complainant and the respondent can appeal the commission's order within 30 days to the courts.

COMPLAINT PROCESS AT A GLANCE



D·U·B·U·Q·U·E



HUMAN RIGHTS
COMMISSION

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