

Testimony of Dana Sussman
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New York City Commission on Human Rights
Before the Committee on Housing and Buildings and Committee on Consumer Affairs and
Business Licensing on Int. 1936
April 28, 2020

Good afternoon Speaker Johnson, Committee Chairs Cornegy and Cohen, and Members of the Housing and Buildings and Consumer Affairs and Business Licensing Committees. I am Dana Sussman, Deputy Commissioner, Policy and Intergovernmental Affairs, at the New York City Commission on Human Rights. Thank you for convening today's hearing to address the critical needs of New Yorkers during the COVID-19 pandemic. We know that many of us are struggling and may be mourning the loss of family, friends, and co-workers, and I want to take a moment to acknowledge that during this incredibly difficult time.

As you likely know, the Commission is the local civil rights enforcement agency that enforces the New York City Human Rights Law, one of the broadest and most protective anti-discrimination and anti-harassment laws in the country, now totaling 26 protected categories across nearly all aspects of city living: housing, employment, and public accommodations, in addition to discriminatory harassment and bias-based profiling by law enforcement. By statute, the Commission has two main functions. First, the Commission's Law Enforcement Bureau enforces the City Human Rights Law by investigating complaints of discrimination from the public, initiating its own investigations on behalf of the City, and utilizing its in-house testing program to help identify entities breaking the law. Second, through the Community Relations Bureau which is comprised of Community Service Centers in each of the City's five boroughs, the Commission provides free workshops on individuals' rights and businesses, employers' and housing providers' obligations under the City Human Rights Law and creates engaging programming on human rights and civil rights issues.

Before turning to Int. 1936, I'd like to highlight some of the important work that the Commission is doing to address discrimination and harassment that we have seen emerging in the midst of the current public health crisis posed by COVID-19. In the context of the COVID-19 pandemic, we have seen a multitude of ways in which the City Human Rights Law intersects with the rapidly changing needs of New Yorkers in crisis. Starting in January, the Commission began to monitor an increase in anti-Asian discrimination and harassment, including scapegoating, fearmongering, and the spread of misinformation, as news about COVID-19 started to emerge. In February, the Commission started to receive its first reports of New York City-based incidents of discrimination and harassment targeting Asian New Yorkers. At the same time, the Commission's East Asian Communities Liaison Flora Ferng and other members of the community outreach team were working regularly with community leaders of Asian and Pacific Islander (API) communities throughout New York City to provide information and resources about the Commission's work.

From February through mid-April, the agency recorded 284 reports of harassment and discrimination related to COVID-19, over 40% (115) of which identify incidents of anti-Asian harassment or discrimination. By comparison, during this same time period in 2019, the Commission received just five reports of anti-Asian discrimination. This influx in reports and cases resulted in the Commission's April 19 announcement of the formation of a COVID-19 Response Team to handle reports of harassment and discrimination related to the outbreak. The Response Team is comprised of staff from the Law Enforcement Bureau and the Community Relations Bureau working in coordination to quickly and efficiently track and respond to the sharp increase in reports of harassment and discrimination connected to the pandemic. The COVID-19 Response Team has taken action in 176 of those reports, including, for example, conducting early or emergency intervention, providing information on how to request a reasonable accommodation, referring the individual to another service or agency, or commencing an investigation. In addition, the Commission has opened active investigations into 26 matters spanning discrimination in housing, public accommodations, and employment on the basis of race, national origin, disability, and lawful source of income. Additionally, the Response Team has successfully resolved and closed 10 matters of COVID-19-related harassment and discrimination so far.

The Commission's Community Relations Bureau (CRB) has also held bystander intervention trainings with the Center for Anti-Violence Education. The trainings provide techniques to safely de-escalate a bias incident in real time, and were recently piloted in Mandarin. In early March, CRB co-sponsored community forums in Sunset Park, Brooklyn and Manhattan's Chinatown educating Asian communities of their rights and protections under the law. The Commission also held virtual town halls, in partnership with sister agencies, elected officials, and community-based organizations highlighting workplace rights related to COVID-19, reporting discrimination and harassment related to COVID-19, and responding to hate and bias with restorative justice measures, among other topics. The Commission continues to produce and promote content to provide key information to impacted communities on their rights in several languages, including those spoken by Asian New Yorkers facing heightened harassment and discrimination due to COVID-19 stigma (including Cantonese, Fujianese, Korean, Mandarin, and Tagalog). Commission staff currently speak over 30 languages. Shortly after the outbreak began, the Commission also launched an online resource page outlining New Yorkers' rights and protections from COVID-19 related discrimination in housing, employment, and public accommodations which is regularly updated. The page is available at nyc.gov/stopcovidhate. The Commission also currently has a paid campaign running on social media platforms directing people to our resources on their rights as they relate to COVID-19.

Turning now to Int. 1936: most cases of housing discrimination against a person with suspected or confirmed COVID-19, or against a person caring for someone with a suspected or confirmed case, are protected under the City Human Rights Law's broad protections based on actual or perceived disability and a person's association with someone with a disability. In addition, essential workers who may face housing discrimination because they are at risk of exposure to COVID-19 are covered by the City Human Rights Law's protections based on occupation. The

Commission's Law Enforcement Bureau has directly received 228 COVID-19 related inquiries, 44 of which are in the housing context. The Commission has provided tenants and coop residents with information regarding the City's Human Rights law and, in some cases, contacted management companies or cooperative boards to advise them of their responsibilities under the law, where restrictions on residents to reduce the spread of COVID-19 did not allow for accommodations for residents with disabilities. For example, in situations in which buildings are not permitting or facilitating deliveries to the door of individuals with disabilities unable to exit their apartment due to immunocompromised conditions, COVID-19 self-quarantine, or are unable to lift or otherwise carry packages or deliveries due to a disability, the Commission's Law Enforcement Bureau was able to intervene and provided inquirers with information about their rights to request a reasonable accommodation.

While Int. 1936 does not amend the City Human Rights Law, it does amend the Housing Maintenance Code's language on tenant harassment, which was modeled after language in the City Human Rights Law to protect against harassment based on a person's protected status. The addition of tenant harassment in the housing code in 2017 allows tenants to choose whether to file a discrimination claim with the Commission or to take a case to housing court. Because of the substantial overlap between existing protections in the City Human Rights Law and the Housing Maintenance Code, several of the protections contemplated in Int. 1936 already exist to protect tenants against harassment in housing. This is true for cases of both confirmed or suspected COVID-19, or when an individual has a relationship or association with someone with an actual or suspected case of COVID-19.

It is important to note that if a tenant chooses to bring a claim under this provision in housing court, they typically will be precluded from bringing the same claim at the Commission. Currently, remedies in housing court are typically limited to civil penalties ranging from \$2,000 to \$10,000, compared to remedies at the Commission which include uncapped compensatory damages to the victim, civil penalties of up to \$250,000, and other affirmative relief. Because the remedies in housing court are more limited than at the Commission, it is vital that tenants understand the options available to them and are able to make an informed decision regarding the venue they choose. To the extent that New Yorkers experience discrimination or harassment with respect to any of the protected categories articulated in the City Human Rights Law, we encourage them to contact the Commission.

The Commission recognizes that people who have COVID-19, are at risk of contracting the virus, or are essential workers must be able to live safely and securely and should never, under any circumstances, have to contend with discrimination and harassment. We are committed to working with the Council to ensure that the devastating impacts of this public health crisis are not unnecessarily compounded, and that New Yorkers can live peacefully in their homes, free from harassment. We are acutely aware of the vulnerabilities of New Yorkers right now, and the Commission is ever more committed to defending the human rights of all New Yorkers, especially those impacted by COVID-19.