

LOCAL news

PRINCIPLES INTO POLICY

Portland tries to help a hamstrung ordinance, and considers a contract ban on companies that discriminate by Inga Sorensen

The Portland City Council will consider two proposals on Feb. 11 that directly impact the gay and lesbian community.

One plan would require companies contracting with the city to have policies that bar discrimination based on sexual orientation; the other would establish a mediation process to help settle disputes involving those who feel they may have been discriminated against due to their sexual orientation.

The latter proposal is a response to a ruling in late September that knocked the legs out from under a six-year-old ordinance, unanimously approved by the council, which prohibited discrimination in employment, housing and public accommodations based on sexual orientation and source of income.

This past fall, a Multnomah County circuit judge declared a vital component of the measure invalid, obliterating the section that permitted individual citizens to enforce their rights under the ordinance in state court.

In a crisp, one-sentence finding issued Sept. 22, Judge Pro Tem Monte Bricker wrote: "I find that the City of Portland has no authority to confer by ordinance access to Circuit Court by a private party."

The ruling stemmed from a case involving Besaw's Cafe, 2301 NW Xavier St., and plaintiff David Sims, who claims he was fired from his job as a Besaw's cook because he is gay—a charge Besaw's owners, Richard and Geri Beasley, have publicly denied.

In his ruling, Bricker did not consider the merits of that particular case, but instead agreed with the argument served by the defendants' attorney, Charles W. Carnese, who said Sims had no right to take a city matter to a state court.

Under the judge's ruling, those who feel they've been discriminated against on the basis of sexual orientation have no recourse in the courts, because sexual orientation is not a protected category under state or federal civil rights laws.

Discrimination protections exist for numerous other categories, including race, gender, national origin, religion and age.

Under state law, those claiming discrimination may use two methods to enforce their rights: they may take their case to the Oregon Bureau of Labor and Industries, and/or may exercise an independent right of access to the courts.

While the ordinance still stands, Bricker's decision disposes of one of the two enforcement avenues for cases involving sexual orientation.

Thus a person bringing an age discrimination claim to the City of Portland, for example,

has an ability to enforce his or her rights at an agency level or in court. A gay or lesbian person suffering the same discrimination now only has redress through the agency process.

The city is appealing the decision, but in the interim has attempted to find a way to address discrimination claims. Developing a mediation process appears to be the way to go, says Deputy City Attorney Madelyn Wessel.

Under the plan, the city could spend as much as \$50,000 annually to help mediate disputes. However, participation in mediation would be voluntary.

"It's not perfect," says Wessel, "but at this point it's probably the best we can do.... I wish we had statewide and federal protections for gays and lesbians—then we wouldn't be dealing with this."

Barry Pack, executive director of Right to Pride, a statewide gay, lesbian and bisexual rights organization, says, "I'm pleased the city responded so quickly, and I think they're doing a great job. This may be a stop-gap measure, but we are, after all, talking about a very complex legal matter."

In October 1991, to much fanfare, Portland became the first city in Oregon to pass protections against discrimination in employment, housing and public accommodations, based on sexual orientation.

The cities of Eugene, Corvallis and Ashland followed suit.

The City Council's other proposal, meanwhile, calls for companies seeking to contract with the city to formally agree they will not discriminate against their workers and/or prospective employees based on sexual orientation, says Sam Adams, Portland Mayor Vera Katz's chief of staff.

Many companies that contract with Portland are owned and operated outside the city limits and aren't covered by city ordinances. This measure would provide additional protections by requiring that all entities seeking to contract with the city comply with Portland's existing anti-discrimination law.

Larry Robb of the city auditor's office says, roughly speaking, Portland contracts for \$90 million in goods and services each year.

Both measures are expected gain approval. Pack urges backers to attend the Portland City Council meeting to show their support.

"Our community isn't always the best when it comes to thanking our allies," he says.

■ The PORTLAND CITY COUNCIL is slated to consider the proposals at 9:30 am Wednesday, Feb. 11, in the second floor auditorium of the Portland Building, 1120 SW Fifth Ave.



Vera Katz

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66 The right to be let alone is the most comprehensive of rights and the right most valued by civilized people."

— Justice Louis Brandeis



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