

**EQUAL OPPORTUNITIES COMMISSION  
CITY OF MADISON  
210 MONONA AVENUE  
MADISON, WISCONSIN**

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| <p>Jeffrey E. Carroll<br/>809 Burr Oak Lane # 2<br/>Madison, WI 53713</p> <p style="text-align: center;">Complainant</p> <p style="text-align: center;">vs.</p> <p>Bayview Community Center Board of Directors<br/>304 Bay View<br/>Madison, WI 53715</p> <p style="text-align: center;">Respondent</p> | <p>RECOMMENDED FINDINGS OF FACT<br/>RECOMMENDED CONCLUSIONS OF LAW<br/>RECOMMENDED ORDER</p> <p>Case No. 2491</p> |
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The complaint in this matter was filed on February 27, 1979 alleging discrimination on the basis of race and sex by Respondent in discharge from employment in violation of sec. 3.23(7)(a) of the Madison General Ordinances.

Subsequent to an investigation by Mary Pierce, a probable cause determination was issued on January 7, 1980.

Conciliation was waived or unsuccessful, and the case was certified to public hearing on January 20, 1980.

A hearing was held on August 5, 1980 in Room 111, City-County Building, 210 Monona Avenue, Madison, Wisconsin. The Complainant appeared in person without an attorney. The Respondent did not appear. Based upon the taped record of the proceedings and the exhibits introduced at hearing, the following decision is recommended:

**RECOMMENDED FINDINGS OF FACT**

1. Jeffrey Carroll is a Black male who began employment on October 4, 1978 as Executive Director of the Bayview Community Center (BCC).
2. The Bayview Community Center, Inc. was located at 304 Bay View and was a corporation operated by the Bay View Board of Directors that employed individuals in the City of Madison.
3. Complainant was terminated on November 21, 1978 during a meeting of the Bay View Community Center Board.
4. A letter dated December 1, 1978, eleven days after the actual termination, and signed by Gloria Fernandez, BCC Board President, stated "the three main reasons" for Mr. Carroll's termination:
  - a. No work was done for three weeks to complete a fire door which prevented BCC from receiving day care licensing.
  - b. No effort was made to complete the work for the Wisconsin Council on Criminal Justice grants.
  - c. Nothing was turned in to the BCC Board regarding meetings Mr. Carroll was attending.
5. A non-Black female, Joy Colelli, held the job of Executive Director for approximately three years prior to Mr. Carroll's employment. She resigned from the position but continued to serve on the Board of Directors.

6. A non-Black female, Gloria Fernandez, succeeded Mr. Carroll as BCC Executive Director subsequent to his termination.
7. Fire door violations had been pre-existing at the Bay View Community Center since September 14, 1976; other building violations had been pre-existing since August 2, 1978; and the BCC was informed of its day care licensure denial in a letter dated October 6, 1978, only two days after Mr. Carroll began employment with BCC. His predecessor, Joy Colleli had not been terminated for failure to replace the fire doors in two years.
8. Mr. Carroll had successfully completed the grant proposal to such a degree that had he not been terminated, he would have only had to appear at one further meeting of the Southwest Criminal Justice Planning Council to obtain the grant for the BCC. Because of his termination, the grant processing for the BCC was actually delayed.
9. Respondent had no written policy to submit documents for out-of-office meetings, except there was a written policy to report out-of-town meetings. Mr. Carroll attended no "out-of-town" meetings.
10. At the Board of Director's request, Mr. Carroll presented a calendar of all his out-of-office meetings to the BCC at an October meeting, and continued to keep track of his out-of-office meetings until his termination on November 21, 1978.
11. Other areas that Complainant was lacking according to the November 21, 1978 meeting were "non-accessibility," "development of budgets," and "meetings."
12. Complainant was reasonably accessible in his office following notification at an October 31, 1978 meeting that "non-accessibility" was a problem. He made efforts to keep regular office hours despite the mobile nature of his job.
13. It was the bookkeeper's duty to develop the budgets, and her failure to carry out this assigned task was blamed on Complainant.
14. Complainant attempted to call staff meetings, but a co-employee, Beverly Pate, who was Youth Center Director, consistently frustrated Complainant's attempts by notifying other staff employees that the meetings were cancelled.
15. Complainant never received any written performance evaluations from his superiors regarding any deficiencies in performance.
16. The Bay View Board was comprised of eight persons, six females and two males. Only three females, less than a quorum, were present at the November 21, 1978 meeting where Complainant was terminated.
17. Bay View Community Center, Inc., funding ran out on March 31, 1980.
18. Complainant would have earned \$11,000 per year as Executive Director of BCC.
19. Complainant actually earned \$1,985 while employed at BCC and subsequently has received \$1,080 in Unemployment Compensation, and received \$355 in City Welfare benefits from September 1979 through March 1980. Complainant's earnings at BCC are through December 6, 1978 as he was paid for two weeks he did not work.
20. Complainant has applied to at least seven employers since the time of his termination by BCC, and has failed to receive even an interview, in part due to a negative recommendation written by the BCC Board.

### **RECOMMENDED CONCLUSIONS OF LAW**

1. Respondent is an employer within the meaning of sec. 3.23, Madison General Ordinances.
2. Complainant was performing his job satisfactorily and all reasons advanced for his termination are not supported by facts.
3. Respondent discriminated against Complainant on the basis of race and sex by terminating him in violation of sec. 3.23(7)(a) of the Madison General Ordinances.
4. Complainant has used due diligence in attempting to seek employment since his termination.

### **RECOMMENDED ORDER**

1. Respondent shall cease and desist from discriminating against Complainant on the basis of race and/or sex in violation of the Madison General Ordinances.
2. Respondent shall pay Complainant the sum of \$14,403.00 (Fourteen-thousand-four-hundred-three dollars and no cents) which is the amount he would have earned if employed through March 31, 1980, less amounts reimbursed directly to Unemployment Compensation and City Welfare.
3. Respondent shall offer Complainant the next available position as Executive Director of Bay View Community Center, Inc., or its successor, including all rights and benefits he would have received from the time of his termination until the time he is reemployed.
4. Respondent shall remove all negative job evaluations from Complainant's personnel file. Respondent shall write Complainant an evaluation subject to Complainant's approval which evaluation reflects that Complainant was performing his job adequately and efficiently but was discharged for discriminatory reasons on the basis of race and sex. The Commission or its designee will monitor any disputes.
5. Joy Colelli, Gloria Fernandez, Bev Orr, and all other past and present members of the Bay View Board of Directors shall refrain from giving Complainant a negative job reference for the period of time he worked as Executive Director of the Bay View Community Center.
6. Respondent shall provide the Complainant with only positive references of his job performance from October 4, 1978 to November 21, 1978, and shall contact and rescind any negative job references that have been given to any inquiring employer. Such rescission shall be subject to Complainant's approval, and shall be monitored by the Commission or its designee.
7. The Commission shall monitor the employment practices of the Bay View Board of Directors relating to the Bay View Community Center for the next three years.

#### **EXAMINER'S OPINION**

Complainant appeared in person at the scheduled hearing. Respondent failed to appear. Pursuant to Madison Equal Opportunities Commission Rule 9.4, the Complainant was permitted an opportunity to present a prima facie case of discrimination. Complainant did so, and the Recommended Findings, Conclusions, and Order have been entered accordingly.

Signed and dated this 5th day of September, 1980.

/s/ Allen T. Lawent  
Allen T. Lawent  
Hearing Examiner