

March 13, 2025

Re: Non-Discrimination in Public Spaces & Persons Experiencing Homelessness

Dear Illinois local public officials:

As a valued government partner, this letter is being transmitted to provide you with guidance, analysis, and resources following the recent U.S. Supreme Court opinion addressing laws that regulate camping and other sleeping activities on public property.¹ The majority of localities have not changed their approach of providing care and compassion to people experiencing homelessness. Unfortunately, several units of local government have enacted or are considering enacting ordinances that may unduly restrict access to public spaces by creating penalties, fines and, in some instances, providing for the incarceration of persons experiencing homelessness. The information below serves to remind local public officials that Illinois law requires the administration of access to public spaces in a non-discriminatory manner, including to persons who may be seeking shelter. It is our collective responsibility to avoid any discriminatory infringement of these rights in violation of the Illinois Human Rights Act, the Illinois Civil Rights Act of 2003, and the Bill of Rights for the Homeless Act.²

We understand that local public officials face difficult challenges in responding to the needs of persons experiencing homelessness within their jurisdictions. While you have a responsibility to ensure public health and safety, you must do so in a way that protects the right to access public spaces in a nondiscriminatory manner. This can be accomplished by working collaboratively with local, state and federal agencies (especially social service agencies), non-governmental organizations, and public safety agencies. Persons experiencing homelessness are often targeted for discrimination, harassment, and violence and local public officials should exercise caution before penalizing or excluding persons from public spaces, including those who rely on access to those spaces for their survival.

As local public officials responsible for ensuring nondiscriminatory access to Illinois public spaces, we share the following obligations that govern the execution of your responsibilities and duties:

- **Bill of Rights for the Homeless Act (BRHA) protections.** Under the BRHA, persons experiencing homelessness have the right to equal treatment by all State and municipal agencies, without discrimination on the basis of housing status. Persons experiencing homelessness have the right to use and move freely in public spaces, including but not limited to public sidewalks, public parks, public transportation, and public buildings, in the same manner as any other person and without discrimination on the basis of their housing status. Persons experiencing homelessness also have the right to a reasonable expectation of privacy in their personal property.³
- **Illinois civil rights statutory protections.** Under the Illinois Human Rights Act (IHRA), no person may deprive another of the full and equal enjoyment of a place of public accommodation based

¹ See *City of Grants Pass, Oregon v. Gloria Johnson, et al.*, 603 U.S. ___ (June 28, 2024) (hereinafter, “*Grants Pass*”).

² 775 ILCS 5/5-101 *et seq.*, 740 ILCS 23/1 *et seq.*, 775 ILCS 45/1 *et seq.*, respectively.

³ 775 ILCS 45/10.

on actual or perceived protected characteristics. A Public Official is specifically prohibited from denying or refusing the full and equal enjoyment of facilities and services under their care. Protected characteristics under the IHRA include military status, disability (physical or mental), order of protection status, sexual orientation (including gender identity), race, and color, just to name a few.⁴ The Illinois Civil Rights Act of 2003 (ICRA) also prohibits local and county governments from discriminating against any person based on race, color, national origin, or gender, and from adopting policies whose criteria or methods of administration have the effect of subjecting individuals to discrimination based on those characteristics.⁵

Ordinances that target persons experiencing homelessness for unequal treatment may have the effect of imposing unjustified harms based on protected characteristics under the ICRA or IHRA. For example, Black Illinois residents are almost eight times more likely to be homeless than white Illinois residents, a racial disproportionality that is double the national rate.⁶ People experiencing homelessness may also be disproportionately likely to be veterans,⁷ have a disability,⁸ or be survivors of domestic violence protected by an order of protection⁹ – all protected characteristics under the IHRA. Units of local government should take care to ensure that their ordinances are not enforced in a manner that imposes unjustified disproportionate harm on vulnerable populations.

- **Constitutional protections.** Public officials may not infringe on the constitutional rights of those who seek to use public spaces by, for example, denying equal protection, due process, or First Amendment rights to indigent persons or persons experiencing homelessness. As the Supreme Court observed in *Grants Pass*, regulations on homelessness may not infringe on these fundamental constitutional rights.¹⁰ For instance, the Supreme Court observed that a city that selectively enforces a public-camping ordinance only against homeless persons may be vulnerable to legal challenges under “due process and our precedents regarding selective prosecution.”¹¹
- **Reporting discrimination in public spaces.** Anyone who encounters discrimination, harassment, retaliation, or other civil rights violations in connection with their use of public accommodations (public spaces), may report the incident(s) to the Illinois Department of Human Rights (IDHR) or the Civil Rights Bureau of the Office of the Illinois Attorney General (OAG).
 - IDHR can be reached by calling (877) 236-7703, by *TTY to 7-1-1, by email to IDHR.Intake@illinois.gov, or by visiting IDHR online at dhr.illinois.gov.
 - OAG can be reached at (877) 581-3692, by email to CivilRights@ilag.gov, or by visiting OAG online at IllinoisAttorneyGeneral.gov.

⁴ See 775 ILCS 5/5-101 for the full definition of public accommodations and public officials covered by the IHRA.

⁵ 740 ILCS 23/5.

⁶ See Iván Arenas, William Scarborough, Aïsha Lehmann, Karlia Brown, and Amanda E. Lewis, Institute for Research on Race and Public Policy (IRRPP), University of Illinois Chicago, *Black Homelessness in Illinois: Structural Drivers of Inequality at 1* (March 2024), available at <https://uofi.app.box.com/s/owosqr7f4pp3y5csxx4cszymwtk0n1gs>.

⁷ See U.S. Department of Housing and Urban Development (HUD), *The 2023 Annual Homelessness Assessment Report (AHAR) to Congress at 66* (Dec. 2023), available at <https://www.huduser.gov/portal/sites/default/files/pdf/2023-AHAR-Part-1.pdf>.

⁸ See *Grants Pass* at 2.

⁹ *Id.*

¹⁰ *Grants Pass* at 15.

¹¹ *Id.* at 21, fn. 5.

- **Technical assistance for local public officials.** Local Public Officials in need of technical assistance in connection with the lawful administration of places of public accommodations (public spaces) may contact IDHR or the OAG for assistance.
 - **IDHR.** The IDHR Attorney of the Day can be reached by calling (312) 814-6262, by email to IDHR.Legal@illinois.gov, or by visiting IDHR online at dhr.illinois.gov.
 - **OAG.** The Civil Rights Bureau of the Office of the Attorney General (OAG) can be reached by calling (877) 581-3692, by email to civilrights@ilag.gov, or by visiting OAG online at illinoisattorneygeneral.gov.
 - **OPEH.** The Office to Prevent & End Homelessness (OPEH) is available to provide technical assistance and other guidance to partners across the State. Please contact OPEH by email to homeless.office@illinois.gov, or by calling (312) 793-2922 for general questions and technical assistance.

Local public officials should be mindful of the broad protections under the BRHA, Illinois civil rights statutes, and the Constitution when considering ordinances that unduly restrict, create penalties/fines, or provide for incarceration of persons experiencing homelessness for seeking shelter in public spaces. Enacting and enforcing ordinances that interfere with the rights of persons experiencing homelessness to access public spaces may give rise to legal action.¹² Public officials are reminded that the IHRA prohibits retaliation against a person for complaining about discrimination or harassment, and prohibits the aiding, abetting, compelling, or coercing of a person to commit a violation of the IHRA – such conduct may also give rise to legal action.¹³

In Illinois, the commitment to safeguarding the civil rights of persons experiencing homelessness and the law governing access to public spaces is settled: health and safety in, and nondiscriminatory access to, Illinois public spaces is a right for all, and in certain circumstances a necessity.

Together, State and local governmental leaders work to ensure our communities are served and supported. We appreciate your commitment to upholding the laws of our State, including the Illinois Human Rights Act, Illinois Civil Rights Act of 2003, and Bill of Rights for the Homeless Act. Our respective offices remain available to you as vital resources in our shared effort to ensure public health and safety and protect the civil rights of persons experiencing homelessness.

Respectfully,

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¹² 775 ILCS 5/5-101 *et seq.*

¹³ 775 ILCS 5/6-101.