

VERMONT SUPERIOR COURT  
STATE OF VERMONT

CIVIL DIVISION

CALEDONIA COUNTY

|  |   |                          |
|--|---|--------------------------|
| Katherine Baker and Ming-Lien Linsley,   | ) |                          |
| Plaintiffs,                              | ) |                          |
| and                                      | ) |                          |
| Vermont Human Rights Commission,         | ) | Docket No. 187-7-11 Cacv |
| Intervenor-Plaintiff                     | ) |                          |
|  | ) |                          |
| v.                                       | ) |                          |
|  | ) |                          |
| Wildflower Inn a/k/a DOR Associates LLP, | ) |                          |
| Defendant                                | ) |                          |

Intervenor Complaint of Vermont Human Rights Commission

***Parties***

1. Plaintiffs Katherine Baker and Ming-Lien Linsley are residents of Kings County, New York.
2. Plaintiff-Intervenor Vermont Human Rights Commission is an agency of the State of Vermont, and is headquartered in Montpelier, Vermont.
3. Defendant Wildflower Inn is the trade name for a business located at 2059 Darling Hill Road, Lyndonville, VT 05851. The Wildflower Inn trade name is registered with the Vermont Secretary of State under file number 0126546
4. DOR Associates LLP is a limited liability partnership located at 2059 Darling Hill Road, Lyndonville, VT 05851. DOR Associates LLP owns and operates the inn located at that address. DOR Associates LLP is registered with the Vermont Secretary of State under the file number 0000250.
5. The Partners of DOR Associates LLP are James P. O'Reilly, Mary O'Reilly, and

Richard J. Downing.

6. Richard J. Downing also owns the Stepping Stone Spa and Wellness Center ("the Stepping Stone Spa"), which is located adjacent to the Wildflower Inn.
7. On information and belief, the Wildflower Inn and the Stepping Stone Spa are situated on land owned by Richard J. Downing.

#### ***Jurisdiction and Venue***

8. This Court has jurisdiction under 9 V.S.A. § 4506 to redress violations of the Fair Housing and Public Accommodations Act.
9. Venue is proper in this Court pursuant to 9 V.S.A. § 4506(a) and 12 V.S.A. § 402(a) because Defendant is located in Caledonia County, Vermont, and the violations of the Fair Housing and Public Accommodations Act occurred there.

#### ***Powers of the Human Rights Commission***

10. Pursuant to 9 V.S.A. § 4506(c), the Commission may bring an action in the name of the Commission to enforce the provisions of Fair Housing and Public Accommodations Act in accordance with its powers established in chapter 9 V.S.A. §§ 4551, §§ *et seq.*
11. Pursuant to 9 V.S.A. § 4553(a)(6)(A)(i), the Commission has the power to bring an action seeking a temporary or permanent injunctive relief in the public interest.
12. Pursuant to 9 V.S.A. § 4553(a)(6)(A)(ii), the Commission has the power to bring an action seeking the imposition of civil fines and penalties of not more than \$10,000.00 for each violation of law.
13. Pursuant to 9 V.S.A. § 4553(a)(6)(A)(ii), the Commission has the power to recover costs and reasonable attorney's fees associated with the investigation and enforcement of actions.

### ***Facts***

14. HRC incorporates by reference all the allegations in Plaintiffs' Second Amended Complaint as well as the following additional allegations.
15. Since at least 2005, the Wildflower Inn has a longstanding policy and practice of discriminating against same-sex couples who seek to hold their wedding or civil union receptions at the facilities.
16. The Wildflower Inn has implemented its policy by explicitly refusing service to same-sex couples and by discouraging same-sex couples through a variety of means, including but not limited to telling such couples that the Wildflower Inn is not looking for their business, telling such couples that they are not wanted at the facility, telling such couples they should hold their reception elsewhere, telling such couples that the Wildflower Inn will not be able to provide them with equal services that a heterosexual couple would receive, and refusing to return e-mails or phone calls from such same-sex couples.
17. During an 11-month period in 2010 and 2011, the Wildflower Inn discriminated against at least six different same-sex couples who sought to have wedding or civil union receptions at the facility.
18. The Wildflower Inn has never held a same-sex wedding or civil union reception at the facility.
19. Such discrimination is illegal regardless of whether the Wildflower Inn or its agent implements the discrimination by explicitly refusing service or through a policy of discriminatory discouragement.
20. Without a permanent injunction from this Court, the Wildflower Inn intends to continue its policy and practice of discriminatory discouragement of same-sex

couples under the theory that such discrimination is legal so long as it is not accompanied by an explicit refusal of service.

***Cause of Action: Violation of Fair Housing and Public Accommodations Act***

21. HRC reasserts and incorporates by reference all the preceding paragraphs of this Complaint.

22. Since 1992, Vermont law has prohibited public accommodations from refusing to provide goods and services based on a person's sexual orientation. See An Act Relating to Discrimination on the Basis of Sexual Orientation, 1991, No. 135 (Adj. Sess.), § 2.

23. Under Vermont law, a "place of public accommodation" is "any school, restaurant, store, establishment or other facility at which services, facilities, goods, privileges, advantages, benefits or accommodations are offered to the general public." 9 V.S.A. § 4501(a).

24. The Wildflower Inn is a public accommodation under § 4501(a).

25. Under Vermont law, "[a]n owner or operator of a place of public accommodation or an agent or employee of such owner or operator shall not, because of the race, creed, color, national origin, marital status, sex, sexual orientation, or gender identity of any person, refuse, withhold from, or deny to that person any of the accommodations, advantages, facilities, and privileges of the place of public accommodation." 9 V.S.A. § 4502(a).

26. The Wildflower Inn has a longstanding policy of refusing, withholding from, and denying the "accommodations, advantages, facilities, and privileges of a place of

public accommodation” to same-sex couples who seek to have wedding or receptions at the facility on account of the couples’ sexual orientation.

27. The Wildflower Inn has refused, withheld from, or denied same-sex couples the accommodations, advantages, facilities, and privileges of the place of public accommodation through a variety of means, including but not limited to telling such couples that the Wildflower Inn is not looking for their business, telling such couples that they are not wanted at the facility, telling such couples they should hold their reception elsewhere, telling such couples that the Wildflower Inn will not be able to provide them with equal services that a heterosexual couple would receive, and refusing to return e-mails or phone calls from such same-sex couples.
28. The Vermont Legislature created two narrow exemptions to the public accommodations statute that apply to (a) hotels with five or fewer rooms and (b) religious organizations. The Wildflower Inn does not qualify for either of these exemptions.
29. The Wildflower Inn does not qualify for the statutory exemption in 9 V.S.A. § 4502(d). That section allows the owner or operator of “an inn, hotel, motel or other establishment which provides lodging to transient guests, and which has five or fewer rooms for rent” to “restrict[] such accommodation on the basis of sex or marital status.” The exemption in § 4502(d) does not apply because the Wildflower Inn has more than five rooms for rent and because plaintiffs were discriminated against on account of sexual orientation.
30. The Wildflower Inn does not qualify for the statutory exemption in § 4502(l). That section allows “a religious organization, association, or society, or any nonprofit

institution or organization operated, supervised, or controlled by or in conjunction with a religious organization” to discriminate against persons seeking goods or services “related to the solemnization of a marriage or celebration of a marriage.” Section 4502(l) does not apply because the Wildflower Inn is not a religious organization or a non-profit institution that is operated, supervised, or controlled by or in conjunction with a religious organization. To the contrary, the Wildflower Inn is a privately owned, for-profit, multi-million-dollar business.

31. On information and belief, although the Wildflower Inn asserts that it does not have a “no gay receptions” policy, Defendant intends to continue evading the requirements of the Fair Housing and Public Accommodations Act by, among other things, telling such couples that the Wildflower Inn is not looking for their business, telling such couples that they are not wanted at the facility, telling such couples they should hold their reception elsewhere, telling such couples that the Wildflower Inn will not be able to provide them with equal services that a heterosexual couple would receive, and refusing to return e-mails or phone calls from such same-sex couples.

### ***Request for Relief***

Wherefore, Plaintiff-Intervenor the Vermont Human Rights Commission respectfully requests the following relief:

- A. A declaration that the Fair Housing and Public Accommodations Act, 9 V.S.A. §§ 4500, *et seq.*, prohibits Defendant from discriminating against same-sex couples by, among other things, telling such couples that the Wildflower Inn is not looking for their business, telling such couples that they are not wanted at the facility,


telling such couples they should hold their reception elsewhere, telling such couples that the Wildflower Inn will not be able to provide them with equal services that a heterosexual couple would receive, and refusing to return e-mails or phone calls from such same-sex couples.

- B. Pursuant to 9 V.S.A. § 4553(a)(6)(A)(i), an injunction in the public interest prohibiting Defendant from enforcing its policy and practice of discriminating against same-sex couples by, among other things, telling such couples that the Wildflower Inn is not looking for their business, telling such couples that they are not wanted at the facility, telling such couples they should hold their reception elsewhere, telling such couples that the Wildflower Inn will not be able to provide them with equal services that a heterosexual couple would receive, and refusing to return e-mails or phone calls from such same-sex couples.
- C. Pursuant to 9 V.S.A. § 4553(a)(6)(A)(ii), civil penalties not to exceed \$10,000.00 per violation;
- D. An order mandating that Defendant pay the HRC's reasonable costs and attorneys' fees pursuant to 9 V.S.A. § 4506(b); and
- E. Any additional relief that the Court deems just and appropriate.

Dated at Montpelier, Vermont this 22nd day of February, 2012.

VERMONT HUMAN RIGHTS COMMISSION

By:

  
\_\_\_\_\_  
Robert Appel, Its Attorney  
Vermont Human Rights Commission  
14-16 Baldwin Street  
Montpelier, VT 05633-6301  
(802) 828-2482