

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

<p>Cynthia J. Ulsrud 10 Glen Highway Madison, WI 53705</p> <p style="text-align: center;">Complainant</p> <p style="text-align: center;">vs.</p> <p>Peter Tiboris, Instructor Madison Area Technical College 211 North Carroll Street Madison, WI 53703</p> <p style="text-align: center;">Respondent</p>	<p>FINDING OF FACT CONCLUSIONS OF LAW FINAL ORDER</p> <p>Case No. 3038</p>
---	--

Complainant in the above mentioned matter filed a complaint with the Equal Opportunities Commission on September 29, 1975, alleging that Respondent discriminated against her on the basis on sex in violation of Section 3.23 of the Madison General Ordinances. The Commission, after conducting an investigation, issued on March 23, 1976 an Initial Determination that there was probable cause to believe that Respondent had violated the Ordinance. Conciliation attempts were unsuccessful.

Pursuant to an appeal by Respondent, a notice of hearing was issued on June 1, 1976. The hearing on this matter was scheduled for August 25, 1976 at 351 West Wilson Street, Madison, Wisconsin at 2:00 p.m. The Commission received a letter from Respondent's attorney, Donald D. Johnson, dated August 24, 1976, indicating that there would be no appearance at the scheduled hearing by anyone representing the Respondent in this matter. At 2:00 p.m. on that day the Complainant appeared in person and by her attorney, Robert A. Ramsdall. There were no appearances by anyone representing the Respondent. At 2:20 p.m., after allowing sufficient time for the Respondent to appear, the hearing was commenced. No one appeared for the Respondent at any time on that day.

The Hearing Examiner was James D. Yeadon.

Recommended Findings of Fact, Recommended Conclusions of Law, and Recommended Order were entered on September 9, 1976 wherein it was determined that Respondent discriminated against Complainant on the basis of sex in violation of Section 3.23 of the Madison General Ordinances.

That part of the complaint alleging discrimination in regard to City Facilities was dismissed for lack of jurisdiction.

On September 24, 1976 Respondent filed written exceptions to Recommended Findings of Fact number one through eighteen and Recommended Conclusions of Law numbers seven and eight. Also Respondent took exception to all of the Recommended Order.

A review hearing was held on November 11, 1976 after the Respondent appealed the Recommended Findings, Conclusions and Order.

Commissioners present for the hearing were: Baum, Crawford, Elvord, Goldstein, Kelley, Mita, Shivers and Zimmerman.

Neither Respondent nor anyone representing them appeared at the Review Hearing.

Therefore no oral arguments were heard to uphold the stated exceptions of Respondent.

The Complainant and Counsel were present and prepared to argue their position.

Based upon the aforementioned Recommended Findings of Fact, Conclusions of Law and Recommended Order, the Commission makes the following final order.

The Equal Opportunities Commission affirms in its entirety the Recommended Findings of Fact, Recommended Conclusions of Law and Recommended Order of the Hearing Examiner and makes them final Findings of Fact, Conclusions of Law and Order.

Dated at Madison, Wisconsin this 18th day of January, 1977.

/S/ John Chico Hilton

John Chico Hilton  
President, EOC

---

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

<p>Cynthia J. Ulsrud 10 Glen Highway Madison, WI 53705</p> <p style="text-align: center;">Complainant</p> <p style="text-align: center;">vs.</p> <p>Peter Tiboris, Instructor Madison Area Technical College 211 North Carroll Street Madison, WI 53703</p> <p style="text-align: center;">Respondent</p>	<p>RECOMMENDED FINDINGS OF FACT RECOMMENDED CONCLUSIONS OF LAW RECOMMENDED ORDER</p> <p>Case No. 3038</p>
---	---

Complainant in the above mentioned matter filed a complaint with the Equal Opportunities Commission on September 29, 1975, alleging that Respondent discriminated against her on the basis of sex in violation of Section 3.23 of the Madison General Ordinances. The Commission, after conducting an investigation, issued on March 23, 1976 an Initial Determination that there was probable cause to believe that Respondent had violated the Ordinance. Conciliation attempts were unsuccessful.

Pursuant to an appeal by Respondent, a notice of hearing was issued on June 1, 1976. The hearing on this matter was scheduled for August 25, 1976 at 351 West Wilson Street, Madison, Wisconsin at 2:00 p.m. The Commission received a letter from Respondent's attorney, Donald D. Johnson, dated August 24, 1976, indicating that there would be no appearance at the scheduled hearing by anyone representing the Respondent in this matter. At 2:00 p.m. on that day the Complainant appeared in person and by her attorney, Robert A. Ramsdell. There were no appearances by anyone representing the Respondent. At 2:20 p.m., after allowing sufficient time for the Respondent to appear, the hearing was commenced. No one appeared for the Respondent at any time on that day.

The Hearing Examiner was James D. Yeadon.

Based upon the evidence received at the hearing and the record and file in this case, the Hearing Examiner makes the following:

### **RECOMMENDED FINDINGS OF FACT**

1. Complainant, Cynthia J. Ulsrud, is a female.
2. On August 19, 1975, and subsequent to that time, Complainant did seek out to become a drummer of the New College Singers, a Madison Area Technical College (MATC) group under the direction of Peter Tiboris.
3. In early June, 1975, Mr. Larry Davidson, a former MATC student, agreed upon a request from Mr. Tiboris to be the 1975-76 drummer for the New College Singers group.
4. In mid-August, 1975, Complainant auditioned with Mr. Peronto to be a drummer for the MATC Jass Ensemble. Ms. Ulsrud was not chosen for that position.
5. On August 19, 1975, Complainant requested an audition with Mr. Tiboris. She was told the drummer's position for the New College Singers had been filled by Larry Davidson.
6. In mid-September, 1975, Mr. Davidson did contact Mr. Tiboris and informed him he would not be able to perform with the New College Singers due to personal reasons.
7. Mr. Tiboris contacted various resources requesting names of qualified drummers/percussionists. Names of various male drummers were referred to him.
8. Complainant's name was not considered for the position at that time.
9. In his letter to Mr. Norman Mitby dated October 7, 1975, Mr. Tiboris stated: "Cynthia Ulsrud's performance as a potential drummer with the New College Singers had unintentionally been forgotten by Mr. Peronto and myself in the pressure of securing a new drummer in a very short time period."
10. Respondent, sometime in September of 1975, told the Complainant that the position of drummer which Complainant desired was already filled. This statement was untrue at the time it was made.
11. Mr. Steve Schultheis (See I. in Investigator's Report) stated the following in an affidavit dated the 28th day of January, 1976: "After the above audition was completed your affiant left the auditorium stage and engaged Miss Ulsrud in a conversation, this conversation taking place in the hallway outside Mr. Tiboris' office and in Mr. Tiboris' office. Your affiant spoke with Miss Ulsrud regarding the position of percussionist and drum set performer with the New College Singers Orchestra and how these positions would relate to Miss Ulsrud. Mr. Tiboris was not present at this conversation between your affiant and Miss Ulsrud. Miss Ulsrud departed with the unknown female Caucasian and your affiant returned to the auditorium where he engaged in a conversation with Mr. Tiboris. Mr. Tiboris inquired about your affiant's opinion of Miss Ulsrud's musical ability and skills. Your affiant advised Mr. Tiboris that your affiant had performed with Miss Ulsrud in high school. Your affiant did not know if Miss Ulsrud would be able to handle the drum set parts on a regular basis, however your affiant informed Mr. Tiboris

that Miss Ulsrud could fill in if somebody could not make it or in case of illness. Your affiant thought she could handle the percussion as they would not be quite as difficult and she was more trained as a percussionist rather than a drum set player. Mr. Tiboris made the following statement to your affiant, in approximately the following language: 'That may be fine, but as far as a girl drummer goes, I'm a sexist in that regard and I don't want a girl playing drums.' Your affiant shrugged his shoulders and responded 'Oh.'"

He also stated: "At approximately the same time of the month, as set forth in paragraph 7, Mr. Tiboris also indicated in a conversation regarding Miss Ulsrud, that he did not desire Miss Ulsrud's services because she was overweight. Your affiant does not recall the exact time and place of this conversation but only the substance of it.

12. The present breakdown of the instrumentalists by sex and instrument they play is as follows:

Female - Keyboards

Female - Flute

Female - French Horn

Female - French Horn

Female - French Horn

Male - Drums

Male - Trumpet

Male - Trumpet

Male - Trombone

Male - Guitar

Male - Bass Guitar

Male - Saxophone

13. Complainant has had experience working as a drummer with a commercial group as well as with the Memorial High School Music Department.
14. Complainant could have adequately fulfilled the position of drummer/percussionist.
15. Respondent did select a male, Tony Mazzara, as drummer/percussionist for the New College Singers.
16. Respondent was acting in an official capacity as the Director of the New College Singers for the Madison Area Technical College.
17. Proper and timely notice of the hearing on this matter was sent to all parties and their attorneys.
18. Respondent failed to appear in person or by any representative at the hearing on this matter.
19. MATC holds out its accommodations, facilities and services to be open to the common and general use, participation and enjoyment of the public.
20. MATC is not owned by nor are its services rendered by the City of Madison.

Based upon the foregoing Recommended Findings of Fact, the Hearing Examiner makes the following:

### **RECOMMENDED CONCLUSIONS OF LAW**

1. Complainant, a female, is a member of a protected class under Section 3.23 of the Madison General Ordinances.
2. Respondent acted as agent for Madison Area Technical College at the time he interacted with Complainant in regard to the matter of her playing as drummer/percussionist for the New College Singers.
3. MATC is a Public Accommodation as defined by Section 3.23 of the Madison General Ordinances.
4. MATC is not a City Facility as defined by Section 3.23 of the Madison General Ordinances.
5. Complainant applied for the position as drummer/percussionist with the New College Singers in the fall semester of 1975.
6. Respondent did select a male to fill the position of drummer/percussionist for the New College Singers.
7. Respondent, in person and as agent for MATC, denied the Complainant the position as drummer/percussionist on the basis of sex in violation of Section 3.23 of the Madison General Ordinances.
8. Respondent and MATC defaulted in this case by failing to appear at the scheduled hearing on this matter.

Based on the foregoing Recommended Findings of Fact and Conclusions of Law, the Hearing Examiner makes the following:

#### **RECOMMENDED ORDER**

1. That part of the Complaint filed by Cynthia J. Ulsrud alleging discrimination on the basis of sex in regard to City Facilities is hereby dismissed for lack of jurisdiction.
2. The Complainant shall be allowed to audition for any musical groups at MATC, including the New College Singers, for each and every term in which she is enrolled at MATC.
3. Complainant shall be given reasonable notice in writing of every opening in a drummer/percussionist position with the New College Singers occurring while she is enrolled at MATC and she shall be given a fair chance to audition for such position. She shall be allowed the accompaniment of any representative or representatives of her choice at such audition. Any and all audition scores shall remain available for inspection by Complainant, her attorney, or the EOC.
4. Complainant shall be allowed to review and/or respond to all documents in her school file at MATC which relate to this incident.
5. Respondent shall pay all reasonable attorney's fees plus all costs and disbursement incurred by Complainant in processing this case.
6. Respondent shall recruit musicians to fill positions regardless of sex or any other protected class under the Section 3.23 of the Madison General Ordinances.

Dated at Madison, Wisconsin this 9th day of September, 1976.

/s/ James D. Yeadon  
James D. Yeadon  
Hearing Examiner

---

**EQUAL OPPORTUNITIES COMMISSION  
351 WEST WILSON STREET  
MADISON, WISCONSIN 53703**

---

Cynthia J. Ulsrud  
10 Glen Highway  
Madison, WI 53705

Complainant

vs.

Peter Tiboris, Instructor  
Madison Area Technical College  
211 North Carroll Street  
Madison, WI 53703

Respondent

SUMMARY OF PROCEEDINGS OF  
HEARING

Case No. 3038

APPEARANCES

For Complainant: Robert A. Ramsdell

For Respondent: None

WITNESSES

For Complainant: Steve Schultheis Robert Cameron Monschein Gladys Corbit

For Respondent: None

Hearing Examiner Note to the Record

This hearing was scheduled for August 25, 1976, starting at 2:00 p.m. in, the EOC Conference Room 101, at 351 West Wilson Street, Madison Wisconsin.

The file on this case reflects that timely and adequate notice of this hearing was sent to all parties and their attorneys on June 1, 1976.

It is noted for the record that the Commission received a letter from Respondent's attorney, Donald D. Johnson, dated August 24, 1975 indicating that there would be no appearance at the scheduled hearing by anyone representing the Respondent in this matter.

It is noted for the record that the opening of the hearing was delayed until 2:20 p.m. on that date to give Respondent adequate time to appear.

It is noted for the record that no one representing the Respondent did in fact appear at the hearing at any time that day.

Complainant, through her attorney Robert A. Ramsdall, indicated that she wanted to present some evidence for the record since two witnesses were there under subpoena.

The following evidence was accepted for the record.

**EXHIBITS**

1. Complainant's Exhibit No. 1: Document entitled "Cynthia L. Ulsrud vs. Peter E. Tiboris and Madison Area Technical College. Affidavit, Case #3038," signed by Steven Schultheis on January 22, 1976.
2. Complainant's Exhibit No. 2: Document entitled "Investigator's Report, Equal Opportunities Commission, City of Madison, Case #3038," signed by Gladys Benavides Corbit, Investigator, on March 23, 1976.
3. Complainant's Exhibit No. 3: Document entitled "Initial Determination, Case #3038," signed by Gladys Benavides Corbit, Investigator, on March 23, 1976.

### WITNESSES

All direct Examination by Robert A. Ramsdell

- STEVEN SCHULTHEIS

Concerning Complainant's Exhibit No. 1:

I signed and swore to this affidavit on January 22, 1976 before a Notary Public. I reviewed each and every paragraph and the contents therein prior to signing this affidavit. To the best of my knowledge and belief the statements contained therein were true and correct. They are still true and correct today.

- ROBERT CAMERON MONSCHEIM

I am a musician. I have for the past five years been composer-in-residence at the Film Media Center at the University of Wisconsin, writing film music. This is my third year of involvement as an arranger and band director with the New College Singers. I have been playing with various types of musical organizations in Madison and around the Midwest for the last fifteen years. I play keyboards, electric bass, trombone, and flute. My major thrust in music is composing and arranging. New College Singers is a show choir at the Madison Area Technical College (MATC) which has for the past four years been under the direction of Peter E. Tiboris. I worked for him for the last two years.

In the fall semester of 1975 I was not involved with the New College Singers until December when I played four performances with them.

I know that Larry Davidson was supposed to play the trap drum set with the New College Singers that fall but that he never did play with them.

I recall several conversations between the Complainant, Cindy Ulsrud, and Mr. Tiboris regarding Cindy's desire to be the drummer for New College Singers in September 1975. In one such conversation I was in the hall outside Peter Tiboris' office at MATC talking with Robert Bittner, Secretary of The Musician's Union. I heard Mr. Tiboris and Cindy talking and recall Mr. Tiboris telling Ms. Ulsrud that the New College Singers already had a drummer. I do not remember how I knew it at the time, but I did know this to be a false statement when it was made.

Tony Mazzara took the position as drummer. I auditioned Cindy Ulsrud and have heard her play drums. Comparing the two (Mazzara and Ulsrud) in my opinion, without question, Ms. Ulsrud is the better drummer. Cindy could have adequately filled the position of drummer with the New College Singers.

C. GLADYS BENAVIDES CORBIT, EOC INVESTIGATOR

I am a licensed investigator for the Equal Opportunities Commission. I investigated this case being heard today. I made an Investigator's Report and an Initial Determination in this case.

1. In regards to Complainant's Exhibit No. 2:

I drafted the document. To the best of my knowledge and belief the facts contained therein are true. I signed it March 23, 1976.

2. In regards to Complainant's Exhibit No. 3:

I signed the document. The facts contained therein are true to the best of my knowledge and belief. I signed it also on March 23, 1976.

I know from my own knowledge that a male person filled the position as drummer for the New College Singers during the fall semester of 1975. Tony Mazzara is a male.

Hearing concluded.