



ERIE COUNTY LEGISLATURE

HON. JOSEPH C. LORIGO
10TH DISTRICT LEGISLATOR
MINORITY LEADER

January 23, 2019

Erie County Legislature
Old County Hall
92 Franklin Street – 4th Floor
Buffalo, New York 14202

Dear Honorable Members of the Erie County Legislature:

I do not write this letter to spotlight any of the individuals referenced herein; the judicial system will address whether they have committed the acts of which they are accused. Instead, I write everyone today to ask that we examine county policy and procedures to address what appears to be a disturbing pattern of discrimination that may exist within Erie County government.

As many of us are aware, an African-American employee in the Department of Public Works brought an internal complaint of racial discrimination to the Erie County Equal Employment Office (EEO) in August, 2013.

This employee has alleged that Erie County discriminated against him because of his race, and retaliated against him for exercising his rights under Title VII. He also felt so strongly that the Erie County EEO was not only improperly addressing his complaint, but also participating in retaliation against him for bringing the complaint forward, that he filed a complaint with the U.S. Equal Employment Opportunity Commission.

After a thorough investigation, the U.S. Equal Employment Opportunity Commission (USEEO) issued its ruling on April 28, 2015. That ruling held:

“...reasonable cause exists to believe that Charging Party was mistreated because of his race; and in retaliation for having complained about race discrimination he was monitored and disciplined, in violation of Title VII of the Civil Rights Act of 1964, as amended.”

As you can see, the USEEO determined that Erie County may not only have discriminated against this employee, but also retaliated against him for bringing forth a complaint.

Following the USEEO ruling, a claim was filed against Erie County in United States District Court on December 30, 2015 concerning this alleged discrimination and retaliation (*David Reid, Michael Palmeri and David Ricotta vs County of Erie; Civil Action No. 1:15-CV-1078A*). This complaint appeared in a list of claims against the county that was delivered to the Legislature on February 22, 2016 by the County Attorney's office. It can be found on page 33 of Communication 5D 7, 2016. It is my understanding the claim was to be heard in federal court in early December, 2018, but has been moved to spring, 2019.

While Mr. Reid's claims are only allegations at this point, the USEEO found those claims to have merit. Racial discrimination is completely unacceptable, and when a ruling such as this from the USEEO occurs regarding occurrences happening in Erie County government, it is our job as legislators to take action before it becomes widespread. Unfortunately, the problem may already be pervasive. According to the LeMire Law Firm written report^[1],

“According to Mr. Burnette, Dr. Dirschberger sought to identify areas of employee concerns, such as the perceived lack of diversity in the CPS workforce, in part because minority employees complained of racial discrimination. Mr. Burnette stated that the number of these complaints was “alarming” and, therefore, he discussed the matter with Commissioner Palmer and Dr. Dirschberger.

According to Mr. Reid's complaint and the USEEO ruling, the allegations of retaliation and discrimination not only involve the District Attorney's office (under a previous District Attorney), but also our own EEO, and current Erie County Parks Commissioner, Daniel Rizzo.

County Executive Poloncarz nominated Mr. Rizzo for his current position as Parks Commissioner on December 2, 2015 (*Comm. 24E-14*). This nomination occurred **after** the USEEO made its ruling against Erie County. At no time during the nomination process were legislators given appropriate information regarding this claim and determination by the USEEO. We were not given information by the administration, the Erie County Equal Employment Opportunity Office, or Mr. Rizzo, himself.

Again, these are allegations to be determined by a federal court, but the purpose of the nomination process and confirmation hearings of department heads is for us, as legislators, to vet potential appointments and address any issues that may exist. These allegations should have been brought to our attention, so that we had opportunity to address them with Mr. Rizzo. The Erie County EEO and the County Executive failed to make the Legislature aware of this determination during the nomination process when they were already aware of it.

Recently, I met with two women who are concerned about discrimination in our Department of Social Services. One woman is a current employee and the other is a former employee. Each of these women described situations of discrimination that they believe exist. They believe there is discrimination on the basis of age and race. After meeting with them, it became even more clear that a problem exists within Erie County government and its EEO. Erie County employees should not face discrimination in the workplace. Our EEO should handle all

complaints professionally, and not participate in retaliation or discrimination of its own. The EEO is an important resource for employees to stop harassment or discrimination because of gender, race, religion, and age. They should not be the cause of that discrimination. I respectfully ask that we hold a committee discussion on this topic to determine if the county needs to take additional steps to address this issue.

I appreciate your attention to this matter. I have attached the U.S. Equal Employment Opportunity Commission ruling and the Notice of Claim against Erie County. I look forward to working together to address this important issue.

Sincerely,



Joseph C. Lorigo
Erie County Legislator – Minority Leader

cc:

Erie County Legislators

Mark Poloncarz, Erie County Executive

Jesse Burnette, Director, Erie County Equal Employment Opportunity

David Palmer, Commissioner, Erie County Department of Personnel

^[1] Lemire Law Firm, Final Report Special Counsel, p. 18 (2018)