

THE STATE OF NEW HAMPSHIRE

HILLSBOROUGH, SS
SOUTHERN DIVISION

SUPERIOR COURT

ZHAOCHENG TAN
390 17TH STREET NW, APT. 6060
ATLANTA, GEORGIA 30363

v.

217 NASHUA INNKEEPERS, LLC D/B/A HOMEWOOD SUITES NASHUA
15 TARA BOULEVARD
NASHUA, NEW HAMPSHIRE 03062

COMPLAINT FOR DAMAGES AND INJUNCTIVE RELIEF
Jury Trial Requested

NOW COMES Zhaocheng (“Tony”) Tan and respectfully files this age discrimination lawsuit against 217 Nashua Innkeepers, LLC d/b/a/ Homewood Suites Nashua (hereinafter, “Homewood Suites”) pursuant to New Hampshire’s Law Against Discrimination. *See* RSA 354-A:17. Homewood Suites engages in age discrimination by indiscriminately barring service to adults 18-to-20 years of age in violation of New Hampshire law. On April 22, 2019, Tan, who was 20 years old, was subjected to this policy when Homewood Suites unlawfully denied him a room solely because of his age.

THE PARTIES

1. Plaintiff Zhaocheng (“Tony”) Tan is currently 21 years old and resides in Atlanta Georgia.
2. Defendant 217 Nashua Innkeepers, LLC d/b/a/ Homewood Suites Nashua (hereinafter, “Homewood Suites”) owns and operates Homewood Suites Nashua located at 15 Tara Boulevard in Nashua, New Hampshire.

JURISDICTION AND VENUE

3. The Court has personal jurisdiction over Defendant, as Defendant is an inhabitant of and resides in Nashua, New Hampshire.

4. The Court has subject matter jurisdiction pursuant to RSA 354-A:21-a.

5. Venue in the Southern Division of Hillsborough County Superior Court is proper pursuant to RSA 507:9 because the Defendant is an inhabitant of and resides in Nashua, which is in the Southern Division of Hillsborough County Superior Court.

THE FACTS

6. Tan is a college student attending the Georgia Institute of Technology.

7. Homewood Suites owns and operates a hotel in Nashua, New Hampshire.

8. In the spring of 2019, Tan sought to travel to New Hampshire. While staying in New Hampshire, Tan planned to visit his former high school Phillips Academy and friends in nearby Andover, Massachusetts. Many of the hotels near Andover, Massachusetts would not take adults ages 18-to-20 years old, which caused Tan to look for hotels in southern New Hampshire.

9. In an effort to obtain hotel accommodations for his trip to New Hampshire, Tan identified Homewood Suites in Nashua as a place where he desired to rent a room.

10. Prior to calling Homewood Suites, Tan noticed that Homewood Suites' website contained a written policy stating that its "Minimum Age to Register" is "21." See Exhibit 1 (Homewood Suites Website). As of December 10, 2019, Homewood Suites' website still states that the "Minimum Age to Register" is "21." <https://homewoodsuites3.hilton.com/en/hotels/new-hampshire/homewood-suites-by-hilton-gateway-hills-nashua-ASHNAHW/about/policies.html>.

11. On April 22, 2019 at 5:54 a.m. EST/4:54 a.m. CST, Tan—who was then 20 years old—called Homewood Suites both to secure a hotel room for himself for the dates of May 10-12,

2019, and to ensure that he would be permitted to obtain a room upon his arrival because he was 20 years old. *See Exhibit 2* (call log). Understandably, Tan called in advance because he did not want to book a room only to show up later and have Homewood Suites deny him service due to his age.

12. When the front desk receptionist answered the phone at Homewood Suites, Tan told the receptionist that he was 20 years old.

13. The receptionist responded by stating that the minimum check-in age for Homewood Suites was 21 years old, and that Tan must be 21 years or older to check in to the hotel.

14. From both Homewood Suite's published notice on its website and the receptionist's statements over the phone, Tan understood that he would be and was denied accommodations at the hotel because of his age.

15. Because Homewood Suites denied him accommodations, Tan was forced to make alternative arrangements for his trip. He ultimately booked accommodations through Airbnb in Andover, Massachusetts. *See Exhibit 3* (Delta Flight Arrangements); *Exhibit 4* (Airbnb Reservation). After Tan made this reservation, he learned of a political event held by presidential candidate Andrew Yang on May 11, 2019 in Windham, New Hampshire, and he made plans to attend this event with one of his friends. *See Exhibit 5*. He then attended this event with his friend.

16. Homewood Suites admits that it has a policy of denying accommodations to adults who are 18-to-20 years old. Before the Human Rights Commission, it stated that "it is Homewood Suites' policy to register only those guests who are 21 or older." As Homewood Suites has admitted its policy and practice of age discrimination, the only remaining question is whether such a policy is lawful. It is not.

17. Tan submitted a Charge of Discrimination with the New Hampshire Human Rights Commission on June 4, 2019 pursuant to RSA-A:17 alleging age discrimination. *See Exhibit 6* (June 4, 2019 HRC Complaint). Mr. Tan supplemented his Charge with further support on June 20, 2019 and August 30, 2019.

18. Under RSA 354-A:21-a, I and Administrative Rule Hum 201.01(b)(2)(a), a person aggrieved under RSA 354-A can remove his or her complaint from the Human Rights Commission by filing a civil action in Superior Court after 180 days have elapsed from the timely filing of a complaint before the Commission (here, by December 1, 2019). However, RSA 354-A:21-a, I and Administrative Rule Hum 201.01(b)(2)(c) allow removal of a complaint to Superior Court before 180 days have elapsed from the filing of the complaint if the Commission assents in writing.

19. Accordingly, on October 10, 2019, Tan filed with the Human Rights Commission a request for the Commission's assent to remove the case to Superior Court. As part of this request, Tan stated through counsel: "As this case principally involves a legal question that will ultimately have to be resolved by the Superior Court, Petitioner believes that it would be more efficient and cost effective for the parties and the Commission to remove this case to the Superior Court for resolution of this legal question. As this case principally involves a legal question, Petitioner believes that a complete factual investigation is not needed by the Commission; all needed discovery can be conducted in due course before the Superior Court."

20. On October 21, 2019, Commissioner Harvey Keye of the Human Rights Commission granted Tan's motion to remove the case to Superior Court prior to the 180-day deadline for bringing such a claim. *See Exhibit 7* (HRC Granting Motion for Early Removal).

COUNT ONE
Unlawful Discriminatory Practices Prohibited by RSA 354-A:17

21. All prior paragraphs are incorporated.

22. RSA 354-A:17 states that “[i]t shall be an unlawful discriminatory practice for any person, being the owner, lessee, proprietor, manager, superintendent, agent or employee of any place of public accommodation, because of the age ... of any person, directly or indirectly, to refuse, withhold from or deny to such person any of the accommodations, advantages, facilities or privileges thereof”

23. As the owner of a place of public accommodation, Homewood Suites is subject to RSA 354-A:17, which makes it unlawful for Homewood Suites to refuse, withhold from, or deny accommodations to any person on account of age.

24. Homewood Suites engaged in an unlawful discriminatory practice when it withheld accommodations from Tan on account of his age.

25. As a result of Homewood Suites’ conduct, Tan suffered injury in an amount to be determined at trial, including the violation of his civil right to be free from age discrimination in places of public accommodation.

26. Enhanced compensatory damages should be awarded because the Defendant’s discriminatory conduct was undertaken with willful or reckless disregard of the Plaintiff’s rights under RSA 354-A:17.

COUNT II

Unlawful Publication of Discriminatory Practice Prohibited by RSA 354-A:17

27. All prior paragraphs are incorporated.

28. RSA 354-A:17 states that “[i]t shall be an unlawful discriminatory practice for any person, being the owner, lessee, proprietor, manager, superintendent, agent or employee of any place of public accommodation ... directly or indirectly, to publish, circulate, issue, display, post or mail any written or printed communication, notice or advertisement to the effect that any of the

accommodations, advantages, facilities and privileges of any such place shall be refused, withheld from or denied to any person on account of age”

29. As the owner of a place of public accommodation, Homewood Suites is subject to RSA 354-A:17, which makes it unlawful for Homewood Suites to publish, issue, or display any written communication, notice, or advertisement indicating that any accommodations will be refused, withheld, or denied to any person on account of age.

30. Homewood Suites engaged in an unlawful discriminatory practice when it published (and continues to publish) a notice on its website stating its policy that it will deny service to 18-to-20-year-old adults simply due to their age. *See Exhibit 1* (Homewood Suites Website). Tan was subjected to this unlawful, published policy.

31. As a result of Homewood Suites’ unlawful, published policy, Tan suffered injury in an amount to be determined at trial, including the violation of his civil right to be free from age discrimination in places of public accommodation.

32. Enhanced compensatory damages should be awarded because the Defendant’s discriminatory conduct was undertaken with willful or reckless disregard of the Plaintiff’s rights under RSA 354-A:17.

WHEREFORE, Zhaocheng Tan respectfully prays this Honorable Court and/or a jury order the following relief:

A. As to Counts I and II, compensatory damages in an amount to be determined at trial;

B. All other damages as set forth herein or as allowed by law, including enhanced compensatory damages and fines where appropriate; and

C. Interest, the costs and disbursements of this action, and reasonable attorneys’ fees;

D. As to Counts I and II, issue an injunction enjoining 217 Nashua Innkeepers, LLC d/b/a/ Homewood Suites Nashua from enforcing its policy of denying service to 18-to-20-year-old adults simply due to their age; and

E. Such other and further relief as the Court deems just and equitable.

Respectfully submitted,

ZHAOCHENG TAN,

By and through his attorneys affiliated with the
American Civil Liberties Union of New Hampshire
Foundation,

/s/ Gilles R. Bissonnette

Gilles R. Bissonnette (N.H. Bar. No. 265393)

Henry R. Klementowicz (N.H. Bar No. 21177)

AMERICAN CIVIL LIBERTIES UNION OF NEW

HAMPSHIRE

18 Low Avenue

Concord, NH 03301

Tel.: 603.224.5591

gilles@aclu-nh.org

henry@aclu-nh.org

Date: December 10, 2019

EXHIBIT 1



Homewood Suites by Hilton Gateway Hills Nashua

15 Tara Boulevard, Nashua, New Hampshire, 03062, USA TEL: +1-603-546-7470 FAX: +1-603-897-0080



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[Hearing Accessible Two Queen Suite Living Area](#)

Captions ☐ On ☒ Off

Hotel Policies

Get all the important information you need for planning your stay at Homewood Suites here. Details about hotel policies including check-in, check-out and parking are below. We'd be happy to answer any queries you have. Call us directly for more information.

Smoking

Non-Smoking

A fee of up to 250 USD will be assessed for smoking in a non-smoking room. Please ask the Front Desk for locations of designated outdoor smoking areas.

Check-in / Check-out

Check-In Time 3:00 pm

Minimum Age to Register 21

Check-Out Time 12:00 pm

Late Check-Out Fee \$0.00

Cancellations

Cancellation Policy

Cancellation policies may vary depending on the rate or dates of your reservation. Please refer to your reservation confirmation to verify your cancellation policy. If you need further assistance, call the hotel directly or contact [customer service](#). Alternatively, you can [cancel your reservation online](#).

Payment

Hotel Currency US Dollar

Accepted Payment Options

- American Express
- Diner's Club
- Discover
- JCB
- MasterCard

Payment

- Visa

Pets

Service animals allowed Yes

Pets allowed No

Parking

Self parking \$0.00

Valet parking Not Available

Secured Not Available

Covered Not Available

In/Out Privileges Not Available



- [StarP members get up to 10% off our best available rate](#)
- Print
Plan your next getaway with great rates at 12 distinct hotel brands.

[View Details](#)

EXHIBIT 2

×

Call details



Homewood Suites by Hilton Gateway
Hills Nashua
Main 6035467470



Outgoing call
Apr 22, 4:54 AM

44s



Copy number



Edit number before call



Delete

EXHIBIT 3

SHOW US WHERE YOUR MILES
ARE TAKING YOU USING
#SKYMILESLIFE



AWARD RECEIPT

Wed, 08MAY	DEPART	ARRIVE
DELTA 5365* Main Cabin (N)	ATLANTA 1:40pm	CHARLOTTESVILLE, VA 3:17pm
Fri, 10MAY	DEPART	ARRIVE
DELTA 5369* Main Cabin (N)	CHARLOTTESVILLE, VA 11:13am	ATLANTA 12:59pm
DELTA 2977 Main Cabin (N)	ATLANTA 2:24pm	BOSTON, MA 5:02pm
Sun, 12MAY	DEPART	ARRIVE
DELTA 2643 Main Cabin (N)	BOSTON, MA 6:10pm	ATLANTA 9:07pm

*Flight 5365 Operated by ENDEAVOR AIR DBA DELTA CONNECTION
*Flight 5369 Operated by ENDEAVOR AIR DBA DELTA CONNECTION

EXHIBIT 4

Your receipt from Airbnb



Receipt ID: RCSCWNP4XP · Apr 28, 2019

Andover

2 nights in Andover

Fri, May 10, 2019 → Sun, May 12, 2019

Private room · 1 bed · 1 guest



1 Meadowbrook Drive
Andover, MA 01810
United States

Hosted by Sarah Blumenstock

Confirmation code: HMAP84WQPK

[Go to itinerary](#) · [Go to listing](#)

Traveler: Tony Z. Tan

Cancellation policy: Flexible

Cancel within 48 hours of booking and at least 24 hours before check-in and the entire reservation is refundable. After that, cancel up to 24 hours before check-in and the nights are refundable, but the service fee isn't. Cancel within 24 hours of check-in and the first night and service fee are non-refundable.

Price breakdown

\$55.00 x 2 nights	\$110.00
Service fee	\$14.19
Total (USD)	\$124.19

Payment

VISA ···· 4083 Apr 28, 2019 · 05:15AM EDT	\$124.19
Amount paid (USD)	\$124.19

Have a question?

Visit the [Help Center](#)

Airbnb Payments, Inc.

Airbnb Payments is a limited payment collection agent of your Host. It means that upon your payment of the Total Fees to Airbnb Payments, your payment obligation to your Host is satisfied. (i) the Host's cancellation policy (available on the Listing); or (ii) Airbnb's Guest Refund Policy Terms, available at www.airbnb.com/terms. Questions or complaints: contact Airbnb Payments, Inc. at 855-4-AIRBNB (855-424-7262).

Payment processed by:

Airbnb Payments, Inc.
888 Brannan St, San Francisco, CA 94103

Airbnb, Inc.
888 Brannan St, San Francisco, CA 94103
www.airbnb.com



EXHIBIT 5

Andrew Yang in Windham, NH!



2 x Tickets

Order total: Free



Saturday, May 11, 2019 from 3:00 PM to 4:30 PM (EDT)

Add to [Google](#) · [Outlook](#) · [iCal](#) · [Yahoo](#)



3 Chapel Rd

3 Chapel Road

Windham, NH 03087

[\(View on map\)](#)

[View event details](#)

EXHIBIT 6

NHCHR #

CHARGE OF DISCRIMINATION

(All information on this form is mandatory)

NH COMMISSION FOR HUMAN RIGHTS
2 INDUSTRIAL PARK DRIVE
CONCORD, NH 03301
(603) 271-2767

RECEIVED

JUN 04 2019

NH Commission for Human Rights

COPY

CHARGING PARTY

Name	Zhaocheng A. Tan	Home Tel	(617) 855-5392	Work Tel	
Address	500 Westover Dr. 11247	City	Sanford	NC	Zip 27330

NAME(S) OF COMPANY, AGENCY OR PERSON WHO DISCRIMINATED AGAINST ME:

Name	Homewood Suites			Telephone		
Address	15 Tara Boulevard	City	Nashua	NH	Zip	03062

Name				Telephone		
Address		City		State	Zip	

☐ Housing☒ Public Accommodation☐ Commercial Property

DISCRIMINATION BASED ON:

☐ Race ☐ Marital Status ☐ National Origin ☐ Religion ☐ Color ☒ Age ☐ Mental Disability ☐ Physical Disability

☐ Sex ☐ Familial Status ☐ Retaliation ☐ Sexual Orientation

DATES DISCRIMINATION TOOK PLACE

EARLIEST MO/DAY/YR REQUIRED	4/22/2019	LATEST MO/DAY/YR REQUIRED	4/22/2019
<input type="checkbox"/> CONTINUING ACTION			

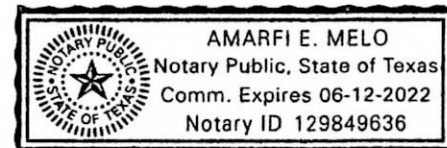
DETAILS OF CHARGE (ADD ADDITIONAL PAGES IF NECESSARY)

1. I identify as male.
2. I am twenty (20) years old.
3. According to NH law, 18 is the age of majority and the age at which a person can make a legal contract.
4. On 4/22/2019, I was refused service and denied accommodations at the Homewood Suites in Nashua, NH.
5. The hotel employee at the front desk stated that "our minimum check-in age is 21."
6. On the hotel's website, it states "Minimum age to register: 21."
7. I assert I was discriminated against due to my age.
8. I have and continue to suffer damages, including but not limited to emotional distress, humiliation, inconvenience, and loss of enjoyment of life. I seek all damages to which I am entitled.

Signed [Signature]
(Charging Party Signature)

5/28/2019
(Date)

Subscribed and sworn to before me this 28 day of May, 2019.



Name Amarfi E. Melo
☒ Notary ☐ Justice of the Peace

My Commission Expires 6/12/2022

EXHIBIT 7

STATE OF NEW HAMPSHIRE
COMMISSION FOR HUMAN RIGHTS

RECEIVED

OCT 23 2019

NH Commission for Human Rights

Zhaocheng Tan v. 217 Nashua Innkeepers, LLC d/b/a Homewood Suites Nashua

PAA 0221-19

**RULING ON COMPLAINANT'S MOTION FOR EARLY REMOVAL TO
FILE IN NEW HAMPSHIRE SUPERIOR COURT**

1. This charge was docketed with the New Hampshire Human Rights Commission on June 4, 2019. The Charge was filed pursuant to NH RSA 354-A:17. The Complainant alleged that he was denied access to a place of public accommodation due to his age.
2. On October 10, 2019, the Complainant, by way of his attorney, Attorney Gilles Bissonnette, filed a Motion to remove the case to Superior Court prior to the expiration of 180 days of the date of charge filing.
3. Attorney Bissonnette sought assent from Respondent's counsel, Attorney William D. Pandolph.
4. The Motion is consistent with Commission Rule Hum 203.01(c).
5. In light of the foregoing, the Motion is **granted**.

So Ordered.

Date

Commissioner Harvey Keye

STATE OF NEW HAMPSHIRE
NEW HAMPSHIRE COMMISSION FOR HUMAN RIGHTS

FEPA Charge No. PAA 0221-19

ZHAOCHENG TAN

v.

217 NASHUA INKEEPERS, LLC
d/b/a/ HOMEWOOD SUITES NASHUA

RECEIVED
OCT 15 2019
NH Commission for Human Rights

**PETITIONER'S REQUEST FOR COMMISSION'S ASSENT TO REMOVE THIS CASE
TO SUPERIOR COURT**

NOW COMES Petitioner Zhaocheng Tan ("Petitioner") and respectfully requests the Commission's assent to remove this case to the New Hampshire Superior Court pursuant to Administrative Rule Hum 203.01(b)(2)(c).

Petitioner has filed a charge of discrimination against Respondent 217 Nashua Innkeepers, LLC ("Homewood Suites") that was received by the New Hampshire Commission for Human Rights on or about June 4, 2019. The charge alleges that, on April 22, 2019, Homewood Suites violated New Hampshire's Law Against Discrimination, *see* RSA 354-A:17, by declining to rent a room to Petitioner simply because he was 20 years old.

As Homewood Suites' August 14, 2019 response indicates, the material facts in this case are largely undisputed. There does not appear to be a dispute that Mr. Tan called Homewood Suites on April 22, 2019. There also does not appear to be a dispute that Homewood Suites has a policy barring 18-to-20 year old adults like Mr. Tan from renting a room. As Homewood Suites states in its August 14, 2019 response, "it is Homewood Suites' policy to register only those guests who are 21 or older." *See* Aug. 14, 2019 Resp. ¶ 6. There does not appear to be a dispute that Mr. Tan would be barred from renting a room under this policy. Thus, this case principally presents

the legal question of whether such an age-based policy violates New Hampshire's Law Against Discrimination at RSA 354-A:17.

Under RSA 354-A:21-a, I and Administrative Rule Hum 201.01(b)(2)(a), a person aggrieved under RSA 354-A can remove his or her complaint from the Commission by filing a civil action in Superior Court after 180 days have elapsed from the timely filing of a complaint before the Commission (here, by December 1, 2019). However, RSA 354-A:21-a, I and Administrative Rule Hum 201.01(b)(2)(c) allow removal of a complaint to Superior Court before 180 days have elapsed from the filing of the complaint if the Commission assents in writing. As this case principally involves a legal question that will ultimately have to be resolved by the Superior Court, Petitioner believes that it would be more efficient and cost effective for the parties and the Commission to remove this case to the Superior Court for resolution of this legal question. As this case principally involves a legal question, Petitioner believes that a complete factual investigation is not needed by the Commission; all needed discovery can be conducted in due course before the Superior Court.

This Motion meets the requirements of Administrative Rule Hum 201.01(b)(2)(c), as it has been filed in writing, has been forwarded to all parties, and Petitioner sought the concurrence from Respondent on October 8, 2019. Petitioner has not received a response as to Respondent's position on the relief requested herein.

PRAYER FOR RELIEF

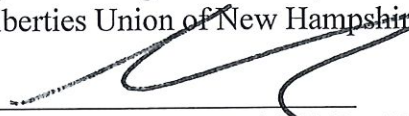
WHEREFORE, Petitioners pray that the Commission:

- A. Assent to the removal of this case to the Superior Court pursuant RSA 354-A:21-a, I and Administrative Rule Hum Rule 203.01(b)(2)(c); and
- B. Issue any such other relief as may be just and proper.

Respectfully submitted,

ZHAOCHENG TAN,

By and through his attorneys with the American Civil
Liberties Union of New Hampshire Foundation,



Gilles R. Bissonnette (N.H. Bar No. ~~265393~~)
Henry Klementowicz (N.H. Bar No. 21177)
American Civil Liberties Union of New Hampshire
18 Low Avenue
Concord, NH 03301
Tel.: 603.224.5591
gilles@aclu-nh.org
henry@aclu-nh.org

October 10, 2019

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing has been served on October 10, 2019 on
counsel for 217 Nashua Innkeepers, LLC:

William D. Pandolph, Esq.
Sulloway & Hollis, P.L.L.C.
9 Capitol Street
Concord, NH 03301



Gilles Bissonnette