

RESOLUTION No.

35586

- * Authorizes intervention in lawsuit, Simms v Besaw's Cafe, in which validity of private right of action under City of Portland Civil Rights Code Section 23.01 may be challenged. (Resolution)

WHEREAS The City Council enacted Portland City Code Section 23.01 in 1991 in order to provide basic civil rights protections to Portland citizens on the basis of sexual orientation and source of income.

WHEREAS P.C.C. 23.01 is modeled directly on the state civil rights law, ORS Chapter 659, and provides the same avenues of both administrative review through the State Bureau of Labor and Industries and review in court.

WHEREAS The private right of action conferred under P.C.C. Chapter 23.01 is a crucial component of the civil rights protections intentionally created by the City Council in 1991 and is available to other victims of discrimination on the basis of race, gender, marital status, familial status, disability, national origin, and age.

WHEREAS Recent decisions in U.S. District Court have questioned whether victims of discrimination defined under P.C.C. Chapter 23.01 have an ability to go to state court.

WHEREAS Any question regarding the viability of the private right of action under P.C.C. 23.01 is a question of state law which ought to be decided in the Oregon courts.

WHEREAS The validity of P.C.C. 23.01's conferral of a private right of action is anticipated to be challenged in Simms v Besaw's Cafe, a case recently filed in Multnomah Circuit Court.

WHEREAS Resolution of the validity of the private right of action under P.C.C. 23.01 is necessary to provide all litigants with a clear understanding of the scope and effect of the City's 1991 ordinance.

WHEREAS The City Attorney's Office can best present the arguments in favor of the private right of action under P.C. C. Chapter 23.01 if the City becomes a party to the litigation in which the right is being challenged.

NOW THEREFORE, BE IT RESOLVED that the City Attorney is authorized to seek to intervene as a party or as an amicus in Simms v Besaw's Cafe, or any comparable lawsuit in which P.C.C. 23.01 is being challenged.

Adopted by the Council, FEB 05 1997

Mayor Vera Katz

Madelyn Wessel br January 28, 1997

civright/simms mfw/simms res

BARBARA CLARK

Auditor of the City of Portland

By *Britta Olson*
Deputy

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Agenda No

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Title

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INTRODUCED BY	Filed JAN 30 1997
Mayor Vera Katz	Barbara Clark Auditor of the City of Portland
NOTED BY COMMISSIONER	
Affairs <i>[Signature]</i>	By <u>Clay Croshier</u> Deputy
Finance and Administration	For Meeting of _____
Safety	ACTION TAKEN
Utilities	
Works	
BUREAU APPROVAL	
Bureau	
Prepared by <i>mw</i> Date	
Madelyn Wessel br January 28, 1997	
Budget Impact Review	
Completed <input checked="" type="checkbox"/> Not Required	
Bureau Head	

AGENDA		FOUR-FIFTHS AGENDA	COMMISSIONERS VOTED AS FOLLOWS		
Consent <input checked="" type="checkbox"/>	Regular	Francesconi	Francesconi	<input checked="" type="checkbox"/>	
NOTED BY		Hales	Hales	<input checked="" type="checkbox"/>	
City Attorney	<i>mw</i>	Kafoury	Kafoury	<input checked="" type="checkbox"/>	
City Auditor		Sten	Sten	<input checked="" type="checkbox"/>	
City Engineer		Katz	Katz	<input checked="" type="checkbox"/>	