Lower Rates for Women Are Ruled Unfair

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SECTION: Section A; Column 0; National Desk; Pg. 17

LENGTH: 663 words

DATELINE: LAS VEGAS

In a decision that could alter the way businesses on the Las Vegas Strip operate, the state's civil rights panel has found that a health club discriminated against men by charging them more for membership than they charged women.

The panel, the Nevada Equal Rights Commission, found that the Las Vegas Athletic Club's offers of reduced rates to women were discriminatory. But it also said that the gym's decision to provide private workout areas to women, but not to men, was not.

The ruling could also affect the ability of casino-resort operators to offer different prices for men and women at nightclubs and other attractions.

Todd Phillips, who filed the complaint in August 2007, said he intended to sue in District Court for $1 million. But the commission's administrator said the commission would go to court against the club if a settlement was not reached and the discriminatory practices were not halted.

Sex was added to a state antidiscrimination statute only three years ago.

"I'm elated," said Mr. Phillips, 46, who is a lawyer licensed in California, where he has filed dozens of complaints against bars and other businesses on a similar basis. "I think it's a great victory for Nevada civil rights. I want to get into a court and take this all the way. I've opened the floodgates for complaints."

A similar complaint was filed in May by Adam Russin, 25, of New York, a tourist who found that a topless pool at the Mandalay Bay Resort-Casino charged men $50 for admission and women only $10.

The property is owned by MGM Mirage, which also has price differences for several nightclubs and at least two other adult-themed pools at its nine Strip resorts.

Officials from the Las Vegas Athletic Club did not return calls for comment, but according to the ruling, the company defended the price breaks for women by saying that men cost the club more, in part because they are more likely to fail to pay their bills.

"While this may be true, this reason is not persuasive," the ruling stated.

In another part of the ruling, the commission said the athletic club had the right to create a women's-only exercise section without providing one for men. The club argued that it should be permitted to do so because state law allows for sex-specific facilities "where body parts might be exposed."

Mr. Phillips disagreed with that finding.
"It's utterly ridiculous," he said. "If you can conclude that there's enough of a privacy consideration for women, you should have an accompanying men's one. I've got body parts."

Courts and civil rights panels in California, Colorado, Florida, Iowa, Maryland and New Jersey have ruled that price discrimination against men is unlawful.

In Illinois, Michigan and Washington, judges have stated that it can be part of an acceptable business strategy.

A spokesman for MGM Mirage, Alan Feldman, said in a statement that the company viewed price differences based on sex to be a lawful business strategy and not a civil rights matter. The company will not alter its prices as a result of this ruling, Mr. Feldman said.

"Taken to its logical conclusion," he said, the decision "calls into question such practices as charging different prices for seniors or children at movies or attractions, such as museums or amusement parks."

The American Civil Liberties Union of Nevada agrees with Mr. Feldman's interpretation. Nevada statutes state that discrimination based on sex is against public policy, but it is not against the law, the group's executive director, Gary Peck, said.

Dennis Perea, the administrator for the equal rights panel, said that there was confusion because the public policy and the law were in conflict but that Mr. Phillips's case might help clarify it.

"This particular issue is completely untested waters," Mr. Perea said. "I am certain whether through the judicial side or legislative side," he added, that the commission "will have a lot more clarity in the near future."

URL: http://www.nytimes.com

LOAD-DATE: August 13, 2008

LANGUAGE: ENGLISH

CORRECTION-DATE: August 18, 2008

CORRECTION: An article on Wednesday about a ruling by the Nevada Equal Rights Commission that a health club discriminated by charging men more for membership than women misstated the position that the American Civil Liberties Union of Nevada has taken on the issue. Although the group indeed agreed with one assessment that price differences based on sex were a lawful business strategy under current statute, the union does not believe that such practices should be legal, and has in fact sought to change the statute.

GRAPHIC: PHOTO: The Las Vegas Athletic Club gave women cheaper rates. (PHOTOGRAPH BY TODD PHILLIPS (HANDOUT))

PUBLICATION-TYPE: Newspaper