




Human Relations Department

Date: November 4, 2009

To: Honorable Mayor Mark Funkhouser, Members of City Council, and
City Manager Wayne Cauthen

From: Phillip Yelder, Director Human Relations Department 

Subject: Kansas City Power & Light District Dress Code Test Results

Enclosed for your review and consideration is a copy of the test results conducted by HRD of the Kansas City Power & Light District's Dress Code Policy. The tests were conducted on September 18th & 19th, 2009.

Since KCP & L District open in late 2007, HRD has received numerous complaints from patrons that the district discriminated against people of color in the way the district administered its dress code policy. During several of our investigation of these complaints, HRD has founded inconsistencies in the way the dress code policy is enforced. Therefore, the purpose of the test was to determine if there was evidence of discrimination in the District's enforcement of its dress code policy.

If you have questions about this report, please contact me or Mickey Dean at 816 513-1801 or 816-513-1804.

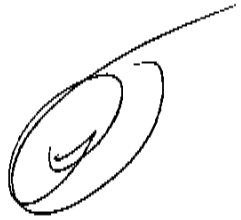
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Human Relations Department

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MEMORANDUM

DATE: November 4, 2009**TO:** Wayne Cauthen, City Manager**FROM:** Phillip Yelder, Director HRD and Mickey Dean, Manager Civil Rights **RE:** KANSAS CITY LIVE DRESS CODE TEST REPORT

On the weekend of September 18th and 19th, the Civil Rights Division of Human Relations (HRD) conducted a dress code test of the entrances to the Kansas City Live area (also known as the "Living Room") and to Lucky Strike Bowling Lanes in KC Live. The employees at the entrances of both venues are employees of KC Live. The test was conducted because of continued claims of racial discrimination in the enforcement of the dress code by KC Live employees.

The Power & Light District opened in late 2007. A dress code was implemented as part of the code of conduct on one block of the district, the Live Block, at such times when it is operating as a 21 and older venue and alcohol is being served in the common area. The other 8 blocks of the Power & Light district do not have a dress code. Included in the dress code at that time were bans on such articles of clothing as white T-shirts, chains, shorts below the knees and excessively baggy clothing. Almost immediately after the dress code was implemented, the Civil Rights Division of HRD began to receive complaints about discriminatory treatment, particular against young males of color, in the enforcement of the dress code. Whereas the Division had only received one dress code complaint in the prior 10-12 years, the Division received several complaints of dress code discrimination in 2008.

In response to the complaints of inconsistent in dress code enforcement, the City Council passed an ordinance in April, 2009, that restricted the KC Live from enforcing its dress code as it was originally established. Specifically, the new ordinance prohibited any establishment located in a redevelopment area from limiting access because of, among other things:

- The length of the sleeve of a shirt or the leg of a pair of pants or shorts,
- The wearing of T-shirts (dress code may prohibit tee shirts of an appropriate length)
- The wearing of jewelry or the manner in which it is worn.

In response to the dress code ordinance, KC Live amended its dress code. The current dress code only prohibits profanity on clothing, sleeveless shirts on men, excessively torn clothing, undershirts, excessively baggy or sagging clothes, work boots, sweat suits or athletic attire

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except in conjunction with certain sporting events. There is nothing in the current dress code regarding the length of shirttails, the length of sleeves or the length of shorts.

After the dress code ordinance was passed, HRD once again began to receive complaints alleging discriminatory enforcement of the dress code. In addition to the alleged discriminatory enforcement, the allegations suggested that patrons were being kept out of KC Live for wearing articles of clothing that were not in violation of the posted dress code. Because of the difficulty of reaching the evidentiary threshold necessary to prove race discrimination in many public accommodations cases, HRD decided to conduct a dress code test of the entrances to the KC Live Area and Lucky Strike Bowling Lanes. These venues were chosen because they had produced the most dress code complaints. Our purpose in conducting the test was to determine if there were inconsistencies in KC Lives' enforcement of its dress code policy.

To conduct the test HRD employed 11 males between the ages of 22 and 32. Five of the males were Black, three were Hispanic and three were Caucasian. We had wanted to use an equal number of males from each ethnic group but some of the potential participants either dropped out at the last minute or didn't follow through with the test.

The testers were instructed on what to wear and when to go. The testers were required to wear the following:

- Long, loose fitting shorts – calf length.
- Long shirt (any style) – length to bottom of pants zipper. (Adjustment will be made if weather is cool.)
- Will need one person in each group with a long necklace or chain.
- Will need one person in each group with Timberland-style boots.
- No hats or other accessories.

The tests were conducted after 9:30 p.m. on both Friday and Saturday nights. Below are the results of the test:

Power & Light Area (Grand Street Entrance)

	<u>Allowed In</u>	<u>Denied Entry</u>
Caucasians	3	0
Blacks	3	2
Hispanics	2	1

Lucky Strike (Grand Street Entrance)

	<u>Allowed In</u>	<u>Denied Entry</u>
Caucasians	3	0
Blacks	3	2
Hispanics	1	2

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Overall, KC Live employees, who were employed at both entrances, allowed the Caucasians to enter 6 times out of 6 visits (100%) and the males of color were allowed to enter 9 times out of 16 visits (56%). The reasons given to the Blacks and Hispanics for denying entry included:

- Shirt too long
- Sleeves too long
- Shorts too baggy
- Shirt too baggy
- Shorts too long

A couple of the reported comments bear noting. Two of the Black testers who were denied entry into Kansas City Live were told to try other Black oriented clubs in the area. Also although all testers were told not to wear athletic shorts, one of the Caucasian testers wore long, calf-length red athletic shorts. At the KC Live area he was allowed to enter at the main entrance. After he went down the stairs he was told by another employee that he could not enter because athletic attire was not allowed. The KC Live employee who initially let him in intervened and said that he had let him in and it was OK for him to enter. This same Caucasian tester wore the same attire the following evening and attempted to enter Lucky Strike Bowling Lanes. The KC Live employee at the ground level entrance allowed him to enter. The Lucky Strike employee on the inside refused to allow him to enter.

Based on the test results two conclusions can be drawn. KC Live employees do not consistently admit patrons based upon the adopted dress code policy. The second conclusion is that the KC Live employees are denying entry to some patrons based on articles of clothing whose prohibition is in violation of the city's dress code ordinance.

When KC Live initially opened, the majority of the entry attendants were Caucasians. That has now changed. HRD also noted that on each night the testers attempted to enter the KC Live Area and Lucky Strike entrances, the majority of KC Live employees working both locations were African American. KC Live has also taken major steps since the initial opening to hire more African Americans at various key locations, and has hired an African American as General Manager of Operations. Although the hiring of more African American is significant, more needs to be done in terms of inclusiveness for all patrons.

Below are some **recommendations from Human Relations** that we think will assist KC Live in enforcing its dress code policy in a consistent manner, and in complying with the City's dress code ordinance.

- Video cameras should be installed on both sides of all entry points that will provide a clear view of all entrances where KC Live employees are staffed. Video camera(s) should also be installed to capture panoramic views of the entire "Living Room" area. These cameras are necessary because KC Live employees occasionally encounter patrons who have already been admitted who they believe are subsequently in violation of the dress code. The developer will work with the City to transfer images into the City's camera monitoring network.

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- All KC Live employees who will be responsible for enforcing the dress code should be thoroughly trained on proper enforcement of the dress code. The training should include instruction materials and manuals using models that would visually demonstrate what constitutes both proper and improper dress.
- All KC Live employees who will be responsible for enforcing the dress code should receive a certificate of completion indicating that they have been properly trained on the dress code enforcement policy, and a copy placed in their personnel file.
- Visual displays – i.e. large posters, video screens, etc. – should be present at each entrance with images showing proper attire that will not be allowed into the KC Live when the dress code is in force.
- KC Live should provide funding for an independent agency or consultant to conduct dress code testing at least twice per year. The firm or consultant will be selected by the City through a regular RFP process. The costs associated with these tests should not exceed \$15,000.00 annually.
- KC Live should develop some type of customer satisfaction survey forms/application to gather opinion of patrons regarding the quality of service provided by KC Live employees. The survey should be conducted by an independent agency, and the results provided to HRD and KC Live on a quarterly basis.
- KC Live should include in all tenant lease agreements a requirement that the tenant operate in full compliance of the posted dress code and in compliance with the City's dress code ordinance. A liquidated damage provision should be established for failure to comply. The damages at a minimum should not be less than \$100.00 per day or an amount determine by KCMO's HRD.

HRD has shared this report with the Developer and attached is their official response. The Developer has agreed to adopt HRD's recommendations and provide written verification within the next thirty (30) days they are in compliance.

This concludes our report. If you have further questions or comments, please contact me at 816-513-1801 or Mickey Dean at 816 513 1804.