ALLIANCE DEFENDING FREEDOM
FOR FAITH. FOR JUSTICE.

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An Open Letter to the Pastors of San Antonio Addressing the Threats to Religious Liberty by the Proposed "Nondiscrimination" Ordinance

Dear Pastors:

The right to live according to one's religious beliefs – and the dictates of his or her conscience – is under attack in San Antonio. If you believe that God defined marriage as the life-long union between one man and one woman, and designed sexual expression to occur within those boundaries, this message is for you.

San Antonio's Proposed Non-Discrimination Ordinance

This new threat against religious liberty is a proposed ordinance amending San Antonio's various "nondiscrimination" laws. City Councilman Diego Bernal and Mayor Julian Castro are leading the push to include sexual orientation and gender identity in the city's nondiscrimination laws. They are being assisted by the Human Rights Campaign, one of the most radical proponents of normalizing homosexual behavior and stamping out any opposition to it. These laws affect everything from employment decisions, to fair housing practices, to public accommodations, to city administration.

Behind the seemingly innocuous goal of eliminating discrimination is an attack on religious freedom. The proposed ordinance provides no protection for rights of conscience or sincere religious beliefs. If this ordinance is passed into law, it will impact how you and your church live out your faith, conduct your business, and participate in your local government.

You and your church members will be discriminated against.

Consider a few examples from the proposed ordinance:

1. The ordinance will force Christian business owners to choose between violating their religious convictions about marriage (for example, convictions against using their artistic talents to promote same-sex ceremonies or publish LGBT promotional materials), and violating the law.

This is called the prohibition on discrimination in places of public accommodation, Section 2-592. That mouthful simply means that any business that offers a product, service, or facility to the public must comply with the nondiscrimination mandate. There are no exceptions for conscientious objectors. Businesses that operate on Biblical principles will be forced to choose

their poison pill – or shut down. This nondiscrimination provision will have a particularly acute impact on marriage-oriented businesses, like photographers, bakers and florists, and marriage-oriented facilities, like chapels and outdoor wedding venues.

2. The very same section of the ordinance will force all businesses—including ones owned by Christians—to allow men in women's restrooms and locker rooms, and vice versa. This will affect not only the bathrooms of the local store but also the shower and locker rooms of the local swimming pool. It potentially will also affect your church. The "bathroom bill" allows an individual to choose whatever gender he or she wants to identify with at that moment, regardless of biological sex, and then demand access to the restrooms, locker rooms or shower rooms correlating to that chosen gender. The business is powerless to object.

This is sheer madness. By trying to cater to the claimed "needs" of the so-called "transgendered community," the City Council proposes to violate the privacy of women and children and place them at risk of sexual predators. In other cities with laws like this, *hetero*sexual, sexual predators have claimed to think they are women so they could gain access to the women's restrooms and the young girls, teens, and women therein. So far, these predators have "only" videotaped or photographed their victims. But with the open-door policy for men to access the women's restrooms, locker rooms, and shower rooms, it is only a matter of time before something even worse happens. Your City Council has a responsibility to protect women and children, not invade their privacy and place them at risk of abuse.

3. The ordinance may even force churches and other Christian ministries to hire employees who promote or practice unbiblical lifestyles. Religious organizations are allowed to "prefer" members of the "same religion" in employment decisions, according to Section 2-550, but this hardly provides the robust religious liberty protection that proponents of the ordinance make it out to be. No one knows what the "same religion" actually means. Does it mean that religious organizations can only prefer members of the same overarching religious tradition (like Christian or Muslim or Jew) or can they select based on denominational distinctives (like Catholic or Baptist)? Remember, pastors: there are some Christian denominations that embrace homosexual behavior as perfectly acceptable for their members. If this so-called "protection" for your liberty is interpreted to mean that you can refuse to hire Muslims, but you must not discriminate based on sexual orientation or gender identity against anyone calling himself "Christian," you could be forced to hire a man wearing a dress and high heels as your secretary someday.

This small consolation prize tossed to those of us in the religious liberty camp affords absolutely no protection to Christian business owners faced with a male employee who decides he wants to begin wearing makeup and dresses, or begins proudly and publicly campaigning for the "rightness" of homosexual behavior. The religious exemption is strikingly inadequate.

4. The ordinance will impose a "gag order" on city officials. Under Section 2-525, Christians who feel called to serve San Antonio as an appointed official, commissioner, or board member will be banned from expressing even their personal religious beliefs on matters related to God's design for marriage and sexuality. If they said something as simple as, "God calls 'gay' people to repentance, the same as everyone else," they could be removed from office.

5. The ordinance will disqualify Christian businesses from being awarded city contracts. Under Section 7, the San Antonio will not award a contract for goods or services to any business that refuses to expressly state that it will not discriminate based on sexual orientation and gender identity. Again, the ordinance includes no exceptions for sincere religious beliefs.

Proponents of the ordinance dismiss these religious liberty concerns as hyperbole. Right-wing misinformation. Bigotry against the LGBT community. But despite these inflammatory accusations, there is no question that nondiscrimination laws across the nation are being used to squelch the First Amendment rights of Christians, and intimidate them into silence.

Elane Photography

Just ask Elaine Huguenin. Elaine and her husband operate Elane Photography, a New Mexico family business that specializes in wedding photography. Elaine, the lead photographer, uses her pictures to tell her clients' stories. Company policy ensures that Elaine will never tell a story or communicate a message contrary to her deeply held Christian beliefs.

In September 2006, Vanessa Willock asked Elaine to photograph her same-sex commitment ceremony, and Elaine politely refused. As a Christian, Elaine believed that the pictures she would create at the event would tell a story of marriage at odds with her religious convictions and God's design for marriage. Although Ms. Willock readily found another – and less expensive – photographer, she was not satisfied. Ms. Willock sued Elane Photography, alleging unlawful sexual orientation discrimination under New Mexico's nondiscrimination law.

The New Mexico Human Rights Commission used a nondiscrimination law like the one being considered in San Antonio to punish the Huguenins, and ordered them to pay nearly $7,000 in attorney's fees. So far, the New Mexico courts have upheld the decision. And the human toll this struggle continues to take on the Huguenins is real and palpable.

Hands On Originals

A similar situation involving personal, artistic services occurred in Kentucky. Blaine Adamson is the managing owners of Hands On Originals, a printing company that specializes in producing promotional materials. Blaine is Christian who strives to live consistently with Biblical commands, and does not distinguish between his personal life and his actions a business owner. As a result, he avoids using his company to design, print, or produce materials that convey messages or promote events that conflict with his religious convictions.

In March 2012, the Gay and Lesbian Services Organization ("GLSO"), an advocacy organization that promotes same-sex relationships and homosexual conduct, asked Blaine to print promotional shirts for the Lexington Pride Festival. Blaine politely declined the request because he knew the content of the shirts and the events that they would promote would communicate messages clearly at odds with his religious beliefs.

Blaine nevertheless offered to connect GLSO with another company that would print the shirts for the same price. This courtesy, however, did not satisfy GLSO. It used a law like the one being considered in San Antonio to file a discrimination complaint alleging unlawful discrimination on the basis of sexual orientation. Even though another company offered to print the shirts free of charge, GLSO continues to press its claims against Blaine.

To add insult to injury, GLSO and its allies began a public campaign against Hands On Originals. The public pressure resulted in the loss of some of Hands On Originals' largest customers. This unfortunate and unwarranted development has jeopardized the livelihood of Blaine's many employees and the future of his company.

Phyllis Young

Not even private homes are beyond the reach of these nondiscrimination ordinances – just ask Phyllis Young. Phyllis and her husband own a house in Hawaii where they have lived for some 35 years. Now in retirement, Phyllis rents three rooms in her home to pay the mortgage.

In November 2007, a Ms. Cervelli contacted Phyllis and inquired about staying in her home during an upcoming trip. Upon hearing that Ms. Cervelli wanted to share the one-bed room with her same-sex partner, Phyllis declined the request. As a devout Christian, Phyllis believed that she would be disobeying God and facilitating immoral behavior by allowing a same-sex couple to share a room and bed in her home.

Ms. Cervelli sued Phyllis. The court ruled that under Hawaii's nondiscrimination law, which is like the one being proposed in San Antonio, Phyllis's home is a "public accommodation" equivalent to a restaurant, bus station, or other facility that the public can freely enter.

If this ruling stands, it will prevent Phyllis and others from choosing the people they rent rooms to in their own homes. If she does not have this freedom, Phyllis will be forced to stop renting altogether. This will likely prevent Phyllis and her husband from meeting their monthly mortgage obligations, thus forcing them to give up the home in which they raised their children.

Wildflower Inn

Sadly, honest disclosure of a personal religious belief is enough to trigger a discrimination charge in today's political climate. Jim and Mary O'Reilly own Wildflower Inn, a family-owned bed-and-breakfast in the Vermont countryside. Operating in a state that recognizes same-sex unions, the O'Reillys, a committed Catholic family, had an established business practice when approached by anyone asking to use the inn to celebrate a same-sex marriage. When presented with this request, Jim would honestly disclose his deeply held religious convictions that marriage is the union of one man and one woman, and then allow these individuals to use the inn as mandated by the state's nondiscrimination law. No same-sex couple was ever turned away.

But access alone was not enough. In 2011, the ACLU teamed up with the Human Rights Commission in a lawsuit against Wildflower, attacking the O'Reillys' practice of honestly disclosing their religious beliefs. They said that telling someone they held such a belief amounted to discrimination under a law like the one being proposed in San Antonio. Faced with the prospect of losing their business, the O'Reillys agreed to pay $10,000 as a civil penalty and $20,000 to a charitable trust set up by the ACLU's clients.

This case was not about access – Wildflower's business practice did not deny services to anyone. What the government and ACLU objected to was the O'Reillys' mere mention of their views on marriage – views conflicting with the prevailing orthodoxy in Vermont. This case demonstrates the threat that nondiscrimination laws present to religious freedom. Those who disagree with the

government's views about issues implicating a protected classification must pay dearly for the exercise of their constitutional rights.

The Ocean Grove Camp Meeting Association

Even religious venues are targets under nondiscrimination ordinances. The Ocean Grove Camp Meeting Association is a religious association that provides a venue for religious services, including Sunday services, Bible studies, camp meetings, revival gatherings, and other religious events. Upon its incorporation, the Association pledged that it would use its facilities for God's glory and would abstain from using them in any way "inconsistent with the doctrines, discipline, or usages of the Methodist Episcopal Church."

In 1997, the Association began operating a wedding ministry in many of its private places of worship, including its open-air Boardwalk Pavilion. Because this ministry was a means of Christian outreach to the community, the Association permitted members of the public to host their weddings at the Pavilion.

In March 2007, Harriet Bernstein asked to use the Pavilion for a civil-union ceremony with her same-sex partner. The Association sincerely believes, based on its interpretation of the Bible, that marriage is the union of one man and one woman and that homosexual behavior is incompatible with Christian teaching. Naturally, the Association denied the couple's request.

The couple filed a discrimination complaint, alleging unlawful sexual orientation discrimination. Despite the fact that the Pavilion was a place of public worship, and that the couple easily found another location for their ceremony, the Association was found to be in violation of New Jersey's nondiscrimination law—a law very much like the one being proposed in San Antonio.

Conclusion

We could go on and on with examples of how nondiscrimination ordinances have been used to threaten, silence, fine, and nearly shut down Christian businesses. Do not think that San Antonio nondiscrimination ordinance will be any different.

Pastors, you did not choose this battle – but, like it or not, the battle has been brought to you. Will you take a stand for religious freedom?

Very sincerely yours,

ALLIANCE DEFENDING FREEDOM

Joe La Rue
Christiana Holcomb
15100 N. 90th Street
Scottsdale, Arizona 85260
jlarue@alliancedefendingfreedom.org