



June 12, 2018

Honorable Steve Adler
Mayor, City of Austin
City Hall
301 West 2nd Street
2nd Floor
Austin, Texas 78701

Re: Notice of substantial burden on the free exercise of religion

Dear Mayor Adler:

We write to inform you that the city of Austin's anti-discrimination ordinance substantially burdens the free exercise of religion, in violation of the Texas Religious Freedom Restoration Act. *See* Tex. Civ. Prac. & Rem. Code §§ 110.001–.012. Your ordinance violates state law because it fails to protect the autonomy and religious freedom of churches, nonprofits, and businesses that hold sincere religious objections to homosexuality, transgender behavior, and women serving as clergy. We write not only on behalf of ourselves and our organizations, but on behalf of all churches, nonprofits, and businesses that object to these lifestyles and behaviors.

Your ordinance prohibits employers and places of public accommodation from discriminating on account of “race, color, religion, sex, sexual orientation, gender identity, national origin, age, or disability.” *See* Austin City Code § 5-2-4; 5-3-4. But the ordinance provides no exemptions or accommodations for churches, nonprofits, and businesses that hold sincere religious objections to homosexuality, transgender behavior, or women serving as clergy.

The only religious exemptions to the ban on employment discrimination appear in sections 5-3-15(B) and 5-3-15(C). These exemptions allow religious schools and other religious entities to “hire and employ employees of a particular religion” in certain circumstances. But the ordinance provides *no* exemption whatsoever to the ban on sex discrimination. Nor does it provide *any* exemption for religious entities that oppose homosexuality or transgender behavior for sincere religious reasons. This means that every Catholic parish that refuses to hire women as priests is in violation of city law. So are the churches that refuse to hire homosexuals as clergy.

The ban on public-accommodation discrimination also fails to make allowances for Christian businesses that refuse to participate in same-sex marriage ceremonies. The only exceptions to the public-accommodations anti-discrimination rule are for “facilit[ies] owned or operated by the federal, state, or county government, or the

University of Texas,” as well as “private club[s] or other establishment[s] not open to the public.” *See* Austin City Code § 5-2-13.

These are the stingiest religious exemptions we have ever seen in an anti-discrimination law. It is inexcusable that you would purport to subject a church’s hiring decisions to your city’s antidiscrimination ordinance. It is also unacceptable that your ordinance makes no allowance for Christian non-profits that refuse to hire individuals whose lifestyles are incompatible with Christian teaching, or businesses whose religious convictions forbid them to lend support to same-sex marriage ceremonies.

Your ordinance substantially burdens the religious freedom of the U.S. Pastor Council, which has member churches in Austin. And your ordinance substantially burdens the religious freedom of every church, nonprofit, and business in Austin that holds sincere religious objections to homosexuality, transgender behavior, and women serving as clergy.

The Texas Religious Freedom Restoration Act requires us to notify you of these substantial burdens on the free exercise of religion before bringing suit. *See* Tex. Civ. Prac. & Rem. Code § 110.006. We look forward to working with you and city officials to ensure that the city respects the religious freedom of everyone, consistent with the requirements of the Texas Religious Freedom Restoration Act.

Sincerely,

A handwritten signature in black ink, appearing to read "David Welch". The signature is written in a cursive, flowing style with a large initial "D".

Reverend David Welch
President, U.S. Pastor Council
P.O. Box 692207
Houston, Texas 77269

cc: Sareta Davis, chair, Austin Human Rights Commission
Anne Morgan, City Attorney of Austin