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Attorneys for Plaintiff

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ALASKA**

THE DOWNTOWN SOUP KITCHEN d/b/a
DOWNTOWN HOPE CENTER,

Plaintiff,

v.

MUNICIPALITY OF ANCHORAGE,
ANCHORAGE EQUAL RIGHTS
COMMISSION, and PAMELA BASLER,
Individually and in her Official Capacity as the
Executive Director of the Anchorage Equal
Rights Commission,

Defendants.

Case No. 3:18-cv-00190-SLG

**MOTION FOR PRELIMINARY
INJUNCTION**

Federal Rule of Civil Procedure 65

Oral Argument Requested

1. Consistent with Federal Rule of Civil Procedure 65, Plaintiff The Downtown Soup Kitchen d/b/a Downtown Hope Center respectfully moves this Court for a preliminary injunction to stop Defendants from applying Anchorage Municipal Code, Title 5, § 5.20.050 and § 5.20.020 in a manner that violates Hope Center’s rights under the First and Fourteenth Amendments of the U.S. Constitution and under Article 1, §§ 1, 4, and 22 of the Alaska Constitution.

2. Hope Center is private, non-profit organization that offers free religious teaching, food, and safe shelter for homeless and hurting women, particularly those fleeing sexual abuse and sex-trafficking. One way Hope Center does this is by providing free overnight housing to biological women. Hope Center wants to continue providing that housing and it also wants to post its shelter admittance policy to provide assurance to the women seeking access to the Hope Center shelter. But Anchorage is interpreting its law contrary to its text to require the Hope Center to admit biological men into its shelter and to prevent the Hope Center from posting its admittance policy. This violates numerous constitutional rights, including the First Amendment right to free exercise and free speech; the Fourteenth Amendment right to due process; and the Alaska Constitution right to free exercise and privacy.

3. Absent a preliminary injunction, Hope Center will suffer irreparable harm, specifically the continued infringement of rights and freedoms guaranteed by the Alaska and United States Constitutions. *See Hernandez v. Sessions*, 872 F.3d 976, 994 (9th Cir. 2017) (“[T]he deprivation of constitutional rights ‘unquestionably constitutes irreparable injury.’” (citation omitted)). Hope Center is likely to succeed on the merits, the balance of equities weighs in favor of granting an injunction to secure these rights, and it is in the public interest to enjoin the enforcement of a law that likely infringes constitutional rights. *See Doe v. Harris*, 772 F.3d 563, 583 (9th Cir. 2014) (noting that “the balance of equities favors Appellees, whose First Amendment

rights are being chilled”); *Sammartano v. First Judicial Dist. Ct.*, 303 F.3d 959, 974 (9th Cir. 2002) (abrogated on other grounds) (“[I]t is always in the public interest to prevent the violation of a party’s constitutional rights.”).

4. Hope Center requests oral argument to be heard at a time and date set by the Court. In support of its motion, Hope Center relies on the following documents filed with the Court and that more fully specify the grounds for their motion:

- Hope Center’s Verified Complaint, including Exhibits 1 through 3;
- Hope Center’s Memorandum in Support of its Motion for Preliminary Injunction;
- Exhibits A through V;
- Declaration of Ryan Tucker;
- Declaration of Sherrie Laurie;
- Declaration of Sonja Redmond;
- Declaration of S.D.;
- Declaration of G.O.;
- Declaration of F.S.; and
- Hope Center’s Reply in Support of its Motion for Preliminary Injunction, with supporting documents, if any, when filed.

5. The requested preliminary injunction seeks to enjoin Defendants, its officers, agents, servants, employees, attorneys, and those persons in active concert or participation with Defendant who receive actual notice of this order from directly or indirectly enforcing:

- Anchorage Municipal Code § 5.20.050 and § 5.20.020 as-applied to the constitutionally protected activities of the Hope Center and its agents, including its right to post its desired policies (including Exhibit 3 to the Verified

Complaint) and discuss its religious beliefs about sex and gender, and to open its women's homeless shelter to biological women only; and

- Anchorage Municipal Code § 5.20.050(A)(2)(b), both facially and as-applied to the right of the Hope Center to post its desired policies (including Exhibit 3 to the Verified Complaint) and discuss its religious beliefs about sex and gender.

6. Plaintiffs also respectfully request that this court waive the bond requirement for a preliminary injunction because this requested injunction serves the public interest by vindicating Hope Center's First and Fourteenth Amendment rights. *See Save Our Sonoran, Inc. v. Flowers*, 408 F.3d 1113, 1126 (9th Cir. 2005) (recognizing that no bond is appropriate in cases involving the public interest); *Cal. ex rel. Van De Kamp v. Tahoe Reg'l Planning Agency*, 766 F.2d 1319, 1325 (9th Cir. 1985) (finding proper the district court's decision to allow an environmental group to proceed without posting a bond); *City of Atlanta v. Metro. Atlanta Rapid Transit Auth.*, 636 F.2d 1084, 1094 (5th Cir. 1981) (upholding the waiver of bond where "plaintiffs were engaged in public-interest litigation"); *Richland/Wilkin Joint Powers Auth. v. U.S. Army Corps of Eng'rs*, 826 F.3d 1030, 1043 (8th Cir. 2016) (noting that it was "permissible for the district court to waive the bond requirement based on its evaluation of public interest in [a] specific case").

Respectfully submitted this 1st day of November, 2018.

By: s/ Ryan J. Tucker

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CERTIFICATE OF SERVICE

I hereby certify that on November 1, 2018, the foregoing was filed with the Clerk of Court using the CM/ECF system, which will send notification of such filing to the following:

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/s/ Ryan J. Tucker
Ryan J. Tucker
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EXHIBIT A

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March 6, 2018

VIA E-MAIL

Mr. Andrew B. Sundboom, Investigator
Anchorage Equal Rights Commission
632 West Sixth Avenue, Suite 110
Anchorage, Alaska 99519-6650

Re: AERC Complaint No. 18-041, Downtown Hope Center/[REDACTED]

Gentlemen,

We represent the Downtown Hope Center, which has operated in the past as the Downtown Soup Kitchen (hereafter "Hope Center"). Hope Center has forwarded to us your February 2, 2018, letter and the Complaint by [REDACTED] that is attached thereto. Hope Center did not violate AMC 5.20.050 with respect to [REDACTED]. First, Hope Center is not a public accommodation within the meaning of AMC 5.20.010 and AMC 5.20.050. Second, Hope Center did not discriminate against [REDACTED] on the basis of gender identity. Hope Center has permitted [REDACTED] to receive food service and lavatory and shower access in the past without incident. However, on two occasions [REDACTED], who has a criminal record involving violence and the use of a deadly weapon, was turned away by Hope Center. [REDACTED] was turned away initially because he presented himself to Hope Center under the influence of alcohol after having been ejected and banned from the Brother Francis Shelter for fighting and being under the influence of alcohol. Next, [REDACTED] was turned away when he returned the following day at a time when Hope Center was not open for receiving homeless individuals for shelter. On neither occasion was [REDACTED] turned away because of his gender identity. Third, Hope Center has First Amendment rights to religious liberty and association that permit it to operate exclusively so as to provide charitable shelter to abused and battered women, and to exclude biological males from its abused and battered women's shelter.

Hope Center/History and Operation. Hope Center is a religiously affiliated, private non-profit IRC § 501(c)(3) organization that provides (1) food and showers to homeless individuals in the downtown Anchorage, Alaska, area; and (2) shelter to homeless abused and battered women in the downtown Anchorage, Alaska, area. In addition to providing charitable food and shelter to homeless individuals, Hope Center maintains and operates a church on its property. Hope Center

was originally formed over thirty years ago in a garage as “The Downtown Soup Kitchen.” The Soup Kitchen was prompted by the vision of a few Anchorage church leaders who wanted to share the love of God with Anchorage's homeless. Operating out of a little red house on Fourth Avenue in downtown Anchorage, the Soup Kitchen provided nearly 300 free cups of soup each day to homeless and low-income families; in addition, it offered free showers and clothing handouts from a yellow A-frame located next door. In 2012, the organization moved into its new facility on Third Avenue in downtown Anchorage.

The Soup Kitchen later expanded its mission to include assisting the Brother Francis Shelter (“BFS”), a program of Catholic Social Services that provides free emergency shelter for men and women in Anchorage who are without a home. Essentially, BFS often found itself being asked to shelter more homeless individuals than its facilities would accommodate and it also found itself facing the challenge of trying to provide a safe shelter environment for homeless women who had been abused or battered by men. Therefore, BFS and Hope Center agreed that Hope Center would assist BFS by taking in and providing safe and sober shelter to BFS’s overflow of homeless abused and battered women who presented themselves at BFS, and who otherwise qualified for shelter at BFS. Originally, BFS would check individuals in and then Hope Center would transport the overflow of women from BFS to Hope Center. Eventually, however, the Anchorage homeless community learned of Hope Center’s “shelter” and began appearing at Hope Center directly. Thus, Hope Center now takes into its shelter both an overflow of abused and battered women from BFS, as well as some abused and battered women who appear at Hope Center directly. Hope Center has the ability to provide shelter to as many as fifty abused and battered women at any given time.

Over time, funded primarily by individual donors and churches, Hope Center was able to customize its facility to allow it to better meet the needs of those abused and battered women it seeks to serve. Hope Center has one large open room in which it provides dinner to abused and battered women. Following dinner, the abused and battered women who have signed up and who qualify—*e.g.*, no one is allowed to stay if they are inebriated or high or if they present a safety threat to others—are permitted to stay for the night, based upon space availability and priority of sign-up time. Those who stay for the night are given mats, along with a bag of blankets and a sheet so that they can sleep on the floor in the one large open room. Showers and laundry are also provided to those who have signed up and qualified to stay the night, and breakfast is provided in the morning to those who stayed the previous night.

In addition to Hope Center’s regular services, the organization expanded its programs to create opportunities for its guests to gain experience and marketable job skills. Feed Me Hope Bakery opened its doors in March 2016 to abused and battered women staying in the emergency cold-weather shelter. In the Fall of 2016, Hope Center also launched Feed Me Hope Culinary School—a vocational training program for homeless and formerly incarcerated individuals, both men and women. Already, Hope Center has seen remarkable transformations take place as hope has been restored to students of the bakery and culinary schools. Hope Center’s future plans include barista training, a bakery store front, and a food truck for students to work.

Hope Center is Not a Public Accommodation. The provisions of AMC 5.20.050 only apply to “public accommodations.” Under AMC 5.20.010 a “Public Accommodation” is defined as “any business or professional activity that is open to, accepts or solicits the patronage of, or caters or offers goods or services to the general public. . . .” Hope Center is not a “business” or a “professional activity.” Hope Center is a non-profit religious-affiliated charity that operates to provide (1) free food and showers to homeless individuals; (2) free shelter, showers, laundry, breakfast and potential bakery training to homeless abused and battered women; and (3) free culinary training to homeless and/or economically distressed and unemployed individuals.

Moreover, Hope Center is not “open to” “the general public,” and it does not “accept[] or solicit[]” “the patronage of,” nor does it “cater[] or offer goods or services to” “the general public.” Again, Hope Center operates as a religious charity to feed, shelter, and train a select group of qualifying individuals: (1) homeless—the homeless are provided free food and showers and potential training in the culinary school; (2) homeless abused and battered women—homeless abused and battered women are provided shelter overnight along with laundry, showers, and breakfast and also potential training in the bakery and/or the culinary schools; and (3) financially needy/impoverished individuals—these individuals are provided food at lunch time (soup), access to showers and potential training in the culinary school. Members of the general public are not served, catered to, or sheltered at the Hope Center. If non-homeless, economically self-sustaining individuals appear at the Hope Center, they are turned away because they do not qualify as either “needy” or “homeless.”

The Hope Center does not house biological “men” in its abused women’s shelter, *i.e.*, it does not shelter homeless men in its overnight shelter because this would traumatize and present unreasonable safety risks for the abused and battered women who are admitted for overnight shelter. Many of the abused and battered women who stay at the Hope Center have come out of or have been referred by the AWAIC Shelter because they have experienced domestic or other forms of violence and abuse. Also, many of the women who the Hope Center shelters have escaped the horrendous conditions of sexual exploitation and human trafficking. It would be wholly irresponsible and potentially dangerous for Hope Center to house biological males in its shelter overnight with the population of abused and battered women who stay at the shelter. Hope Center has no ability to provide safety or security to the women in the shelter during the night hours. And, because of the building’s open design and high ceiling, it is not possible for Hope Center to segregate a portion of the shelter for biological males. In any event, housing biological males in close proximity to abused and battered women, some of whom have escaped from human trafficking, would be cruel, possibly negligent, and virtually criminal. Also, Hope Center would be opening itself up to substantial civil liability if a biological male were to harm, rape, or, God forbid, kill one of the abused or battered women in the shelter.

Hope Center Did Not Discriminate Against ██████ on the Basis of Gender Identity. Hope Center regularly feeds ██████ and allows him access to showers during daytime hours. Hope

Mr. Andrew B. Sundboom
March 6, 2018
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Center turned █████ away initially because he presented himself to the abused women's shelter one evening under the influence of alcohol—Hope Center is a clean-and-sober shelter and facility and never admits anyone who is under the influence of drugs or alcohol. █████ smelled strongly of alcohol when he appeared at the Hope Center and he had apparently been expelled and banned from BFS due to his behavior—fighting and drunkenness. Hope Center explained to █████ that he would not be admitted to its facility due to his inebriation and Hope Center gave him cab fare to travel to the Hospital Emergency Room for treatment of the wounds he incurred in his earlier fight. When █████ appeared at Hope Center the following day, a Saturday, at about 2 p.m. Hope Center turned him away because it was not open to receive individuals at that time: Hope Center serves lunch (soup) at mid-day on weekdays and then begins the entry process for abused and battered women at 5:45 p.m. On Saturdays, Hope Center does not serve lunch and only opens to admit qualifying abused and battered women to the shelter at 5:45 p.m. Qualifying women are admitted to Hope Center following 5:45 p.m., after they fill out the necessary paperwork and undergo a bag check (*i.e.*, drugs, alcohol, or weapons are not permitted inside the shelter facility). █████ was informed that Hope Center did not begin admittance to the shelter until 5:45 p.m. █████ left and did not return.

Hope Center Has First Amendment Religious Liberty and Association Rights to Operate as It Does. Because Hope Center is a religiously affiliated organization it has First Amendment rights to religious liberty and association. These constitutional rights exempt Hope Center from being required to shelter a biological male in its shelter for abused and battered women.

CONCLUSION

The March 15, 2018, fact-finding conference should be cancelled and █████ Complaint should be dismissed for the reasons stated above. Hope Center is not a public accommodation and it is not covered by AMC 5.20.050. Moreover, Hope Center did not discriminate against █████ on the basis of gender identity. Hope Center has constitutional rights that exempt it from being required to house a biological male in its abused and battered women's shelter. Hope Center will not be attending the March 15, 2018, fact-finding conference. In the event that AERC determines to proceed with this matter, Hope Center intends to file a Motion to Dismiss on the basis that Hope Center is not a public accommodation.

Sincerely,

BRENA, BELL & CLARKSON, P.C.


Kevin G. Clarkson

KGC:alm

EXHIBIT B

for profit or other economic benefit; and (4) does not engage in business transactions—namely commercial transactions for profit or other economic benefit, DHC is not a public accommodation subject to AMC 5.20.050. Because DHC is not subject to the law at issue in the Complaint, the Complaint should be dismissed.¹

FACTS

I. The Downtown Hope Center.

DHC is a religiously affiliated, private nonprofit IRC § 501(c)(3) organization² that provides (1) food and showers to homeless individuals in the downtown Anchorage, Alaska, area; and (2) shelter to homeless women in the downtown Anchorage, Alaska, area, many of whom have been abused or battered. [Laurie Aff. ¶ 2] In addition to providing charitable food and shelter, DHC maintains a church on its property. *Id.* DHC was originally formed over thirty years ago in a garage as “The Downtown Soup Kitchen.” *Id.* ¶ 3. The Soup Kitchen was prompted by the vision of a few Anchorage church leaders who wanted to share the love of God with Anchorage’s homeless. Operating out of a little red house on Fourth Avenue in downtown Anchorage, the Soup Kitchen provided nearly 300 free cups of soup each day to homeless and low-income families; in addition, it offered free showers and free clothing handouts from a yellow A-frame located next door. In 2012, DHC moved into its new facility on Third Avenue in downtown Anchorage. *Id.*

¹ In addition to the defense argued herein, DHC has other defenses to the application of AMC 5.20.050 against it, and it has other challenges to the factual allegations of the Complaint. DHC reserves those defenses and challenges and does not waive them by not including them in this motion at this time.

² Ex. 1 (501(c)(3) Certificate); Ex. 2 (Nonprofit Corporation 2016 Biennial Report).

DHC's Soup Kitchen later expanded its mission to include assisting the Brother Francis Shelter ("BFS"), a program of Catholic Social Services that provides free emergency shelter for men and women in Anchorage who are without a home. *Id.* ¶ 4. BFS often found itself being asked to shelter more homeless individuals than its facilities would accommodate and it also found itself facing the challenge of trying to provide a safe shelter environment for homeless women, many of whom had been abused or battered by men on the streets or otherwise. *Id.* Therefore, BFS and DHC agreed that DHC would assist BFS by taking in and providing safe and sober shelter to BFS's overflow of homeless abused and battered women who presented themselves at BFS, and who otherwise qualified for shelter at BFS. Originally, BFS would check individuals in and then DHC would transport the overflow of women from BFS to DHC. Eventually, however, the Anchorage homeless community learned of DHC's "shelter" and began appearing at DHC directly. Thus, DHC now takes into its shelter both an overflow of homeless women from BFS, as well as some homeless women who appear at DHC directly. DHC has the ability to provide shelter to as many as fifty homeless women at any given time. *Id.*

Over time, funded by individual donors and churches, DHC was able to customize its facility to allow it to better meet the needs of the homeless and the abused and battered women it seeks to serve. DHC continues to operate a soup kitchen to feed homeless and needy individuals in Anchorage. DHC's soup kitchen is open to any homeless or needy individual. DHC also maintains bathrooms and showers that it makes available to all homeless and needy individuals. *Id.* ¶ 5.

DHC operates an overnight shelter for homeless women off the streets of Anchorage, many of whom have been abused or battered and some of whom have escaped from human trafficking. DHC has one large open room in which it provides dinner to the homeless women. After dinner, the homeless women who have signed up and who qualify—*e.g.*, no one is allowed to stay if they are inebriated or high or if they present a safety threat to others—are permitted to stay for the night, based upon space availability and priority of sign-up time. Those who stay for the night are given mats, along with a bag of blankets and a sheet so that they can sleep on the floor in the one large open room. Showers and laundry are also provided to those who have signed up and qualified to stay the night, and breakfast is provided in the morning to those who stayed the previous night. *Id.* ¶ 6. The shelter is limited to women because of DHC’s concern for the physical, psychological, and emotional safety of the women. Many of the homeless women that DHC serves have been abused and battered by men on the streets of Anchorage or otherwise, and some have escaped the horrendous conditions of human trafficking. *Id.*

DHC receives no government funds. Instead, DHC receives private donations from individuals, businesses, and churches. DHC has also received a donation from the Providence Foundation. DHC operates exclusively on a charitable basis for nonprofit charitable purposes; it does not conduct commercial transactions or other forms of “for profit” activities, and it does not cater to, or offer goods or services to, “the general public.” DHC sells a small amount of baked items that the homeless women working in its bakery make, but the sales proceeds are nominal and DHC applies all bakery proceeds to cover costs of the bakery and the shelter. DHC serves only the homeless (men and women) of

Anchorage, and it shelters only the homeless women of Anchorage, many of whom are abused and battered. DHC would turn away anyone that comes to it for food who is not homeless or needy. *Id.* ¶ 7.

II. Downtown Hope Center's Interaction with [REDACTED]

On January 26, 2018, at about 6:00 P.M., [REDACTED] was dropped at DHC by officers of the Anchorage Police Department. *Id.* ¶ 8. Sherrie Laurie, DHC's Executive Director, was called to the Dining Hall, which also serves as the sleeping area for the homeless women's shelter, to discern the course of action to be taken regarding [REDACTED]. *Id.* [REDACTED] smelled strongly of alcohol to Ms. Laurie—[REDACTED] also had an open wound above his eye. *Id.* [REDACTED] acted very agitated and irritated. *Id.*

DHC is a sober and clean shelter. No one is allowed to stay in the shelter if they are inebriated or high. *Id.* ¶ 9. Ms. Laurie informed [REDACTED] that DHC did not accept individuals who were inebriated, under the influence of alcohol or drugs, and that [REDACTED] could not stay at DHC for that reason. *Id.* Ms. Laurie recommended to [REDACTED] that [REDACTED] pursue medical care for the wound over [REDACTED] eye. *Id.* Ms. Laurie eventually learned that [REDACTED] had been involved in a fight at BFS, had been ejected from BFS, and had been banned from BFS for a period of time because of his behavior. *Id.* Ms. Laurie was eventually informed by BFS that [REDACTED] had initiated a very disruptive fight at BFS, the police had been called to handle the situation, and that [REDACTED] had been banned from BFS property until July 4, 2018. *Id.*

Ms. Laurie recommended that [REDACTED] go to the hospital in order to receive medical care for the wound over [REDACTED] eye. *Id.* ¶ 10. After much resistance, [REDACTED] agreed to go

to the hospital for medical care, and DHC paid for a cab to take [REDACTED] to the emergency room. *Id.* DHC did not see [REDACTED] again that evening. *Id.*

Around 2:00 P.M. the next day, January 27, 2018 (a Saturday), [REDACTED] showed up at DHC again and knocked on the facility door wanting to be admitted. *Id.* ¶ 11. On Saturdays, shelter guests are monitored by volunteers. DHC's Saturday shelter policy is that no one is allowed in the building to participate in the day shelter unless they stayed in the shelter the night before, having filled out the necessary paperwork and gone through a bag check. *Id.* DHC does not have its volunteers handle bag checks. Saturday check-in time for new guests is 5:45 P.M. [REDACTED] was not admitted because he had not stayed the previous evening and he presented himself at about 2:00 P.M. when the shelter was not accepting new guests. *Id.* [REDACTED] was asked to leave the property because DHC, as a courtesy to neighbors, does not allow loitering. [REDACTED] left DHC and never returned. *Id.*

III. The Complaint.

On February 1, 2018, [REDACTED] filed a Complaint with the AERC claiming that DHC had discriminated against [REDACTED] on the basis of sex and gender identity under Anchorage Ordinance, AMC § 5.20.050, which prohibits discrimination in places of public accommodation.

ARGUMENT

I. DHC IS NOT A PUBLIC ACCOMMODATION

A. The Plain Language of the Ordinance Requires the Conclusion That DHC Is Not a “Public Accommodation.”

The applicability of the Anchorage anti-discrimination law to DHC’s cold weather homeless shelter hinges on the allegation that the shelter is a “place of public accommodation.” AMC § 5.20.050. The Ordinance prohibits discrimination only “in places of public accommodation.” *Id.* The ordinance provides in pertinent part:

- A. It is unlawful for . . . an owner or operator of a public accommodation, to:
 - 1. Refuse, withhold from or deny to a person any of its accommodations, advantages, facilities, benefits, privileges, services or goods of that place on account of . . . sex . . . gender identity

AMC § 5.20.050(A)(1). A public accommodation is defined by AMC § 5.20.010 as follows:

Public accommodation means any business or professional activity that is open to or solicits the patronage of, or caters or offers goods or services to the general public, subject only to the conditions and limitations established by law and applicable alike to all persons.

AMC § 5.20.010. DHC’s cold weather shelter is not a place of public accommodation and, therefore, it is not subject to the Ordinance. Because DHC is not subject to the Ordinance, the Complaint against it has no basis in law and should be dismissed.

In order to determine the proper interpretation of the Ordinance’s definition of “public accommodation,” in addition to construing the Ordinance’s plain language, the Commission must use ordinary principles of statutory construction. Principles of statutory construction apply to municipal ordinances. *See South Anchorage Concerned Coalition, Inc. v. Municipality of Anchorage*, 172 P.3d 768, 771 (Alaska 2007) (citing *City of Skagway v. Robertson*, 143 P.3d 965, 968 (Alaska 2006); *Marlow v. Municipality of Anchorage*, 889 P.2d 599, 602 (Alaska 1995)). When interpreting the Ordinance at issue, the Commission’s goal must be to give effect to the intent of the law-making body with due regard for the meaning that the language in the provision conveys to others. *See South Anchorage*, 172 P.3d at 771 (citing and quoting *Marlow*, 889 P.2d at 602). In construing the meaning of the Ordinance, the Commission is to “look to the meaning of the language, the legislative history (if any), and the purpose of the statute in question.” *See Muller v. BP Expl. (Alaska), Inc.*, 923 P.2d 783, 787 (Alaska 1996). Moreover, “unless words have acquired a peculiar meaning, by virtue of statutory definition or judicial construction, they are to be construed in accordance with their common usage.” *Muller*, 923 P.2d at 788.

The key words and phrases within the Ordinance’s definition that identify the necessary characteristics of a “public accommodation” are as follows:

- (1) “business;”
- (2) “professional activity;”
- (3) “open to . . . the general public;”
- (4) “solicits the patronage of . . . the general public;”
- (5) “caters to . . . the general public;” and

(6) “offers goods or services to the general public.”³

The definition of “public accommodation,” as used in the Ordinance, does not include a cold-weather homeless shelter run by a religiously affiliated non-profit organization like DHC, that:

- receives no government funds;
- engages in no commercial activities;
- charges no fee for its services, but rather offers them as charity to the homeless;
- operates no commercial facilities for the conducting of business;
- transacts no business;
- is not open to “the general public;”
- does not solicit the patronage of “the general public;”
- does not cater to “the general public;” and
- does not offer goods or services to “the general public.”

The words and phrases used in the Ordinance’s definition of “public accommodation” limit the definition to commercial business establishments, or the functional equivalent thereof, that engage in commercial business transactions—namely, commercial transactions for profit or other forms of economic benefit. *See, e.g., Buscaglia ex. rel. Roach v. Friendship Mission*, OAH No. 16-0933-HRC, ASCHR No. J-14-004 (interpreting the definition of

³ AMC 5.20.010 (“Public Accommodation”).

“public accommodation” that is contained within Alaska’s Human Rights Act (“AHRA”), set forth at AS 18.80.300(16)).⁴

Here, the common English definition of “business,” is:

A usually commercial or mercantile activity engaged in as a means of livelihood . . . a commercial or sometimes an industrial enterprise . . . dealings or transactions especially of an economic nature.

Merriam-Webster Unabridged Dictionary (April 18, 2018) (*see* <https://www.merriam-webster.com/dictionary/business>). The phrase “professional activity” likewise carries a common meaning that denotes commercial business activities.⁵ Both “business” and “professional activity” denote commercial business for profit or other economic benefit.

The Ordinance’s definition also denotes that the scope of the public accommodation’s business must be both broad and general. To be a “public accommodation,” the business must broadly cater to, seek to serve, and/or serve the “general public.” The term “general public” in common English denotes all members of

⁴ A copy of the OAH decision for the ASCHR is attached hereto as Ex. 3. The Alaska Human Rights Act defines “public accommodation” as follows: “A place that caters or offers its services, goods, or facilities to the general public and includes a public inn, restaurant, eating house, hotel, motel, soft drink parlor, tavern, night club, roadhouse, place where food or spirituous or malt liquors are sold for consumption, trailer park, resort, campground, barber shop, beauty parlor, bathroom, resthouse, theater, swimming pool, skating rink, golf course, cafe, ice cream parlor, transportation company, and all other public amusement and business establishments, subject only to conditions and limitations established by law and applicable alike to all persons.” AS 18.80.300(16).

⁵ “Accounting, legal, medical and other such services provided by a formally certified member of a professional body.” *See* <http://www.businessdictionary.com/definition/professional-services.html>. “Professional services are occupations in the tertiary sector of the economy requiring special training in the arts or sciences. Some professional services require holding professional licenses such as architects, auditors, engineers, doctors and lawyers.” *See* https://en.wikipedia.org/wiki/Professional_services.

the public as opposed to a select group of individuals. *See, e.g., Quinnipiac Council, Boy Scouts of America v. Commission for Human Rights and Opportunities*, 528 A.2d 352, 359 (Conn. 1987) (the term “general public” denotes “the public at large.”)⁶ Thus, each of the key words and phrases used in the Anchorage Ordinance, when considered alone and when read and interpreted together, denote that a “public accommodation” is a place of business that operates to serve the general public at large for commercial purposes, namely for profit or some other form of financial benefit.

B. Cannons of Statutory Construction Favor Interpreting Public Accommodation to Mean a Place of Business that Operates to Serve the General Public At Large for Commercial Purposes, Namely for Profit Or Some Other Form of Financial Benefit.

This conclusion that public accommodation means a place of business that operates to serve the general public for commercial purposes, namely profit or some other financial benefit, is bolstered by the doctrine of *noscitur a sociis*. This doctrine holds that the meaning of statutory terms are to be ascertained in light of the meaning of words with which they are associated. *See Smith v. State*, 229 P.3d 221, 227 (Alaska App. 2010) (“*Noscitur a sociis*—literally, ‘it is known by its associates’—is the principle of statutory construction which directs a court to construe an unclear or ambiguous word or phrase in light of the words immediately surrounding it”); *Morgan v. State*, 139 P.3d 1272, 1277 n. 8

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⁶ The Connecticut public accommodation anti-discrimination law defines “public accommodation” as “any establishment which caters or offers it services or facilities or goods to the general public.” Conn. Gen. Statutes (Sup. 1953) § 2464c (quoted in *Quinnipiac*, 528 A.2d at 358).

(Alaska App. 2006).⁷ This doctrine favors interpreting “public accommodation” as set forth above. First, the Ordinance specifically states that a “public accommodation” includes a “business” or “professional activity” that is “open to . . . the general public.” AMC 5.20.010. Under the doctrine *noscitur a sociis*, the Ordinance’s following words and phrases: “solicits,” “caters,” “patronage of,” “offers goods,” and “offers . . . services,” must be understood in the context of the preceding words “business” and “professional services.” But, in any event, these later words, even when considered alone, denote commercial business. Therefore, here, (1) the sense of the ordinance as a whole, (2) the key words and phrases used therein—in both a legal and broader cultural sense, and (3) associating the words together and interpreting them harmoniously, all lead to the conclusion that a public accommodation is a business or commercial enterprise that serves the general public for profit or some other form of financial benefit.

The proper construction of the Ordinance’s definition of public accommodation, as set forth above, is even more firmly confirmed when it is considered in the context of the Alaska Human Rights Act’s definition of public accommodation. The state statute’s definition of public accommodation is similar but also somewhat different than the

⁷ See also *Atlantic Cas. Ins. Co. v. Gustafson*, 891 N.W. 499, 503 (Mich. App. 2016) (when several words “are associated in a context suggesting that the words have something in common, they should be assigned a permissible meaning that makes them similar—the canon especially holds that ‘words grouped in a list should be given related meanings’”); Scalia and Garner, *Reading Law: The Interpretation of Legal Texts*, pp. 202-205 (St. Paul Thomson/West 2012); *Third Nat’l Bank in Nashville v. Impact Ltd.*, 432 U.S. 312, 322 (1977); *Sponsel v. Park County*, 126 P.3d 105, 110 (Wyo. 2006) (“general and specific words are associated with and take color from each other”).

Ordinance's definition—unlike the Anchorage Ordinance at issue here, the definition in the State statute contains both (1) a specific enumeration of the types of businesses that are subject to the law and (2) an umbrella clause. AS 18.80.300(16). Nonetheless, the State statute provides guidance regarding how the Anchorage Ordinance should be construed. For example, the State statute uses words and phrases similar to the Ordinance such as (a) “caters . . . to the general public,” (b) “offers . . . services . . . to the general public;” (c) “offers . . . goods . . . to the general public;” and (d) “offers . . . facilities to the general public.” *Id.* And, via its umbrella clause, the State statute, like the Anchorage Ordinance, links the meaning of all of the phrases together by using the term “business”—*i.e.*, “all other . . . business establishments.” AS 18.80.300(16). The phrase “all other” ties the former words and phrases (“caters,” “services,” “goods,” and “facilities”) together with the term “business establishments” and denotes that the former words and phrases are descriptive of the “business establishments” that are covered by the law.

Similarly, the Ordinance refers to a public accommodation as being “any business or professional activity” and then connects the following words and phrases with the connecting phrase “that is”—*i.e.*, the use of the phrase “that is” indicates that all of the following words and phrases are descriptive of the businesses and professional services that are “public accommodations—namely, they are open to the general public, they accept or solicit the patronage of the general public, and they offer goods or services to the general public. AMC 5.20.010.

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In summary, the Anchorage Ordinance, just like the State Human Rights Act, limits its definition of public accommodation to a business or commercial enterprise that serves the general public for profit or some other form of financial benefit.

C. Courts from Other Jurisdictions Similarly Interpret the Term “Public Accommodation.”

Courts interpreting anti-discrimination laws in other jurisdictions have held that a “public accommodation” is a business or commercial establishment that operates for public and caters to the general public. For example, the Kansas Supreme Court has interpreted the term “public accommodation” as used in the Kansas anti-discrimination law to mean businesses held out as open to the general public and to which members of the public generally are invited to patronize and otherwise visit. *See Kansas Commission on Civil Rights v. Sears, Roebuck & Co.*, 532 P.2d 1263, 1270 (Kan. 1975); *see also Seabourn v. Coronado Area Council, Boy Scouts of America*, 891 P.2d 385, 392, 403 (Kan. 1995) (“‘public accommodations’ includes all businesses which can reasonably be described as offering goods, services, facilities, and accommodations to the public. Moreover . . . public accommodations may cover those ‘persons’ traditionally considered a public accommodation; that is, those places involving a common understanding and acceptance by the public in a place to which the public is invited indiscriminately.”).⁸ In *Seabourn*, the Kansas Supreme Court refined its holding in *Sears* by explaining further:

Business establishments or business-like establishments or those establishments commonly thought of as public accommodations involve

⁸ The Kansas anti-discrimination law, like the Alaska Human Rights Act, defines public accommodation by using an umbrella clause and a specific enumeration. *Id.* at 396, 397.

interactions between store personnel and patrons that are perfunctory and impersonal, involving the payment of prices which reflect that full cost of what is received.

891 P.2d at 406. The Kansas Supreme Court held in *Seabourn* that the Boy Scouts was not a “public accommodation” because its primary purpose was educational and focused on the inculcation of a specific set of values in its youth members—benefits that were overwhelmingly personal and noneconomic. *Id.* at 406.

The California Supreme Court has similarly interpreted the California Unruh Civil Rights Act.⁹ In *Warfield v. Peninsula Golf & Country Club*, 896 P.2d 776, 792 (Cal. 1995) the California Court concluded that a member-owned nonprofit golf and country club was a public accommodation because it was in effect a business establishment due to “the business transactions that are conducted regularly on the club’s premises with persons who are not members of the club. . . .” And, in *Curran v. Mount Diablo Council of the Boy Scouts*, 952 P.2d 218, 236 (Cal. 1998) the California Supreme Court concluded that the Boy Scouts was not a business establishment within the meaning of the Unruh Act because it was “a charitable, expressive, and social organization . . . whose formation and activities are unrelated to the promotion or advancement of the economic or business interests of its members.”

Courts have held that the nonprofit nature of an organization alone is not controlling or determinative to the conclusion that it is not a public accommodation. *See O’Connor v. Village Green Owners Assn.*, 662 P.2d 427, 430-31 (Cal. 1983). As the Court in *O’Connor*

⁹ The Unruh Civil Rights Act defines “public accommodation.”

indicated, “hospitals are often nonprofit organizations, and they are clearly business establishments to the extent that they employ a vast array of persons, care for an extensive physical plant and charge substantial fees to those who use the facilities.” *Id.* at 431. In the case of a nonprofit, the question hinges upon whether the entity’s primary activities are comparable to those of a commercial business enterprise and are undertaken for the purpose of creating an economic benefit. *See, e.g., Curran*, 952 P.2d at 231, 235. Likewise, the simple fact that the entity sells some incidental items for nominal amounts and then uses the sale proceeds to supplement its nonprofit operation, does not transform the entity into a business entity that is a public accommodation. *See, e.g., Curran*, 952 P.2d at 238-39 (the Boy Scout’s incidental sales transactions were “distinct from the Scout’s core functions”); *California Lutheran High School Ass’n*, 88 Cal. Rptr.3d 475, 481-82 (Cal. App. 4th Dist. 2009) (the private school’s sale of sports event tickets, t-shirts, school spirit items, and yearbooks did not transform it into a public accommodation/business enterprise because the sales did not involve the sale of the school’s basic activities or services).

Here, applying the principles derived from the above decisions, DHC’s cold weather women’s shelter is not a public accommodation under the Anchorage Ordinance. DHC’s shelter has the primary purpose of providing charitable shelter to homeless women in Anchorage. DHC operates its shelter as a charitable entity whose formation and activities are unrelated to the promotion or advancement of economic or business interests. DHC’s shelter is not comparable to a commercial business enterprise because it operates by providing free shelter to women off the streets of Anchorage. The fact that DHC’s bakery sells some of the baked goods that the women in the shelter make does not transform the

shelter into a business enterprise—the sale of baked goods is incidental to DHC’s primary purpose, the proceeds derived from such sales is nominal, and the proceeds are used to supplement the donations that funds the shelter’s charitable operation.

CONCLUSION

For all of the above reasons, the Complaint against DHC should be dismissed because DHC is not a public accommodation covered by the Anchorage Ordinance, AMC 5.20.050.

DATED this 23rd day of April, 2018.

BRENA, BELL & CLARKSON, P.C.
Attorneys for Respondent

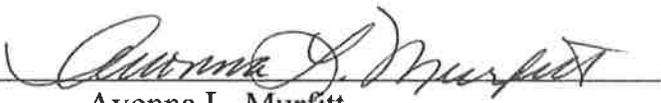
By 
Kevin G. Clarkson, ABA No. 8511149

Certificate of Service

The undersigned hereby certifies that a copy of the foregoing document was mailed and e-mailed to the following attorneys/parties of record this 23rd day of April, 2018:

Attorneys for Complainant

Pamela T. Basler, Esq.
Executive Director
Anchorage Equal Rights Commission
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OGDEN UT 84201-0038

In reply refer to: 0438186857
Mar. 29, 2013 LTR 4168C 0
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BODC: TE

DOWNTOWN SOUP KITCHEN
PO BOX 202684
ANCHORAGE AK 99520-2684



040102

Employer Identification Number: 92-0141715
Person to Contact: Deb Bridgewater
Toll Free Telephone Number: 1-877-829-5500

Dear Taxpayer:

This is in response to your Mar. 20, 2013, request for information regarding your tax-exempt status.

Our records indicate that you were recognized as exempt under section 501(c)(03) of the Internal Revenue Code in a determination letter issued in AUGUST 1993.

Our records also indicate that you are not a private foundation within the meaning of section 509(a) of the Code because you are described in section(s) 509(a)(1) and 170(b)(1)(A)(vi).

Donors may deduct contributions to you as provided in section 170 of the Code. Bequests, legacies, devises, transfers, or gifts to you or for your use are deductible for Federal estate and gift tax purposes if they meet the applicable provisions of sections 2055, 2106, and 2522 of the Code.

Please refer to our website www.irs.gov/eo for information regarding filing requirements. Specifically, section 6033(j) of the Code provides that failure to file an annual information return for three consecutive years results in revocation of tax-exempt status as of the filing due date of the third return for organizations required to file. We will publish a list of organizations whose tax-exempt status was revoked under section 6033(j) of the Code on our website beginning in early 2011.



THE STATE
of **ALASKA**

Department of Commerce, Community, and Economic Development
Division of Corporations, Business, and Professional Licensing
PO Box 110806, Juneau, AK 99811-0806
(907) 465-2550 • Email: corporations@alaska.gov
Website: Corporations.Alaska.gov

AK Entity #: 49803D
Date Filed: 05/09/2016
State of Alaska, DCCED

FOR DIVISION USE ONLY

Nonprofit Corporation
2016 Biennial Report

For the period ending June 30, 2016

Web-5/9/2016 7:12:26 PM

- This report is due on July 02, 2016
- \$25.00 if postmarked before August 02, 2016
- \$30.00 if postmarked on or after August 02, 2016

Entity Name: THE DOWNTOWN SOUP KITCHEN
Entity Number: 49803D
Home Country: UNITED STATES
Home State/Province: ALASKA

Registered Agent

Name: SHERRIE LAURIE
Physical Address: 240 EAST 3RD AVE,
ANCHORAGE, AK 99501
Mailing Address: PO BOX 202684, ANCHORAGE,
AK 99520

Entity Physical Address: 3401 Lakeshore Dr. #2, Anchorage, AK 99517

Entity Mailing Address: PO BOX 202684, ANCHORAGE, AK 99520

Please include all officials. Check all titles that apply. Must use titles provided. All domestic non-profit corporations must have a president, vice president, secretary, treasurer, and at least three directors. The secretary and the president cannot be the same person.

Name	Address	% Owned	Titles
LORRAINE O'NEAL	12110 PORTAGE DR, ANCHORAGE, AK 99515	N/A	Director, Secretary
RICHARD IRWIN	2531 LEGACY DR, ANCHORAGE, AK 99516	N/A	Director, President
ALAN ROBILLARD	2531 Laird Circle, Anchorage, AK 99516	N/A	Vice President
GREG LOUDON	14010 Venus Way, Anchorage, AK 99515	N/A	Treasurer
SHERI SCHMITZ	12040 JEROME STREET, ANCHORAGE, AK 99516	N/A	Director
TOM ARMINSKI	2931 CROWN POINT CR, ANCHORAGE, AK 99502	N/A	Director
CHERYL JONES	2234 DAYBREAK CRT, ANCHORAGE, AK 99501	N/A	Director
LINDA WAGGONER	2579 NATHANIAL CRT, ANCHORAGE, AK 99517	N/A	Director

Purpose: CHARITABLE

NAICS Code: 624210 - COMMUNITY FOOD SERVICES

New NAICS Code (optional):

EXHIBIT 2

Estimated value of all real or personal property of the corporation:

3800000.00

I certify under penalty of perjury under the Uniform Electronic Transaction Act and the laws of the State of Alaska that the information provided in this application is true and correct, and further certify that by submitting this electronic filing I am contractually authorized by the Official(s) listed above to act on behalf of this entity.

Name: Sherrie Laurie

BEFORE THE ALASKA OFFICE OF ADMINISTRATIVE HEARINGS ON
APPOINTMENT BY THE ALASKA STATE COMMISSION FOR HUMAN RIGHTS

Marti Buscaglia, Executive Director, Alaska State)
Commission for Human Rights, *ex rel.*)
FRANCIS ROACH,)
)
Complainant,)
)
v.)
)
FRIENDSHIP MISSION,)
)
Respondent.)

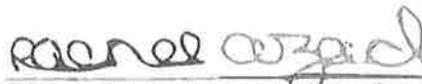
OAH No. 16-0933-HRC
ASCHR No. J-14-004

NOTICE OF RECOMMENDED DECISION

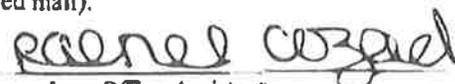
Attached is the administrative law judge's recommended decision in this matter. Alaska Statute 44.64.060 does not apply to this case. Pursuant to 6 AAC 30.470(d), within 15 days after receipt of the recommended decision, any party may file objections with the Office of Administrative Hearings, serving copies upon opposing counsel. Responses to objections may not be filed unless ordered by the administrative law judge.

If no objections are filed by the deadline set under 6 AAC 30.470, the recommended decision and the record of all proceedings to date will be sent to the hearing commissioners for issuance of a final order. If an objection is filed, the undersigned administrative law judge will consider all objections filed, and take action pursuant to 6 AAC 30.470(d).

DATED July 18, 2017


Office of Administrative Hearings
550 W. 7th Ave., Ste. 1940
Anchorage, Alaska 99501
(907) 269-8170 (Phone)
(907) 269-8172 (Fax)

Certificate of Service: The Undersigned certifies that on July 18, 2017, a true and correct copy of this document was distributed to the following: Sonja Redmond, counsel for Friendship Mission (by certified mail); Steve Koteff, Human Rights Advocate, ASCHR (by certified mail).

By: 
Law Office Assistant

**BEFORE THE ALASKA OFFICE OF ADMINISTRATIVE HEARINGS ON
APPOINTMENT BY THE ALASKA STATE COMMISSION FOR HUMAN RIGHTS**

Marti Buscaglia, Executive Director, Alaska State)
Commission for Human Rights, *ex rel.*)
FRANCIS ROACH,)
)
Complainant,)
)
v.)
)
FRIENDSHIP MISSION,)
)
Respondent.)

OAH No. 16-0933-HRC
ASCHR No. J-14-004

RECOMMENDED DECISION

I. Introduction

Alaska law prohibits places of public accommodation from engaging in disability-based discrimination. Friendship Mission, a volunteer-run, non-profit homeless shelter in Kenai, Alaska, has a policy barring all animals from its facility. Under this policy, the Friendship Mission will not allow any disabled patrons' service animals to accompany them at the Mission. On behalf of Francis Roach, a potential patron of Friendship Mission, the Executive Director of the Alaska State Commission for Human Rights filed an Accusation asserting that the enforcement of the "no pets" policy against service animals violates the Human Rights Act's prohibition on disability-based discrimination, and seeking declaratory and injunctive relief. Friendship Mission admits that it refuses to make exceptions to its "no pets" policy, but contends that it is not a place of public accommodation within the scope of the Act. The parties have filed cross-motions for summary decision.

Because the evidence in the record does not support the Executive Director's position that Friendship Mission is a place of public accommodation for purposes of the Act, this decision recommends that the Accusation be dismissed.

II. Legal background

Both state and federal laws prohibit employers, public entities, and places of public accommodation from engaging in disability-based discrimination. The Alaska legislature has:

[D]etermined and declared as a matter of legislative finding that discrimination against an inhabitant of the state because of . . . physical or mental disability . . . is a matter of public concern and that this discrimination not only threatens the rights and privileges of the inhabitants of the state but also menaces the institutions of the state and

threatens peace, order, health, safety, and general welfare of the state and its inhabitants.¹

In furtherance of this policy, Alaska's Human Rights Act, AS 18.80, prohibits disability-based discrimination in employment, financing, housing rental and sales, the activities of public entities, and in places of public accommodation. It is this final prohibition which is at issue in this case. Alaska Statute 18.80.230(a)(1) makes it unlawful for a place of public accommodation "to refuse, withhold from, or deny a person any of its services, goods, facilities, advantages or privileges, because of . . . physical or mental disability[.]"²

The specific discriminatory act alleged in this case is the refusal to modify a "no pets" policy to allow a service animal to accompany a disabled individual to a place of public accommodation. Although the Alaska Supreme Court has never addressed the application of AS 18.80 to issues involving service animals, the Court and the Commission generally follow the analytical framework of analogous federal laws in interpreting the scope of the Human Rights Act. The Americans with Disabilities Act, its regulations, and cases construing it clearly provide that a place of public accommodation cannot rest on a generic "no pets" policy to exclude service animals. The legislative history of the ADA contains strong support for the premise that exclusion of service animals under the guise of blanket "no pets" policies is discriminatory.³

Federal regulations provide that "[g]enerally, a public accommodation shall modify policies, practices, or procedures to permit the use of a service animal by an individual with a disability."⁴ Applying them, federal courts have observed that "service dogs are a common example of a reasonable accommodation for people with disabilities."⁵ "In most circumstances, waiving a no-pet rule to allow a disabled resident the assistance of a service animal is a

¹ AS 18.80.200.

² AS 18.80.230(a)(1); *see also* AS 18.80.210 ("The opportunity to obtain . . . public accommodations . . . without discrimination because of . . . physical or mental disability . . . is a civil right.").

³ *See* H.R. Rep. No. 485(III), 101st Cong., 2d Sess. 59 (1990), reprinted in 1990 U.S.C.A.N. 445, 482 ("It is discriminatory to fail to make reasonable modifications in policies and practices when such modifications are necessary to provide goods or services, unless it can be demonstrated that the modifications would fundamentally alter the nature of the goods or services provided. For example, it is discriminatory to refuse to alter a "no pets" rule for a person with a disability who uses a guide or service dog."); 135 Cong. Rec. S10,800 (1989) (Sen. Simon: "One form of discrimination faced by thousands of people with disabilities in public accommodations is prohibiting entry by an assistive animal. Part of the problem lies in ignorance Regretfully, many people still don't understand that these animals are well-trained and certified, and don't create public disturbances nor pose any public health risk whatsoever. Generally speaking, any facility where it is safe for a person to go, it is safe for a trained assistive animal to go, including restaurants and other public accommodations It should be further understood that a person with a disability using a guide, signal or service dog should not be separated from the dog A person with a disability and his or her assistive animal function as a unit and should never be involuntarily separated. Nor is there any need for this separation. To require it would be discriminatory under the Americans with Disabilities Act.").

⁴ 28 C.F.R. § 36.302(c)(1).

⁵ *Petty v. Portofino Council of Coowners, Inc.*, 702 F. Supp. 2d 721, 731 n.8 (S.D.Tex. 2010).

reasonable accommodation.”⁶ Federal regulations further provide that a place of public accommodation may exclude a service animal if (1) making such modifications would fundamentally alter the nature of the entity’s goods, services, facilities, privileges, advantages, or accommodations; (2) the safe operation of the entity would be jeopardized; or (3) such modifications would result in an undue financial or administrative burden.⁷ Such determinations, however, “must be based on actual risks rather than on mere speculation, stereotypes, or generalizations about individuals with disabilities.”⁸

The same principles apply under the Human Rights Act. A place of public accommodation may not refuse to consider making an exception to a “no pets” policy. Instead, a determination as to the reasonableness of the accommodation sought must be made on a case-by-case basis, based upon actual risks and not upon mere speculation or generalizations.⁹ A public accommodation’s blanket refusal to accommodate a service animal violates the Alaska Human Rights Act.

III. Relevant facts

Friendship Mission is an Alaska non-profit corporation that operates a small homeless shelter for men on the Kenai Peninsula.¹⁰ The shelter, which houses between four and ten men at a time, is open to “any man who applies and agrees to obey the rules.”¹¹

Friendship Mission was founded and is operated by Graydon and MaryAnn Cowgill. Its bylaws describe it as “an Independent, Non-Denominational, Evangelical organization,” and identify its “purpose” as follows:

We are a Christian organization and our purpose is to show God’s love through example and in a practical manner by providing for the needs of the homeless, poor, needy and dysfunctional men on the Kenai Peninsula, to the best of our ability. Our goal is to rescue and rehabilitate. Our aim is to return the men that come to us for help to being useful citizens in society.¹²

At oral argument, counsel argued that Friendship Mission carries out that purpose “by ministering to homeless men.”¹³

⁶ *Prindable v. Ass’n of Apartment Owners of 2987 Kalakaua*, 304 F. Supp. 2d 1245, 1257 (D. Haw. 2003).

⁷ *See* 28 C.F.R. §§ 36.301(b), 36.302(c)(1), 36.303(a), 35.130(b)(7), 35.136, 35.150(a)(3), 35.164.

⁸ 28 C.F.R. §§ 36.301(b), 35.130(h).

⁹ *See Anderson v. Anchorage School District*, OAH Case No. 09-0233-HRC; *affirmed*, Anchorage Superior Court Case No. 3AN-10-10122CI (October 2011).

¹⁰ Resp. Ex. 1.

¹¹ Cowgill Affidavit, ¶ 14; statement of counsel at oral argument.

¹² Resp. Ex. 2, p. 1.

¹³ Statement of counsel at oral argument.

The Cowgills receive no salary, and Friendship Mission has no paid staff.¹⁴ The Mission receives no government funding, and is “supported entirely by donations from individuals and churches.”¹⁵ Residents who have jobs are encouraged, but not required, to donate \$10 per day to the Mission “as an act of obedience to God and to practice [the] traditional Christian biblical teachings [of] tithing and caring for those less fortunate.”¹⁶ In practice, relatively few residents do so.¹⁷ No one has ever been turned away for not donating.¹⁸

Men at the shelter share common eating and sleeping facilities.¹⁹ Prospective residents sign an admittance statement that provides, in part, as follows:

[I] recognize my need for assistance and hereby apply for admittance to Friendship Mission. I understand that this is a religious and charitable organization. The Mission is dedicated primarily to the social and physical rehabilitation and the spiritual regeneration of those persons who are in need of such assistance.²⁰

There is no religious test for admission (i.e. no inquiry into a prospective resident’s religion or lack of religion).²¹ However, residents must attend daily Bible study as well as twice-weekly church services.²² Residents must also follow rules about profanity, drug and alcohol use, grooming, and personal hygiene.²³ Friendship Mission dictates residents’ schedules, including what time they wake up, when they may be in their rooms, how often they must shower and for how long, chore obligations, meal times, and other restrictions.²⁴

It is undisputed that Friendship Mission maintains a policy prohibiting animals at its facility, and that it publicizes this policy on its website.²⁵ It is also undisputed that the Mission makes no exceptions to this policy, including making no exception for service animals for persons with disabilities. The Mission justifies this policy by claiming there is nowhere for animals to stay, that animals could pose sanitation problems, and that other residents could have allergies.²⁶

¹⁴ Cowgill Aff., ¶¶ 3-4. In an affidavit, Mr. Cowgill explained that he views “serving the poor and needy and providing for them” to be “an act of religious worship to God.” Cowgill Aff., ¶ 29.

¹⁵ Cowgill Aff., ¶¶ 7, 29; statement of counsel at oral argument.

¹⁶ Cowgill Aff., ¶¶ 11-17.

¹⁷ Cowgill Aff., ¶¶ 15-16 (“Typically none of the residents have jobs or contribute to the Mission. Currently there are 6 residents and 2 have jobs. One is contributing to the Mission, the other is not.”).

¹⁸ Cowgill Aff., ¶ 12; statement of counsel at oral argument.

¹⁹ Cowgill Aff., ¶ 22.

²⁰ Ex. 6.

²¹ Statement of counsel at oral argument.

²² Cowgill Aff., ¶¶ 9-10.

²³ Ex. 4.

²⁴ Ex. 4, p. 2.

²⁵ Ex. 4, p. 1.

²⁶ Cowgill Aff., ¶¶ 23-27.

Contending there is no way it could accommodate animals, the Mission claims that, if required to accommodate service animals, “we’d have to shut down.”²⁷

Francis Roach alleges that he is legally blind and has a service dog that assists him.²⁸ Mr. Roach alleges that he wanted to stay at Friendship Mission, but was told that his service dog could not stay there with him.²⁹ The Mission denies any specific knowledge of Mr. Roach’s claims, but admits that a service dog would not be allowed to stay at the facility.³⁰

IV. Procedural history

The Executive Director referred this matter for hearing in August 2016. The Amended Accusation alleges that Mr. Roach uses a service dog because of “a sight impairment that substantially limits his ability to see.”³¹ It alleges that twice in 2013, Mr. Roach called Friendship Mission to ask about staying there, and was told “that he was welcome to stay at the shelter but that his service dog would not be allowed to accompany him” because Friendship Mission does not allow animals, including service animals.³² The Amended Accusation also asserts that Friendship Mission’s website lists among the shelter’s rules a blanket “no pets” policy.³³ Based on these allegations, the Executive Director contends that Friendship Mission has violated AS 18.80.230(a)(1) (denying services and facilities based on disability) and AS 18.80.230(a)(2) (publishing communications implying services will be denied because of a disability).³⁴

In the course of these proceedings, Friendship Mission has never denied that it has a blanket “no pets” policy to which it refuses to make exceptions. But Friendship Mission has contended that it is outside the scope of Alaska’s Human Rights Act because it is not within any class of activities or entities regulated by the Act. In particular, it contends that, contrary to the jurisdictional allegations in the Accusation, it is not a place of public accommodation. It reasons that, if it is not within the Act’s coverage, it is not required to modify its policies to accommodate disabled residents.³⁵

At a case planning conference held in September 2016, both counsel agreed that this matter did not involve disputed facts, but instead boiled down to a legal dispute about whether

²⁷ Cowgill Aff., ¶ 28; statement of counsel at oral argument.

²⁸ Roach Aff., ¶¶ 1, 2, 3.

²⁹ Roach Aff., ¶¶ 4, 5. These allegations are accepted as true for purposes of this motion.

³⁰ Cowgill Aff., ¶ 18-28.

³¹ Amended Acc., ¶¶ 2-3.

³² Amended Acc., ¶¶ 4-7.

³³ Amended Acc., ¶ 11.

³⁴ Amended Acc., ¶¶ 13-27.

³⁵ See Answer; comments of counsel at September 2016 case planning conference.

Friendship Mission fell within the statute's reach. The parties thus agreed to present the matter for decision based on briefing.

On December 5, 2016, the Executive Director filed a Motion for Summary Decision. On December 28, 2016, Friendship Mission filed an Opposition to the Executive Director's Motion. A procedural order issued January 6, 2017, converted that Opposition into an Opposition and Cross-Motion for Summary Decision. The Executive Director filed her Reply on February 22, 2017, and on March 6, 2017 submitted a request for oral argument. That request was granted and argument was scheduled for May 16, 2017.³⁶

On May 4, 2017, counsel for Friendship Mission notified the Executive Director of her intent to "call witnesses" to testify at the upcoming oral argument. The Executive Director filed a motion to strike; Friendship Mission opposed the motion and also submitted an affidavit of Graydon Cowgill. At a status conference held May 8, it was agreed that Mr. Cowgill's affidavit would be accepted to belatedly support Friendship Mission's December 2016 Opposition and Cross-Motion. To cure any prejudice associated with this late filing, the Executive Director was permitted an opportunity to file supplemental briefing, and oral argument was rescheduled.

Oral argument was held on May 23, 2017. Following the oral argument, both counsel requested the opportunity to file post-hearing briefing. The parties submitted post-hearing briefs on June 9, 2017, and the Mission filed a notice of supplemental authority on June 27, 2017.

V. Discussion

A. Preliminary procedural and evidentiary issues

Alaska Statute 18.80.120(e) provides that, "at any time after the issuance of an accusation, the executive director or the person charged in the accusation may petition for a summary decision on the accusation."³⁷ Summary decision is appropriately granted where, after the parties have had a reasonable opportunity for discovery, "the record shows that there is no genuine issue of material fact and the petitioner is entitled to an order under AS 18.80.130 as a matter of law."³⁸

The disposition of this case was made more complicated by the sparse factual record presented by the parties. Although both counsel initially agreed that this matter should be decided on briefing and without need for an evidentiary hearing, neither party's briefing attempted to make a strong factual record as to the Mission's day-to-day operations. At oral argument, however, both counsel endorsed relying on the affidavit of Mr. Cowgill, printouts from the

³⁶ The lengthy delay was due to planned medical leave by respondent's counsel.

³⁷ AS 18.80.120(e).

³⁸ AS 18.80.120(e).

Mission's website and bylaws, and the representations of respondent's counsel as a sufficient basis from which to determine the nature of respondent's organization. These tacit stipulations have been accepted.

Both parties having cross-moved for summary decision on the same issue of law, and both parties insisting at oral argument that the record was complete for purposes of deciding that issue, this decision concludes that it is not necessary to further develop the factual record in this matter. The Executive Director ultimately bears the burden of showing that Friendship Mission is a place of public accommodation and has violated the Human Rights Act. The Executive Director did not meet that burden because she did not show that Friendship Mission is a place of public accommodation. Rather, on the record as presented by the parties, Friendship Mission has shown that it is entitled to summary decision on this issue of law.

B. Principles of interpretation of Alaska's Human Rights Act

The Alaska Supreme Court has held that the Human Rights Act is to be broadly construed.³⁹ When interpreting the Act, the Court has looked to analogous federal cases for guidance,⁴⁰ but has also held "that AS 18.80 'is intended to be more broadly interpreted than federal law to further the goal of eradication of discrimination.'"⁴¹ Thus, even as it looks to federal case law, the Court remains "mindful of 'the strong statement of purpose in enacting AS 18.80 and our legislature's intent to put as many teeth into the statute as possible.'"⁴² The Commission likewise looks to federal law as a guide in construing AS 18.80.⁴³ The Commission's regulations also acknowledge its "obligation to construe AS 18.80 liberally."⁴⁴ On the specific topic of disability-based claims, the Commission looks to the Americans with Disabilities Act and "relevant federal case law as a guideline," but favors AS 18.80 over these federal laws "when state law is more liberal than federal law."⁴⁵

³⁹ *Smith v. Anchorage School District*, 240 P.3d 834, 842 (Alaska 2010); *Moody-Herrera v. State, Dep't of Natural Resources*, 976 P.2d 79, 86 (Alaska 1998).

⁴⁰ *See, e.g., Peterson v. State*, 236 P.3d 355, 363-364 (Alaska 2010) (following federal case law to evaluate hostile work environment claim); *State v. Meyer*, 906 P.2d 1365, 1374 (Alaska 1995) (citing *Texas Dep't of Cmty. Affairs v. Burdine*, 450 U.S. 248, 253-56 (1981)). *See also, Villaflores v. Alaska State Comm'n for Human Rights*, 175 P.3d 1275, 1277 (Alaska 2008); *Villaflores v. Alaska State Comm'n for Human Rights*, 170 P.3d 663, 665 (Alaska 2007); *Mahan v. Arctic Catering, Inc.*, 133 P.3d 655, 660 (Alaska 2006); *Alaska State Comm'n for Human Rights v. Yellow Cab*, 611 P.2d 487, 490 (Alaska 1980).

⁴¹ *VECO, Inc. v. Rosebrock*, 970 P.2d 906, 912-13 (Alaska 1999) (quoting *Wondzell v. Alaska Wood Prods., Inc.*, 601 P.2d 584, 585 (Alaska 1979)).

⁴² *Miller v. Safeway, Inc.*, 102 P.3d 282, 290 (Alaska 2004) (quoting *Wondzell v. Alaska Wood Prods., Inc.*, 601 P.2d 854, 585 (Alaska 1979)).

⁴³ 6 AAC 30.910(b).

⁴⁴ 6 AAC 30.910(b).

⁴⁵ 6 AAC 30.910(b).

Although the Supreme Court has acknowledged the intended broad scope of the Human Rights Act, it has also declined attempts to broaden the scope of AS 18.80's coverage beyond the statute's terms. In *U.S. Jaycees v. Richardet*, for example, the Court rejected the argument that a nonprofit club without a fixed physical location was a "place of public accommodation" under the statute.⁴⁶

Jaycees is not the only case in which the Court has declined an expansive reading of the Human Rights Act. In *Miller v. Safeway*, the Court rejected a claim that AS 18.80's prohibition against gender discrimination bars employers from enforcing gender-based grooming policies. On this issue, the Court expressly declined to construe Alaska law more broadly than the analogous federal cases.⁴⁷ Similarly, in *Muller v. BP Exploration (Alaska) Inc.*, the Court rejected a claim that the requirement to "broadly" interpret AS 18.80.220 allowed a claim for marital status discrimination based on the identity of the plaintiff's spouse.⁴⁸ This "broad reading," the Court found, went too far, and would apply the law beyond its intended goals and protections.⁴⁹

The Court has also declined to interpret AS 18.80 according to principles of federal law where obvious distinctions exist between Alaska's statute and its federal counterpart. Thus, in *Cole v. State Farm Ins. Co.*, the Court rejected an attempt to read terms into AS 18.80 based on a federal statute that post-dated the enactment of Alaska's law.⁵⁰ The Court has likewise declined to follow federal case law that relies on federal statutory language not found in AS 18.80.⁵¹

C. Friendship Mission is not a place of public accommodation for purposes of AS 18.80.230(a)(1)'s prohibition on disability-based discrimination

As noted at the outset, places of public accommodation may not rely on a blanket "no pets" policy to exclude service animals of disabled patrons. But the Mission denies that its shelter is a "place of public accommodation," and therefore contends that it is not within the statute's scope. The legislature has defined "public accommodation" as:

⁴⁶ *U.S. Jaycees v. Richardet*, 666 P.2d 1008, 1011-1012 (Alaska 1983).

⁴⁷ *Miller v. Safeway*, 102 P.3d 282, 293 (Alaska 2004) ("agree[ing] with the reasoning of the numerous federal cases addressing this issue and conclud[ing] that Alaska law should not be more broadly construed in this particular respect").

⁴⁸ *Muller v. BP Exploration (Alaska) Inc.*, 923 P.2d 783, 790-791 (Alaska 1996).

⁴⁹ *Id.* at 790-791 ("The purpose of the AHRA is to prevent prejudices and biases borne against persons who are members of certain protected classes; it seeks to eliminate the effects of offensive or demeaning stereotypes, prejudices, and biases against the members of those classes. The more expansive interpretation of the term 'marital status' does not protect the members of the class, but instead effectively enlarges it to include all persons wishing to work with their spouses[.]").

⁵⁰ *Cole v. State Farm Ins. Co.*, 128 P.3d 171, 177 (Alaska 2006) (declining to incorporate ADA identification of insurance office as public accommodation where AS 18.80 was enacted "well before the ADA" and lacks similar term).

⁵¹ See *Smith v. Anchorage School District*, 240 P.3d 834, 840-841 (Alaska 2010).

A place that caters or offers its services, goods, or facilities to the general public and includes a public inn, restaurant, eating house, hotel, motel, soft drink parlor, tavern, night club, roadhouse, place where food or spirituous or malt liquors are sold for consumption, trailer park, resort, campground, barber shop, beauty parlor, bathroom, resthouse, theater, swimming pool, skating rink, golf course, café, ice cream parlor, transportation company, and all other public amusement and business establishments, subject only to conditions and limitations established by law and applicable alike to all persons.⁵²

In construing the meaning of Alaska statutes, Alaska courts “look to the meaning of the language, the legislative history, and the purpose of the statute in question.”⁵³ Here, inquiry into the meaning of the language of the statute begins with the definition’s direction that place of public accommodation “includes” twenty-four specific types of entities. It is well-established by statute in Alaska that use of the phrase “includes” denotes a non-exhaustive list.⁵⁴ While the word “includes” indicates a non-exhaustive list, it is also generally construed to group items that are categorically similar. This principle appears in the legal doctrine of *ejusdem generis* (“of the same kind”), which tells us that, “where general words follow an enumeration of persons or things, . . . such general words are not to be construed in their widest extent, but are to be held as applying only to persons or things of the same general kind or class as those specifically mentioned.”⁵⁵

Applying these principles, the Alaska Supreme Court explained in *Jaycees* that the list of public accommodations is not considered exhaustive, and that other establishments are considered public accommodations if “similar in nature to those enumerated.”⁵⁶ The question here is whether respondent’s homeless shelter is similar in nature to the enumerated list. The Executive Director argues that a homeless shelter is similar to a hotel, motel, or inn, because all of these offer a place to stay. But hotels, motels, and inns all offer a place to stay as part of a commercial transaction. Respondent’s homeless shelter, on the other hand, offers a place to stay, without charge but with considerable rules and restrictions, as part of a volunteer-led, not-for-profit religious ministry. These are not similar entities for *ejusdem generis* purposes.

⁵² AS 18.80.300(16).

⁵³ *Muller v. BP Expl. (Alaska) Inc.*, 923 P.2d 783, 787 (Alaska 1996).

⁵⁴ AS 01.10.040(b).

⁵⁵ Black’s Law Dict. (5th ed. 1979) at 464. An example of an application of *ejusdem generis* would be the interpretation of the phrase “horses, cattle, sheep, goats, or any other farm animal”; in the absence of contrary factors, the doctrine would suggest that “any other farm animal” would encompass only similarly large mammals, and would exclude chickens. *West v. Municipality of Anchorage*, 174 P.3d 224, 228 (Alaska 2007).

⁵⁶ *U.S. Jaycees v. Richardet*, 666 P.2d 1008, 1012 (Alaska 1983).

Complicating the analysis is that, although Alaska looks to related federal laws for guidance in interpreting the Human Rights Act, the ADA *expressly* includes homeless shelters in its enumerated list of entities that constitute “public accommodations.”⁵⁷ As the Alaska Supreme Court observed in *Cole*, however, the ADA was enacted after AS 18.80, and is therefore not the source of AS 18.80’s definition of this term. Further, in the ADA, homeless shelters appear in the enumerated list of “social service center establishments,” not the section on “places of lodging.” While the ADA lists numerous types of entities beyond traditional commercial enterprises, Alaska’s law does not. And the ADA’s location of homeless shelters within the category of social service establishments – and not in the category of “places of lodging” – further undermines the Executive Director’s suggestion that homeless shelters are appropriately categorized, for *ejusdem generis* purposes, with hotels and motels.

At least one other court has construed another jurisdiction’s Human Rights Act as including homeless shelters within the broad category of “place of public accommodation.”⁵⁸ In *Hunter v. District of Columbia*, the U.S. District Court for the District of Columbia concluded that the mandate to broadly read the D.C. Human Rights Act, and the inclusion of “homeless shelter” in the ADA’s list of public accommodations, supported treating the respondent as a place of public accommodation.⁵⁹ But in that case, the homeless shelter in question was receiving substantial governmental funds from federal and local sources, and was operating an apartment

⁵⁷ 42 USC § 12181(7)(K); 18 C.F.R. 36.104(11). The ADA’s complete definition is as follows:
(7) Public accommodation. The following private entities are considered public accommodations for purposes of this subchapter, if the operations of such entities affect commerce –

- (A) an inn, hotel, motel, or other place of lodging, except for an establishment located within a building that contains not more than five rooms for rent or hire and that is actually occupied by the proprietor of such establishment as the residence of such proprietor;
- (B) a restaurant, bar, or other establishment serving food or drink;
- (C) a motion picture house, theater, concert hall, stadium, or other place of exhibition or entertainment;
- (D) an auditorium, convention center, lecture hall, or other place of public gathering;
- (E) a bakery, grocery store, clothing store, hardware store, shopping center, or other sales or rental establishment;
- (F) a laundromat, dry-cleaner, bank, barber shop, beauty shop, travel service, shoe repair service, funeral parlor, gas station, office of an accountant or lawyer, pharmacy, insurance office, professional office of a health care provider, hospital, or other service establishment;
- (G) a terminal, depot, or other station used for specified public transportation;
- (H) a museum, library, gallery, or other place of public display or collection;
- (I) a park, zoo, amusement park, or other place of recreation;
- (J) a nursery, elementary, secondary, undergraduate, or postgraduate private school, or other place of education;
- (K) a day care center, senior citizen center, homeless shelter, food bank, adoption agency, or other social service center establishment; and
- (L) a gymnasium, health spa, bowling alley, golf course, or other place of exercise or recreation.

⁵⁸ See *Hunter on behalf of A.H. v. District of Columbia*, 64 F. Supp. 3d 158 (D.D.C. 2014).

⁵⁹ *Hunter*, 64 F. Supp. 3d at 180.

building through a governmental contract.⁶⁰ Moreover, that case was decided under the D.C. Human Rights Act, whose definition of “place of public accommodation” differs from Alaska’s in at least one key respect: the D.C. statute does not refer to “business establishments.”

As discussed further below, the question whether a homeless shelter – in particular, respondent’s homeless shelter – is a place of public accommodation necessarily must address the significance of the phrase “business establishments” in the definition of that term. Friendship Mission urges that, like the list of identified establishments, this phrase, too, signals that a “place of public accommodation” under AS 18.80 does not encompass lodging provided as part of a gratuitous charitable ministry with no commercial purpose.

In assessing statutory language, the Alaska Supreme Court has noted that “unless words have acquired a peculiar meaning, by virtue of statutory definition or judicial construction, they are to be construed in accordance with their common usage.”⁶¹ Friendship Mission points to the Webster’s New Collegiate definition of business as “a commercial or industrial establishment.” But even courts that have broadly construed the phrase “business establishment” in public accommodation laws have recognized that the phrase is necessarily narrower than “all” establishments.⁶²

The inquiry into the meaning of the phrase “business establishment” brings us to the related issue of legislative history. The definition of “place of public accommodation” in AS 18.80 appears to have emerged largely from a pre-statehood public accommodation law.⁶³ The Territory of Alaska first enacted its own public accommodation law in 1945. The Alaska Anti-

⁶⁰ *Id.*, at 163-165, 172.

⁶¹ See *Muller*, at 788. At the same time, “[t]o seek the meaning of a statute is not simply to look up dictionary definitions and then stitch together the results. Rather, it is to discern the sense of the statute, and therefore its words, in the legal and broader culture.” *Curran v. Mt. Diablo Council of the Boy Scouts*, 952 P.2d 218, 240 (Cal. 1998) (Mosk, J., conc.).

⁶² See, e.g., *Burks v. Poppy Constr. Co.*, 370 P.2d 313, 315-16 (California 1962) (“The legislature used the words ‘all’ and ‘of every kind whatsoever’ in referring to business establishments covered by the Unruh Act (Civ. Code § 51), and the inclusion of these words without any exception and without specification of particular kinds of enterprises, leaves no doubt that the term ‘business establishments’ was used in the broadest sense reasonably possible. The word ‘business’ embraces everything about which one can be employed, and it is often synonymous with ‘calling, occupation, or trade, engaged in for the purpose of obtaining a livelihood or gain.’”); *Warfield v. Peninsula Golf & Country Club*, 896 P.2d 776 (California 1995) (“the reach of [the public accommodation law] cannot be determined invariably by reference to the ‘plain meaning’ of the term ‘business establishment’”); *Curran v. Mt. Diablo Council of the Boy Scouts*, 952 P.2d 218, 239 (California 1998) (even lack of other available remedies against organization’s “invidious discrimination . . . cannot justify extending the scope of the [public accommodation law] further than its language reasonably will bear”).

⁶³ Many states had their own public accommodation laws prior to the passage of the federal Civil Rights Act in 1964. See *Heart of Atlanta Motel, Inc. v. United States*, 379 U.S. 241, 259 (1964) (noting that 32 states, including Alaska, have enacted public accommodation laws); Lisa G. Lerman & Annette K. Sanderson, *Comment, Discrimination in Access to Public Places: A Survey of State and Federal Public Accommodations Laws*, 7 N.Y.U. REV. L. & SOC. CHANGE 215 (1978).

Discrimination Act, enacted “to provide for full and equal accommodations, facilities and privileges to all citizens in all places of public accommodation within the jurisdiction of the Territory of Alaska,” provided:

All citizens within the jurisdiction of the Territory of Alaska shall be entitled to the full and equal enjoyment of accommodations, facilities and privileges of public inns, restaurants, eating houses, hotels, soda fountains, soft drink parlors, taverns, road houses, barber shops, beauty parlors, bathrooms, resthouses, theaters, skating rinks, cafés, ice cream parlors, transportation companies, and all other conveyances and amusements, subject only to the conditions and limitations established by law and applicable alike to all citizens.⁶⁴

This list of establishments was nearly identical to the list now defining places of public accommodation under AS 18.80, although the concluding phrase referred to “all other conveyances and amusements.”

When Alaska was admitted into the Union as a state in 1959, then-existing Territorial laws remained in full force and effect as state laws.⁶⁵ Three years later – and still before the passage of the federal Civil Rights Act – the legislature reenacted the public accommodation statute as AS 11.60.230-240.⁶⁶ The list of places of public accommodation was slightly modified, and the end phrase in the definition was changed from “and all other conveyances and amusements” to “and all other public amusements and business establishments.” The new law provided:

A person is entitled to the full and equal enjoyment of accommodations, advantages, facilities and privileges of public inns, restaurants, eating houses, hotels, motels, soda fountains, soft drink parlors, taverns, roadhouses, trailer parks, bathrooms, resorts, campgrounds, barbershops, beauty parlors, resthouses, theatres, swimming pools, skating rinks, golf courses, cafes, ice cream parlors, transportation companies, and all conveyances, housing accommodations, and all other public amusement and business establishments, subject only to the conditions and limitations established by law and applicable alike to all persons.⁶⁷

This newly-added reference to “business establishments” mirrored language in California’s 1959 public accommodations statute. Prior to 1959, California’s statute had – similarly to Alaska’s Territorial law – prohibited discrimination in a number of specified establishments and, more generally, in “all other places of public accommodation or

⁶⁴ S.L. 1945, HB 14.

⁶⁵ Alaska Statehood Law, Pub. L. 85-508, Sec. 8(d), July 7, 1958, 72 Stat. 399.

⁶⁶ SI:A 1962, Ch. 49 (HB 8).

⁶⁷ AS 11.60.230-240 added “motels,” “trailer parks,” “resorts,” “campgrounds,” “swimming pools,” and “golf courses” to the itemized list of places of public accommodation.

amusement.”⁶⁸ In 1959, California’s legislature revised and expanded that statute to prohibit discrimination “in all business establishments of every kind whatsoever.”⁶⁹ Alaska’s 1962 law prohibited discrimination in a number of specified establishments and then, broadly, in “all other public amusement and business establishments.”

Three years after the Alaska legislature re-codified the public accommodation law through AS 11.60.230-.240, it enacted the Alaska Human Rights Act.⁷⁰ The Alaska Human Rights Act, enacted the year after passage of the federal Civil Rights Act, repealed existing anti-discrimination provisions and reenacted them under AS 18.80. Although the federal law did not contain the “business establishments” language, nor do the vast majority of state public accommodation laws, the legislature retained that language in the Alaska law.⁷¹

Because both states’ legislatures chose to situate public accommodation laws within the context of “business establishments,” cases interpreting the California law – while obviously not controlling here – provide a useful analytical framework for interpreting the scope of public accommodations under Alaska’s law. The California Supreme Court has analyzed the scope of the “business establishment” language in a variety of contexts. In a case heavily relied on by the Executive Director, that Court held that a recreational facility operated by a nonprofit club (and which excluded girls) was a business establishment under California’s law.⁷² But in a later case, the Court refused to find the Boy Scouts to be a business establishment at least for purposes of membership policies and decisions.⁷³

In *Ibister v. Boys Club of Santa Cruz*, the Court concluded that a charitable non-profit organization’s recreational facility – which included a pool, a gym, a snack bar, and craft rooms all available for use for a fee on a drop-in basis to any boy in the community – was a “business

⁶⁸ Cal.Stats. 1923, ch. 245, § 1, p. 485 (“All citizens with the jurisdiction of this state are entitled to the full and equal accommodations, advantages, facilities and privileges of inns, restaurants, hotels, eating-houses, places where ice cream or soft drinks of any kind are sold for consumption on the premises, barber shops, bath houses, theaters, skating rinks, public conveyances and all other places of public accommodation or amusement, subject only to the conditions and limitations established by law and applicable alike to all citizens.”).

⁶⁹ Cal. Civ. Code § 51 (“All persons within the jurisdiction of this state are free and equal, and no matter what their sex, race, color, religion, ancestry, or national origin are entitled to the full and equal accommodations, advantages, facilities, privileges, or services in all business establishments of every kind whatsoever.”).

⁷⁰ Alaska Statute 18.80.010, creating the State Commission for Human Rights, was enacted in 1963. SLA 1963, ch. 15, § 1. In 1965, the legislature passed the Human Rights Act, which revised and strengthened existing anti-discrimination laws and reenacted them under AS 18.80. See generally, 1965 Annual Report of the State Commission on Human Rights. <http://humanrights.alaska.gov/files//Public%20Notices/1965%20Annual%20Report.pdf>

⁷¹ AS 18.80 removed “soda fountains” from the itemized list of places of public accommodation, and added “night clubs” and “places where food or spirituous or malt liquors are sold for consumption.”

⁷² *Ibister v. Boys Club of Santa Cruz*, 707 P.2d 212 (California 1985).

⁷³ *Currán v. Mt. Diablo Council of the Boy Scouts*, 952 P.2d 218, 220 (California 1998).

establishment” under the public accommodations law. The Court based its conclusion both on the Club’s “public nature” in offering access to its facilities to a “broad segment of the population,” and its “functional similarity to a commercial business.”⁷⁴ Similarly, the Court had previously found that a non-profit homeowners association was a business establishment because its activities were comparable to those of a landlord and were carried out for a commercial and economic purpose – enhancing members’ property values.⁷⁵ And the Court later held that a private golf club that excluded women came within the reach of the statute because of the business transaction conducted on its premises. Because the golf club through these commercial activities operated as the “functional equivalent of a commercial enterprise,” it was subject to the public accommodations law.⁷⁶

But in the later *Curran* case, by way of contrast, the Court found that the Boy Scouts – at least for purposes of its membership decisions and policies – did not fall within the reach of the term “all business establishments whatsoever.” Although the organization is open to any boy ages 11-18 willing to take the Boy Scout oath, the Court found that its activities and objectives were primarily educational, it lacked a significant business purpose, and its primary function was the inculcation of a specific set of values.⁷⁷

Here, likewise, the evidence does not support the conclusion that the Mission is a business establishment and place of public accommodation under AS 18.80. While the purpose of the Alaska Human Rights Act no doubt supports extending a broad reach to eliminate invidious discrimination, just as in *Curran*, that purpose “cannot justify extending the scope of the [Human Rights Act] further than its language reasonably will bear.”⁷⁸ As discussed above, application of *ejusdem generis* does not support inclusion of the Mission within the categories of places of public accommodation specifically identified in the statute. Nor is the Mission – a volunteer-run non-profit organization receiving no governmental funds and operating no commercial activities or facilities – either a business establishment or “functional equivalent” of one. Accordingly, its refusal to allow service animals, however contrary to the underlying purposes of the Alaska Human Rights Act, is not actionable in this forum.

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⁷⁴ *Ibister*, 707 P.2d at 218-220.

⁷⁵ *O’Connor v. Village Green Owners Association*, 662 P.2d 427 (California 1983).

⁷⁶ *Warfield v. Peninsula Golf & Country Club*, 996 P.2d 776 (California 1995).

⁷⁷ *Curran*, 952 P.2d at 223, 236.

⁷⁸ *Curran*, 952 P.2d at 239.

VI. Conclusion

The Mission's cross-motion for summary decision established that it is not a "place of public accommodation" within the reach of AS 18.80. Accordingly, while in no way endorsing the Mission's refusal to extend reasonable accommodations with regard to service animals, this decision recommends dismissal of the Amended Accusation in this matter.

DATED: July 18, 2017.

By: _____


Cheryl Mandala
Administrative Law Judge

EXHIBIT C

BEFORE THE ANCHORAGE EQUAL RIGHTS COMMISSION

[REDACTED],)
)
 Complainant,)
)
 v.) AERC Case No. 18-041
)
 DOWNTOWN HOPE CENTER,)
)
 Respondent.)
)
 PAMELA BASLER,)
)
 Complainant,)
)
 v.) AERC Case No. 18-167
)
 DOWNTOWN HOPE CENTER,)
 KEVIN CLARKSON AND BRENA,)
 BELL & CLARKSON,)
)
 Respondent.)

NOTICE OF APPEARANCE OF COUNSEL

Ryan J. Tucker of Alliance Defending Freedom enters his appearance on behalf of Respondent Downtown Hope Center in the above-captioned cases. Mr. Tucker is licensed in Arizona (Bar No. 034382) and is hereby associated with Sonja Redmond, counsel licensed in Alaska (Bar No. 0605022), who previously made an appearance in these cases.

Further, Mr. Tucker is hereby designated as the contact person for the
Downtown Hope Center.

DATED this 21st day of June, 2018.

Respectfully submitted,

/s/ Ryan J. Tucker

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ATTORNEYS FOR
DOWNTOWN HOPE CENTER

CERTIFICATE OF SERVICE

I certify that a true copy of the foregoing has been forwarded on June 21, 2018, to the following:

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/s/ Sonja Redmond

Sonja Redmond

EXHIBIT D

Ryan Tucker

From: Ryan Tucker
Sent: Friday, June 29, 2018 10:27 AM
To: 'sundboomab@ci.anchorage.ak.us'
Cc: John B. Thorsness; 'Jana Vanderbrink'; Benjamin Bull; 'Reed Smith'; 'Sonja Redmond'; Jon Scruggs; David Cortman; 'baslerp@muni.org'
Subject: AERC Case No. 18-167: Basler v. Downtown Hope Center & Brena, Bell & Clarkson, P.C.
Attachments: 2018.06.29 Letter to AERC.pdf

Mr. Sundboom,

Please see attached correspondence.

Thanks,
Ryan



June 29, 2018

Andrew Sundboom, Investigator
Anchorage Equal Rights Commission
632 West 6th Avenue, Suite 110
Anchorage, Alaska 99519-6650

Re: AERC Complaint No.. 18-167; *Pamela Basler, Executive Director, AERC, et al v. Downtown Hope Center and/or Brena Bell & Clarkson*

Dear Mr. Sundboom:

Now having had some time to review this file, we have reviewed your letter dated May 15, 2018, as well as your e-mail dated June 8, 2018, to Kevin Clarkson regarding the Fact Finding Conference (“Conference”) in the above-styled complaint.

As an initial matter, we have a conflict for the Conference scheduled for July 9. As such, we will be unable to attend the Conference on that date.

Also, having reviewed some of the rules and regulations, we have some specific concerns regarding the Conference procedures. Anchorage Municipal Code (“AMC”) 5.50.020(B)(3) states that the “procedures to be followed at the conference” shall be provided “to the parties, in writing, at least 21 days prior to the fact finding conference.” Your letter dated May 15, 2018, discussed the date, time, and place of the Conference and requested information; however, it did not include the “procedures to be followed at the conference.” Please provide all of the relevant procedures referred to in the AMC at your earliest convenience.

To the extent the “procedures” mentioned in AMC 5.50.020(B)(3) refer to AMC 5.50.020 as a whole, we have concerns related to the lack of constitutional protections provided therein. Specifically, we are concerned that the procedures and rules violate basic principles of due process.

The Conference is clearly an evidentiary hearing. What is unclear, however, is what rules govern the admission of evidence and how those rules are applied. AMC 5.50.020 states in part that “staff may ... accept exhibits and documents from the parties” and “[e]xhibits and documents received at a fact finding conference may be used as evidence in making a determination.” This raises many questions: May counsel object to evidence presented at the Conference? Is there a different standard for “documents” submitted? Either way, what rules are

applicable and how are objections to such evidence or “documents” preserved? AMC 5.50.020(G) also says that “[s]tatements made by a party during a fact finding conference may be used as evidence.” May counsel object to questions asked or answers given, instruct a client not to answer, or even ask his own client to clarify a response during the Conference? The fact that “[l]egal counsel ... must submit any questions through staff” suggests otherwise. *See* AMC 5.50.020(A). An evidentiary hearing without such appropriate safeguards raises significant constitutional problems.

We have similar issues with the “reasonable number of witnesses” that a party may bring. *See* AMC 5.50.020(C). Does the prohibition on cross examination of the “other party” (which my client likewise objects to) extend to witnesses brought by the “other party”? *See* AMC 5.50.020(A). In sum, it is unclear what the procedures are, what rules are applicable, how those rules are expected to be applied, and whether the procedures comply with due process.

We therefore respectfully ask for a reset of the Conference, first due to our having a conflict as such date was set without a mutual inquiry concerning availability, because of a failure to serve the Conference procedures, and for a lack of clarity about those procedures.

Also, our client was misidentified in the complaint. The proper legal name is The Downtown Soup Kitchen.

Finally, we intend to file a motion for lack of jurisdiction, and to the extent necessary, an answer, as The Downtown Soup Kitchen denies any allegations made against it in the complaint. That said, we were also recently made aware of interrogatory answers provided by our client. We are in the process of reviewing those answers, and will likely amend them to include additional information to assist the AERC in determination of any jurisdictional issues. We believe that such responses will be sufficient to dispose of these Complaints against our client. We intend to cooperate as best we are able while fully protecting the rights of our client. We look forward to working with you.

Thank you for your attention to these matters.

Sincerely,



Ryan J. Tucker

cc: David A. Cortman
Jonathan A. Scruggs
John B. Thorsness
Benjamin W. Bull
Reed N. Smith

EXHIBIT E

Ryan Tucker

From: Ryan Tucker
Sent: Thursday, July 5, 2018 6:24 PM
To: 'baslerp@muni.org'; 'Sundboom, Andrew B.'
Cc: 'Benjamin Bull'; 'Reed Smith'; David Cortman; Jon Scruggs; 'Sonja Redmond'; John B. Thorsness
Subject: AERC Complaint No. 18-167; Pamela Basler v. Downtown Hope Center, et al
Attachments: 2018.07.05 Letter to AERC.pdf; Motion for Lack of Jurisdiction .pdf; Exhibits to Motion for Lack of Jurisdiction.pdf

Ms. Basler,

Please see attached correspondence and motion with exhibits for filing with the AERC.

Thank you.



July 5, 2018

Pamela Basler, Executive Director
Anchorage Equal Rights Commission
632 West 6th Avenue, Suite 110
Anchorage, Alaska 99519-6650

Re: AERC Complaint No. 18-167; *Pamela Basler, Executive Director, AERC, et al v. Downtown Hope Center and/or Brena Bell & Clarkson*

Dear Ms. Basler:

We have reviewed your e-mail dated June 29, 2018, to Sonja Redmond regarding the Fact Finding Conference (“Conference”) in the above-styled complaint.

Since we recently became counsel for the Downtown Hope Center (“DHC”) and need time to gather the facts and come up to speed on the issues, we are disappointed that the Anchorage Equal Rights Commission (“AERC”) denied our request for a continuation of the Fact Finding Conference scheduled for July 9, 2018, particularly because we never agreed to July 9 and are unavailable on that date. We desire to cooperate with the AERC as best we are able, but also need the assurances that our client’s constitutional rights will be protected. To that end, we again ask that you clarify the procedures used during your fact finding conferences and answer the questions that we raised regarding those procedures in our letter dated June 29, 2018.

Also, as mentioned in that last letter, attached is the Downtown Hope Center’s Motion for Lack of Jurisdiction. As this motion explains, the two complaints against DHC should be immediately dismissed or withdrawn by the AERC. The July 9 Fact Finding Conference should also be cancelled until the AERC rules on Motion for Lack of Jurisdiction. If the AERC lacks jurisdiction, it has no basis to hold the July 9 conference.

Lastly, regarding the request for information contained in Respondent’s Notice of Fact Finding Conference and Request for Essential Information, we believe the complaint should be dismissed based upon the information already provided. But to further assist with that process, DHC submits the following responses:

Response to Request No. 1: As previously disclosed in our filings, I am the “contact person” for information relative to this complaint. My contact information is as follows: Ryan Tucker, Senior Counsel, Alliance Defending

Freedom, 15100 N. 90th Street, Scottsdale, Arizona 85260; E-mail:
rtucker@adflegal.org; Phone: (480) 444-0020.

Response to Request No. 2: DHC's response to the allegations raised in the complaint is addressed in the Motion for Lack of Jurisdiction. To the extent unclear, each of the allegations is denied.

Response to Request No. 3: None.

Response to Request No. 4: DHC directs AERC to its Motion for Lack of Jurisdiction.

If you have any questions, please do not hesitate to contact me. Thank you for your attention to these matters.

Sincerely,



Ryan J. Tucker

cc: Andrew Sundboom
David A. Cortman
Jonathan A. Scruggs
John B. Thorsness
Benjamin W. Bull
Reed N. Smith

BEFORE THE ANCHORAGE EQUAL RIGHTS COMMISSION

PAMELA BASLER,)	
)	
Complainant,)	
)	
v.)	AERC Case No. 18-167
)	
DOWNTOWN HOPE CENTER,)	
AND BRENA, BELL & CLARKSON, P.C.)	
)	
Respondents.)	

**DOWNTOWN HOPE CENTER’S
MOTION FOR LACK OF JURISDICTION**

The Complaint in this matter charges the Downtown Hope Center—incorrectly identified as the Downtown Hope Shelter—with violating Anchorage Municipal Code § 5.20.020 (“Unlawful practices in the sale, rental or use of real property”) and Anchorage Municipal Code § 5.20.050 (“Unlawful practices in places of public accommodation”) due to statements allegedly made by its prior counsel. Because the Anchorage Equal Rights Commission (“AERC”) does not have jurisdiction over this matter, the Complaint should be dismissed.¹

FACTUAL BACKGROUND

The Downtown Hope Center’s History

The Downtown Hope Center² (“DHC”) is a religiously affiliated, private non-profit IRC § 501(c)(3) organization that provides food and showers to homeless

¹ In addition to the defenses argued in this motion, DHC has other defenses to the application of AMC § 5.20.020 and AMC § 5.20.050 against it. DHC reserves those defenses and its right to raise them in later proceedings if necessary. DHC further contends this complaint should be closed or withdrawn pursuant to AMC § 5.60.020A(4) and/or AMC § 5.60.020(7).

² The proper legal name is The Downtown Soup Kitchen.

individuals in the downtown Anchorage, Alaska, area and shelter to homeless women, many of whom have been abused or battered. *See* Affidavit of Sherrie Laurie (“S. Laurie Aff.”) at ¶ 2, Exhibit A; 501(c)(3) Certificate, Exhibit 1. In addition to providing charitable food and shelter, DHC maintains a church on its property. *See* S. Laurie Aff. at ¶ 2.

DHC was originally formed over thirty years ago in a garage as “The Downtown Soup Kitchen.” *See* S. Laurie Aff. at ¶ 3. The Soup Kitchen was prompted by the vision of a few Anchorage church leaders who wanted to share God’s love with Anchorage’s homeless. *See* S. Laurie Aff. at ¶ 3. Operating out of a little red house on Fourth Avenue in downtown Anchorage, DHC provided nearly 300 free cups of soup each day to homeless and low-income families. *See* S. Laurie Aff. at ¶ 3. It also offered free showers and free clothing handouts from a yellow A-frame located next door. *See* S. Laurie Aff. at ¶ 3. In 2012, DHC moved into its new facility on Third Avenue in downtown Anchorage. *See* S. Laurie Aff. at ¶ 3.

DHC later expanded its mission to include assisting the Brother Francis Shelter (“BFS”), a program of Catholic Social Services that provides free emergency shelter for individuals in Anchorage who are without a home. *See* S. Laurie Aff. at ¶ 4. BFS often had to shelter more homeless individuals than its facilities could accommodate and faced the challenge of trying to provide a safe shelter environment for homeless women, many of whom had been abused or battered by men on the streets or otherwise. *See* S. Laurie Aff. at ¶ 4. BFS and DHC therefore agreed that DHC would assist BFS by taking in and providing safe shelter to BFS’s overflow of homeless women who presented themselves at BFS, and who otherwise qualified for shelter at BFS. *See* S. Laurie Aff. at ¶ 4.

Originally, BFS checked individuals in and then DHC would transport the overflow of women from BFS to DHC. *See* S. Laurie Aff. at ¶ 4. But the Anchorage homeless community eventually learned of DHC’s “shelter” and began appearing at DHC directly. For its shelter, DHC now accepts both an overflow of homeless women from BFS, as well as some homeless women who appear at DHC directly. *See* S. Laurie Aff. at ¶ 4.

DHC can provide shelter to fifty homeless women at any given time, many of whom have been abused or battered and some of whom have escaped from human trafficking. *See* S. Laurie Aff. at ¶ 4. Because of its limited space and its mission, the shelter only accepts women to protect the physical, psychological, and emotional safety of the women seeking safety. *See* S. Laurie Aff. at ¶ 6. The shelter also gives priority to the elderly and disabled. *See* S. Laurie Aff. at ¶ 6.

To gain entry, shelter guests must first participate in a check in procedure and meet many conditions. *See* S. Laurie Aff. at ¶ 13. They must be 18 years of age, not demonstrate dangerous behavior, be clean and sober, be able to meet their personal needs without assistance, and must respect shelter guidelines. *See* S. Laurie Aff. at ¶ 13. Those shelter guidelines include prohibitions against smoking, fighting, foul language, and wandering, as certain areas of the facility are off limits. *See* S. Laurie Aff. at ¶ 13. In addition, all individuals must sign up for a chore, assist with clean-up at the facility, and adhere to a schedule. *See* S. Laurie Aff. at ¶ 13. No guest is allowed to stay in the shelter without complying with these procedures. *See* S. Laurie Aff. at ¶ 13.

DHC has one large open room in which it provides dinner to the homeless women. *See* S. Laurie Aff. at ¶ 6. After dinner, the homeless women who have signed up and qualify

are permitted to stay the night, based upon space availability and priority of sign-up time and satisfaction of the shelters conditions and guidelines. *See* S. Laurie Aff. at ¶ 6. Those who stay for the night are given mats, along with a bag of blankets and a sheet so that they can sleep on the floor in the one large open room. *See* S. Laurie Aff. at ¶ 6. Showers and laundry are also provided to those who have signed up and qualified to stay the night, and breakfast is provided in the morning to those who stayed the previous night. *See* S. Laurie Aff. at ¶ 6.

On Saturdays, shelter guests are monitored by volunteers. *See* S. Laurie Aff. at ¶ 12. DHC's Saturday shelter policy is that no one is allowed in the building to participate in the day shelter unless they have stayed in the shelter the night before, having checked in, filled out the necessary paperwork and gone through a bag check. S. Laurie Aff. at ¶ 12. Saturday check-in time for new guests is at 5:45 p.m. *See* S. Laurie Aff. at ¶ 12.

DHC's women's shelter receives no government funds directly, but instead receives private donations from individuals, businesses, foundations, and churches. *See* S. Laurie Aff. at ¶ 7. DHC women's shelter operates exclusively on a charitable basis. *See* S. Laurie Aff. at ¶ 7. It does not conduct commercial transactions or other forms of "for profit" activities, and it does not cater to, or offer goods or services to, "the general public." *See* S. Laurie Aff. at ¶ 7.

DHC's Interaction with [REDACTED]

On Friday, January 26, 2018, at about 6:00 p.m., [REDACTED] was dropped off at DHC by officers of the Anchorage Police Department. *See* S. Laurie Aff. at ¶ 9. Sherrie

Laurie, DHC's Executive Director, was called to the Dining Hall, which also serves as the sleeping area for the homeless women's shelter, to discern the course of action to be taken regarding [REDACTED]. *See S. Laurie Aff. at ¶ 9.* [REDACTED] smelled strongly of alcohol and also had an open wound above [REDACTED] eye. *See S. Laurie Aff. at ¶ 9.* [REDACTED] acted very agitated and was aggressive in body language. *See S. Laurie Aff. at ¶ 9.*

DHC is a sober and clean shelter. *See S. Laurie Aff. at ¶ 10.* No one is allowed to stay in the shelter if inebriated or high. *S. Laurie Aff. at ¶ 10.* Laurie informed [REDACTED] that DHC did not accept individuals who were inebriated, under the influence of alcohol or drugs, and that [REDACTED] could not stay at DHC for that reason. *See S. Laurie Aff. at ¶ 10.* Laurie was eventually informed by BFS that [REDACTED] had initiated a very disruptive fight at BFS, the police had been called to handle the situation, and that [REDACTED] had been banned from BFS property until July 4, 2018. *See S. Laurie Aff. at ¶ 10.*

Laurie recommended that [REDACTED] go to the hospital to receive medical care for the wound over [REDACTED] eye. *See S. Laurie Aff. at ¶ 11.* Following much resistance, [REDACTED] agreed to go to the hospital, and DHC paid for a cab to take [REDACTED] to the emergency room. *See S. Laurie Aff. at ¶ 11.* DHC did not see [REDACTED] again that evening. *See S. Laurie Aff. at ¶ 11.*

The next day, on Saturday, January 27, 2018, around 2:00 p.m. [REDACTED] showed up at DHC again and sought to be admitted. *See S. Laurie Aff. at ¶ 12.* [REDACTED] was not admitted, however, because [REDACTED] had not stayed the previous evening and presented himself at a time when the shelter was not accepting new guests. *See S. Laurie Aff. at ¶ 12.* [REDACTED] was asked to leave the property because DHC, as a courtesy to neighbors,

does not allow loitering. *See* S. Laurie Aff. at ¶ 12. [REDACTED] left DHC and never returned. *See* S. Laurie Aff. at ¶ 12.

The First Complaint

On February 1, 2018, [REDACTED] filed a complaint (“First Complaint”) with the AERC claiming that DHC had discriminated against Coyle on the basis of sex and gender identity under Anchorage Municipal Code (“AMC” or “Ordinance”) § 5.20.050, which prohibits discrimination in places of public accommodation. DHC filed a motion for lack of jurisdiction in that matter and is awaiting determination of that motion.³

The Second Complaint

On May 15, 2018, Pamela Basler, Executive Director for the AERC, filed a second complaint against DHC and Brena, Bell & Clarkson, P.C., DHC’s then counsel of record. The AERC alleged that DHC, through its alleged “spokesperson,” Kevin Clarkson, violated AMC § 5.20.020(A)(7) and AMC § 5.20.050(A)(2) when “statements and information [attributed to Mr. Clarkson], published in various online and printed media sources, [] implied or stated that transgender individuals would not be allowed to be ‘sheltered’ at the Downtown Hope Center.” *See* 05/15/18 Discrimination Complaint.

³ The arguments contained in this motion likewise necessitate dismissal of AERC No. 18-0141; [REDACTED] *v. Downtown Hope Center*.

ARGUMENT

A. HOMELESS SHELTERS ARE EXCLUDED FROM SECTION 5.20.020 AND ALL OF TITLE 5 OF THE ANCHORAGE MUNICIPAL CODE.

AMC § 5.20.020 is titled “Unlawful practices in the sale, rental or use of real property” and provides in relevant part that:

It is unlawful for the “*owner, lessor, manager, agent, brokerage service, or other person having the right to sell, lease, rent, advertise, or an owner’s association having the powers of governance and operation of real property to ... [perform certain prohibited acts].*”

AMC § 5.20.020A(7) (emphasis added). Applied here, the AERC does not accuse DHC of directly violating AMC 5.20.020, but contends that statements made by Kevin Clarkson, its former counsel, subject it to this section.

As an initial matter though, the AERC has not alleged that Mr. Clarkson is an “owner,” “lessor,” “manager,” “brokerage service,” “owner’s association,” or “person having the right to sell, lease, rent [or] advertise” the DHC. Instead, AERC appears to be accusing Mr. Clarkson of being an “agent” of real property for the DHC.⁴ But Clarkson was DHC’s attorney—not an “agent” of real property. *See* S. Laurie Aff. at ¶ 15. This section is therefore inapplicable.

In addition, the practices prohibited in AMC § 5.20.020 are subject to important exemptions set out in AMC § 5.25.030. *See* AMC § 5.20.020 (noting that “conditions described in section 5.25.030A. as ‘lawful practices’” are not subject to this chapter). According to one of those exemptions, the provisions of this chapter shall not apply to:

The establishment of a ... shelter ... or residential facility, for the care and lodging of persons in need of special medical, rehabilitative, social, or

⁴If the Complaint is not dismissed, closed, or withdrawn in its entirety, DHC requests clarification of the allegations made against it so that it can adequately prepare its defense.

psychological support, including, but not limited to ... **shelters for the homeless.**”

AMC 5.25.030A(9) (emphasis added). Because DHC is a “shelter for the homeless,” it is not subject to any of the provisions of AMC § 5.20.020. Therefore, AERC has no basis for claiming that DHC violated AMC § 5.20.020(A)(7), nor any of Title 5 of the AMC. *Monzulla v. Voorhees Concrete Cutting*, 254 P.3d 341, 345 (Alaska 2011) (“All sections of a statute should be construed together so that all have meaning and no section conflicts with another.”).

B. DOWNTOWN HOPE CENTER IS NOT A “PLACE OF PUBLIC ACCOMMODATION.”

1. The plain language of Section 5.20.010 supports DHC’s interpretation that it is not subject to the Ordinance.

The second charge in AERC’s complaint is that the DHC violated AMC 5.20.050(A)(2), which covers “[u]nlawful practices in places of public accommodation.” The applicability of that section, however, hinges on whether DHC’s homeless shelter is a “place of public accommodation.” A “public accommodation” is defined by AMC § 5.20.010 as follows:

Public accommodation means any business or professional activity that is open to or solicits the patronage of, or caters or offers goods or services to the general public, subject only to the conditions and limitations established by law and applicable alike to all persons.

Applying standard principles of statutory construction, DHC does not fit this definition. Principles of statutory construction apply to municipal ordinances. *Cent. Recycling Servs., Inc. v. Municipality of Anchorage*, 389 P.3d 54, 57 (Alaska 2017). Courts use “a sliding scale approach to statutory interpretation, in which ‘the plainer the statutory language is, the more convincing the evidence of contrary legislative purpose or intent must

be.” *Adamson v. Municipality of Anchorage*, 333 P.3d 5, 11 (Alaska 2014) (quoting *McDonnell v. State Farm Mut. Auto. Ins. Co.*, 299 P. 3d 715, 721 (Alaska 2013). “[U]nless words have acquired a peculiar meaning, by virtue of statutory definition or judicial construction, they are to be construed in accordance with their common usage.” *Muller v. BP Expl. (Alaska), Inc.*, 923 P.2d 783, 788 (Alaska 1996) (quoting *Tesoro Alaska Petroleum Co. v. Kenai Pipe Line Co.*, 746 P.2d 896, 905 (Alaska 1987).

The key words and phrases within the Ordinance’s definition that identify the necessary characteristics of a “public accommodation” are as follows:

- (1) “business”;
- (2) “professional activity”;
- (3) “open to ... the general public”;
- (4) “solicits the patronage of ... the general public”;
- (5) “caters to ... the general public”; and
- (6) “offers goods or services to the general public.”

The common English definition of “business,” is “a usually commercial or mercantile activity engaged in as a means of livelihood ... a commercial or sometimes an industrial enterprise ... dealings or transactions especially of an economic nature.” MERRIAM-WEBSTER DICTIONARY, <https://www.merriam-webster.com/dictionary/business> (last visited July 5, 2018). The phrase “professional activity” likewise carries a common meaning that denotes commercial business activities. BUSINESS DICTIONARY, <http://www.businessdictionary.com/definition/professional-services.html> (last visited July 5, 2018) (“Accounting, legal, medical and other such services provided by a formally certified

member of a professional body.”). Both “business” and “professional activity” indicate commercial business for profit or other economic benefit.

To be a “public accommodation,” the business must broadly cater to, seek to serve, and/or serve the “general public.” The term “general public” in common English denotes all members of the public as opposed to a select group of individuals. *See, e.g., Quinnipiac Council, Boy Scouts of Am. v. Comm’n for Human Rights and Opportunities*, 528 A.2d 352, 359 (Conn. 1987) (noting that term “general public” denotes “the public at large”). Thus, each of the key words and phrases used in the Ordinance, when considered alone and when read together, denote that a “public accommodation” is a place of business that operates to serve the general public at large for commercial purposes, namely for profit or some other form of financial benefit.

Applied here, the definition of “public accommodation” does not include a homeless shelter run by a religiously affiliated non-profit organization like DHC because it:

- receives no government funds;
- engages in no commercial activities regarding its shelter services;
- charges no fee for its shelter services, but rather offers them as charity to the homeless;
- operates no commercial facilities for the conducting of business;
- transacts no business;
- is not open to “the general public;”
- does not solicit the patronage of “the general public;”
- does not cater to “the general public;” and
- does not offer goods or services to “the general public.”

- exists not primarily for profit, but to accomplish a religious mission and to inculcate religious values.

The words and phrases used in the Ordinance's definition of “public accommodation” limit the definition to commercial business establishments, or their functional equivalent, that engage in commercial business transactions. Indeed, the Alaska Human Rights Commission has already relied on very similar language in the Alaska Human Rights Act to interpret the Act’s definition of public accommodation this way. *See, e.g., Buscaglia ex. rel. Roach v. Friendship Mission*, OAH No. 16-0933-HRC, ASCHR No. J-14-004 (interpreting the definition of “public accommodation” that is contained within Alaska’s Human Rights Act (“AHRA”), set forth at AS 18.80.300(16)).⁵ There is no reason to treat similar language in Anchorage’s ordinance any different.

2. The meaning of “public accommodation” is confirmed by the words associated with it.

The plain language of AMC § 5.20.010 is dispositive. Because DHC does not engage in commercial transactions for profit, it is not a “public accommodation” subject to AMC § 5.20.050. In addition to the clear definition of “public accommodation,” the meaning of “public accommodation” can be ascertained through application of *noscitur a sociis*.

⁵ A copy of the OAH decision for the ASCHR is attached hereto as Ex. 3. The Alaska Human Rights Act defines “public accommodation” as follows: “A place that caters or offers its services, goods, or facilities to the general public and includes a public inn, restaurant, eating house, hotel, motel, soft drink parlor, tavern, night club, roadhouse, place where food or spirituous or malt liquors are sold for consumption, trailer park, resort, campground, barber shop, beauty parlor, bathroom, resthouse, theater, swimming pool, skating rink, golf course, cafe, ice cream parlor, transportation company, and all other public amusement and business establishments, subject only to conditions and limitations established by law and applicable alike to all persons.” AS 18.80.300(16).

According to this doctrine, the meaning of statutory terms must be ascertained in light of the meaning of words with which they are associated. *See Smith v. State*, 229 P.3d 221, 227 n.4 (Alaska Ct. App. 2010) (“*Noscitur a sociis*—literally, ‘it is known by its associates’—is the principle of statutory construction which directs a court to construe an unclear or ambiguous word or phrase in light of the words immediately surrounding it.”); *Morgan v. State*, 139 P.3d 1272, 1277 n. 8 (Alaska Ct. App. 2006). That reasoning favors an interpretation of “public accommodation” as a place of business that operates to serve the general public for commercial purposes.

The Ordinance specifically states that a “public accommodation” includes a “business” or “professional activity” that is “open to ... the general public.” AMC § 5.20.010. Under the doctrine *noscitur a sociis*, the Ordinance’s following words and phrases—“solicits,” “patronage of,” “caters,” “offers goods,” and “offers ... services”—must be understood in the context of the preceding words “business” and “professional services.” And these latter words denote commercial business. Therefore, associating the words together and interpreting them harmoniously, leads to the conclusion that a public accommodation is a business or commercial enterprise that serves the general public for profit or some other form of financial benefit.

The proper construction of the Ordinance’s definition of public accommodation is also confirmed when considered against the backdrop of the Alaska Human Rights Act and its definition of public accommodation. As noted above, the Alaska Human Rights Commission has already interpreted the definition of “public accommodation”

in Alaska’s Human Rights Act in the way DHC suggests. And it did so based on the same structural and contextual factors that appear in Anchorage’s Ordinance.

For example, the State statute uses words and phrases similar to the Ordinance such as “caters ... to the general public,” (b) “offers ... services ... to the general public;” (c) “offers ... goods ... to the general public;” and (d) “offers ... facilities to the general public.” AS 18.80.300(16). And, via its umbrella clause, the State statute, like the Anchorage Ordinance, links the meaning of all of the phrases together by using the term “all other ... business establishments.” *Id.* The phrase “all other” ties the former words and phrases (“caters,” “services,” “goods,” and “facilities”) together with the term “business establishments” and denotes that the former words and phrases are descriptive of the “business establishments” that are covered by the law.

And much like the Alaska statute, the Anchorage Ordinance refers to a public accommodation as being “any business or professional activity” and then connects the following words and phrases with the connecting phrase “that is.” AMC § 5.20.010. The use of the phrase “that is” indicates that all of the following words and phrases are descriptive of the businesses and professional services that are “public accommodations”—namely, they are open to the general public, they accept or solicit the patronage of the general public, and they offer goods or services to the general public. AMC § 5.20.010. This structural similarity between the Anchorage Ordinance and the state statute suggests they should be interpreted similarly.

And that conclusion supports DHC’s interpretation. The Anchorage Ordinance, just like the State Human Rights Act, limits its definition of public accommodation to a business

or commercial enterprise that serves the general public for profit or some other form of financial benefit. Because the State Human Rights Act has been interpreted to exclude non-profits like DHC, Anchorage's ordinance with similar structure and purpose should be as well.

3. Courts from other jurisdictions similarly interpret the term “public accommodation.”

Courts interpreting anti-discrimination laws in other jurisdictions have held that a “public accommodation” is a business or commercial establishment that operates for public and caters to the general public. AERC should not break this consensus.

For example, the Kansas Supreme Court has interpreted the term “public accommodation” as used in the Kansas anti-discrimination law to mean businesses held out as open to the general public and to which members of the public generally are invited to patronize and otherwise visit. *See Kansas Comm'n on Civil Rights v. Sears, Roebuck & Co.*, 532 P.2d 1263, 1270 (Kan. 1975); *see also Seabourn v. Coronado Area Council, Boy Scouts of Am.*, 891 P.2d 385, 403 (Kan. 1995) (““public accommodations’ includes all businesses which can reasonably be described as offering goods, services, facilities, and accommodations to the public. Moreover ... public accommodations may cover those ‘persons’ traditionally considered a public accommodation; that is, those places involving a common understanding and acceptance by the public in a place to which the public is invited indiscriminately.”).⁶

⁶The Kansas anti-discrimination law, like the Alaska Human Rights Act, defines public accommodation by using an umbrella clause and a specific enumeration. *Seabourn*, 891 P.2d at 396-97.

More recently, the Kansas Supreme Court clarified that “[b]usiness establishments or business-like establishments of those establishments commonly thought of as public accommodations involve interactions between store personnel and patrons that are perfunctory and impersonal, involving the payment of prices which reflect that full cost of what is received.” *Seabourn*, 891 P.2d at 406. On this basis, the Kansas Supreme Court held that the Boy Scouts was not a “public accommodation” because its primary purpose was educational and focused on the inculcation of a specific set of values in its youth members—benefits that were overwhelmingly personal and noneconomic. *Id.* at 406.

Further, in *Curran v. Mount Diablo Council of the Boy Scouts*, the California Supreme Court concluded that the Boy Scouts was not a business establishment within the meaning of the Unruh Act because it was “a charitable, expressive, and social organization ... whose formation and activities are unrelated to the promotion or advancement of the economic or business interests of its members.” 952 P.2d 218, 236 (Cal. 1998).

4. The plain language of all of Title 5 supports DHC’s interpretation that it is not a public accommodation under the Ordinance.

As noted above, AMC’s fair housing section explicitly exempts homeless shelters like DHC. And this exemption also supports the conclusion that DKS is not a public accommodation. The AMC’s fair housing portion of the AMC and the public accommodations section (discussed below) must be read and interpreted together. *Monzulla v. Voorhees Concrete Cutting*, 254 P.3d 341, 345 (Alaska 2011) (“All sections

of a statute should ‘be construed together so that all have meaning and no section conflicts with another.’” (quoting *In re Hutchinson’s Estate*, 577 P.2d 1074, 1075 (Alaska 1978)).

And when these two sections are read together, DHC cannot be a public accommodation without nullifying the exemptions in the law. Indeed, Chapter 5.25 clearly states that homeless shelters need not comply with housing provision requirements. But it is nonsensical and against basic statutory interpretation principles to suggest that, even though the DHC is clearly excluded from the AMC’s housing section, it must comply with nearly identical requirements in the public accommodation section. *Monsulla*, 254 P.3d at 345. The Ordinance drafters would have no reason to exempt homeless shelters explicitly but then subject them to the law silently. In other words, subjecting homeless shelters to the public accommodation section would effectively nullify the shelter exemption in the housing section. No reasonable interpretation should allow that.

To avoid nullifying that exemption, it is better to read the Ordinance as a whole. And that indicates that homeless shelters are excluded from AMC § 5.20.020, just as they are excluded from other sections in Title 5.

C. THE AERC SHOULD CONSTRUE THE AMC TO AVOID CONSTITUTIONAL DIFFICULTIES.

“The canon of constitutional avoidance recommends that ‘when the validity of an act of the [legislature] is drawn in question, and even if a serious doubt of constitutionality is raised, it is a cardinal principle ... [to] first ascertain whether a construction of the statute is fairly possible by which the question may be avoided.’” *Bigley v. Alaska Psychiatric Inst.*, 208 P.3d 168, 184 (Alaska 2009) (quoting *Pub. Citizen v. U.S. Dep’t. of Justice*, 491 U.S. 440, 465-66 (1989) (alterations in original)).

Applied here, construction of the Ordinance to include DHC as a place of public accommodation would raise a number of constitutional issues, including but not limited to, free speech, freedom of association, and free exercise. The AERC may avoid those concerns by correctly interpreting the Ordinance to exclude DHC altogether.

D. THE ALLEGED STATEMENTS WERE NOT “MADE AT THE BEHEST OF OR ON BEHALF OF” DHC.

In addition to not naming a public accommodation, AERC’s second complaint fails for another reason: it does not identify any statements directed by or on behalf of DHC.

According to the second complaint, DHC, through its alleged “spokesperson,” made statements to various online and printed media sources in violation of the Ordinance. *See* 05/15/18 Discrimination Complaint. But as noted above, Mr. Clarkson was DHC’s attorney in AERC Complaint No. 18-041.⁷ *See* S. Laurie Aff. at ¶ 15. Mr. Clarkson was not “speaking at the behest of or on behalf of the Downtown Hope Center” with respect to declaring or publishing DHC’s internal policies. *See* 05/15/18 Complaint; S. Laurie Aff. at ¶ 15. Further, DHC did not provide any written or printed statements to the media or press regarding Samantha Coyle. *See* S. Laurie Aff. at ¶ 15.

CONCLUSION

For all of the above reasons, the Complaint against DHC should be dismissed, closed, or withdrawn because the AERC had no jurisdiction to issue its Complaint.

⁷ Mr. Clarkson’s statements are also protected by the litigation privilege. *See Lawson v. Heimer*, 77 P.3d 724, 727-28 (Alaska 2003).

DATED this 5th day of July, 2018.

Respectfully submitted,

/s/ Ryan J. Tucker

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ATTORNEYS FOR
DOWNTOWN HOPE CENTER

CERTIFICATE OF SERVICE

I certify that a true copy of the foregoing has been forwarded on July 5, 2018, to the following:

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/s/ Ryan J. Tucker

Ryan J. Tucker

BEFORE THE ANCHORAGE EQUAL RIGHTS COMMISSION

PAMELA BASLER,)
)
 Complainant,)
)
 v.) AERC Case No. 18-167
)
 DOWNTOWN HOPE CENTER,)
 AND BRENA, BELL & CLARKSON, P.C.)
)
 Respondents.)

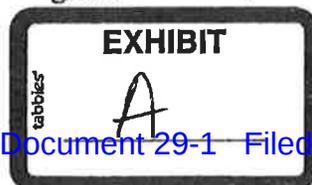
AFFIDAVIT OF SHERRIE LAURIE

STATE OF ALASKA)
) ss.
 THIRD JUDICIAL DISTRICT)

Sherrie Laurie, being first duly sworn upon her oath, deposes and states:

1. I am the Executive Director of The Downtown Soup Kitchen, also known as the Downtown Hope Center (“DHC”).

2. DHC is a religiously affiliated, private nonprofit IRC § 501(c)(3) organization. A true and correct copy of DHC's 501(c)(3) certificate from the IRS is attached to DHC’s Motion to Dismiss as Exhibit 1. A true and correct copy of DHC’s Nonprofit Corporation Biennial Report is attached to the Motion for Lack of Jurisdiction as Exhibit 2. DHC currently provides: (1) food and showers to homeless individuals in the downtown Anchorage, Alaska, area; (2) shelter to homeless women in the downtown Anchorage, Alaska, area, many of whom are abused and battered; and (3) culinary and bakery job skill training and life-skill development. In addition, DHC has a church on its premises that offers religious services.



3. DHC was formed over thirty years ago in a garage and originally operated exclusively as “The Downtown Soup Kitchen.” DHC was prompted by the vision of a few Anchorage church leaders who wanted to share the love of God with Anchorage's homeless. Operating out of a little red house on Fourth Avenue in downtown Anchorage, DHC provided nearly 300 free cups of soup each day to homeless and low-income families; in addition, it offered free showers and free clothing handouts from a yellow A-frame located next door. In 2012, DHC moved into its new facility on Third Avenue in downtown Anchorage, where it operates as DHC.

4. On December 1, 2015, DHC's soup kitchen expanded its mission to include assisting the Brother Francis Shelter (“BFS”), a program of Catholic Social Services that provides free emergency shelter for men and women in Anchorage who are without a home. BFS often found itself being asked to shelter more homeless individuals than its facilities could accommodate. BFS and DHC agreed that DHC would assist BFS as an emergency cold weather overflow shelter by taking in and providing safe and sober shelter to BFS's overflow of homeless women who presented themselves at BFS and who otherwise qualified for shelter at BFS. Many of the homeless women to whom DHC provides overflow shelter have been abused or battered on the streets, and some have escaped the horrendous conditions of human trafficking. Originally, BFS would check individuals in and then DHC would transport the overflow of women from BFS to DHC. Eventually, however, both BFS and DHC recognized the benefit to having the guests directly check in at DHC. Thus, DHC began taking into its shelter both an overflow of

homeless women from BFS, as well as women who appear at DHC directly. DHC has the ability to provide overnight shelter to as many as fifty women at any given time.

5. At this time, DHC continues to operate a soup kitchen to feed homeless and needy individuals in Anchorage. DHC's soup kitchen is open to any homeless or needy individual. DHC also maintains bathrooms and showers that it makes available to all homeless and needy individuals.

6. DHC operates an overnight shelter for homeless women off the streets of Anchorage. DHC has one large open room in which it provides dinner to the homeless women. After dinner, the homeless women who have signed up and who qualify-e.g., no one is allowed to stay if they are inebriated or high or if they present a safety threat to others-are permitted to stay for the night, based upon space availability and priority at sign-up time. Those who stay for the night are given mats, along with a bag of blankets and a sheet so that they can sleep on the floor in the one large open room. Showers and laundry are also provided to those who have signed up and qualified to stay the night, and breakfast is provided in the morning to those who stayed the previous night. The shelter is limited to women, because of DHC's concern for the physical, psychological, and emotional safety of the women. Many of the homeless women that DHC shelters serve have been abused or battered by men on the streets of Anchorage and some have escaped the horrendous conditions of human trafficking. The shelter also gives priority to the elderly and disabled.

7. DHC women's shelter receives no government funds directly, but instead receives private donations from individuals, businesses, foundations, and churches. DHC women's shelter operates exclusively on a charitable basis for nonprofit charitable

purposes; it does not conduct commercial transactions or other forms of “for profit” activities, and it does not cater to, or offer goods or services to, “the general public.” DHC’s “Feed Me Hope Bakery” sells baked items that the homeless women working in its bakery job skill training program make, but it applies all bakery proceeds to cover costs of the bakery and shelter. The DHC’s “Feed Me Hope Bakery” sells its baked items to anyone who pays for them.

8. DHC exists only to serve the homeless (men and women) of Anchorage, and it shelters only the homeless women of Anchorage, many of whom are abused and battered. DHC does not provide food to the general public-rather it seeks to serve the homeless in Anchorage. DHC admits only homeless women to its shelter.

9. On January 26, 2018, at about 6:00 p.m., [REDACTED] was dropped at the DHC women's shelter by officers of the Anchorage Police Department. I was called to the dining hall, which also serves as the sleeping area for our homeless, abused women's shelter, to discern the course of action to be taken regarding [REDACTED] [REDACTED] smelled strongly of alcohol, and was obviously inebriated, and had an open wound above the eye. [REDACTED] acted very agitated and was aggressive in body language towards DHC's staff.

10. DHC women’s shelter is a sober-and-clean shelter. No one is allowed to stay in the shelter if they are inebriated or high. I informed [REDACTED] that DHC did not accept individuals who are inebriated or under the influence of alcohol or drugs, and that [REDACTED] could not stay at DHC for that reason. I recommended that [REDACTED] pursue medical care for the wound. After further conversation, I learned that [REDACTED] had been involved in a fight at

the BFS and had been removed from BFS by the Anchorage Police Department. Investigating further, I called BFS and inquired regarding [REDACTED]. A BFS representative informed me that [REDACTED] had initiated a very disruptive fight at BFS, the police had been called to handle the situation, and that [REDACTED] had been banned from BFS property until July 4, 2018.

11. I once again recommended that [REDACTED] go to the hospital in order to receive medical care for the wound. After much resistance, [REDACTED] agreed to go to the hospital for medical care, and I saw to it that DHC paid for a cab to take [REDACTED] to the emergency room. DHC did not see [REDACTED] again that evening.

12. Around 2:00 p.m. the next day, January 27, 2018 (a Saturday), [REDACTED] showed up at DHC again and knocked on the facility door wanting to be admitted. On Saturdays, shelter guests are monitored by volunteers. DHC's Saturday shelter policy is that no one is allowed in the building to participate in the day shelter unless they stayed in the shelter the night before, having filled out the necessary paperwork and gone through a bag check. DHC does not have its volunteers handle bag checks. Saturday check-in time for new guests is 5:45 p.m. [REDACTED] was not admitted at 2:00 p.m. due to not having checked in the previous evening. [REDACTED] was asked to leave the property because DHC, as a courtesy to neighbors, does not allow loitering. [REDACTED] left DHC and never returned.

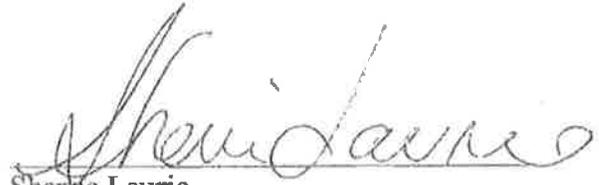
13. To gain entry to the women's shelter, guests must first participate in a check in procedure and meet many conditions. Guests must be 18 years of age, not demonstrate dangerous behavior, be clean and sober, be able to meet their personal needs without assistance, and must respect shelter guidelines. Those shelter guidelines include

prohibitions against smoking, fighting, foul language, and wandering, as certain areas of the facility are off limits. In addition, all individuals must sign up for a chore, assist with clean-up at the facility, and adhere to a schedule. Individuals who have not been admitted and not qualified to stay the night at DHC have no access to the facilities.

14. DHC's purpose is religious. Inspired by the love of Jesus, it fulfills its religious mission in serving and teaching the poor. Guests of the women's shelter agree that they may be exposed to Christian prayer and devotional times. In addition, Bible classes are offered throughout the week for guests. A large cross adorns the wall in the women's shelter and Bible verses can be seen throughout the facility.

15. Kevin Clarkson of Brena, Bell & Clarkson, P.C. in Anchorage, Alaska, was DHC's previous attorney in AERC Case No. 18-041; [REDACTED] v. *Downtown Hope Center*. Mr. Clarkson is not an agent of real estate for DHC, nor was he speaking at the behest of or on behalf of DHC with respect to declaring or publishing DHC's internal policies. Neither Mr. Clarkson nor any attorney or employee of Brena, Bell & Clarkson, P.C. have or ever have had authority to operate, or to make policy decisions regarding any aspect of DHC. Neither Mr. Clarkson nor any attorney or employee of Brena, Bell & Clarkson, P.C. have or have ever had any right or responsibility to make business decisions for the DHC or to otherwise act as an agent on its behalf with respect to its non-profit business operations or activities. Neither Kevin Clarkson nor any attorney or employee of Brena, Bell & Clarkson, P.C. have any other relationship with the DHC. The DHC did not provide any written or printed statements to the media or press regarding [REDACTED]

DATED this 5th day of July, 2018


Sherrie Laurie

SUBSCRIBED AND SWORN TO before me this 5th day of July, 2018.

NAELENE MATSUMIYA
Notary Public
State of Alaska
My Commission Expires
March 01, 2021


Notary Public in and for Alaska
My Commission Expires: 3/1/21

OGDEN UT 84201-0038

In reply refer to: 0438186857
Mar. 29, 2013 LTR 4168C 0
92-0141715 000000 00
00036999
BODC: TE

DOWNTOWN SOUP KITCHEN
PO BOX 202684
ANCHORAGE AK 99520-2684



040102

Employer Identification Number: 92-0141715
Person to Contact: Deb Bridgewater
Toll Free Telephone Number: 1-877-829-5500

Dear Taxpayer:

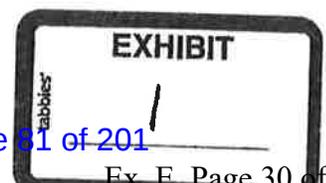
This is in response to your Mar. 20, 2013, request for information regarding your tax-exempt status.

Our records indicate that you were recognized as exempt under section 501(c)(03) of the Internal Revenue Code in a determination letter issued in AUGUST 1993.

Our records also indicate that you are not a private foundation within the meaning of section 509(a) of the Code because you are described in section(s) 509(a)(1) and 170(b)(1)(A)(vi).

Donors may deduct contributions to you as provided in section 170 of the Code. Bequests, legacies, devises, transfers, or gifts to you or for your use are deductible for Federal estate and gift tax purposes if they meet the applicable provisions of sections 2055, 2106, and 2522 of the Code.

Please refer to our website www.irs.gov/eo for information regarding filing requirements. Specifically, section 6033(j) of the Code provides that failure to file an annual information return for three consecutive years results in revocation of tax-exempt status as of the filing due date of the third return for organizations required to file. We will publish a list of organizations whose tax-exempt status was revoked under section 6033(j) of the Code on our website beginning in early 2011.





THE STATE
of **ALASKA**

Department of Commerce, Community, and Economic Development
Division of Corporations, Business, and Professional Licensing
PO Box 110806, Juneau, AK 99811-0806
(907) 465-2550 • Email: corporations@alaska.gov
Website: Corporations.Alaska.gov

AK Entity #: 49803D
Date Filed: 05/02/2018
State of Alaska, DCCED

FOR DIVISION USE ONLY

Nonprofit Corporation

2018 Biennial Report

For the period ending June 30, 2018

Web-5/2/2018 3:17:08 PM

- This report is due on July 02, 2018
- \$25.00 if postmarked before August 02, 2018
- \$30.00 if postmarked on or after August 02, 2018

Entity Name: THE DOWNTOWN SOUP KITCHEN
Entity Number: 49803D
Home Country: UNITED STATES

Home State/Province: ALASKA

Registered Agent
Name: SHERRIE LAURIE
Physical Address: 240 EAST 3RD AVE,
ANCHORAGE, AK 99501
Mailing Address: PO BOX 202684, ANCHORAGE,
AK 99520

Entity Physical Address: 3401 Lakeshore Dr 4, 3401 Lakeshore Dr 4, Anchorage, AK 99517

Entity Mailing Address: PO BOX 202684, ANCHORAGE, AK 99520

Please include all officials. Check all titles that apply. Must use titles provided. All domestic non-profit corporations must have a president, vice president, secretary, treasurer, and at least three directors. The secretary and the president cannot be the same person.

Name	Address	% Owned	Titles
LINDA WAGGONER	2579 NATHANIAL CRT, ANCHORAGE, AK 99517	N/A	Director
LORRAINE O'NEAL	12110 PORTAGE DR, ANCHORAGE, AK 99515	N/A	Director, Secretary
TOM ARMINSKI	2931 CROWN POINT CR, ANCHORAGE, AK 99502	N/A	Director
ALAN ROBILLARD	2531 LAIRD CIRCLE, ANCHORAGE, AK 99516	N/A	Vice President
GREG LOUDON	14010 VENUS WAY, ANCHORAGE, AK 99515	N/A	Treasurer
RICHARD IRWIN	2531 LEGACY DR, ANCHORAGE, AK 99516	N/A	Director, President
Frank Johnson	20526 Ptarmigan Blvd, Eagle River, AK 99577	N/A	Director

Purpose: CHARITABLE

NAICS Code: 624210 - COMMUNITY FOOD SERVICES

New NAICS Code (optional):

Estimated value of all real or personal property of the corporation:



I certify under penalty of perjury under the Uniform Electronic Transaction Act and the laws of the State of Alaska that the information provided in this application is true and correct, and further certify that by submitting this electronic filing I am contractually authorized by the Official(s) listed above to act on behalf of this entity.

Name: Sherrie Laurie

**BEFORE THE ALASKA OFFICE OF ADMINISTRATIVE HEARINGS ON
APPOINTMENT BY THE ALASKA STATE COMMISSION FOR HUMAN RIGHTS**

Marti Buscaglia, Executive Director, Alaska State)
 Commission for Human Rights, *ex rel.*)
 FRANCIS ROACH,)
)
 Complainant,)
)
 v.)
)
 FRIENDSHIP MISSION,)
)
 Respondent.)

OAH No. 16-0933-HRC
 ASCHR No. J-14-004

NOTICE OF RECOMMENDED DECISION

Attached is the administrative law judge's recommended decision in this matter. Alaska Statute 44.64.060 does not apply to this case. Pursuant to 6 AAC 30.470(d), within 15 days after receipt of the recommended decision, any party may file objections with the Office of Administrative Hearings, serving copies upon opposing counsel. Responses to objections may not be filed unless ordered by the administrative law judge.

If no objections are filed by the deadline set under 6 AAC 30.470, the recommended decision and the record of all proceedings to date will be sent to the hearing commissioners for issuance of a final order. If an objection is filed, the undersigned administrative law judge will consider all objections filed, and take action pursuant to 6 AAC 30.470(d).

DATED July 18, 2017

Raenee W. Ziegler
 Office of Administrative Hearings
 550 W. 7th Ave., Ste. 1940
 Anchorage, Alaska 99501
 (907) 269-8170 (Phone)
 (907) 269-8172 (Fax)

Certificate of Service: The Undersigned certifies that on July 18, 2017, a true and correct copy of this document was distributed to the following: Sonja Redmond, counsel for Friendship Mission (by certified mail); Steve Koteff, Human Rights Advocate, ASCHR (by certified mail).

By: *Raenee W. Ziegler*
 Law Office Assistant



**BEFORE THE ALASKA OFFICE OF ADMINISTRATIVE HEARINGS ON
APPOINTMENT BY THE ALASKA STATE COMMISSION FOR HUMAN RIGHTS**

Marti Buscaglia, Executive Director, Alaska State)
 Commission for Human Rights, *ex rel.*)
 FRANCIS ROACH,)
)
 Complainant,)
)
 v.)
)
 FRIENDSHIP MISSION,)
)
 Respondent.)

OAH No. 16-0933-HRC
 ASCHR No. J-14-004

RECOMMENDED DECISION

I. Introduction

Alaska law prohibits places of public accommodation from engaging in disability-based discrimination. Friendship Mission, a volunteer-run, non-profit homeless shelter in Kenai, Alaska, has a policy barring all animals from its facility. Under this policy, the Friendship Mission will not allow any disabled patrons' service animals to accompany them at the Mission. On behalf of Francis Roach, a potential patron of Friendship Mission, the Executive Director of the Alaska State Commission for Human Rights filed an Accusation asserting that the enforcement of the "no pets" policy against service animals violates the Human Rights Act's prohibition on disability-based discrimination, and seeking declaratory and injunctive relief. Friendship Mission admits that it refuses to make exceptions to its "no pets" policy, but contends that it is not a place of public accommodation within the scope of the Act. The parties have filed cross-motions for summary decision.

Because the evidence in the record does not support the Executive Director's position that Friendship Mission is a place of public accommodation for purposes of the Act, this decision recommends that the Accusation be dismissed.

II. Legal background

Both state and federal laws prohibit employers, public entities, and places of public accommodation from engaging in disability-based discrimination. The Alaska legislature has:

[D]etermined and declared as a matter of legislative finding that discrimination against an inhabitant of the state because of . . . physical or mental disability . . . is a matter of public concern and that this discrimination not only threatens the rights and privileges of the inhabitants of the state but also menaces the institutions of the state and

threatens peace, order, health, safety, and general welfare of the state and its inhabitants.¹

In furtherance of this policy, Alaska's Human Rights Act, AS 18.80, prohibits disability-based discrimination in employment, financing, housing rental and sales, the activities of public entities, and in places of public accommodation. It is this final prohibition which is at issue in this case. Alaska Statute 18.80.230(a)(1) makes it unlawful for a place of public accommodation "to refuse, withhold from, or deny a person any of its services, goods, facilities, advantages or privileges, because of . . . physical or mental disability[.]"²

The specific discriminatory act alleged in this case is the refusal to modify a "no pets" policy to allow a service animal to accompany a disabled individual to a place of public accommodation. Although the Alaska Supreme Court has never addressed the application of AS 18.80 to issues involving service animals, the Court and the Commission generally follow the analytical framework of analogous federal laws in interpreting the scope of the Human Rights Act. The Americans with Disabilities Act, its regulations, and cases construing it clearly provide that a place of public accommodation cannot rest on a generic "no pets" policy to exclude service animals. The legislative history of the ADA contains strong support for the premise that exclusion of service animals under the guise of blanket "no pets" policies is discriminatory.³

Federal regulations provide that "[g]enerally, a public accommodation shall modify policies, practices, or procedures to permit the use of a service animal by an individual with a disability."⁴ Applying them, federal courts have observed that "service dogs are a common example of a reasonable accommodation for people with disabilities."⁵ "In most circumstances, waiving a no-pet rule to allow a disabled resident the assistance of a service animal is a

¹ AS 18.80.200.

² AS 18.80.230(a)(1); *see also* AS 18.80.210 ("The opportunity to obtain . . . public accommodations . . . without discrimination because of . . . physical or mental disability . . . is a civil right.").

³ *See* H.R. Rep. No. 485(III), 101st Cong., 2d Sess. 59 (1990), reprinted in 1990 U.S.C.C.A.N. 445, 482 ("It is discriminatory to fail to make reasonable modifications in policies and practices when such modifications are necessary to provide goods or services, unless it can be demonstrated that the modifications would fundamentally alter the nature of the goods or services provided. For example, it is discriminatory to refuse to alter a "no pets" rule for a person with a disability who uses a guide or service dog."); 135 Cong. Rec. S10,800 (1989) (Sen. Simon: "One form of discrimination faced by thousands of people with disabilities in public accommodations is prohibiting entry by an assistive animal. Part of the problem lies in ignorance Regrettably, many people still don't understand that these animals are well-trained and certified, and don't create public disturbances nor pose any public health risk whatsoever. Generally speaking, any facility where it is safe for a person to go, it is safe for a trained assistive animal to go, including restaurants and other public accommodations It should be further understood that a person with a disability using a guide, signal or service dog should not be separated from the dog A person with a disability and his or her assistive animal function as a unit and should never be involuntarily separated. Nor is there any need for this separation. To require it would be discriminatory under the Americans with Disabilities Act.").

⁴ 28 C.F.R. § 36.302(c)(1).

⁵ *Petty v. Portofino Council of Coowners, Inc.*, 702 F. Supp. 2d 721, 731 n.8 (S.D.Tex. 2010).

reasonable accommodation.”⁶ Federal regulations further provide that a place of public accommodation may exclude a service animal if (1) making such modifications would fundamentally alter the nature of the entity’s goods, services, facilities, privileges, advantages, or accommodations; (2) the safe operation of the entity would be jeopardized; or (3) such modifications would result in an undue financial or administrative burden.⁷ Such determinations, however, “must be based on actual risks rather than on mere speculation, stereotypes, or generalizations about individuals with disabilities.”⁸

The same principles apply under the Human Rights Act. A place of public accommodation may not refuse to consider making an exception to a “no pets” policy. Instead, a determination as to the reasonableness of the accommodation sought must be made on a case-by-case basis, based upon actual risks and not upon mere speculation or generalizations.⁹ A public accommodation’s blanket refusal to accommodate a service animal violates the Alaska Human Rights Act.

III. Relevant facts

Friendship Mission is an Alaska non-profit corporation that operates a small homeless shelter for men on the Kenai Peninsula.¹⁰ The shelter, which houses between four and ten men at a time, is open to “any man who applies and agrees to obey the rules.”¹¹

Friendship Mission was founded and is operated by Graydon and MaryAnn Cowgill. Its bylaws describe it as “an Independent, Non-Denominational, Evangelical organization,” and identify its “purpose” as follows:

We are a Christian organization and our purpose is to show God’s love through example and in a practical manner by providing for the needs of the homeless, poor, needy and dysfunctional men on the Kenai Peninsula, to the best of our ability. Our goal is to rescue and rehabilitate. Our aim is to return the men that come to us for help to being useful citizens in society.¹²

At oral argument, counsel argued that Friendship Mission carries out that purpose “by ministering to homeless men.”¹³

⁶ *Prindable v. Ass’n of Apartment Owners of 2987 Kalakaua*, 304 F. Supp. 2d 1245, 1257 (D. Haw. 2003).

⁷ *See* 28 C.F.R. §§ 36.301(b), 36.302(c)(1), 36.303(a), 35.130(b)(7), 35.136, 35.150(a)(3), 35.164.

⁸ 28 C.F.R. §§ 36.301(b), 35.130(h).

⁹ *See Anderson v. Anchorage School District*, OAH Case No. 09-0233-HRC; *affirmed*, Anchorage Superior Court Case No. 3AN-10-10122CI (October 2011).

¹⁰ *Resp. Ex. 1.*

¹¹ *Cowgill Affidavit*, ¶ 14; statement of counsel at oral argument.

¹² *Resp. Ex. 2*, p. 1.

¹³ *Statement of counsel at oral argument.*

The Cowgills receive no salary, and Friendship Mission has no paid staff.¹⁴ The Mission receives no government funding, and is “supported entirely by donations from individuals and churches.”¹⁵ Residents who have jobs are encouraged, but not required, to donate \$10 per day to the Mission “as an act of obedience to God and to practice [the] traditional Christian biblical teachings [of] tithing and caring for those less fortunate.”¹⁶ In practice, relatively few residents do so.¹⁷ No one has ever been turned away for not donating.¹⁸

Men at the shelter share common eating and sleeping facilities.¹⁹ Prospective residents sign an admittance statement that provides, in part, as follows:

[I] recognize my need for assistance and hereby apply for admittance to Friendship Mission. I understand that this is a religious and charitable organization. The Mission is dedicated primarily to the social and physical rehabilitation and the spiritual regeneration of those persons who are in need of such assistance.²⁰

There is no religious test for admission (i.e. no inquiry into a prospective resident’s religion or lack of religion).²¹ However, residents must attend daily Bible study as well as twice-weekly church services.²² Residents must also follow rules about profanity, drug and alcohol use, grooming, and personal hygiene.²³ Friendship Mission dictates residents’ schedules, including what time they wake up, when they may be in their rooms, how often they must shower and for how long, chore obligations, meal times, and other restrictions.²⁴

It is undisputed that Friendship Mission maintains a policy prohibiting animals at its facility, and that it publicizes this policy on its website.²⁵ It is also undisputed that the Mission makes no exceptions to this policy, including making no exception for service animals for persons with disabilities. The Mission justifies this policy by claiming there is nowhere for animals to stay, that animals could pose sanitation problems, and that other residents could have allergies.²⁶

¹⁴ Cowgill Aff., ¶¶ 3-4. In an affidavit, Mr. Cowgill explained that he views “serving the poor and needy and providing for them” to be “an act of religious worship to God.” Cowgill Aff., ¶ 29.

¹⁵ Cowgill Aff., ¶¶ 7, 29; statement of counsel at oral argument.

¹⁶ Cowgill Aff., ¶¶ 11-17.

¹⁷ Cowgill Aff., ¶¶ 15-16 (“Typically none of the residents have jobs or contribute to the Mission. Currently there are 6 residents and 2 have jobs. One is contributing to the Mission, the other is not.”).

¹⁸ Cowgill Aff., ¶ 12; statement of counsel at oral argument.

¹⁹ Cowgill Aff., ¶ 22.

²⁰ Ex. 6.

²¹ Statement of counsel at oral argument.

²² Cowgill Aff., ¶¶ 9-10.

²³ Ex. 4.

²⁴ Ex. 4, p. 2.

²⁵ Ex. 4, p. 1.

²⁶ Cowgill Aff., ¶¶ 23-27.

Contending there is no way it could accommodate animals, the Mission claims that, if required to accommodate service animals, “we’d have to shut down.”²⁷

Francis Roach alleges that he is legally blind and has a service dog that assists him.²⁸ Mr. Roach alleges that he wanted to stay at Friendship Mission, but was told that his service dog could not stay there with him.²⁹ The Mission denies any specific knowledge of Mr. Roach’s claims, but admits that a service dog would not be allowed to stay at the facility.³⁰

IV. Procedural history

The Executive Director referred this matter for hearing in August 2016. The Amended Accusation alleges that Mr. Roach uses a service dog because of “a sight impairment that substantially limits his ability to see.”³¹ It alleges that twice in 2013, Mr. Roach called Friendship Mission to ask about staying there, and was told “that he was welcome to stay at the shelter but that his service dog would not be allowed to accompany him” because Friendship Mission does not allow animals, including service animals.³² The Amended Accusation also asserts that Friendship Mission’s website lists among the shelter’s rules a blanket “no pets” policy.³³ Based on these allegations, the Executive Director contends that Friendship Mission has violated AS 18.80.230(a)(1) (denying services and facilities based on disability) and AS 18.80.230(a)(2) (publishing communications implying services will be denied because of a disability).³⁴

In the course of these proceedings, Friendship Mission has never denied that it has a blanket “no pets” policy to which it refuses to make exceptions. But Friendship Mission has contended that it is outside the scope of Alaska’s Human Rights Act because it is not within any class of activities or entities regulated by the Act. In particular, it contends that, contrary to the jurisdictional allegations in the Accusation, it is not a place of public accommodation. It reasons that, if it is not within the Act’s coverage, it is not required to modify its policies to accommodate disabled residents.³⁵

At a case planning conference held in September 2016, both counsel agreed that this matter did not involve disputed facts, but instead boiled down to a legal dispute about whether

²⁷ Cowgill Aff., ¶ 28; statement of counsel at oral argument.

²⁸ Roach Aff., ¶¶ 1, 2, 3.

²⁹ Roach Aff., ¶¶ 4, 5. These allegations are accepted as true for purposes of this motion.

³⁰ Cowgill Aff., ¶ 18-28.

³¹ Amended Acc., ¶¶ 2-3.

³² Amended Acc., ¶¶ 4-7.

³³ Amended Acc., ¶ 11.

³⁴ Amended Acc., ¶¶ 13-27.

³⁵ See Answer; comments of counsel at September 2016 case planning conference.

Friendship Mission fell within the statute's reach. The parties thus agreed to present the matter for decision based on briefing.

On December 5, 2016, the Executive Director filed a Motion for Summary Decision. On December 28, 2016, Friendship Mission filed an Opposition to the Executive Director's Motion. A procedural order issued January 6, 2017, converted that Opposition into an Opposition and Cross-Motion for Summary Decision. The Executive Director filed her Reply on February 22, 2017, and on March 6, 2017 submitted a request for oral argument. That request was granted and argument was scheduled for May 16, 2017.³⁶

On May 4, 2017, counsel for Friendship Mission notified the Executive Director of her intent to "call witnesses" to testify at the upcoming oral argument. The Executive Director filed a motion to strike; Friendship Mission opposed the motion and also submitted an affidavit of Graydon Cowgill. At a status conference held May 8, it was agreed that Mr. Cowgill's affidavit would be accepted to belatedly support Friendship Mission's December 2016 Opposition and Cross-Motion. To cure any prejudice associated with this late filing, the Executive Director was permitted an opportunity to file supplemental briefing, and oral argument was rescheduled.

Oral argument was held on May 23, 2017. Following the oral argument, both counsel requested the opportunity to file post-hearing briefing. The parties submitted post-hearing briefs on June 9, 2017, and the Mission filed a notice of supplemental authority on June 27, 2017.

V. Discussion

A. Preliminary procedural and evidentiary issues

Alaska Statute 18.80.120(e) provides that, "at any time after the issuance of an accusation, the executive director or the person charged in the accusation may petition for a summary decision on the accusation."³⁷ Summary decision is appropriately granted where, after the parties have had a reasonable opportunity for discovery, "the record shows that there is no genuine issue of material fact and the petitioner is entitled to an order under AS 18.80.130 as a matter of law."³⁸

The disposition of this case was made more complicated by the sparse factual record presented by the parties. Although both counsel initially agreed that this matter should be decided on briefing and without need for an evidentiary hearing, neither party's briefing attempted to make a strong factual record as to the Mission's day-to-day operations. At oral argument, however, both counsel endorsed relying on the affidavit of Mr. Cowgill, printouts from the

³⁶ The lengthy delay was due to planned medical leave by respondent's counsel.

³⁷ AS 18.80.120(e).

³⁸ AS 18.80.120(e).

Mission's website and bylaws, and the representations of respondent's counsel as a sufficient basis from which to determine the nature of respondent's organization. These tacit stipulations have been accepted.

Both parties having cross-moved for summary decision on the same issue of law, and both parties insisting at oral argument that the record was complete for purposes of deciding that issue, this decision concludes that it is not necessary to further develop the factual record in this matter. The Executive Director ultimately bears the burden of showing that Friendship Mission is a place of public accommodation and has violated the Human Rights Act. The Executive Director did not meet that burden because she did not show that Friendship Mission is a place of public accommodation. Rather, on the record as presented by the parties, Friendship Mission has shown that it is entitled to summary decision on this issue of law.

B. Principles of interpretation of Alaska's Human Rights Act

The Alaska Supreme Court has held that the Human Rights Act is to be broadly construed.³⁹ When interpreting the Act, the Court has looked to analogous federal cases for guidance,⁴⁰ but has also held "that AS 18.80 'is intended to be more broadly interpreted than federal law to further the goal of eradication of discrimination.'"⁴¹ Thus, even as it looks to federal case law, the Court remains "mindful of 'the strong statement of purpose in enacting AS 18.80 and our legislature's intent to put as many teeth into the statute as possible.'"⁴² The Commission likewise looks to federal law as a guide in construing AS 18.80.⁴³ The Commission's regulations also acknowledge its "obligation to construe AS 18.80 liberally."⁴⁴ On the specific topic of disability-based claims, the Commission looks to the Americans with Disabilities Act and "relevant federal case law as a guideline," but favors AS 18.80 over these federal laws "when state law is more liberal than federal law."⁴⁵

³⁹ *Smith v. Anchorage School District*, 240 P.3d 834, 842 (Alaska 2010); *Moody-Herrera v. State, Dep't of Natural Resources*, 976 P.2d 79, 86 (Alaska 1998).

⁴⁰ See, e.g., *Peterson v. State*, 236 P.3d 355, 363-364 (Alaska 2010) (following federal case law to evaluate hostile work environment claim); *State v. Meyer*, 906 P.2d 1365, 1374 (Alaska 1995) (citing *Texas Dep't of Cmty. Affairs v. Burdine*, 450 U.S. 248, 253-56 (1981)). See also, *Villaflores v. Alaska State Comm'n for Human Rights*, 175 P.3d 1275, 1277 (Alaska 2008); *Villaflores v. Alaska State Comm'n for Human Rights*, 170 P.3d 663, 665 (Alaska 2007); *Mahan v. Arctic Catering, Inc.*, 133 P.3d 655, 660 (Alaska 2006); *Alaska State Comm'n for Human Rights v. Yellow Cab*, 611 P.2d 487, 490 (Alaska 1980).

⁴¹ *VECO, Inc. v. Rosebrock*, 970 P.2d 906, 912-13 (Alaska 1999) (quoting *Wondzell v. Alaska Wood Prods., Inc.*, 601 P.2d 584, 585 (Alaska 1979)).

⁴² *Miller v. Safeway, Inc.*, 102 P.3d 282, 290 (Alaska 2004) (quoting *Wondzell v. Alaska Wood Prods., Inc.*, 601 P.2d 584, 585 (Alaska 1979)).

⁴³ 6 AAC 30.910(b).

⁴⁴ 6 AAC 30.910(b).

⁴⁵ 6 AAC 30.910(b).

Although the Supreme Court has acknowledged the intended broad scope of the Human Rights Act, it has also declined attempts to broaden the scope of AS 18.80's coverage beyond the statute's terms. In *U.S. Jaycees v. Richardet*, for example, the Court rejected the argument that a nonprofit club without a fixed physical location was a "place of public accommodation" under the statute.⁴⁶

Jaycees is not the only case in which the Court has declined an expansive reading of the Human Rights Act. In *Miller v. Safeway*, the Court rejected a claim that AS 18.80's prohibition against gender discrimination bars employers from enforcing gender-based grooming policies. On this issue, the Court expressly declined to construe Alaska law more broadly than the analogous federal cases.⁴⁷ Similarly, in *Muller v. BP Exploration (Alaska) Inc.*, the Court rejected a claim that the requirement to "broadly" interpret AS 18.80.220 allowed a claim for marital status discrimination based on the identity of the plaintiff's spouse.⁴⁸ This "broad reading," the Court found, went too far, and would apply the law beyond its intended goals and protections.⁴⁹

The Court has also declined to interpret AS 18.80 according to principles of federal law where obvious distinctions exist between Alaska's statute and its federal counterpart. Thus, in *Cole v. State Farm Ins. Co.*, the Court rejected an attempt to read terms into AS 18.80 based on a federal statute that post-dated the enactment of Alaska's law.⁵⁰ The Court has likewise declined to follow federal case law that relies on federal statutory language not found in AS 18.80.⁵¹

C. Friendship Mission is not a place of public accommodation for purposes of AS 18.80.230(a)(1)'s prohibition on disability-based discrimination

As noted at the outset, places of public accommodation may not rely on a blanket "no pets" policy to exclude service animals of disabled patrons. But the Mission denies that its shelter is a "place of public accommodation," and therefore contends that it is not within the statute's scope. The legislature has defined "public accommodation" as:

⁴⁶ *U.S. Jaycees v. Richardet*, 666 P.2d 1008, 1011-1012 (Alaska 1983).

⁴⁷ *Miller v. Safeway*, 102 P.3d 282, 293 (Alaska 2004) ("agree[ing] with the reasoning of the numerous federal cases addressing this issue and conclud[ing] that Alaska law should not be more broadly construed in this particular respect").

⁴⁸ *Muller v. BP Exploration (Alaska) Inc.*, 923 P.2d 783, 799-791 (Alaska 1996).

⁴⁹ *Id.* at 790-791 ("The purpose of the AHRA is to prevent prejudices and biases borne against persons who are members of certain protected classes; it seeks to eliminate the effects of offensive or demeaning stereotypes, prejudices, and biases against the members of those classes. The more expansive interpretation of the term 'marital status' does not protect the members of the class, but instead effectively enlarges it to include all persons wishing to work with their spouses[.]").

⁵⁰ *Cole v. State Farm Ins. Co.*, 128 P.3d 171, 177 (Alaska 2006) (declining to incorporate ADA identification of insurance office as public accommodation where AS 18.80 was enacted "well before the ADA" and lacks similar term).

⁵¹ See *Smith v. Anchorage School District*, 240 P.3d 834, 840-841 (Alaska 2010).

A place that caters or offers its services, goods, or facilities to the general public and includes a public inn, restaurant, eating house, hotel, motel, soft drink parlor, tavern, night club, roadhouse, place where food or spirituous or malt liquors are sold for consumption, trailer park, resort, campground, barber shop, beauty parlor, bathroom, resthouse, theater, swimming pool, skating rink, golf course, café, ice cream parlor, transportation company, and all other public amusement and business establishments, subject only to conditions and limitations established by law and applicable alike to all persons.⁵²

In construing the meaning of Alaska statutes, Alaska courts “look to the meaning of the language, the legislative history, and the purpose of the statute in question.”⁵³ Here, inquiry into the meaning of the language of the statute begins with the definition’s direction that place of public accommodation “includes” twenty-four specific types of entities. It is well-established by statute in Alaska that use of the phrase “includes” denotes a non-exhaustive list.⁵⁴ While the word “includes” indicates a non-exhaustive list, it is also generally construed to group items that are categorically similar. This principle appears in the legal doctrine of *ejusdem generis* (“of the same kind”), which tells us that, “where general words follow an enumeration of persons or things, . . . such general words are not to be construed in their widest extent, but are to be held as applying only to persons or things of the same general kind or class as those specifically mentioned.”⁵⁵

Applying these principles, the Alaska Supreme Court explained in *Jaycees* that the list of public accommodations is not considered exhaustive, and that other establishments are considered public accommodations if “similar in nature to those enumerated.”⁵⁶ The question here is whether respondent’s homeless shelter is similar in nature to the enumerated list. The Executive Director argues that a homeless shelter is similar to a hotel, motel, or inn, because all of these offer a place to stay. But hotels, motels, and inns all offer a place to stay as part of a commercial transaction. Respondent’s homeless shelter, on the other hand, offers a place to stay, without charge but with considerable rules and restrictions, as part of a volunteer-led, not-for-profit religious ministry. These are not similar entities for *ejusdem generis* purposes.

⁵² AS 18.80.300(16).

⁵³ *Muller v. BP Expl. (Alaska) Inc.*, 923 P.2d 783, 787 (Alaska 1996).

⁵⁴ AS 01.10.040(b).

⁵⁵ Black’s Law Dict. (5th ed. 1979) at 464. An example of an application of *ejusdem generis* would be the interpretation of the phrase “horses, cattle, sheep, goats, or any other farm animal”; in the absence of contrary factors, the doctrine would suggest that “any other farm animal” would encompass only similarly large mammals, and would exclude chickens. *West v. Municipality of Anchorage*, 174 P.3d 224, 228 (Alaska 2007).

⁵⁶ *U.S. Jaycees v. Richardet*, 666 P.2d 1008, 1012 (Alaska 1983).

Complicating the analysis is that, although Alaska looks to related federal laws for guidance in interpreting the Human Rights Act, the ADA *expressly* includes homeless shelters in its enumerated list of entities that constitute “public accommodations.”⁵⁷ As the Alaska Supreme Court observed in *Cole*, however, the ADA was enacted after AS 18.80, and is therefore not the source of AS 18.80’s definition of this term. Further, in the ADA, homeless shelters appear in the enumerated list of “social service center establishments,” not the section on “places of lodging.” While the ADA lists numerous types of entities beyond traditional commercial enterprises, Alaska’s law does not. And the ADA’s location of homeless shelters within the category of social service establishments – and not in the category of “places of lodging” – further undermines the Executive Director’s suggestion that homeless shelters are appropriately categorized, for *eiusdem generis* purposes, with hotels and motels.

At least one other court has construed another jurisdiction’s Human Rights Act as including homeless shelters within the broad category of “place of public accommodation.”⁵⁸ In *Hunter v. District of Columbia*, the U.S. District Court for the District of Columbia concluded that the mandate to broadly read the D.C. Human Rights Act, and the inclusion of “homeless shelter” in the ADA’s list of public accommodations, supported treating the respondent as a place of public accommodation.⁵⁹ But in that case, the homeless shelter in question was receiving substantial governmental funds from federal and local sources, and was operating an apartment

⁵⁷ 42 USC § 12181(7)(K); 18 C.F.R. 36.104(11). The ADA’s complete definition is as follows:
(7) Public accommodation. The following private entities are considered public accommodations for purposes of this subchapter, if the operations of such entities affect commerce:

(A) an inn, hotel, motel, or other place of lodging, except for an establishment located within a building that contains not more than five rooms for rent or hire and that is actually occupied by the proprietor of such establishment as the residence of such proprietor;

(B) a restaurant, bar, or other establishment serving food or drink;

(C) a motion picture house, theater, concert hall, stadium, or other place of exhibition or entertainment;

(D) an auditorium, convention center, lecture hall, or other place of public gathering;

(E) a bakery, grocery store, clothing store, hardware store, shopping center, or other sales or rental establishment;

(F) a laundromat, dry-cleaner, bank, barber shop, beauty shop, travel service, shoe repair service, funeral parlor, gas station, office of an accountant or lawyer, pharmacy, insurance office, professional office of a health care provider, hospital, or other service establishment;

(G) a terminal, depot, or other station used for specified public transportation;

(H) a museum, library, gallery, or other place of public display or collection;

(I) a park, zoo, amusement park, or other place of recreation;

(J) a nursery, elementary, secondary, undergraduate, or postgraduate private school, or other place of education;

(K) a day care center, senior citizen center, homeless shelter, food bank, adoption agency, or other social service center establishment; and

(L) a gymnasium, health spa, bowling alley, golf course, or other place of exercise or recreation.

⁵⁸ See *Hunter on behalf of A.H. v. District of Columbia*, 64 F. Supp. 3d 158 (D.D.C. 2014).

⁵⁹ *Hunter*, 64 F. Supp. 3d at 180.

building through a governmental contract.⁶⁰ Moreover, that case was decided under the D.C. Human Rights Act, whose definition of “place of public accommodation” differs from Alaska’s in at least one key respect: the D.C. statute does not refer to “business establishments.”

As discussed further below, the question whether a homeless shelter – in particular, respondent’s homeless shelter – is a place of public accommodation necessarily must address the significance of the phrase “business establishments” in the definition of that term. Friendship Mission urges that, like the list of identified establishments, this phrase, too, signals that a “place of public accommodation” under AS 18.80 does not encompass lodging provided as part of a gratuitous charitable ministry with no commercial purpose.

In assessing statutory language, the Alaska Supreme Court has noted that “unless words have acquired a peculiar meaning, by virtue of statutory definition or judicial construction, they are to be construed in accordance with their common usage.”⁶¹ Friendship Mission points to the Webster’s New Collegiate definition of business as “a commercial or industrial establishment.” But even courts that have broadly construed the phrase “business establishment” in public accommodation laws have recognized that the phrase is necessarily narrower than “all” establishments.⁶²

The inquiry into the meaning of the phrase “business establishment” brings us to the related issue of legislative history. The definition of “place of public accommodation” in AS 18.80 appears to have emerged largely from a pre-statehood public accommodation law.⁶³ The Territory of Alaska first enacted its own public accommodation law in 1945. The Alaska Anti-

⁶⁰ *Id.*, at 163-165, 172.

⁶¹ See *Muller*, at 788. At the same time, “[t]o seek the meaning of a statute is not simply to look up dictionary definitions and then stitch together the results. Rather, it is to discern the sense of the statute, and therefore its words, in the legal and broader culture.” *Curran v. Mt. Diablo Council of the Boy Scouts*, 952 P.2d 218, 240 (Cal. 1998) (Mosk, J., conc.).

⁶² See, e.g., *Burks v. Poppy Constr. Co.*, 370 P.2d 313, 315-16 (California 1962) (“The legislature used the words ‘all’ and ‘of every kind whatsoever’ in referring to business establishments covered by the Unruh Act (Civ. Code § 51), and the inclusion of these words without any exception and without specification of particular kinds of enterprises, leaves no doubt that the term ‘business establishments’ was used in the broadest sense reasonably possible. The word ‘business’ embraces everything about which one can be employed, and it is often synonymous with ‘calling, occupation, or trade, engaged in for the purpose of obtaining a livelihood or gain.’”); *Warfield v. Peninsula Golf & Country Club*, 896 P.2d 776 (California 1995) (“the reach of [the public accommodation law] cannot be determined invariably by reference to the ‘plain meaning’ of the term ‘business establishment’”); *Curran v. Mt. Diablo Council of the Boy Scouts*, 952 P.2d 218, 239 (California 1998) (even lack of other available remedies against organization’s “invidious discrimination . . . cannot justify extending the scope of the [public accommodation law] further than its language reasonably will bear”).

⁶³ Many states had their own public accommodation laws prior to the passage of the federal Civil Rights Act in 1964. See *Heart of Atlanta Motel, Inc. v. United States*, 379 U.S. 241, 259 (1964) (noting that 32 states, including Alaska, have enacted public accommodation laws); Lisa G. Lerman & Annette K. Sanderson, *Comment, Discrimination in Access to Public Places: A Survey of State and Federal Public Accommodations Laws*, 7 N.Y.U. REV. L. & SOC. CHANGE 215 (1978).

Discrimination Act, enacted “to provide for full and equal accommodations, facilities and privileges to all citizens in all places of public accommodation within the jurisdiction of the Territory of Alaska.” provided:

All citizens within the jurisdiction of the Territory of Alaska shall be entitled to the full and equal enjoyment of accommodations, facilities and privileges of public inns, restaurants, eating houses, hotels, soda fountains, soft drink parlors, taverns, road houses, barber shops, beauty parlors, bathrooms, resthouses, theaters, skating rinks, cafés, ice cream parlors, transportation companies, and all other conveyances and amusements, subject only to the conditions and limitations established by law and applicable alike to all citizens.⁶⁴

This list of establishments was nearly identical to the list now defining places of public accommodation under AS 18.80, although the concluding phrase referred to “all other conveyances and amusements.”

When Alaska was admitted into the Union as a state in 1959, then-existing Territorial laws remained in full force and effect as state laws.⁶⁵ Three years later – and still before the passage of the federal Civil Rights Act – the legislature reenacted the public accommodation statute as AS 11.60.230-240.⁶⁶ The list of places of public accommodation was slightly modified, and the end phrase in the definition was changed from “and all other conveyances and amusements” to “and all other public amusements and business establishments.” The new law provided:

A person is entitled to the full and equal enjoyment of accommodations, advantages, facilities and privileges of public inns, restaurants, eating houses, hotels, motels, soda fountains, soft drink parlors, taverns, roadhouses, trailer parks, bathrooms, resorts, campgrounds, barbershops, beauty parlors, resthouses, theatres, swimming pools, skating rinks, golf courses, cafes, ice cream parlors, transportation companies, and all conveyances, housing accommodations, and all other public amusement and business establishments, subject only to the conditions and limitations established by law and applicable alike to all persons.⁶⁷

This newly-added reference to “business establishments” mirrored language in California’s 1959 public accommodations statute. Prior to 1959, California’s statute had – similarly to Alaska’s Territorial law – prohibited discrimination in a number of specified establishments and, more generally, in “all other places of public accommodation or

⁶⁴ S.L. 1945, HB 14.

⁶⁵ Alaska Statehood Law, Pub. L. 85-508, Sec. 8(d), July 7, 1958, 72 Stat. 399.

⁶⁶ S.L.A. 1962, Ch. 49 (HB 8).

⁶⁷ AS 11.60.230-240 added “motels,” “trailer parks,” “resorts,” “campgrounds,” “swimming pools,” and “golf courses” to the itemized list of places of public accommodation.

amusement.”⁶⁸ In 1959, California’s legislature revised and expanded that statute to prohibit discrimination “in all business establishments of every kind whatsoever.”⁶⁹ Alaska’s 1962 law prohibited discrimination in a number of specified establishments and then, broadly, in “all other public amusement and business establishments.”

Three years after the Alaska legislature re-codified the public accommodation law through AS 11.60.230-240, it enacted the Alaska Human Rights Act.⁷⁰ The Alaska Human Rights Act, enacted the year after passage of the federal Civil Rights Act, repealed existing anti-discrimination provisions and reenacted them under AS 18.80. Although the federal law did not contain the “business establishments” language, nor do the vast majority of state public accommodation laws, the legislature retained that language in the Alaska law.⁷¹

Because both states’ legislatures chose to situate public accommodation laws within the context of “business establishments,” cases interpreting the California law – while obviously not controlling here – provide a useful analytical framework for interpreting the scope of public accommodations under Alaska’s law. The California Supreme Court has analyzed the scope of the “business establishment” language in a variety of contexts. In a case heavily relied on by the Executive Director, that Court held that a recreational facility operated by a nonprofit club (and which excluded girls) was a business establishment under California’s law.⁷² But in a later case, the Court refused to find the Boy Scouts to be a business establishment at least for purposes of membership policies and decisions.⁷³

In *Ibister v. Boys Club of Santa Cruz*, the Court concluded that a charitable non-profit organization’s recreational facility – which included a pool, a gym, a snack bar, and craft rooms all available for use for a fee on a drop-in basis to any boy in the community – was a “business

⁶⁸ Cal.Stats. 1923, ch. 245, § 1, p. 485 (“All citizens with the jurisdiction of this state are entitled to the full and equal accommodations, advantages, facilities and privileges of inns, restaurants, hotels, eating-houses, places where ice cream or soft drinks of any kind are sold for consumption on the premises, barber shops, bath houses, theaters, skating rinks, public conveyances and all other places of public accommodation or amusement, subject only to the conditions and limitations established by law and applicable alike to all citizens.”).

⁶⁹ Cal. Civ. Code § 51 (“All persons within the jurisdiction of this state are free and equal, and no matter what their sex, race, color, religion, ancestry, or national origin are entitled to the full and equal accommodations, advantages, facilities, privileges, or services in all business establishments of every kind whatsoever.”).

⁷⁰ Alaska Statute 18.80.010, creating the State Commission for Human Rights, was enacted in 1963. S.L.A. 1963, ch. 15, § 1. In 1965, the legislature passed the Human Rights Act, which revised and strengthened existing anti-discrimination laws and reenacted them under AS 18.80. See generally, 1965 Annual Report of the State Commission on Human Rights. <http://humanrights.alaska.gov/files//Public%20Notices/1965%20Annual%20Report.pdf>

⁷¹ AS 18.80 removed “soda fountains” from the itemized list of places of public accommodation, and added “night clubs” and “places where food or spirituous or malt liquors are sold for consumption.”

⁷² *Ibister v. Boys Club of Santa Cruz*, 707 P.2d 212 (California 1985).

⁷³ *Cipran v. Mt. Diablo Council of the Boy Scouts*, 952 P.2d 218, 220 (California 1998).

establishment” under the public accommodations law. The Court based its conclusion both on the Club’s “public nature” in offering access to its facilities to a “broad segment of the population,” and its “functional similarity to a commercial business.”⁷⁴ Similarly, the Court had previously found that a non-profit homeowners association was a business establishment because its activities were comparable to those of a landlord and were carried out for a commercial and economic purpose – enhancing members’ property values.⁷⁵ And the Court later held that a private golf club that excluded women came within the reach of the statute because of the business transaction conducted on its premises. Because the golf club through these commercial activities operated as the “functional equivalent of a commercial enterprise,” it was subject to the public accommodations law.⁷⁶

But in the later *Curran* case, by way of contrast, the Court found that the Boy Scouts – at least for purposes of its membership decisions and policies – did not fall within the reach of the term “all business establishments whatsoever.” Although the organization is open to any boy ages 11-18 willing to take the Boy Scout oath, the Court found that its activities and objectives were primarily educational, it lacked a significant business purpose, and its primary function was the inculcation of a specific set of values.⁷⁷

Here, likewise, the evidence does not support the conclusion that the Mission is a business establishment and place of public accommodation under AS 18.80. While the purpose of the Alaska Human Rights Act no doubt supports extending a broad reach to eliminate invidious discrimination, just as in *Curran*, that purpose “cannot justify extending the scope of the [Human Rights Act] further than its language reasonably will bear.”⁷⁸ As discussed above, application of *ejusdem generis* does not support inclusion of the Mission within the categories of places of public accommodation specifically identified in the statute. Nor is the Mission – a volunteer-run non-profit organization receiving no governmental funds and operating no commercial activities or facilities – either a business establishment or “functional equivalent” of one. Accordingly, its refusal to allow service animals, however contrary to the underlying purposes of the Alaska Human Rights Act, is not actionable in this forum.

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⁷⁴ *Ibister*, 707 P.2d at 218-220.

⁷⁵ *O'Connor v. Village Green Owners Association*, 662 P.2d 427 (California 1983).

⁷⁶ *Warfield v. Peninsula Golf & Country Club*, 996 P.2d 776 (California 1995).

⁷⁷ *Curran*, 952 P.2d at 223, 236.

⁷⁸ *Curran*, 952 P.2d at 239.

VI. Conclusion

The Mission's cross-motion for summary decision established that it is not a "place of public accommodation" within the reach of AS 18.80. Accordingly, while in no way endorsing the Mission's refusal to extend reasonable accommodations with regard to service animals, this decision recommends dismissal of the Amended Accusation in this matter.

DATED: July 18, 2017.

By:



Cheryl Mandala
Administrative Law Judge

EXHIBIT F

Ryan Tucker

From: Ryan Tucker
Sent: Thursday, August 9, 2018 5:48 PM
To: 'Sundboom, Andrew B.'
Cc: Sonja Redmond; Jon Scruggs; David Cortman
Subject: RE: AERC Complaint No. 18-041, 18-167
Attachments: Amended Answers to Interrogatories.pdf; Amended Objections to Interrogatories.pdf

Mr. Sundboom,

Thank you for your e-mail. As an initial matter, we do not appreciate the accusation that our client has made misrepresentations to the Commission or that we have somehow failed in our ethical duties to correct such alleged "misrepresentations." Not only do we disagree with such statements, but following the conference where this issue was first raised, you stated in e-mail correspondence to our co-counsel that "[i]n an effort to not distract what should be the immediate concerns of the parties regarding settlement, we are not going to require Respondents to provide any supplemental information at this time, nor are we, at this time, going to be supplementing the information already provided to the parties." Based on that statement we have been engaged in those settlement discussions, and our hope is that they will continue. In that spirit, please find attached Respondent's Amended Answers to the AERC's First Set of Interrogatories as well as Respondent's Amended Objections to the AERC's First Set of Interrogatories.

With regard to your request to interview Ms. Laurie, can you please provide to us the parameters on which such meeting would take place?

Again, we look forward to hearing back from you to continue discussions in an effort to resolve these matters.

Thank you.
Ryan

From: Sundboom, Andrew B. [mailto:SundboomAB@ci.anchorage.ak.us]
Sent: Friday, August 3, 2018 5:57 PM
To: Sonja Redmond <sredmond@greatlandjustice.com>; Ryan Tucker <rtucker@adflegal.org>; Jon Scruggs <jscruggs@adflegal.org>; David Cortman <dcortman@adflegal.org>
Subject: AERC Complaint No. 18-041, 18-167
Importance: High

Mr. Tucker, Ms. Redmond, Mr. Scruggs, and Mr. Cortman:

Thank you for your recent submission and suggested terms to the parties' PDS agreement on August 3, 2018. I trust there will be a response from the Executive Director in the near future. In the meantime and in alignment with Mr. Tucker's 6/29/18 letter stating "we were also recently made aware of interrogatory answers provided by our client. We are in the process of reviewing those answers, and will likely amend them to include additional information to assist the AERC in determining any jurisdictional issues," the Commission will be proceeding with a few matters pertinent to resolving this case.

The Commission received signed responses to interrogatories from Respondent on May 7, 2018. Included in those responses were answers to questions about the Downtown Hope Center's funding sources, information that Respondent asserts is material to determining whether Respondent is a place of public accommodation. The Commission is concerned about representations made in the interrogatories that were signed by Sherrie Laurie, Respondent's Executive Director, that asserted that the Downtown Hope Center did not receive any taxpayer funds to support its operations. Ms. Redmond was made aware of the Commission's belief that the interrogatory responses

misrepresented material information about Respondent's receipt of public/taxpayer funds to support its shelter operations. This was discussed in detail at the Fact Finding Conference on July 9, 2018, but the Commission has not yet received any information from Respondent addressing those concerns and the Commission's evidence that Respondent received taxpayer funds from the Municipality of Anchorage and pass-through funds from a U.S. Department of Housing and Urban Development (HUD) Community Development Block Grant (CDBG).

This notice is being sent to all of you because each of you has a professional responsibility to correct any false or misrepresented information that has previously been submitted to the Commission during its investigation of the above-referenced complaint. Although you may not have been representing the client at the time the statements were made to the Commission, as Respondent's current attorneys, each of you is ethically obligated to correct any omissions, false statements, and/or misrepresentations previously made to the Commission.

I have attached a copy of the previously submitted interrogatories. Respondent has already been allowed almost three months to make corrections to this information, and the Commission's ability to fully consider Respondent's arguments will continue to be limited by Respondent's failure to timely amend and correct its earlier responses. The Commission will allow Respondent until August 9, 2018, to make appropriate corrections to the interrogatory responses before it takes any formal action in regards to what it views as Respondent's lack of candor about its receipt of taxpayer funds and the contractual obligations for the receipt of those funds.

The Commission will also need to interview Ms. Sherrie Laurie in the near future. Please contact me about scheduling an in-person interview at the Commission's offices at your earliest convenience.

Please call me at (907) 343-4338 with any questions.

Thank you.

Andrew

Amended Objections to the First Set of Interrogatories, the Hope Center submits the following:

INTERROGATORY NO. 1:

1. What are Respondent's policies and practices as they relate to individuals that are allowed to stay overnight at Respondent's facility?

ANSWER: The Hope Center operates an overnight emergency shelter that seeks to serve, train, teach, and empower homeless women, particularly those women fleeing from domestic violence and sex-trafficking. One way it does so is by providing transient overnight housing. Because of limited resources and limited space and because of its mission to serve and empower those most in need, the Hope Center cannot accept everyone, a large portion of the public, or even a large portion of those in need of transient overnight housing. So the Hope Center must be selective in admitting guests.

In order for a guest to be admitted to the shelter, she must satisfy and agree to abide by the following conditions:

- (1) Guests must be homeless.
- (2) Guests must be 18 years or older;
- (3) Guests must not demonstrate behavior dangerous to staff, guests, or themselves;
- (4) Guests must be able to function in the shelter environment without serious disruption to staff and guests;
- (5) Guests must be clean and sober. No one is allowed to stay if they are inebriated or under the influence of any substance;

- (6) Guests must be biological females, meaning they were born with, and currently have, only anatomical and genetic characteristics of a woman;
- (7) Guests must adhere to shelter policies;
- (8) Guests must be willing to be exposed to Christian teachings and not disrupt meetings inculcating Christian values. Guests will be offered Christian counseling and advice provided by staff and leaders associated with the Hope Center. These activities include, but are not limited to, group prayer before meals, Bible studies, group devotions, Christian music, and television screens, signs, and décor with Christian messages, teachings, and symbols;
- (9) Guests must follow the shelter schedule and perform chores assigned to them;
- (10) Guests must be able to meet personal needs without assistance. This includes, but is not limited to the following: (a) ability to move about the shelter independently; (b) ability to get up and down off mats without assistance; (c) ability to get to and use restroom facilities without assistance; (d) ability to shower without assistance; (e) ability to take medications without assistance; and (f) ability to care for their belongings.
- (11) Guests will be denied admission to the shelter for the following: (a) intoxication or under the influence of illegal substance; (b) active TB or any other disease causing a public health risk; (c) lice; (d) on grievance or disciplinary notice; (e) violation of non-grievance policy; or (f) other extreme or extenuating circumstance and situations.

Further, Guests will be admitted in the order listed below to ensure those in the most need of safe shelter receive priority:

- a. The elderly, the visibly physically handicapped, and the infirm are admitted before the general population. Handicapped is defined as someone in a wheelchair or other mechanical mobility aid, use crutches or a cane to walk, or the infirm that lack the physical capability to stand in line for long periods of time. Guests with limited mental capabilities may be considered handicapped at the discretion of the supervisor or staff.
- b. After all elderly, handicapped, and infirm are signed in, all others meeting the criteria set forth in Section a will be admitted on a first-come basis until the Center accepts 50 guests. Because of limited space, the Center cannot house more than 50 guests at any one time.

Once a Guest has checked into the shelter for sleeping they are required to stay in the building. Guests who leave the building after checking in will not be readmitted to the shelter until 6:00 p.m. the following day, except at staff's discretion for guests to attend appointments or meetings.

A. Are there any eligibility requirements for staying overnight at Respondent's facility?

ANSWER: Yes.

- i. If so, what are they?

ANSWER: Please see answer to Interrogatory No. 1 above.

ii. Is there a checking in procedure?

ANSWER: Yes.

iii. Who decides who can stay overnight at the facility?

ANSWER: The Hope Center shelter staff decides who can stay overnight at the facility.

iv. Does Respondent require or check a guest's identification prior to them being allowed to stay at the facility?

ANSWER: Every woman who seeks to access the shelter must first check in, agree in writing to abide by all the Hope Center admission criteria and policies, and receive approval from the Hope Center staff. At that admission point and throughout any guest's stay at the shelter, the Hope Center staff has sole discretion to determine if an applicant or guest meets and continues to satisfy the Hope Center policies, admission criteria, and admission priorities. In making that determination, the Hope Center staff may rely on factors including, but not limited to, their observations (e.g. if someone appears drunk), reports from other guests, medical tests (e.g. breathalyzer test), questions to and answers from applicants and guests, and government records and reports. The Hope Center does not use each of the above factors each and every time before allowing someone to stay at the facility, but expressly reserves the right to do so at any given time.

v. Does Respondent verify a guest's sex as part of its determination about who can stay overnight at its facility?

ANSWER: Please see answer to Interrogatory A(iv.) above.

a. How does Respondent determine a guest's sex?

ANSWER: Please see answer to Interrogatory A(iv.) above.

vi. What are Respondent's practices and policies as they relate to accommodating transgender guests overnight?

ANSWER: The Hope Center admits women regardless of their gender identity.

vii. Has Respondent refused overnight shelter to transgender individuals? If so, state when and the circumstances of the incident(s).

ANSWER: The Hope Center has never declined anyone access on the basis of their gender identity.

B. Does Respondent require any documentation or other information from guests for them to stay overnight?

ANSWER: The Hope Center does not require any form of documentation from individuals presenting themselves for entry into the shelter, but reserves the right to ask for and rely upon government documentation whenever they deem it necessary.

i. If so, what information and/or documentation is required?

Please provide copies of any forms or documentation that is used for this purpose.

ANSWER: Please see the answer to Interrogatory B above.

C. How long can a guest stay at the facility?

ANSWER: Those entered into the shelter can stay day-to-day from 6:00 p.m. to 8:00 a.m. the following day. Each day, individuals who stayed in the shelter the previous night can stay for the day and pre sign up to be admitted for the next night.

i. After a guest has stayed one night, does the process for staying on subsequent or later overnights change?

ANSWER: No, please see the answer to Interrogatory C above.

ii. Is there storage for guest's property? If so, how does that storage work and when can it be used?

ANSWER: No, the Hope Center does not store anything for anyone.

D. How does Respondent review referrals for overnight shelter from other shelters?

ANSWER: Referrals are treated the same as other individuals.

i. Please explain Respondent's policies and practices for processing referral clients from other shelters.

ANSWER: Please see the answer to Interrogatory D above.

ii. Has Respondent refused referrals of transgender individuals?

If so, state when and the circumstances of the incident(s).

ANSWER: The Hope Center has never declined anyone access on the basis of their gender identity.

INTERROGATORY NO. 2:

2. What are the sources of funding for Respondent's facility and operations?

Please list all funding sources and the amounts received from each source for the 2017 and for the 2018 fiscal years.

ANSWER: The Hope Center is funded by donations from churches, private businesses, other non-profits, and individuals. The Hope Center has received one donation from the Providence Foundation.

A. Does Respondent receive any funds, directly or indirectly, from the Municipality of Anchorage?

ANSWER: As the Hope Center correctly stated before, the Hope Center had not received funds, directly or indirectly, from the Municipality of Anchorage at the time it

originally answered this interrogatory. Likewise, the Hope Center does not currently receive funds, directly or indirectly, from the Municipality of Anchorage.

On December 15, 2017, the Hope Center entered into a memorandum of agreement with Catholic Social Services/Brother Francis Shelter to jointly address the needs of homeless in the community. It is the Hope Center's understanding that a copy of this agreement is in the possession of the Commission. After answering these interrogatories, the Hope Center received a check from Catholic Social Services for \$21,323.00, and then received another check from Catholic Social Services for \$28,625.00. At all times, this agreement was between the Hope Center and Catholic Social Services, not between Anchorage and the Hope Center, and any money from this agreement came from and through Catholic Social Services. Therefore, no funds had been received by the Hope Center directly from the Municipality of Anchorage at the time it originally answered this interrogatory, nor was it aware at that time of receipt of any funds indirectly from the Municipality of Anchorage.

Regardless of what funds Catholic Social Services used to make its payments to the Hope Center, the memorandum of understanding with Catholic Social Services/Brother Francis Shelter has been terminated.

B. Does Respondent receive funds, directly or indirectly, from the Department of Housing and Urban Development?

ANSWER: No, the Hope Center had not received funds, directly or indirectly, from the Department of Housing and Urban Development at the time it originally answered this

interrogatory. Likewise, the Hope Center does not currently receive funds, directly or indirectly, from the Department of Housing and Urban Development. The Hope Center further directs the AERC to the answer to Interrogatory No. 2.A., as well as to the Department of Housing and Urban Development.

C. Provide all contracts Respondent has entered into in relation to its funding sources and the requirements for receiving those funds.

ANSWER: The Hope Center directs the Commission to answer to Interrogatory No. 2.A., as well as documents it stated were in its possession at the fact finding conference in Case No. 18-167.

INTERROGATORY NO. 3:

3. Does Respondent pay any of the people who staff its facility and manage its operations?

ANSWER: Yes.

A. List all employees and volunteers and their rates of pay, annual income received from Respondent, dates of employment, job titles, and contact information, including all known mailing addresses, email addresses, and phone numbers.

ANSWER: The Hope Center has recently grown from six to eight staff members who are paid on an hourly basis to work in relation to the shelter.

INTERROGATORY NO. 4:

4. Does Respondent have an anti-discrimination policy?

ANSWER: The Hope Center directs [REDACTED] to its objections to this interrogatory.

A. If so, what is the policy?

ANSWER: The Hope Center directs [REDACTED] to its objections to this interrogatory.

B. Does Respondent post this policy anywhere at its facility?

ANSWER: The Hope Center directs [REDACTED] to its objections to this interrogatory.

C. Please provide a copy of all iterations of said policy in effect for any time period during 2017 or 2018.

ANSWER: The Hope Center directs [REDACTED] to its objections to this interrogatory.

DATED this 9th day of August, 2018.

DOWNTOWN HOPE CENTER

By 
Sherrie Laurie
Executive Director

DATED this 9th day of August, 2018.

Respectfully submitted,

/s/ Ryan J. Tucker

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Jonathan A. Scruggs, AZ Bar No. 030505*
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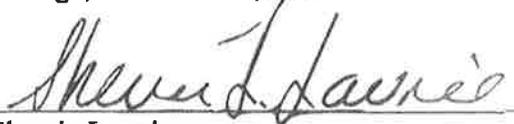
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ATTORNEYS FOR
DOWNTOWN HOPE CENTER

STATE OF GEORGIA)
) ss.
COUNTY OF GREENE)

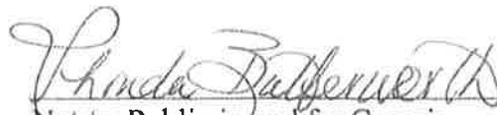
Sherrie Laurie, being first duly sworn upon her oath, deposes and states:

I am the Executive Director of the Downtown Hope Center; I have read the foregoing Amended Answers to Interrogatories, know the contents thereof, and believe the same to be true and correct to the best of my knowledge, information, and belief.



Sherrie Laurie

SUBSCRIBED AND SWORN TO before me this 2th day of August, 2018.



Notary Public in and for Georgia
My Commission Expires: 9-7-2019



CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing document was e-mailed to the following attorneys/parties of record this 9th day of August, 2018:

Pamela T. Basler, Executive Director
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/s/ Ryan J. Tucker

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Attorneys for Respondent

BEFORE THE ANCHORAGE EQUAL RIGHTS COMMISSION

SAMANTHA AMANDA COYLE,)
)
)
Complainant,)
)
v.)
)
DOWNTOWN HOPE CENTER,)
)
Respondent.)

AERC Case No. 18-041

RESPONDENT’S AMENDED OBJECTIONS TO THE ANCHORAGE EQUAL RIGHTS COMMISSION’S FIRST SET OF INTERROGATORIES

The Downtown Soup Kitchen d/b/a Downtown Hope Center (“Hope Center”) hereby amends its objections to the Anchorage Equal Rights Commission’s First Set of Interrogatories, dated April 3, 2018.

As an initial matter, the Hope Center objects to the scope and relevance of all the interrogatories propounded to the Hope Center. The Hope Center has filed a motion objecting to the AERC's jurisdiction. This jurisdictional issue is the first issue that must be resolved prior to any discovery on the substance of the underlying complaint. None of the interrogatories are relevant or necessary to deciding the jurisdictional question. The Commission is exceeding its authority by requiring responses.

INTERROGATORY NO. 1:

1. What are Respondent's policies and practices as they relate to individuals that are allowed to stay overnight at Respondent's facility?

OBJECTION: The Hope Center objects to this interrogatory on the grounds that it: (a) is unreasonably overbroad; and (b) is vague and ambiguous as the terms "policies," "practices," and "facility" is not defined.

- A. Are there any eligibility requirements for staying overnight at Respondent's facility?

OBJECTION: The Hope Center objects to this interrogatory on the grounds that it is vague as the terms "eligibility requirements" and "facility" are not defined.

- i. If so, what are they?

OBJECTION: The Hope Center objected to the previous interrogatory on the grounds that it is vague as the terms "eligibility requirements" and "facility" were not defined. Further, the question "what are they" is vague and ambiguous.

ii. Is there a checking in procedure?

OBJECTION: The Hope Center objects to this interrogatory on the grounds that it is vague as the term “checking in procedure” is not defined.

iii. Who decides who can stay overnight at the facility?

OBJECTION: The Hope Center objects to this interrogatory on the grounds that it is vague and ambiguous as the term “facility” is not defined.

iv. Does Respondent require or check a guest's identification prior to them being allowed to stay at the facility?

OBJECTION: The Hope Center objects to this interrogatory on the grounds that it: (a) is premature, as the Hope Center’s jurisdictional motion should be ruled upon prior to any discovery related to the underlying complaint; (b) is irrelevant; (c) is vague and ambiguous as neither the term “facility” nor “identification” is defined; and (d) is not properly limited in time and scope.

v. Does Respondent verify a guest's sex as part of its determination about who can stay overnight at its facility?

OBJECTION: The Hope Center objects to this interrogatory on the grounds that it: (a) is premature, as the Hope Center’s jurisdictional motion should be ruled upon prior to any discovery related to the underlying complaint; (b) is irrelevant; (c) is vague and

ambiguous as the terms “facility” and “verify” are not defined; and (d) is not properly limited in time and scope.

a. How does Respondent determine a guest's sex?

OBJECTION: The Hope Center objects to this interrogatory on the grounds that it: (a) is premature, as the Hope Center’s jurisdictional motion should be ruled upon prior to any discovery related to the underlying complaint; (b) is irrelevant; (c) is vague and ambiguous as the interrogatory does not ask in what context; and (d) assumes facts not in evidence.

vi. What are Respondent's practices and policies as they relate to accommodating transgender guests overnight?

OBJECTION: The Hope Center objects to this interrogatory on the grounds that it: (a) is premature, as the Hope Center’s jurisdictional motion should be ruled upon prior to any discovery related to the underlying complaint; and (b) is vague and ambiguous as the terms “practices” and “policies” is not defined.

vii. Has Respondent refused overnight shelter to transgender individuals? If so, state when and the circumstances of the incident(s).

OBJECTION: The Hope Center objects to this interrogatory on the grounds that it: (a) is premature, as the Hope Center’s jurisdictional motion should be ruled upon prior

to any discovery related to the underlying complaint; (b) is irrelevant; and (c) is not properly limited in time and/or scope.

B. Does Respondent require any documentation or other information from guests for them to stay overnight?

OBJECTION: The Hope Center objects to this interrogatory on the grounds that it is irrelevant.

i. If so, what information and/or documentation is required?

Please provide copies of any forms or documentation that is used for this purpose.

OBJECTION: The Hope Center objects to this interrogatory on the grounds that it: (a) is irrelevant; and (b) is an improper discovery request as document requests are made through requests for production.

C. How long can a guest stay at the facility?

OBJECTION: The Hope Center objects to this interrogatory on the grounds that it is vague and ambiguous as the term “facility” is not defined.

i. After a guest has stayed one night, does the process for staying on subsequent or later overnights change?

OBJECTION: The Hope Center objects to this interrogatory on the grounds that it: (a) is premature, as the Hope Center’s jurisdictional motion should be ruled upon prior

to any discovery related to the underlying complaint; (b) is irrelevant; and (c) is vague and ambiguous as the interrogatory does not specify where the guest has stayed.

ii. Is there storage for guest's property? If so, how does that storage work and when can it be used?

OBJECTION: The Hope Center objects to this interrogatory on the grounds that it: (a) is premature, as the Hope Center's jurisdictional motion should be ruled upon prior to any discovery related to the underlying complaint; (b) is irrelevant; (c) is vague and ambiguous as the interrogatory does not indicate where the guest or "storage" is located.

D. How does Respondent review referrals for overnight shelter from other shelters?

OBJECTION: The Hope Center objects to this interrogatory on the grounds that it: (a) is premature, as the Hope Center's jurisdictional motion should be ruled upon prior to any discovery related to the underlying complaint; (b) is irrelevant; and (c) is vague and ambiguous as the term "referrals" is not defined.

i. Please explain Respondent's policies and practices for processing referral clients from other shelters.

OBJECTION: The Hope Center objects to this interrogatory on the grounds that it: (a) is premature, as the Hope Center's jurisdictional motion should be ruled upon prior to any discovery related to the underlying complaint; (b) is irrelevant; (c) is vague and

ambiguous as the terms “policies,” “practices,” and “referral clients” are not defined; and (d) seeks information and materials constituting the Hope Center’s confidential and/or proprietary information.

ii. Has Respondent refused referrals of transgender individuals?

If so, state when and the circumstances of the incident(s).

OBJECTION: The Hope Center objects to this interrogatory on the grounds that it: (a) is premature, as the Hope Center’s jurisdictional motion should be ruled upon prior to any discovery related to the underlying complaint; (b) is vague and ambiguous as the term “transgender” is not defined; (c) is not properly limited in time and scope; and (d) may seek the private information of other individuals.

INTERROGATORY NO. 2:

2. What are the sources of funding for Respondent’s facility and operations?

Please list all funding sources and the amounts received from each source for the 2017 and for the 2018 fiscal years.

OBJECTION: The Hope Center objects to this interrogatory on the grounds that it: (a) is premature, as the Hope Center’s jurisdictional motion should be ruled upon prior to any discovery related to the underlying complaint; (b) is irrelevant; (c) is unreasonably overbroad, burdensome, and harassing; (d) is not properly limited in time or scope; (e) is vague and ambiguous as the term “facility” is not defined; and (f) seeks information and materials constituting the Hope Center’s confidential and/or proprietary information.

A. Does Respondent receive any funds, directly or indirectly, from the Municipality of Anchorage?

OBJECTION: The Hope Center objects to this interrogatory on the grounds that it: (a) is premature, as the Hope Center's jurisdictional motion should be ruled upon prior to any discovery related to the underlying complaint; (b) is irrelevant; (c) is unreasonably overbroad and harassing; (d) is not properly limited in time or scope; (e) is vague and ambiguous as the term "indirectly" is not defined, and there is no way to determine if money is paid "indirectly"; and (f) seeks information that may be in the Commission's possession.

B. Does Respondent receive funds, directly or indirectly, from the Department of Housing and Urban Development?

OBJECTION: The Hope Center objects to this interrogatory on the grounds that it: (a) is premature, as the Hope Center's jurisdictional motion should be ruled upon prior to any discovery related to the underlying complaint; (b) is irrelevant; (c) is unreasonably overbroad, burdensome, and harassing; (d) is not properly limited in time or scope; and (e) is vague and ambiguous as the term "indirectly" is not defined, and there is no way to determine if money is paid "indirectly."

C. Provide all contracts Respondent has entered into in relation to its funding sources and the requirements for receiving those funds.

OBJECTION: The Hope Center objects to this interrogatory on the grounds that it: (a) is premature, as the Hope Center’s jurisdictional motion should be ruled upon prior to any discovery related to the underlying complaint; (b) is irrelevant; (c) is unreasonably overbroad, burdensome and harassing; (d) is vague and ambiguous as the term “funding sources” is not defined; (e) is not properly limited in time and scope; (f) seeks information and materials constituting Defendant’s confidential and/or proprietary information; and (g) is an improper discovery request as document requests are made through requests for production.

INTERROGATORY NO. 3:

3. Does Respondent pay any of the people who staff its facility and manage its operations?

OBJECTION: The Hope Center objects to this interrogatory on the grounds that it: (a) is premature, as the Hope Center’s jurisdictional motion should be ruled upon prior to any discovery related to the underlying complaint; (b) is irrelevant; (c) is vague and ambiguous as the term “facility” is not defined; and (d) seeks information and materials constituting the Hope Center’s confidential and/or proprietary information.

A. List all employees and volunteers and their rates of pay, annual income received from Respondent, dates of employment, job titles, and contact information, including all known mailing addresses, email addresses, and phone numbers.

OBJECTION: The Hope Center objects to this interrogatory on the grounds that it: (a) is premature, as the Hope Center’s jurisdictional motion should be ruled upon prior to any discovery related to the underlying complaint; (b) is irrelevant; (c) is unreasonably overbroad, burdensome, and harassing; (d) is not properly limited in time and scope; and (e) seeks information and materials constituting the Hope Center’s confidential and/or proprietary information as well as the private information of non-parties.

INTERROGATORY NO. 4:

4. Does Respondent have an anti-discrimination policy?

OBJECTION: The Hope Center objects to this interrogatory on the grounds that it: (a) is premature, as the Hope Center’s jurisdictional motion should be ruled upon prior to any discovery related to the underlying complaint; (b) is irrelevant; (c) is vague and ambiguous as the term “anti-discrimination policy” is not defined; and (d) is not properly limited in time and scope.

A. If so, what is the policy?

OBJECTION: The Hope Center objects to this interrogatory on the grounds that it: (a) is premature, as the Hope Center’s jurisdictional motion should be ruled upon prior to any discovery related to the underlying complaint; (b) is irrelevant; (c) is vague and ambiguous as the terms “policy” or “anti-discrimination policy” is not defined; and (d) is not properly limited in time and scope.

B. Does Respondent post this policy anywhere at its facility?

OBJECTION: The Hope Center objects to this interrogatory on the grounds that it: (a) is premature, as the Hope Center’s jurisdictional motion should be ruled upon prior to any discovery related to the underlying complaint; (b) is irrelevant; (c) is vague and ambiguous as the term “anti-discrimination policy” is not defined; and (d) is not properly limited in time and scope.

C. Please provide a copy of all iterations of said policy in effect for any time period during 2017 or 2018.

OBJECTION: The Hope Center objects to this interrogatory on the grounds that it: (a) is premature, as the Hope Center’s jurisdictional motion should be ruled upon prior to any discovery related to the underlying complaint; (b) is irrelevant; (c) is vague and ambiguous as the term “anti-discrimination policy” is not defined; (d) is not properly limited in time and scope; and (e) is an improper discovery request as document requests are made through requests for production.

DATED this 9th day of August, 2018.

Respectfully submitted,

/s/ Ryan J. Tucker

David A. Cortman, AZ Bar No. 029490*
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Soldotna, Alaska 99669
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(907) 262-7872 (Fax)
sredmond@greatlandjustice.com

ATTORNEYS FOR
DOWNTOWN HOPE CENTER

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing document was e-mailed to the following attorneys/parties of record this 9th day of August, 2018:

Pamela T. Basler, Executive Director
Andrew Sundboom
Anchorage Equal Rights Commission
632 West Sixth Avenue, Suite 110
Anchorage, Alaska 99501
E-Mail: sundboomab@ci.anchorage.ak.us

Sonja Redmond, AK Bar No. 0605022
LAW OFFICE OF SONJA REDMOND
35865 Sunset Park St.
Soldotna, Alaska 99669
E-mail: sredmond@greatlandjustice.com

/s/ Ryan J. Tucker

EXHIBIT G

ANCHORAGE DAILY NEWS

Anchorage

Discrimination complaint against downtown Anchorage women's shelter opens up political front

✎ Author: Devin Kelly ⌚ Updated: March 14 📅 Published March 14



The downtown soup kitchen Hope Center provides a women's shelter, job skills training, meals, laundry and clothing to people in need. (Anne Raup / ADN)

Proponents of Proposition 1, an Anchorage initiative to regulate restrooms, locker rooms and other "intimate facilities" by sex at birth, say a recent discrimination complaint against a downtown shelter for homeless women shows why the measure is necessary.

It's the latest in an ongoing campaign to persuade voters that legal protections for transgender residents in Anchorage's non-discrimination law create safety problems. In this case, questions about what happened at the shelter and how the law applies remain to be answered. <https://www.adn.com/alaska-news/anchorage/2018/03/14/discrimination-complaint-against-downtown-anchorage-womens-shelter-opens-up-political-fr...> 1/4

Last week, a conservative blog and emails to supporters from the "Yes on 1" campaign's organizers spotlighted a situation in which a person filed a discrimination complaint against the Downtown Hope Center. The complaint, filed Feb. 1 by a person named [REDACTED] with the Anchorage Equal Rights Commission, said the shelter refused her services because she is transgender.

If shown to be valid, the complaint could lead to fines, policy changes, non-discrimination training and other damages for the shelter under the city's 2-year-old law that bars discrimination over sexual orientation and gender identity.

"This is exactly what we've been concerned about and why Prop. 1 must pass," Jim Minnery of Alaska Family Action wrote in one of the emails to supporters. "Should a faith-based shelter for biological women who have been abused be forced by the government into opening their doors to a biological man?"

[God, gender identity and public restrooms at play in Anchorage's Proposition 1 debate]

Kati Ward, the manager of Fair Anchorage, the campaign opposing Prop. 1, said last week the campaign didn't have specifics on the incident or the person involved, but she said Anchorage's existing non-discrimination law doesn't allow people a way to break the law or act inappropriately.

There were unresolved questions surrounding the Hope Center complaint. Kevin Clarkson, an attorney for the Hope Center, said the person who filed the complaint was not kept out of the shelter because they were transgender. He said it was because the person was intoxicated and came to the shelter while it was closed.

Even so, Clarkson said the Hope Center is a religious organization that would not allow a "biological man" to be sheltered there. The city's other two emergency women's shelters, one of which is run by Catholic Social Services, do take in transgender women.

Whether Prop. 1 — or the city's current, broader nondiscrimination laws that Prop. 1 seeks to amend — would apply to the Hope Center is open to debate. City law bars discrimination over sex and gender identity in public accommodations, but the Hope Center says it does not serve the general public. Prop. 1, meanwhile, would change the law to say employers and public accommodations could legally enforce sex-segregated standards for "intimate facilities" such as locker rooms, showers, changing rooms and restrooms.

The initiative doesn't mention homeless shelters, but Clarkson, the attorney for the Hope Center, argued the shelter would qualify as an "intimate facility."

Formerly known as the Downtown Soup Kitchen, the Hope Center is a faith-based nonprofit that offers showers and meals to the homeless, as well as an overnight shelter for homeless women. In 2015, with the Brother Francis Shelter at capacity, the agency opened an overflow night shelter for homeless women. There's a big room with mats where up to 50 homeless women sleep every night. The shelter also serves the women dinner and breakfast.

[Full coverage: Anchorage's 2018 local election]

Clarkson said [REDACTED], the person who filed the discrimination complaint, was turned away twice. First, [REDACTED] tried to enter the shelter while intoxicated, which violated shelter policies, Clarkson said. The following afternoon, [REDACTED] came back to the Hope Center and was turned away because the shelter wasn't open, Clarkson said.

[REDACTED], who listed the Abused Women's Aid in Crisis (AWAIC) domestic violence shelter as a mailing address, could not be reached by phone or immediately located for an interview.

"Respondent refused me access to the shelter because of my sex and gender identity," [REDACTED] wrote. "I am female and transgender thus I belong to a protected class."

There were no other details in the complaint about what happened from [REDACTED] point of view.

Whether [REDACTED] would meet the city's legal definition for transgender protections was not immediately clear. The law requires the person to prove, through medical history and evidence of care or treatment of their gender identity, that their gender identity is "sincerely held, core to a person's gender-related self identity, and not being asserted for an improper purpose." The Equal Rights Commission typically takes months to investigate complaints.

The Hope Center also disputes that it is subject to the city's nondiscrimination laws. Clarkson said the shelter is not a "public accommodation," and because of that, the law does not apply.

In a written response to the Equal Rights Commission, Clarkson quoted city law and said a public accommodation is a "business or professional activity" that provides goods or services to the general public. He said the Hope Center, by contrast, is a religious charity that offers its services for free to a specific group of people.

Clarkson said allowing a "biological man" into the shelter would traumatize and create safety risks for the women who stay there.

Leaders of Anchorage's other two emergency women's shelters say transgender people have used the facilities for years without problems.

AWAIC, a shelter for women and children who are victims of domestic violence, has served transgender women for at least 15 years, said executive director Suzi Pearson.

Catholic Social Services runs the Brother Francis Shelter as well as the Clare House, a shelter for women and children. Lisa Aquino, the executive director of Catholic Social Services, said the shelters don't ask people for gender identities.

"There's so much trauma for everyone who comes in that is experiencing homelessness," Aquino said. "The fact that someone is transgender is pretty far down on the list."

In a phone interview, Clarkson said the Hope Center had known [REDACTED] in the past as a man named [REDACTED].

Clarkson said [REDACTED] had regularly used showers and meal services during the daytime hours without incident. But he said the shelter saw [REDACTED] as "obviously" a man, and pointed to a criminal record that included a 2008 robbery conviction to back up concerns about letting [REDACTED] inside.

Voter registration records indicate a person named [REDACTED] registered as a Republican in April 2016 and listed their sex as "female." There were no voter or Alaska court records for a [REDACTED].

[REDACTED] came to the Hope Center one evening in late January after being ejected from the nearby Brother Francis Shelter for fighting, according to Clarkson. Clarkson said [REDACTED] was clearly intoxicated and was barred from entering the shelter, which is a sober facility. The shelter gave [REDACTED] money for a cab ride to the emergency room for treatment of injuries from a fight, Clarkson said.

The next day, a Saturday, [REDACTED] returned at 2 p.m. seeking shelter services, but the shelter was not open and [REDACTED] was turned away, Clarkson said. He said [REDACTED] did not return after that.

Since the Anchorage nondiscrimination law took effect, the Equal Rights Commission has received 10 complaints of sexual orientation discrimination and two complaints of gender identity discrimination, according to the commission's annual reports. The commission does not make the cases public or comment on whether complaints have been filed, citing confidentiality.

Clarkson said Hope Center officials would not attend a Wednesday fact-finding conference in the case.

He said that if the commission decides to proceed, he would file a motion to dismiss the complaint on the grounds that the Hope Center is not a public accommodation.

About this Author

Devin Kelly

Devin Kelly covers Anchorage city government and general assignments.

Comments

EXHIBIT H

ANCHORAGE EQUAL RIGHTS COMMISSION
DISCRIMINATION COMPLAINT

89

Complaint Number: 18-041

Filing Date: 2/1/2018

NAME: [REDACTED]

Phone: [REDACTED]

Mailing Address: [REDACTED]

City, State: Anchorage, AK

Zip: 99501

I ALLEGE THAT THE FOLLOWING NAMED: Public Accommodation

NAME: Downtown Hope Center

Phone:

Mailing Address: 240 East 3rd Ave

City, State: Anchorage, Alaska

Zip: 99517

If this is an employment complaint, does this employer have more than fifteen (15) employees? Yes No N/A

DISCRIMINATED AGAINST ME ON THE BASIS OF MY:

Race Religion Sex Color National Origin Disability Sexual Orientation Age Marital Status Gender Identity Retaliation

DATE OF MOST RECENT OR CONTINUING DISCRIMINATION: January 29, 2018

STATEMENT OF DISCRIMINATION:

I allege I have been discriminated against in violation of the following statute prohibiting unlawful discriminatory practices in places of public accommodation, Anchorage Municipal Code § 5.20.050.

Respondent operates a shelter in Anchorage, Alaska. On two occasions, most recently on January 29, 2018, Respondent refused me access to its shelter because of my sex and gender identity.

I allege the following discriminatory actions: **Denial of services/ Sex, Gender Identity**

1. I am female and transgender thus I belong to a protected class.
2. On January 29, 2018, and one other occasion I was denied full and equal enjoyment of Respondent's services, goods or facilities.
3. Members outside of my protected class were not treated in the same or similar manner.

I WILL advise the Commission if I change my address or telephone number(s); and I will cooperate fully in the processing of my discrimination complaint.

I SWEAR OR AFFIRM I have read the above complaint and it is true to the best of my knowledge, information and belief.

DATED at Anchorage, Alaska, this 1st day of February, 2018.

[REDACTED], Complainant

SUBSCRIBED AND SWORN TO before me on this 1st day of February, 2018.

Natalie K. Day
NOTARY PUBLIC in and for ALASKA
My Commission Expires: 11/6/21

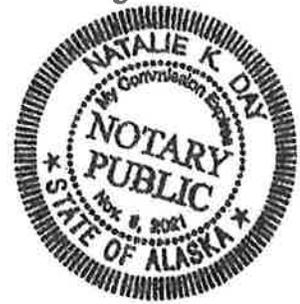


EXHIBIT I

DISCRIMINATION COMPLAINT

Answer due 6/15/18
cal
alm
Filing Date: 5/15/2018

Complaint Number: 18-167

Phone: (907) 343-4342

NAME: Pamela Basler, Executive Director, for the Anchorage Equal Rights Commission

Mailing Address: 632 W. 6th Avenue, Suite 110 City, State: Anchorage, AK

FILE: 1453-001
 REVIEWED: Zip: 99501 SG
 CC: ROB/KGC ALM FAX DHL
 RECEIVED

I ALLEGE THAT THE FOLLOWING NAMED: Respondent(s)

Downtown Hope Shelter, 240 E. 3rd Avenue, Anchorage, AK 99501, (907) 277-4302

AND/OR

Brena, Bell & Clarkson, P.C., 810 N Street, Suite 100, Anchorage, AK 99501, (907) 258-2000

CALENDAR: _____
 OTHER: _____ MAY 16 2018

If this is an employment complaint, does this employer have more than fifteen (15) employees? Yes No N/A

Brena, Bell & Clarkson, P

DISCRIMINATED AGAINST ME ON THE BASIS OF MY:

Race Religion Sex Color National Origin Disability Sexual Orientation Age Marital Status Gender Identity Retaliation

DATE OF MOST RECENT OR CONTINUING DISCRIMINATION: March 8, 2018

STATEMENT OF DISCRIMINATION:

I allege the Respondent(s) committed unlawful discriminatory acts or practices in violation of the following statutes prohibiting unlawful uses of real property, Anchorage Municipal Code § 5.20.020, and/or unlawful practices in places of public accommodation, Anchorage Municipal Code § 5.20.050.

Respondents (the Downtown Hope Shelter and/or its identified spokesperson, Kevin Clarkson of Brena, Bell & Clarkson, P.C.) published, circulated, issued, displayed, posted, or mailed a written or printed communication, notice or advertisement, or caused to be circulated, issued or displayed, made, printed or published, a communication which states or implies that the use of Downtown Hope Center's real property and/or services or facilities will be refused to or denied to a person because of their sex and/or gender identity, in violation of Anchorage Municipal Code § 5.20.020(A)(7) and/or Anchorage Municipal Code § 5.20.050(A)(2).

An Anchorage Equal Rights Commission (AERC) complaint (No. 18-041) was filed against the Downtown Hope Center on February 1, 2018. Attorney Kevin Clarkson of Brena, Bell & Clarkson, P.C. notified the AERC on March 6, 2018, that his firm represented the Downtown Hope Center in regards to that complaint. Since March 8, 2018, Kevin Clarkson has been identified as the source of statements and information, published in various online and printed media sources, which implied or stated that transgender individuals would not be allowed to be "sheltered" at the Downtown Hope Center.

Respondents have refused to participate in proceedings related to AERC Complaint No. 18-041 that are required by the Municipality of Anchorage's Equal Rights law, and refused to provide critical information to the AERC on several occasions. As a result, it is not known whether Kevin Clarkson was speaking at the behest of or on behalf of the Downtown Hope Center when he made these communications.

I SWEAR OR AFFIRM I have read the above complaint and it is true to the best of my knowledge, information and belief.

DATED at Anchorage, Alaska, this 15th day of May, 2018.

Pamela Basler
Pamela Basler, Executive Director, for the
Anchorage Equal Rights Commission

SUBSCRIBED AND SWORN TO before me on this 15th day of May, 2018.

Natalie K. Day
NOTARY PUBLIC in and for ALASKA
My Commission Expires: 11/16/21



ANCHORAGE DAILY NEWS

Anchorage

Discrimination complaint against downtown Anchorage women's shelter opens up political front

✎ Author: Devin Kelly ⓘ Updated: 3 hours ago 🗓 Published 3 hours ago



The downtown soup kitchen Hope Center provides a women's shelter, job skills training, meal, laundry and clothing to people in need. (Anne Raup / ADN)

Proponents of Proposition 1, an Anchorage initiative to regulate restrooms, locker rooms and other "intimate facilities" by sex at birth, say a recent discrimination complaint against a downtown shelter for homeless women shows why the measure is necessary.

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shelter and how the law applies remain to be answered.

Last week, a conservative blog and emails to supporters from the "Yes on 1" campaign's organizers spotlighted a situation in which a person filed a discrimination complaint against the Downtown Hope Center. The complaint, filed Feb. 1 by a person named [REDACTED] with the Anchorage Equal Rights Commission, said the shelter refused her services because she is transgender.

If shown to be valid, the complaint could lead to fines, policy changes, non-discrimination training and other damages for the shelter under the city's two-year-old law that bars discrimination over sexual orientation and gender identity.

"This is exactly what we've been concerned about and why Prop. 1 must pass," Jim Minnery of Alaska Family Action wrote in one of the emails to supporters. "Should a faith-based shelter for biological women who have been abused be forced by the government into opening their doors to a biological man?"

[God, gender identity and public restrooms at play in Anchorage's Proposition 1 debate]

Kati Ward, the manager of Fair Anchorage, the campaign opposing Prop. 1, said last week the campaign didn't have specifics on the incident or the person involved, but she said Anchorage's existing non-discrimination law doesn't allow give people a way to break the law or act inappropriately.

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Whether Prop. 1 — or the city's current, broader nondiscrimination laws that Prop. 1 seeks to amend — would apply to the Hope Center is open to debate. City law bars discrimination over sex and gender identity in public accommodations, but the Hope Center says it does not serve the general public. Prop. 1, meanwhile, would change the law to say employers and public accommodations could legally enforce sex-segregated standards for "intimate facilities" such as locker rooms, showers, changing rooms and restrooms."

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Clarkson said [REDACTED] the person who filed the discrimination complaint, was turned away twice. First, [REDACTED] tried to enter the shelter while intoxicated, which violated shelter policies, Clarkson said. The following afternoon, [REDACTED] came back to the Hope Center and was turned away because the shelter wasn't open, Clarkson said.

[REDACTED] who listed the Abused Women's Aid in Crisis (AWAIC) domestic violence shelter as a mailing address, could not be reached by phone or immediately located for an interview.

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Clarkson said Hope Center officials would not attend a Wednesday fact-finding conference in the case.

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About this Author

Devin Kelly

Devin Kelly covers Anchorage city government and general assignments.



Ethan Berkowitz, Mayor

Anchorage Equal Rights Commission

Kevin Clarkson
Brena, Bell & Clarkson
810 N Street, Suite 100
Anchorage, AK 99501

Downtown Hope Center
240 E. 3rd Avenue
Anchorage, AK 99501

RE: Pamela Basler, Executive Director, AERC et. al. v. Downtown Hope Center and/or
Brena Bell & Clarkso
AERC Complaint No.: 18-167

CERTIFICATE OF SERVICE

I, Natalie Day, certify that a copy of the Complaint of Discrimination, the Notice of Fact Finding Conference, and the Certificate of Service were served today on the following:

Kevin Clarkson
Brena, Bell & Clarkson
810 N Street, Suite 100
Anchorage, AK 99501

Downtown Hope Center
240 E. 3rd Avenue
Anchorage, AK 99501

Dated at Anchorage, Alaska, this 15th day of May, 2018.



Natalie Day, Senior Office Associate

EXHIBIT J

OGDEN UT 84201-0038

In reply refer to: 0438186857
Mar. 29, 2013 LTR 4168C 0
92-0141715 000000 00
00036999
BODC: TE

DOWNTOWN SOUP KITCHEN
PO BOX 202684
ANCHORAGE AK 99520-2684



040102

Employer Identification Number: 92-0141715
Person to Contact: Deb Bridgewater
Toll Free Telephone Number: 1-877-829-5500

Dear Taxpayer:

This is in response to your Mar. 20, 2013, request for information regarding your tax-exempt status.

Our records indicate that you were recognized as exempt under section 501(c)(03) of the Internal Revenue Code in a determination letter issued in AUGUST 1993.

Our records also indicate that you are not a private foundation within the meaning of section 509(a) of the Code because you are described in section(s) 509(a)(1) and 170(b)(1)(A)(vi).

Donors may deduct contributions to you as provided in section 170 of the Code. Bequests, legacies, devises, transfers, or gifts to you or for your use are deductible for Federal estate and gift tax purposes if they meet the applicable provisions of sections 2055, 2106, and 2522 of the Code.

Please refer to our website www.irs.gov/eo for information regarding filing requirements. Specifically, section 6033(j) of the Code provides that failure to file an annual information return for three consecutive years results in revocation of tax-exempt status as of the filing due date of the third return for organizations required to file. We will publish a list of organizations whose tax-exempt status was revoked under section 6033(j) of the Code on our website beginning in early 2011.

EXHIBIT K



THE STATE
of **ALASKA**

Department of Commerce, Community, and Economic Development
Division of Corporations, Business, and Professional Licensing
PO Box 110806, Juneau, AK 99811-0806
(907) 465-2550 • Email: corporations@alaska.gov
Website: Corporations.Alaska.gov

Date Filed: 05/02/2018
State of Alaska, DCCED

FOR DIVISION USE ONLY

Nonprofit Corporation
2018 Biennial Report
For the period ending June 30, 2018

Web-5/2/2018 3:17:08 PM

- This report is due on July 02, 2018
- \$25.00 if postmarked before August 02, 2018
- \$30.00 if postmarked on or after August 02, 2018

Entity Name: THE DOWNTOWN SOUP KITCHEN
Entity Number: 49803D
Home Country: UNITED STATES
Home State/Province: ALASKA

Registered Agent
Name: SHERRIE LAURIE
Physical Address: 240 EAST 3RD AVE,
ANCHORAGE, AK 99501
Mailing Address: PO BOX 202684, ANCHORAGE,
AK 99520

Entity Physical Address: 3401 Lakeshore Dr 4, 3401 Lakeshore Dr 4, Anchorage, AK 99517

Entity Mailing Address: PO BOX 202684, ANCHORAGE, AK 99520

Please include all officials. Check all titles that apply. Must use titles provided. All domestic non-profit corporations must have a president, vice president, secretary, treasurer, and at least three directors. The secretary and the president cannot be the same person.

Name	Address	% Owned	Titles
LINDA WAGGONER	2579 NATHANIAL CRT, ANCHORAGE, AK 99517	N/A	Director
LORRAINE O'NEAL	12110 PORTAGE DR, ANCHORAGE, AK 99515	N/A	Director, Secretary
TOM ARMINSKI	2931 CROWN POINT CR, ANCHORAGE, AK 99502	N/A	Director
ALAN ROBILLARD	2531 LAIRD CIRCLE, ANCHORAGE, AK 99516	N/A	Vice President
GREG LOUDON	14010 VENUS WAY, ANCHORAGE, AK 99515	N/A	Treasurer
RICHARD IRWIN	2531 LEGACY DR, ANCHORAGE, AK 99516	N/A	Director, President
Frank Johnson	20526 Ptarmigan Blvd, Eagle River, AK 99577	N/A	Director

Purpose: CHARITABLE

NAICS Code: 624210 - COMMUNITY FOOD SERVICES

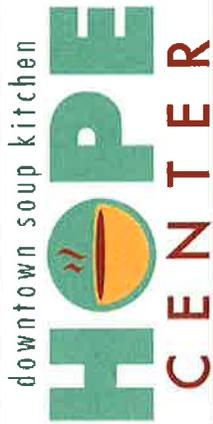
New NAICS Code (optional):

Estimated value of all real or personal property of the corporation:

I certify under penalty of perjury under the Uniform Electronic Transaction Act and the laws of the State of Alaska that the information provided in this application is true and correct, and further certify that by submitting this electronic filing I am contractually authorized by the Official(s) listed above to act on behalf of this entity.

Name: Sherrie Laurie

EXHIBIT L



Calendar

Timezone: GMT -08:00

[◀](#)
 NOVEMBER 2018
 [▶](#)

Today

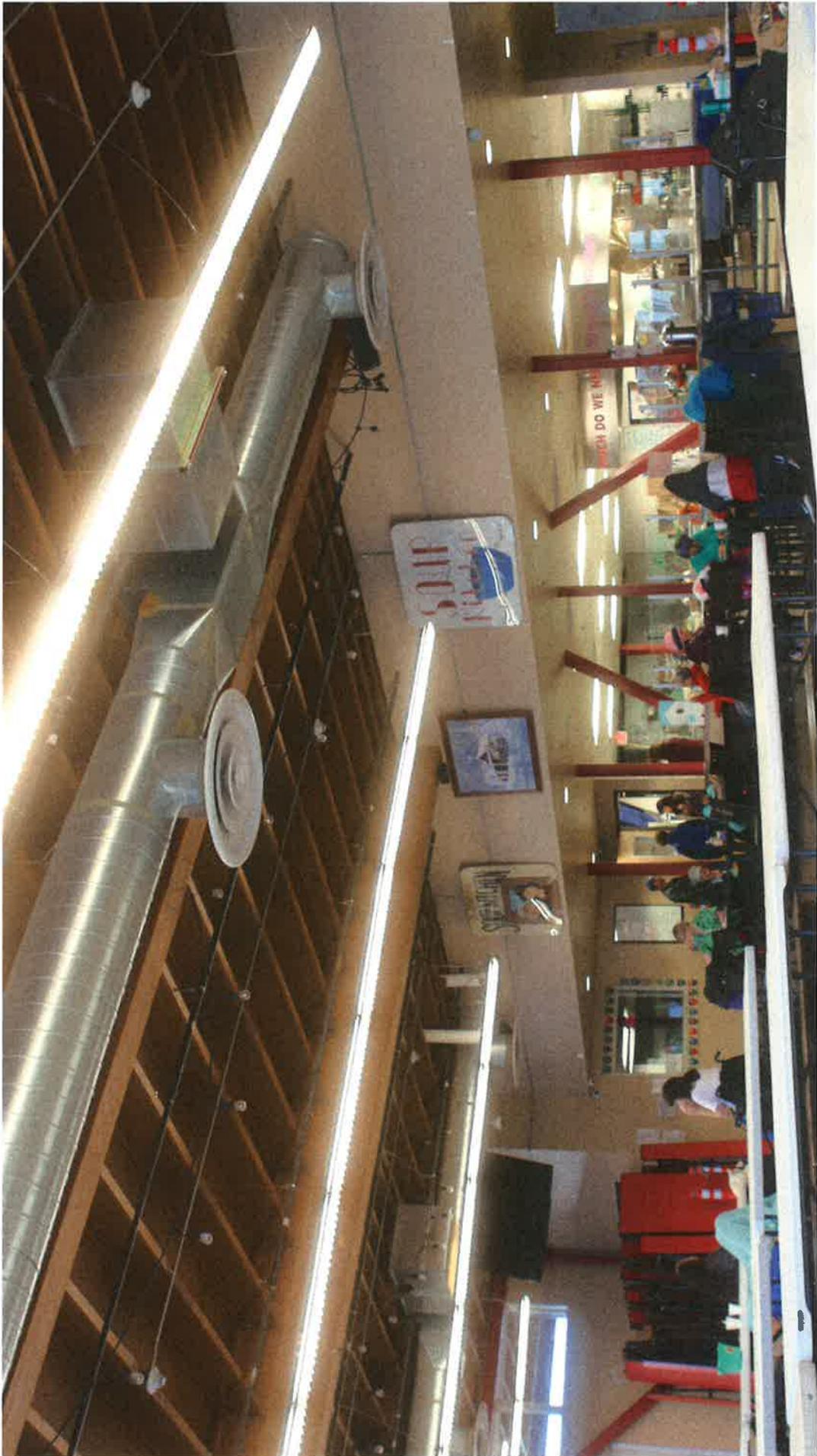
MONDAY TUESDAY WEDNESDAY THURSDAY FRIDAY SATURDAY SUNDAY

<p>2:00pm Alcoholic An...</p> <p>9:00am Shower Hou... 12:00pm Lunch Ser...</p> <p>7:00pm Alcoholic An...</p>	<p>9:00am Shower Hou... 12:00pm Lunch Ser...</p> <p>9:00am Shower Hou... 12:00pm Lunch Ser...</p> <p>9:00am Shower Hou... 12:00pm Lunch Ser...</p>	<p>Fall Festival 9:00am Shower Hou... 12:00pm Lunch Ser... 7:00pm Celebrate R...</p>	<p>7:30am Overcoming... 9:00am Shower Hou... 12:00pm Lunch Ser... 9:00am Beading Cla... 12:00pm Lunch Ser... 7:00pm Bible Study</p>	<p>9:00am Shower Hou... 12:00pm Lunch Ser...</p> <p>9:00am Shower Hou... 12:00pm Lunch Ser...</p>	<p>9:30am Foundations...</p>	<p>4</p>
<p>5</p> <p>9:00am Shower Hou... 12:00pm Lunch Ser... 7:00pm Alcoholic An...</p>	<p>6</p> <p>9:00am Shower Hou... 12:00pm Lunch Ser...</p>	<p>7</p> <p>9:00am Shower Hou... 12:00pm Lunch Ser... 7:00pm Celebrate R...</p>	<p>8</p> <p>7:30am Overcoming... 9:00am Shower Hou... 12:00pm Lunch Ser... 9:00am Beading Cla... 12:00pm Lunch Ser... 7:00pm Bible Study</p>	<p>9</p> <p>9:00am Shower Hou... 12:00pm Lunch Ser...</p>	<p>10</p> <p>ACC Christmas Bazaar 9:30am Foundations...</p>	<p>11</p>
<p>12</p> <p>9:00am Shower Hou... 12:00pm Lunch Ser... 7:00pm Alcoholic An...</p>	<p>13</p> <p>9:00am Shower Hou... 12:00pm Lunch Ser...</p>	<p>14</p> <p>9:00am Shower Hou... 12:00pm Lunch Ser... 7:00pm Celebrate R...</p>	<p>15</p> <p>7:30am Overcoming... 9:00am Shower Hou... 12:00pm Lunch Ser... 9:00am Beading Cla... 12:00pm Lunch Ser... 7:00pm Bible Study</p>	<p>16</p> <p>FMH Graduation 9:00am Shower Hou... 12:00pm Lunch Ser...</p>	<p>17</p> <p>9:30am Foundations...</p>	<p>18</p>
<p>19</p> <p>9:00am Shower Hou... 12:00pm Lunch Ser... 7:00pm Alcoholic An...</p>	<p>20</p> <p>9:00am Shower Hou... 12:00pm Lunch Ser...</p>	<p>21</p> <p>9:00am Shower Hou... 12:00pm Lunch Ser... 7:00pm Celebrate R...</p>	<p>22</p> <p>Thanksgiving Dinner 7:30am Overcoming... 9:00am Shower Hou... 12:00pm Lunch Ser... 9:00am Beading Cla... 12:00pm Lunch Ser... 7:00pm Bible Study</p>	<p>23</p> <p>9:00am Shower Hou... 12:00pm Lunch Ser...</p>	<p>24</p> <p>9:30am Foundations...</p>	<p>25</p>
<p>26</p> <p>9:00am Shower Hou... 12:00pm Lunch Ser... 7:00pm Alcoholic An...</p>	<p>27</p> <p>9:00am Shower Hou... 12:00pm Lunch Ser...</p>	<p>28</p> <p>9:00am Shower Hou... 12:00pm Lunch Ser... 7:00pm Celebrate R...</p>	<p>29</p> <p>7:30am Overcoming... 9:00am Shower Hou... 12:00pm Lunch Ser... 9:00am Beading Cla... 12:00pm Lunch Ser... 7:00pm Bible Study</p>	<p>30</p> <p>Covenant Church Bazaar 9:00am Shower Hou... 12:00pm Lunch Ser...</p>	<p>Hope Gala Mitzvah Mall 9:30am Foundations...</p>	<p>31</p>

EXHIBIT M







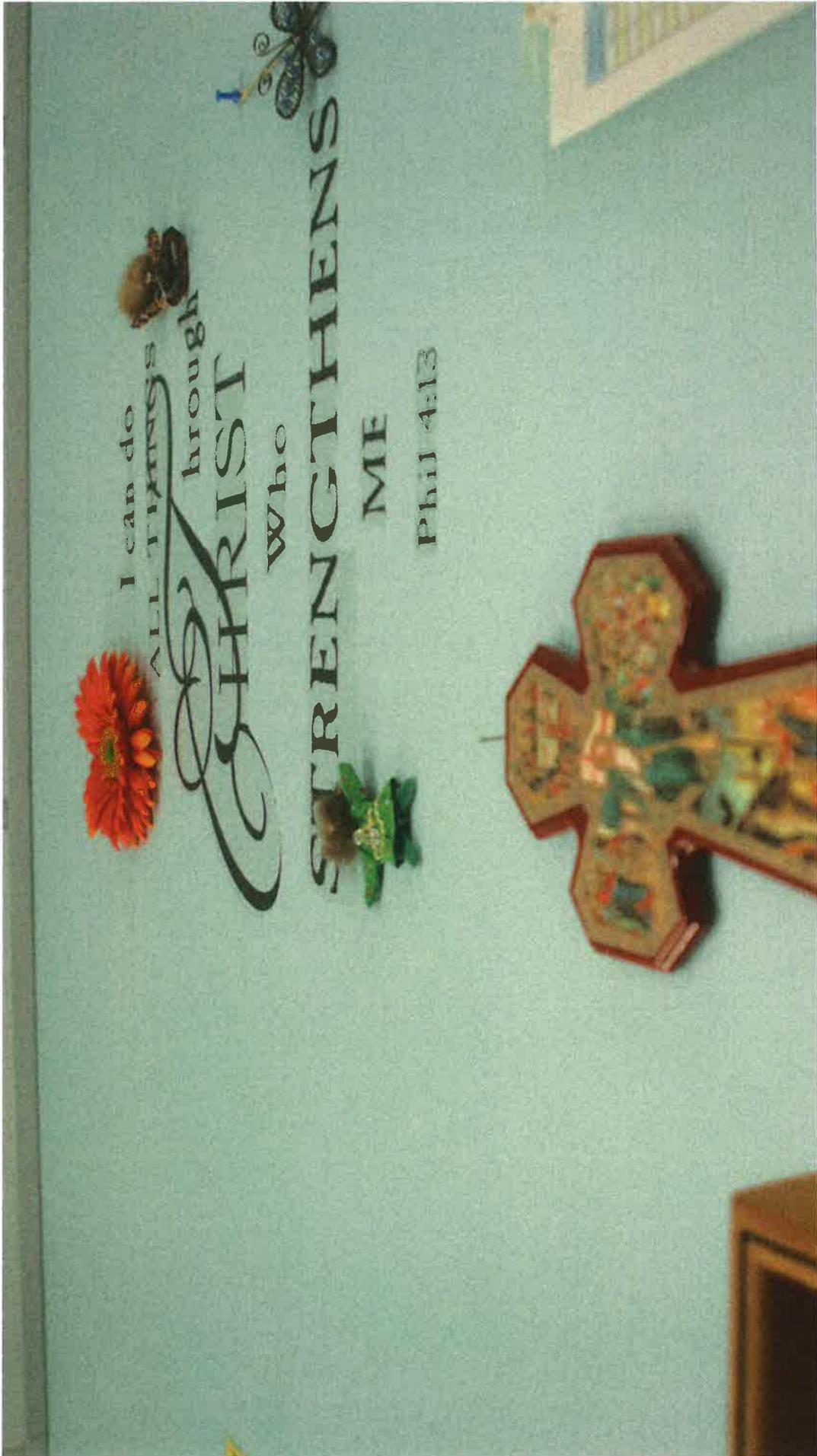




**Healing
Overcomes
Personal
Experience**









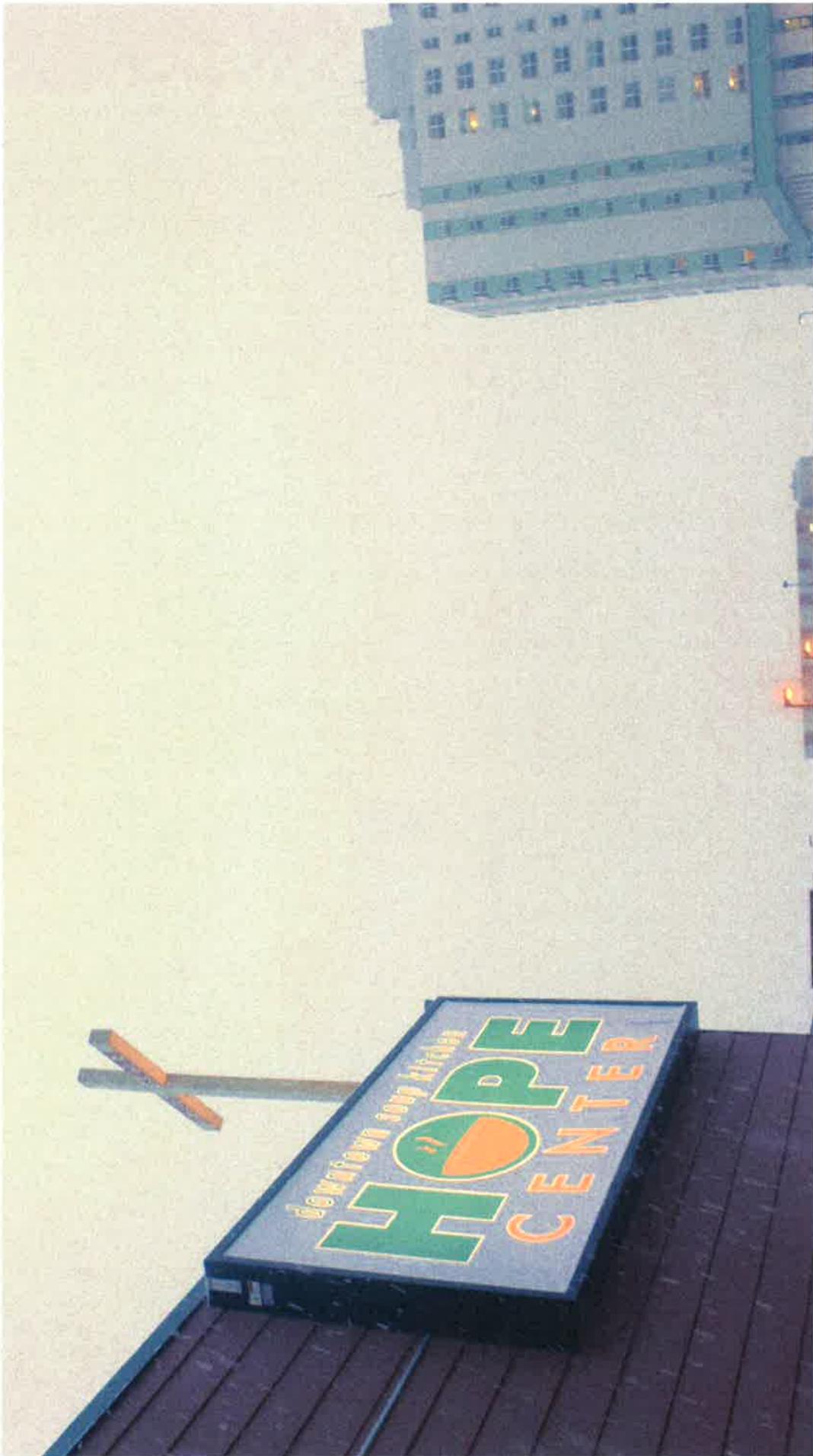


EXHIBIT N



Shelter Guest Schedule & Requirements

We are a sober and clean Shelter. No one is allowed to stay if they are inebriated or high. If we suspect a potential shelter guest might be under the influence, upon staff's discretion, we will utilize the breathalyzer and/or administer a drug test.

5:45pm:

- *Line up in the courtyard to be checked in by Shelter Staff*
 - *Random bag-checks will be made nightly.*

6pm:

- *Dinner will be served*
 - *Guests may only sit at the red tables to eat.*
 - *Seconds will be served when announced.*
 - *If a guest does not finish their meal, they may not save it.*
 - *Dinner will wrap up around 6:30pm*

7:30: (approximately)

- *After everything is cleaned up and the staff is ready, staff will open the mat closet for distribution based on signup sheet.*
 - *Get in line and your name will be called to get your mat.*
 - *Staff will give you a bag with blankets and a sheet.*

8pm: (or when 2nd Shelter employee arrives)

- *Shower House opens*
 - *Sign up to take a shower.*
 - *Sign up to get your laundry done.*
 - *If you need clothing/ hygiene products ask the Shelter worker*
 - *You may watch a movie and chill in the lounge area until lights out or staff informs you it's time to move.*

11pm:

- *Lights out*
 - *Cell phones must be turned off and/or put on silent.*
 - *Courtyard door will now be locked for the night.*

5am:

- *Door to the courtyard will be unlocked*



6:30am:

- Coffee and breakfast will be set out.
- If clothes were washed the night before, you will find them on the black cart by breakfast, with your name on them.

7:30am:

- Everything needs to be put away & completed
 - *Guests beds must be put away.*
 - *Assigned guest chores completed*
- If a guest needs new bedding, feminine products, or medicine they may ask Shelter staff at this time.

Additional Shelter important information:

- *If a guest wants to stay during the day, they must **move over by the sound system or sit at the back, black tables.***

- *Guests are allowed to stay inside the building pretty much all day.*

Exceptions: *Guests will have to line up outside for lunch at 11:30am and then after lunch service closes, wait in the courtyard while the dining hall is cleaned. Guests **MUST** keep all personal belongings with them.*

- *If a guest needs to arrive later than 5:45pm, due to appointments, work, ect. They **MUST** inform Shelter staff the morning **before** the evening they will be arriving late. If a guest fails to do this, they may lose their place in line for a bed.*

Saturdays: Only guests who stayed in the shelter Friday night are allowed to stay in the shelter during the day on Saturdays. These guests will also be preregistered for Sat. night (as long as all other rules above were observed satisfactorily).

All other potential shelter guests will have to arrive at 5:45 in the DHC courtyard for registration of remaining unassigned beds.

EXHIBIT O



Hope Women's Shelter

Downtown Hope Center
Operational Policies, Procedures, and Information
Hope Women's Shelter
(Not For Publication; Hope Center Staff Only)

General Information

Table of Contents

General Policies and Procedures

New Guest Registration and Intake

Offenses and Consequences

Hope Women's Shelter Admittance Policy

A. Introduction

Downtown Hope Center is a faith-based non-profit organization that is inspired by the love of Jesus to offer support, shelter, sustenance, and skills to those in need to transform their lives. The Center does this both through acts of service and through the inculcation of Christian beliefs and values. The Center believes that the transforming love of Jesus can free people of destructive situations, habits, and addictions. To be true to its beliefs, teaching, mission, and values, Down Hope Center must abide by its Christian beliefs in how it operates, including in what it teaches and how treats others.

B. Hours of Operation:

Mon. through Fri.: 6 pm check in / 8 am check out

Sat. and Sun.: (Summer) 6pm check in/ 12:30pm Check out (Breakfast & Lunch

served) Sat. and Sun.: (Winter time) 6pm check in/ Sun. services & Lunch 9am-1pm

Please Note: As the shelter is closed during times other than those above and DHC operates a lunch time feeding program, guests must not be in a condition that would require bed rest, medical attention or sleeping during the day.

C. Admission Criteria:

Downtown Hope Center operates an overnight emergency shelter that seeks to serve, train, teach, and empower homeless women, particularly those women fleeing from domestic violence and sex-trafficking. One way it does so is by providing transient overnight housing. Because of limited resources and limited space and because of its mission to serve and empower those most in need, the Center cannot accept everyone, a large portion of the public, or even a large portion of those in need of transient overnight housing. So the Center must be selective in admitting guests. In order for a guest to be admitted to the shelter, she must satisfy and agree to abide by the following conditions:

1. Guests must be homeless, which includes those who are literally homeless, at imminent risk of homelessness, homeless under other federal statutes, and fleeing or attempting to flee domestic violence.
2. Guests must be 18 years of age or older.
3. Guests must not demonstrate behavior dangerous to staff, guests, or themselves.

4. Guests must be able to function in the shelter environment without serious disruption to staff and guests.
5. Guests must be clean and sober. No one is allowed to stay if they are inebriated or under the influence of any substance.
6. Guests must be biological females, meaning they were born with, and currently have, only anatomical and genetic characteristics of a woman.
7. Guests must adhere to shelter policies.
8. Guests must be willing to be exposed to Christian teachings and not disrupt meetings inculcating Christian values. Guests will be offered Christian counseling and advice provided by staff and leaders associated with DHC. These activities include, but are not limited to, group prayer before meals, Bible studies, group devotions, Christian music, and television screens, signs, and decor with Christian messages, teachings, and symbols.
9. Guests must follow the shelter schedule and perform chores assigned to them.
10. There are no nursing or medical personnel on staff. Guests must be able to meet personal needs without assistance. This includes, but is not limited to the following:
 - a. Ability to move about the shelter independently
 - b. Ability to get up and down off mats without assistance
 - c. Ability to get to and use restroom facilities without assistance
 - d. Ability to shower without assistance
 - e. Ability to take medications without assistance
 - f. As there are no storage facilities, guests must be able to care for their belongings, in, including removing all personal belongings from the shelter when leaving in the morning. (Only 2 bags allowed per guest).
11. In addition to failing to comply with the above requirements, guests will be denied admission to the shelter for the following:
 - a. Intoxication or under the influence of illegal substance
 - b. Active TB or any other disease causing a public health risk
 - c. Lice
 - d. On grievance or disciplinary notice
 - e. Violation of non-grievance policy
 - f. Other extreme or extenuating circumstance and situations

*Exceptions may be made for any person if the situation is deemed life threatening by the supervisor on duty.

D. Admission Priorities: Guests will be admitted in the order listed below to ensure those in the most need of safe shelter receive priority:

1. The elderly, the visibly physically handicapped, and the infirm are admitted before the general population. Handicapped is defined as someone in a wheelchair or other mechanical mobility aid, use crutches or a cane to walk, or the infirm that lack the physical capability to stand in line for long periods of time. Guests with limited mental capabilities may be considered handicapped at the discretion of the supervisor or staff.
2. After all elderly, handicapped, and infirm are signed in, all others meeting the criteria set forth in Section A will be admitted on a first-come basis until the Center accepts 50 guests. Because of limited space, the Center cannot house more than 50 guests at any one time.

- E. Children in the Shelter:** Except through previous arrangement with the Executive Director or the Shelter Manager, children are not be allowed into the shelter between 6 PM and 8 AM. Children when admitted, must be under direct supervision of a parent or guardian at all times. Children with volunteer groups must be under supervision of parent or guardian.
- F. Visitors:** All visitors and volunteers are required to check in with the staff on duty before being allowed to proceed into the building. All volunteers are requested to sign the Volunteer list prior to entry.
- G. One way door policy:** Once a guest has checked into the shelter for sleeping they are required to stay in the building. Guests who leave the building after checking in will not be readmitted to the shelter until 6 PM the following day. This policy can be adapted per staffs Permission and does not pertain to bakery or culinary students.
- H. Curfew:** An 10:00 PM curfew policy is in effect. Guests arriving after 10 PM will not be admitted unless prior arrangements have been made with staff.
- I. Commerce:** The sale or resale of any items in the shelter is strictly prohibited without the express written permission of the Shelter Manager.
- J. Evaluation of Admission Criteria and Policy Compliance:** Every woman who seeks to access the shelter must first check in, agree in writing to abide by all Hope Center admission criteria and policies, and receive approval from Hope Center staff. At that admission point and throughout any guest's stay at the shelter, Hope Center staff has sole discretion to determine if an applicant or guests meets and continues to satisfy Hope Center policies, admission criteria, and admission priorities. In making that determination, Hope Center staff may rely on factors including, but not limited to, their observations (e.g. if someone appears drunk), reports from other guests, medical tests, questions to and answers from applicants and guests, and government records and reports.

EXHIBIT P

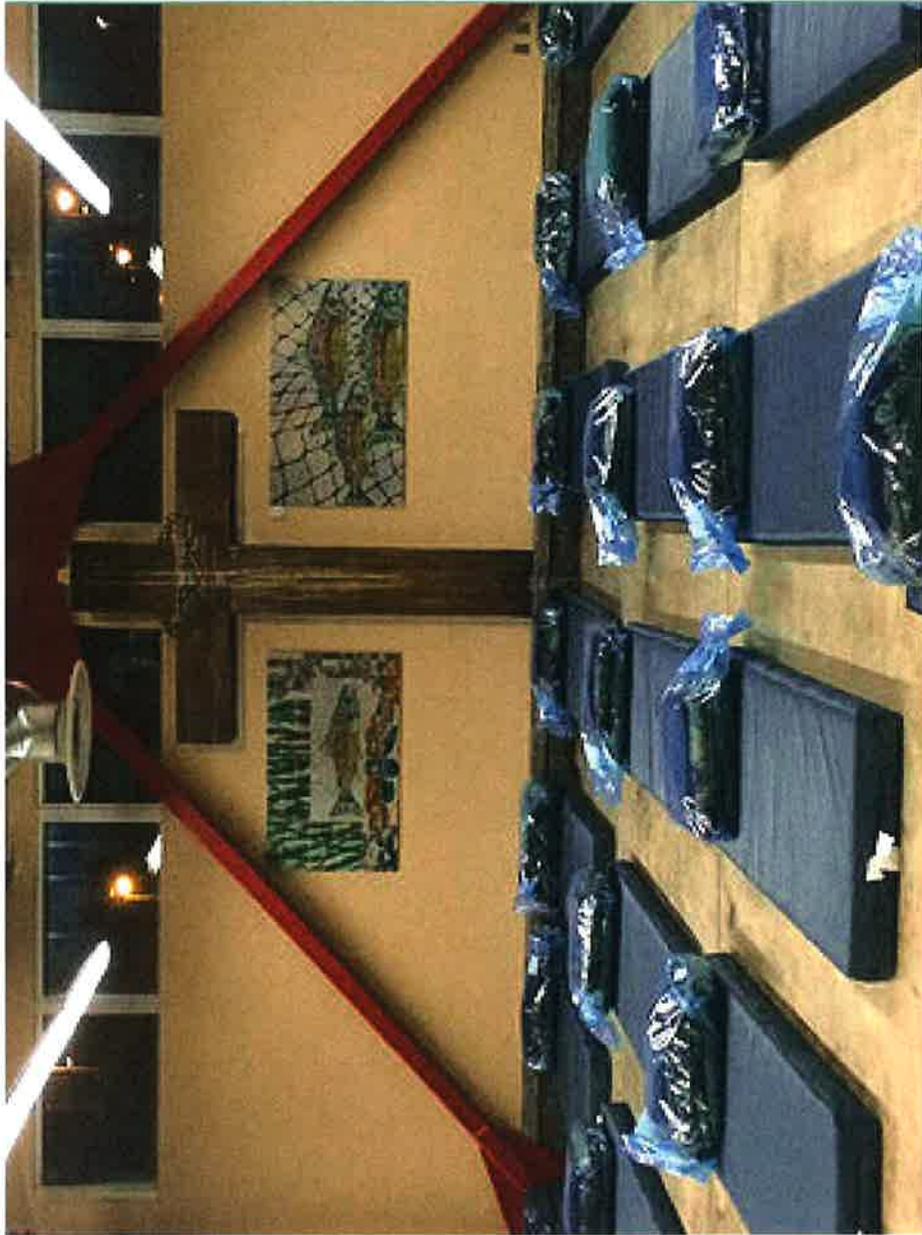


EXHIBIT Q

The Downtown Hope Center believes that all people deserve love and respect. To further that Christian belief, we offer support, shelter, sustenance, and skills to those in need to transform their lives.

One way we do that is through operation of our overnight emergency shelter that seeks to serve, teach, and empower homeless women.

Because of our desire to provide a safe and warm environment for women, guests of the shelter must be biological females, meaning they were born with, and currently have, only anatomical and genetic characteristics of a woman.

We believe that God created two distinct genders – male and female. And we believe that God's unique design of each person and the individual gifts He has given them should be celebrated.

If you are a biological male struggling with your identity, we welcome the opportunity to speak with you about those concerns. And while it is against our policy for biological males to spend the night at our women only facility, we may be able to assist you in finding an alternative place to stay the night. Please contact one of our staff members if you need assistance.

EXHIBIT R

Ryan Tucker

From: Sonja Redmond <sredmond@greatlandjustice.com>
Sent: Thursday, June 21, 2018 1:44 PM
To: BaslerP@muni.org; BaslerP@ci.anchorage.ak.us; SundboomAB@ci.anchorage.ak.us; kclarkson@brenalaw.com; David Cortman; Jon Scruggs; Ryan Tucker; bbull@firstliberty.org; rsmith@firstliberty.org
Subject: AERC Case No. 18-041, 18-167
Attachments: Notice of Appearance of Counsel.Cortman .pdf; Notice of Appearance of Counsel.Scruggs .pdf; Notice of Appearance of Counsel.Tucker.pdf

Please find attached notices of appearance for David Cortman, Jonathan Scruggs, and Ryan Tucker. None of these attorneys are licensed in Alaska, but are instead associated with me in their representation of the Downtown Hope Center. I do not believe the Commission has a formal pro hac vice process, but if it does or you have an alternative process they should follow for representation before the Commission, please let me know.

--
Sonja Redmond, Esq.
Law Office of Sonja Redmond
PO Box 3529
Soldotna, Alaska 99669
907-262-7846

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BEFORE THE ANCHORAGE EQUAL RIGHTS COMMISSION

████████████████████,)	
)	
Complainant,)	
)	
v.)	AERC Case No. 18-041
)	
DOWNTOWN HOPE CENTER,)	
)	
Respondent.)	
)	
PAMELA BASLER,)	
)	
Complainant,)	
)	
v.)	AERC Case No. 18-167
)	
DOWNTOWN HOPE CENTER,)	
KEVIN CLARKSON AND BRENA,)	
BELL & CLARKSON,)	
)	
Respondent.)	

NOTICE OF APPEARANCE OF COUNSEL

Ryan J. Tucker of Alliance Defending Freedom enters his appearance on behalf of Respondent Downtown Hope Center in the above-captioned cases. Mr. Tucker is licensed in Arizona (Bar No. 034382) and is hereby associated with Sonja Redmond, counsel licensed in Alaska (Bar No. 0605022), who previously made an appearance in these cases.

Further, Mr. Tucker is hereby designated as the contact person for the
Downtown Hope Center.

DATED this 21st day of June, 2018.

Respectfully submitted,

/s/ Ryan J. Tucker

Ryan J. Tucker (AZ Bar No. 034382)
Alliance Defending Freedom
15100 N. 90th Street
Scottsdale, Arizona 85260
(480) 444-0020
rtucker@adflegal.org

ATTORNEYS FOR
DOWNTOWN HOPE CENTER

CERTIFICATE OF SERVICE

I certify that a true copy of the foregoing has been forwarded on June 21, 2018, to the following:

Pamela T. Basler, Esq.
Executive Director
Anchorage Equal Rights Commission
632 West Sixth Avenue, Suite 110
Anchorage, Alaska 99501
baslerp@muni.org

Kevin Clarkson
Brena, Bell & Clarkson, P.C.
810 N. Street, Suite 100
Anchorage, Alaska 99501
kclarkson@brenalaw.com

David A. Cortman
Jonathan A. Scruggs
Ryan J. Tucker
Alliance Defending Freedom
15100 N. 90th Street
Scottsdale, Arizona 85260
(480) 444-0020
dcortman@adflegal.org
jscruggs@adflegal.org
rtucker@adflegal.org

/s/ Sonja Redmond

Sonja Redmond

BEFORE THE ANCHORAGE EQUAL RIGHTS COMMISSION

[REDACTED],)
)
Complainant,)
)
v.) AERC Case No. 18-041
)
DOWNTOWN HOPE CENTER,)
)
Respondent.)

PAMELA BASLER,)
)
Complainant,)
)
v.) AERC Case No. 18-167
)
DOWNTOWN HOPE CENTER,)
KEVIN CLARKSON AND BRENA,)
BELL & CLARKSON,)
)
Respondent.)

NOTICE OF APPEARANCE OF COUNSEL

David A. Cortman of Alliance Defending Freedom enters his appearance on behalf of Respondent Downtown Hope Center in the above-captioned cases. Mr. Cortman is licensed in Arizona (Bar No. 029490) and is hereby associated with Sonja Redmond, counsel licensed in Alaska (Bar No. 0605022), who previously made an appearance in these cases.

DATED this 21st day of June, 2018.

Respectfully submitted,

/s/ David A. Cortman

David A. Cortman (AZ Bar No. 029490)
Alliance Defending Freedom
15100 N. 90th Street
Scottsdale, Arizona 85260
(480) 444-0020
dcortman@adflegal.org

ATTORNEYS FOR
DOWNTOWN HOPE CENTER

CERTIFICATE OF SERVICE

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baslerp@muni.org

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kclarkson@brenalaw.com

David A. Cortman
Jonathan A. Scruggs
Ryan J. Tucker
Alliance Defending Freedom
15100 N. 90th Street
Scottsdale, Arizona 85260
(480) 444-0020
dcortman@adflegal.org
jscruggs@adflegal.org
rtucker@adflegal.org

/s/ Sonja Redmond

Sonja Redmond

BEFORE THE ANCHORAGE EQUAL RIGHTS COMMISSION

[REDACTED] ,)	
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Complainant,)	
)	
v.)	AERC Case No. 18-041
)	
DOWNTOWN HOPE CENTER,)	
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)	
PAMELA BASLER,)	
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Complainant,)	
)	
v.)	AERC Case No. 18-167
)	
DOWNTOWN HOPE CENTER,)	
KEVIN CLARKSON AND BRENA,)	
BELL & CLARKSON,)	
)	
Respondent.)	

NOTICE OF APPEARANCE OF COUNSEL

Jonathan A. Scruggs of Alliance Defending Freedom enters his appearance on behalf of Respondent Downtown Hope Center in the above-captioned cases. Mr. Scruggs is licensed in Arizona (Bar No. 030505) and is hereby associated with Sonja Redmond, counsel licensed in Alaska (Bar No. 0605022), who previously made an appearance in these cases.

DATED this 21st day of June, 2018.

Respectfully submitted,

/s/ Jonathan A. Scruggs

Jonathan A. Scruggs (AZ Bar No. 030505)
Alliance Defending Freedom
15100 N. 90th Street
Scottsdale, Arizona 85260
(480) 444-0020
jscruggs@adflegal.org

ATTORNEYS FOR
DOWNTOWN HOPE CENTER

CERTIFICATE OF SERVICE

I certify that a true copy of the foregoing has been forwarded on June 21, 2018, to the following:

Pamela T. Basler, Esq.
Executive Director
Anchorage Equal Rights Commission
632 West Sixth Avenue, Suite 110
Anchorage, Alaska 99501
baslerp@muni.org

Kevin Clarkson
Brena, Bell & Clarkson, P.C.
810 N. Street, Suite 100
Anchorage, Alaska 99501
kclarkson@brenalaw.com

David A. Cortman
Jonathan A. Scruggs
Ryan J. Tucker
Alliance Defending Freedom
15100 N. 90th Street
Scottsdale, Arizona 85260
(480) 444-0020
dcortman@adflegal.org
jscruggs@adflegal.org
rtucker@adflegal.org

/s/ Sonja Redmond

Sonja Redmond

EXHIBIT S

Ryan Tucker

From: Ryan Tucker
Sent: Thursday, July 5, 2018 6:24 PM
To: 'baslerp@muni.org'; 'Sundboom, Andrew B.'
Cc: 'Benjamin Bull'; 'Reed Smith'; David Cortman; Jon Scruggs; 'Sonja Redmond'; John B. Thorsness
Subject: AERC Complaint No. 18-167; Pamela Basler v. Downtown Hope Center, et al
Attachments: 2018.07.05 Letter to AERC.pdf; Motion for Lack of Jurisdiction .pdf; Exhibits to Motion for Lack of Jurisdiction.pdf

Ms. Basler,

Please see attached correspondence and motion with exhibits for filing with the AERC.

Thank you.



July 5, 2018

Pamela Basler, Executive Director
Anchorage Equal Rights Commission
632 West 6th Avenue, Suite 110
Anchorage, Alaska 99519-6650

Re: AERC Complaint No. 18-167; *Pamela Basler, Executive Director, AERC, et al v. Downtown Hope Center and/or Brena Bell & Clarkson*

Dear Ms. Basler:

We have reviewed your e-mail dated June 29, 2018, to Sonja Redmond regarding the Fact Finding Conference (“Conference”) in the above-styled complaint.

Since we recently became counsel for the Downtown Hope Center (“DHC”) and need time to gather the facts and come up to speed on the issues, we are disappointed that the Anchorage Equal Rights Commission (“AERC”) denied our request for a continuation of the Fact Finding Conference scheduled for July 9, 2018, particularly because we never agreed to July 9 and are unavailable on that date. We desire to cooperate with the AERC as best we are able, but also need the assurances that our client’s constitutional rights will be protected. To that end, we again ask that you clarify the procedures used during your fact finding conferences and answer the questions that we raised regarding those procedures in our letter dated June 29, 2018.

Also, as mentioned in that last letter, attached is the Downtown Hope Center’s Motion for Lack of Jurisdiction. As this motion explains, the two complaints against DHC should be immediately dismissed or withdrawn by the AERC. The July 9 Fact Finding Conference should also be cancelled until the AERC rules on Motion for Lack of Jurisdiction. If the AERC lacks jurisdiction, it has no basis to hold the July 9 conference.

Lastly, regarding the request for information contained in Respondent’s Notice of Fact Finding Conference and Request for Essential Information, we believe the complaint should be dismissed based upon the information already provided. But to further assist with that process, DHC submits the following responses:

Response to Request No. 1: As previously disclosed in our filings, I am the “contact person” for information relative to this complaint. My contact information is as follows: Ryan Tucker, Senior Counsel, Alliance Defending

Freedom, 15100 N. 90th Street, Scottsdale, Arizona 85260; E-mail:
rtucker@adfllegal.org; Phone: (480) 444-0020.

Response to Request No. 2: DHC's response to the allegations raised in the complaint is addressed in the Motion for Lack of Jurisdiction. To the extent unclear, each of the allegations is denied.

Response to Request No. 3: None.

Response to Request No. 4: DHC directs AERC to its Motion for Lack of Jurisdiction.

If you have any questions, please do not hesitate to contact me. Thank you for your attention to these matters.

Sincerely,



Ryan J. Tucker

cc: Andrew Sundboom
David A. Cortman
Jonathan A. Scruggs
John B. Thorsness
Benjamin W. Bull
Reed N. Smith

EXHIBIT T

Ryan Tucker

From: Sonja Redmond <sredmond@greatlandjustice.com>
Sent: Friday, July 6, 2018 7:38 PM
To: Ryan Tucker
Subject: Fwd: AERC Complaint No. 18-167; Pamela Basler v. Downtown Hope Center, et al
Attachments: image001.png

----- Forwarded message -----

From: Basler, Pamela <BaslerP@ci.anchorage.ak.us>
Date: Fri, Jul 6, 2018, 5:16 PM
Subject: RE: AERC Complaint No. 18-167; Pamela Basler v. Downtown Hope Center, et al
To: Sonja Redmond <sredmond@greatlandjustice.com>
Cc: jbt@cplawak.com <jbt@cplawak.com>

Ms. Redmond,

Please advise your team that all submissions to the AERC are to go thru you as the contact person to the case investigator, Andrew Sundboom.

For purposes of the FFC on 7/9, please be advised that AERC allows one attorney and up to two Respondent representatives per party to participate in the conference and that participation may be telephonic if distance or cost is an issue. Any additional witnesses will be called in as required one at a time from the lobby. If there is a compelling reason to deviate from AERC's normal practice, you are welcome to make a request to Mr. Sundboom, who will be running the FFC.

Thank you for your attention to these matters,

Pamela T. Basler

Executive Director
Anchorage Equal Rights Commission

632 W. 6th Avenue, Suite 110
Anchorage, AK 99501
(907) 343-4339
<http://www.muni.org/aerc>

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From: Ryan Tucker [mailto:rtucker@adflegal.org]
Sent: Thursday, July 05, 2018 5:24 PM
To: Basler, Pamela <BaslerP@ci.anchorage.ak.us>; Sundboom, Andrew B. <SundboomAB@ci.anchorage.ak.us>
Cc: Benjamin Bull <bbull@firstliberty.org>; Reed Smith <rsmith@firstliberty.org>; David Cortman <dcortman@adflegal.org>; Jon Scruggs <jscruggs@adflegal.org>; Sonja Redmond <sredmond@greatlandjustice.com>; John B. Thorsness <jbt@cplawak.com>
Subject: AERC Complaint No. 18-167; Pamela Basler v. Downtown Hope Center, et al

Ms. Basler,

Please see attached correspondence and motion with exhibits for filing with the AERC.

Thank you.



Ryan Tucker
Sr. Counsel
+1 480 444 0020 (Office)
480-444-0028 (Fax)
rtucker@ADFlegal.org
www.ADFlegal.org

This e-mail message from Alliance Defending Freedom and any accompanying documents or embedded messages is intended for the named recipients only. Because Alliance Defending Freedom is a legal entity engaged in the practice of law, this communication contains information, which may include metadata, that is confidential, privileged, attorney work product, or otherwise protected from disclosure under applicable law. If you have received this message in error, are not a named recipient, or are not the employee or agent responsible for delivering this message to a named recipient, be advised that any review, disclosure, use, dissemination, distribution, or reproduction of this message or its contents is strictly prohibited. If you have received this message in error, please immediately notify the sender and permanently delete the message. PRIVILEGED AND CONFIDENTIAL - ATTORNEY-CLIENT COMMUNICATION/ATTORNEY WORK PRODUCT.

EXHIBIT U

Ryan Tucker

From: Sonja Redmond <sredmond@greatlandjustice.com>
Sent: Friday, July 13, 2018 4:45 PM
To: BaslerP@ci.anchorage.ak.us
Subject: 18-167

Ms. Basler,

At the hearing on Monday, you stated you would email us copies of the written materials you are basing your conclusions on, ie: articles, blogs etc. You said you would send them this week. We have not yet received anything. When might we expect those copies? Thank you

--

Sonja Redmond, Esq.
Law Office of Sonja Redmond
35865 Sunset Park St.
Soldotna, Alaska 99669
907-262-7846

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EXHIBIT V

Ryan Tucker

From: Sonja Redmond <sredmond@greatlandjustice.com>
Sent: Monday, July 16, 2018 1:40 PM
To: Ryan Tucker; Kate Anderson; Jon Scruggs; David Cortman
Subject: Fwd: AERC Complaint No. 18-167

----- Forwarded message -----

From: Sundboom, Andrew B. <SundboomAB@ci.anchorage.ak.us>
Date: Mon, Jul 16, 2018 at 7:50 AM
Subject: RE: AERC Complaint No. 18-167
To: Sonja Redmond <sredmond@greatlandjustice.com>

Ms. Redmond,

I have corrected an important typo from the previous email. My apologies for any confusion it may have caused.

Ms. Redmond,

Thank you for email about the discussion at the FFC.

In an effort to not distract what should be the immediate concerns of the parties regarding **settlement**, we are not going to require Respondents to provide any supplemental information at this time, nor are we, at this time, going to be supplementing the information already provided to the parties.

However, since your concern seems to be about the communications that were attributed to your client's former attorney about your client's business practices, you may have a right to request the information contained in those communications directly from the attorney. Perhaps he will be more forthcoming with providing that information to you than he has been to the Commission.

If you did not receive the proposed settlement agreement that was sent yesterday, please let me know immediately so I can resend the proposal.

Have a good weekend!

Andrew

From: Sundboom, Andrew B.
Sent: Friday, July 13, 2018 4:53 PM
To: 'Sonja Redmond' <sredmond@greatlandjustice.com>
Subject: AERC Complaint No. 18-167

Ms. Redmond,

Thank you for email about the discussion at the FFC.

In an effort to not distract what should be the immediate concerns of the parties regarding supplement, we are not going to require Respondents to provide any supplemental information at this time, nor are we, at this time, going to be supplementing the information already provided to the parties.

However, since your concern seems to be about the communications that were attributed to your client's former attorney about your client's business practices, you may have a right to request the information contained in those communications directly from the attorney. Perhaps he will be more forthcoming with providing that information to you than he has been to the Commission.

If you did not receive the proposed settlement agreement that was sent yesterday, please let me know immediately so I can resend the proposal.

Have a good weekend!

Andrew

From: Sonja Redmond [<mailto:sredmond@greatlandjustice.com>]

Sent: Friday, July 13, 2018 3:45 PM

To: Basler, Pamela <BaslerP@ci.anchorage.ak.us>

Subject: 18-167

Ms. Basler,

At the hearing on Monday, you stated you would email us copies of the written materials you are basing your conclusions on, ie: articles, blogs etc. You said you would send them this week. We have not yet received anything. When might we expect those copies? Thank you

--

Sonja Redmond, Esq.

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--

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**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ALASKA**

THE DOWNTOWN SOUP KITCHEN d/b/a
DOWNTOWN HOPE CENTER,

Plaintiff,

v.

MUNICIPALITY OF ANCHORAGE,
ANCHORAGE EQUAL RIGHTS
COMMISSION, and PAMELA BASLER,
Individually and in her Official Capacity as the
Executive Director of the Anchorage Equal
Rights Commission,

Defendants.

Case No. 3:18-cv-00190-SLG

**[PROPOSED] ORDER GRANTING
PLAINTIFF'S MOTION FOR
PRELIMINARY INJUNCTION**

Before the Court at Docket ____ is Plaintiff's Motion for Preliminary Injunction ("Motion"). The Court has reviewed the Motion as well as all the briefing and supporting documents submitted by the parties regarding the Motion. For the reasons set forth in this Court's accompanying opinion and in accordance with Federal Rule of Civil Procedure 65, this Court grants Plaintiff's Motion for Preliminary Injunction. Thus,

IT IS ORDERED THAT:

All named Defendants, their officers, agents, servants, employees, attorneys, and those persons in active concert or participation with Defendants who receive actual notice of this order are temporarily enjoined from directly or indirectly enforcing:

(1) Anchorage Municipal Code § 5.20.050 and § 5.20.020 as-applied to the constitutionally protected activities of the Hope Center and its agents, including its right to post its desired policies (including Exhibit 3 to the Verified Complaint) and discuss its religious beliefs about sex and gender, and to open its women's homeless shelter to biological women only; and

(2) Anchorage Municipal Code § 5.20.050(A)(2)(b), both facially and as-applied to the right of the Hope Center to post its desired policies (including Exhibit 3 to the Verified Complaint) and discuss its religious beliefs about sex and gender.

This injunction shall remain in place during the course of this litigation until this Court orders otherwise. Because this injunction protects fundamental constitutional rights and Defendants suffer no harm from refraining to enforce laws in an unconstitutional manner, this Court issues this preliminary injunction without a bond or another other security.

DATED this ____ day of _____, 2018, at Anchorage, Alaska.

SHARON L. GLEASON
UNITED STATES DISTRICT JUDGE