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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,)
)
vs.)
)
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

**DEFENDANTS' REPLY TO PLAINTIFF'S OPPOSITION
TO MOTION FOR FEDERAL ABSTENTION (DOCKET 43)**

Defendants (collectively "Municipality") have moved the Court for an order dismissing Plaintiff's Complaint pursuant to the federal abstention doctrine or, in the alternative, for a stay of these proceedings pending local and state court proceedings (Docket 43). Plaintiff filed its response in opposition to the motion on December 5, 2018 (Docket 56). Defendants reply to Plaintiff's opposition as follows.

I. *Younger* abstention is appropriate.

While federal courts have a “virtually unflagging obligation” to exercise the jurisdiction vested in them by Congress, the Supreme Court has recognized certain countervailing interests which underpinned the development of various abstention doctrines. *Quackenbush v. Allstate Ins. Co.*, 517 U.S. 706, 716 (1996). Under these abstention doctrines – of which *Younger* abstention is one – federal courts defer to state courts and state judicial proceedings as the basis for declining to exercise jurisdiction. “[The] various types of abstention are not rigid pigeon holes into which federal courts must try to fit cases. Rather, they reflect a complex of considerations designed to soften the tensions inherent in a system that contemplates parallel judicial processes.” *Pennzoil Co. v. Texaco, Inc.*, 481 U.S. 1, 11 n. 9 (1987). The fundamental principles served by the *Younger* abstention doctrine include federalism, comity, and equality. *Younger v. Harris*, 401 U.S. 37, 43-45 (1971); *Middlesex Cnty. Ethics Comm’n v. Garden State Bar Ass’n*, 457 U.S. 423, 437 (1982) (“It would trivialize the principles of comity and federalism if federal courts failed to take into account that an adequate state forum for all relevant issues has clearly been demonstrated to be available prior to any proceedings on the merits in federal court.”).

Younger abstention is appropriate in this matter because there is a parallel state proceeding before the Anchorage Equal Rights Commission (“AERC”) which: (1) is ongoing; (2) is a civil enforcement proceeding; (3) implicates important state interests in eliminating discriminatory conduct; and (4) affords Hope Center adequate opportunity to raise its federal claims. *ReadyLink Healthcare, Inc. v. State Compensation Ins. Fund*, 754 F.3d 754, 759 (9th Cir. 2014); *see, Sprint Commc’ns, Inc. v. Jacobs*, 571 U.S. 69 (2013); *Middlesex*, 457 U.S. at 423.

Because Plaintiff seeks, among other relief, to permanently enjoin the Municipality from enforcing AMC 5.20.010 (defining “gender identity”) and a declaration that the definition facially violates the U.S. Constitution, it could not be clearer that this lawsuit will have “the practical effect of enjoining” the ongoing AERC

proceeding. *Rynearson v. Ferguson*, 903 F.3d 920, 927 (9th Cir. 2018) (quoting *ReadyLink*, 754 F.3d at 759); Plt’s Compl. ¶¶ (B),(D) (Docket 1).

Finally, no “extraordinary circumstances” are present to support Plaintiff’s argument that *Younger* abstention is inappropriate on that basis. Plaintiff’s claims of “bias, bad faith, [and] harassment” amounting to extraordinary circumstances are unsupported by the factual record. Plt’s Opp. to Mot. for Abstention, pp. 20-22 (Docket 56). Plaintiff’s claim that its women’s shelter “will likely close its doors” absent equitable relief due to “a tenuous financial state” is similarly unsupported in the record before the Court. *Id.*, pp. 22-23. The authorities cited by Plaintiff in support of this contention do not actually substantiate the claim and certainly do not establish Hope Center’s imminent closure as an extraordinary circumstance preventing *Younger* abstention by the Court.

For all of the foregoing reasons, further discussed herein, the Municipality’s Motion for Federal Abstention (Docket 43) should be granted.

II. The AERC Proceeding is a Pending Civil Enforcement Proceeding Involving Important State Interests.

Younger abstention arises “from strong policies counseling against the exercise of ... jurisdiction where particular kinds of state proceedings have already been commenced.” *Ohio Civil Rights Comm’n v. Dayton Christian Schs., Inc.*, 477 U.S. 619, 626 (1986). Courts consider the date the federal action was filed for purposes of considering abstention; and specifically look to whether the state proceedings were underway before the federal action was filed. *Gilbertson v. Albright*, 381 F.3d 965, 969 n. 4 (9th Cir.2004) (en banc).

Concerns for comity and federalism apply to pending state civil proceedings that involve important state interests. *Dayton*, 477 U.S. at 627. “[T]he elimination of prohibited sex discrimination is a sufficiently important state interest” for purposes of *Younger* abstention. *Id.* at 628. “Where the state is in an enforcement posture in the state proceedings, the ‘important state interest’ requirement is easily satisfied, as the state’s vital interest in carrying out its executive functions is presumptively at stake.” *Potrero*

Hills Landfill, Inc., v. Cty. of Solano, 657 F.3d 876, 883-84 (9th Cir. 2011) (citations and footnote omitted). “The state’s interest in a civil proceeding is readily apparent when the state through one of its agencies acts essentially as a prosecutor.” *Id.* at 884 (citations and quotations omitted).

The *Dayton* case is particularly instructive to the case at bar. Dayton Christian Schools was a private nonprofit corporation that provided education to school children. *Dayton* at 622. It was formed by local churches and restricted its membership to persons with certain religious beliefs and practices. *Id.* A teacher employed by the school filed a complaint with the state civil rights commission alleging she was terminated on the basis of unlawful sex discrimination. *Id.* at 623-624.

“The Commission notified Dayton that it was conducting a preliminary investigation into the matter, and repeatedly urged Dayton to consider private settlement, warning that failure to do so could result in formal adjudication of the matter.” *Id.* at 624. Dayton failed to respond to the Commission’s settlement offer, so the Commission initiated administrative proceedings. *Id.* “Dayton answered the complaint by asserting that the First Amendment prevented the Commission from exercising jurisdiction over it since its actions had been taken pursuant to sincerely held religious beliefs.” *Id.* While the administrative proceedings were pending, Dayton filed a complaint in U.S. District Court under 42 U.S.C. §1983 seeking permanent enjoinder of the state proceedings and asserting that the state’s proceeding violated Dayton’s religious freedoms under the First Amendment. *Id.* at 624-625.

The Supreme Court ruled that the district court should have abstained in the matter pursuant to *Younger*. *Id.* at 625. In rejecting Dayton’s argument “that the mere exercise of jurisdiction over it by the state administrative body violates its First Amendment rights...” the Supreme Court held “we have repeatedly rejected the argument that a constitutional attack on state procedures themselves automatically vitiates the adequacy of those procedures for purposes of [*Younger*.]” *Id.* at 628 (internal citations and quotations omitted). Even religious schools are subject to state regulation. *Id.* “[T]he

Commission violates no constitutional rights by merely investigating the circumstances of [the employee's] discharge in this case, if only to ascertain whether the ascribed religious-based reason was in fact the reason for discharge.” *Id.*

The U.S. Supreme Court has subsequently characterized the *Dayton* case as one involving “state-initiated administrative proceedings to enforce state civil rights laws.” *Sprint*, 571 U.S. at 79. The *Sprint* court specifically cited to *Dayton* as an example of the type of administrative proceedings for which *Younger* abstention is appropriate. *Id.* at 79-80. The fact that the complainant in *Dayton* was a private citizen (the discharged teacher), and not the Commission itself, was not considered material in either the *Dayton* or *Sprint* cases and did not prevent the *Dayton* court from abstaining under the *Younger* doctrine.

Similarly, in the case at bar, the fact that a private citizen filed a complaint with the AERC (specifically, Complaint No. 18-041) does not prevent this Court from abstaining under *Younger*, contrary to Plaintiff’s arguments. *See*, Plt’s Opp. to Mot. for Abstention, pp. 11-12, 19 (Docket 56). Plaintiff cites to no authority for its argument that *Younger* does not apply because “the parties are different.” *Id.* at 12.

The *Dayton* case is particularly on-point because it is directly analogous to the case at bar. Here, the AERC notified Plaintiff that it was conducting a preliminary investigation into a private citizen’s complaint of allegedly unlawful discrimination. The elimination of unlawful discrimination is an important state interest for purposes of *Younger* abstention. Because the AERC was essentially acting as a prosecutor, the important state interest requirement is “easily satisfied” pursuant to *Potrero*, contrary to Plaintiff’s arguments. Plt’s Opp. To Mot. For Abstention at pp. 20-21 (Docket 56). Similar to the *Dayton* case, the AERC requested Plaintiff consider settlement, and it has the ability under Title 5 of the Anchorage Municipal Code to move to formal adjudication of the matter. It is beyond dispute that the AERC proceedings were open and ongoing at the time Plaintiff filed the instant federal lawsuit.

Plaintiff has asserted that the AERC does not have jurisdiction over it, due in part to its religious beliefs. *See*, Plt’s Complaint (Docket 1). While the AERC proceeding was

open and pending, Plaintiff filed a complaint in federal court under 42 U.S.C. § 1983 seeking permanent enjoinder of the AERC proceedings, and asserting that the AERC investigation violated Plaintiff's religious freedoms under the First Amendment. *Id.*

This Court should abstain from exercising jurisdiction in this matter pursuant to the *Younger* doctrine, as the *Dayton* court considered proper on nearly identical facts. Similar to *Dayton*, this Court should reject Plaintiff's argument that AERC's mere exercise of jurisdiction over Hope Center violates its First Amendment rights. Plaintiff's constitutional attack on the AERC procedures is not sufficient to avoid *Younger* abstention. As in *Dayton*, the AERC violates no constitutional rights by merely investigating the circumstances of a private citizen's complaint of alleged unlawful discrimination, if only to ascertain whether Plaintiff is indeed a place of public accommodation under Title 5 of the Anchorage Municipal Code.

Plaintiff argues that Anchorage does not have an interest in proceeding with a matter it has willingly ceased. Plt's Opp. To Mot. For Abstention, p. 15 (Docket 56). However, the government's interest in the case at bar is clearly demonstrated by the fact that the AERC and the Municipality of Anchorage are named defendants in the present suit and the AERC initiated the civil proceedings against Plaintiff. *See, Middlesex Cty. Ethics Comm. v. Garden State Bar Ass'n.*, 457 U.S. 423, 434-35 (1982). Also, it should be noted that AERC has only agreed to temporarily stay its ongoing proceeding in deference to the instant federal court action, but AERC has in no way abandoned its proceeding. For purposes of *Younger* abstention, the critical date is the date that the action was filed in federal court, and the AERC proceedings were clearly open and ongoing on August 16, 2018, the date that the Plaintiff filed its Complaint in federal court. Plt's Complaint (Docket 1). Plaintiff cites to no authority for its argument that, because over 300 days have elapsed, any "'ongoing' matter must be over" for purposes of abstention. Plt's Opp. To Mot. For Abstention, p. 15 (Docket 56).

Plaintiff argues that *Younger* does not apply because it is making a pre-enforcement facial challenge to the AMC. *Id.* at 11-12. However, this argument was

squarely rejected by the *Younger* court. “[A] federal court [cannot] properly enjoin enforcement of a statute solely on the basis of a showing that the statute ‘on its face’ abridges First Amendment rights.” *Younger v. Harris*, 401 U.S. 37, 53 (1971). “[T]he possible unconstitutionality of a statute ‘on its face’ does not in itself justify an injunction against good-faith attempts to enforce it[.]” *Id.* at 54. This Court should reject Plaintiff’s arguments that *Younger* does not apply to pre-enforcement facial challenges.

Plaintiff also argues that abstention is inappropriate because its First Amendment rights have been “chilled.” Plt’s Opp. To Mot. For Abstention, p. 18 (Docket 56). This argument was also squarely rejected by the *Younger* court. “[T]he existence of a ‘chilling effect,’ even in the area of First Amendment rights, has never been considered a sufficient basis ... for prohibiting state action.” *Younger* at 51. “[T]he ‘chilling effect’ that admittedly can result from the very existence of certain laws on the statute books does not in itself justify prohibiting the State from carrying out the important and necessary task of enforcing these laws against socially harmful conduct that the State believes in good faith to be punishable under its laws and the Constitution.” *Id.* at 51-52.

The AERC proceedings are government-initiated administrative proceedings to enforce municipal civil rights laws. They were open and ongoing before the federal action was filed. They are precisely the type of proceedings for which *Younger* abstention is appropriate, regardless of the fact that a private citizen filed the First Complaint. Defendants have an important government interest in enforcing local anti-discrimination laws through administrative proceedings. *See, Potrero* at 884.

In light of the foregoing authorities, Plaintiff’s argument that this Court should refuse to apply *Younger* because the AERC proceeding is a “mere investigation, not an enforcement proceeding” is unpersuasive and Plaintiff can cite to no Ninth Circuit authorities to support this argument. Plt’s Opp. To Mot. For Abstention, p. 15 (Docket 56). Consistent with *Dayton* and its progeny, this Court should abstain under *Younger* because the AERC proceeding is a pending state civil proceeding that involves important state interests. Plaintiff’s arguments concerning its pre-enforcement facial challenges, and

the alleged existence of a chilling effect on its First Amendment rights, do not prevent this court from abstaining under *Younger*.

III. The Hope Center Has an Adequate Opportunity to Raise its Federal Claims in the Pending AERC Proceeding.

Younger abstention requires that the federal court plaintiff have “adequate opportunity” to raise its federal claims in the underlying state proceedings. *ReadyLink*, 754 F.3d at 759. The Supreme Court has held that adequate opportunity for raising federal constitutional claims can be afforded by a local enforcement agency itself, including civil rights commissions or ethics committees. *See e.g., Dayton*, 477 U.S. 619; *Middlesex*, 457 U.S. at 423. Furthermore, if the federal claims can be raised in a state court appeal of any state administrative orders, the “adequate opportunity” requirement is clearly satisfied. *Dayton*, 477 U.S. at 619. In other words, so long as state procedural law does not bar presentation of the federal claims on appeal, the requirement is satisfied. *Hirsh v. Justices of Supreme Ct. of State of Cal.*, 67 F.3d 708, 713 (9th Cir. 1995).

Here, Plaintiff argues it does not have adequate opportunity to raise its federal claims relating to the “Second Complaint” (AERC Complaint No. 18-167) before the AERC because: (1) only proceedings on the “First Complaint” (AERC Complaint No. 18-041) are presently ongoing; and (2) its claims relating to the Second Complaint regard “publication bans” which are not specifically at issue in the First Complaint. Plt’s Opp. to Mot. for Abstention, p. 16 (Docket 56). Plaintiff thus summarily concludes it lacks adequate opportunity to raise its federal claims before the AERC and/or Alaska Superior Court. However, Plaintiff’s burden on this point is not so easily carried.

Plaintiff bears the burden to show “that state procedural law barred presentation of its claims.” *Pennzoil*, 481 U.S. at 14. In weighing this burden, the Court “cannot assume that state judges will interpret ambiguities in state procedural law to bar presentation of federal claims.” *Id.* “Accordingly, when a litigant has not attempted to present his federal claims in related state-court proceedings, a federal court should assume that state procedures will afford an adequate remedy, in the absence of unambiguous authority to

the contrary.” *Id.* at 15. Here, Plaintiff does not allege, nor would the record support, that it attempted to raise its federal claims before the AERC, or on appeal to the Alaska Superior Court, but was barred by state law from doing so. Thus, absent “unambiguous authority,” Plaintiff cannot prove it lacks adequate opportunity to raise its federal claims. Plaintiff’s conclusory argument that it cannot raise all of its federal claims in the ongoing AERC proceeding does not constitute “unambiguous authority.”

Plaintiff’s more fulsome argument regarding adequacy of opportunity – that AERC’s “structural bias” violates due process – is also not fairly described as “unambiguous authority” for the proposition that state law bars Hope Center from raising its federal claims. Plt’s Opp. to Mot. for Abstention, pp. 16-19 (Docket 56). Plaintiff also suggests non-structural bias is at issue, arguing AERC’s “hostility towards the Hope Center and its counsel will infect the determination, hearing, and judicial review process.” *Id.* at 18. But in ascribing biased motivations to AERC’s actions, Plaintiff relies on its own subjective (and self-serving) interpretations of AERC’s actions. This is specifically not the “unambiguous authority” that Plaintiff must provide to establish that state law bars the Hope Center from raising its federal claims before the AERC and/or Alaska Superior Court, and that Plaintiff therefore lacks adequate state remedies.

Because Plaintiff has not attempted to raise its federal claims before the AERC and/or Alaska Superior Court, and has provided no “unambiguous authority” establishing that state law bars it from raising its federal claims before those bodies, Plaintiff simply cannot carry its burden and the Court “should assume that state procedures will afford an adequate remedy” for *Younger* abstention purposes. *Pennzoil*, 481 U.S. at 15.

IV. Plaintiff’s Complaint (Docket 1) Seeks Enjoiner of the Ongoing AERC Proceeding.

Plaintiff argues *Younger* abstention is inappropriate because “this lawsuit will not have the practical effect of enjoining the First Complaint.” Plt.’s Opp. to Mot. for Abstention, p. 19 (Docket 56). Notably, this contention appears squarely contradicted by Plaintiff’s own claims for relief in this matter, which include permanent enjoiner of

Municipal enforcement of AMC 5.20.010 (defining “gender identity”) and a declaration that the definition facially violates the U.S. Constitution. Plt’s Compl. ¶¶ (B), (D) (Docket 1). Given that the First Complaint alleges discrimination on the basis of gender identity, enjoinder of AERC’s ability to enforce the Anchorage Municipal Code’s definition of “gender identity” as facially unconstitutional would unquestionably have the practical effect of enjoining AERC proceedings on the First Complaint. Plaintiff’s claims for relief in this matter make clear that they seek practical, and indeed actual, enjoinder of the pending AERC proceeding and Plaintiff thus invites the Court to “interfere in a way that *Younger* disapproves.” *Gilbertson v. Albright*, 381 F.3d 965, 978 (9th Cir. 2004).

V. No “Extraordinary Circumstance” Prevents *Younger* Abstention.

Plaintiff argues *Younger* abstention is inappropriate due to “extraordinary circumstances.” Plt.’s Opp. to Mot. for Abstention, pp. 20-23 (Docket 56). As evidence of extraordinary circumstances, Plaintiff specifically points to: (1) the Municipality’s alleged bad faith and harassment of the Hope Center; and (2) the “potential closure” of the Hope Center’s women’s shelter. *Id.* By its very nature, “extraordinary circumstances” tends to elude ready definition but, “whatever else is required, such circumstances must be ‘extraordinary’ in the sense of creating an extraordinarily pressing need for immediate federal equitable relief[.]” *Kugler v. Helfant*, 421 U.S. 117, 125 (1975) (emphasis supplied).

In attempting to characterize the AERC proceedings as evidencing bad faith and harassment against Hope Center, Plaintiff again relies on its own subjective and self-serving interpretations of motivations behind AERC’s actions. For example, Plaintiff complains that the AERC did not issue a determination within 240 days of the First Complaint being filed, and abruptly concludes this evidences bad faith by Defendants on its face. Plt.’s Opp. to Mot. for Abstention, pp. 20-21 (Docket 56). What Plaintiff fails to account for in this analysis is the filing of its Complaint in U.S. District Court on August 16, 2018, i.e. 196 days after initiation of the First Complaint and well within the 240-day period for timely determination. *See*, AERC Complaint No. 18-041 (Docket 43-2); Plt’s

Complaint (Docket 1). Once the instant lawsuit was initiated by Plaintiff, further proceedings by the AERC regarding the First Complaint were untenable for reasons of comity. Plaintiff also fails to acknowledge it played a role in forestalling a determination by the AERC through time-consuming discovery disputes and delays in communication. Similarly, the involvement of as many as nine attorneys on behalf of the Hope Center added to the cumbersome nature of the proceedings. In contrast, AERC had one investigator assigned to the First and Second Complaints and six individuals comprise AERC's entire staff.

Plaintiff simply fails to establish that the AERC proceedings are characterized by bad faith and harassment sufficient to conclude that extraordinary circumstances and an "extraordinarily pressing need for immediate federal equitable relief" create an exception to *Younger* abstention in this matter.

Lastly, Plaintiff alleges that, for financial reasons, "Hope Center's women's shelter will likely close its doors if it does not get equitable relief" and argues that this is also an "extraordinary circumstance." Plt.'s Opp. to Mot. for Abstention, pp. 22-23 (Docket 56). Plaintiff attributes its "tenuous financial state" to the "inability of Hope Center to defend itself in the public square due to Anchorage's laws." *Id.* Notably, while Plaintiff's executive director states in an affidavit that Hope Center is in a "tenuous financial state," Plaintiff can point to no support in the record for its further contention that Hope Center's women's shelter "will likely close its doors if it does not get equitable relief." Aff. of S. Laurie, ¶ 52 (Docket 32); Plt.'s Opp. to Mot. for Abstention, p. 22. Also, Plaintiff's explanation for its present financial condition – an inability to defend itself in the public square – appears readily disproven by various public statements in support of Hope Center made by its attorneys, including: a recent opinion editorial written by one of Plaintiff's attorneys of record in this matter and published in the Anchorage Daily News (Exhibit C); numerous press releases and blog posts published on Plaintiff's counsel's website (www.adflegal.org) (Exhibit D); numerous publications to

social media made by Plaintiff's counsel (Exhibit E); and media statements made by Plaintiff's counsel (Exhibit F).

While "extraordinary circumstances" may be difficult to define, it is readily apparent that Plaintiff's bald claim of imminent closure of its women's shelter does not establish an "extraordinarily pressing need for immediate federal equitable relief" such that an exception to *Younger* abstention might possibly apply.

VI. Conclusion.

Because there is a parallel state proceeding before the AERC which: (1) is ongoing; (2) is a civil enforcement proceeding; (3) implicates important state interests in eliminating discriminatory conduct; and (4) affords Hope Center adequate opportunity to raise its federal claims, the Court should abstain in this matter under the *Younger* doctrine.

Respectfully submitted this 12th day of December, 2018.

REBECCA A. WINDT PEARSON
MUNICIPAL ATTORNEY

By: /s/ Ryan A. Stuart
Assistant Municipal Attorney
Alaska Bar No. 0706036

Certificate of Service

I certify that on 12/12/18, a true and correct copy of the foregoing was served on:

Jonathan A. Scruggs
Ryan J. Tucker
Sonja Redmond
David Cortman
Katherine Anderson

by electronic means through the ECF system as indicated on the Notice of Electronic Filing.

/s/ Cathi Russell
Cathi Russell, Legal Secretary

NORTHRIM CDs.

ANCHORAGE DAILY NEWS

Opinions

Anchorage threatens women's shelter for serving women

✎ Author: **Kate Anderson** | Opinion ⓘ Updated: 4 days ago 📅 Published 5 days 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)

Exhibit C

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“I spent time on the streets, and I know how hard it can be out there. But if the Hope Center were forced to let any biological man into the women's shelter, I would leave even if it meant sleeping in the woods. I would rather sleep in the woods than sleep in the same area as a biological man.”

These are the words of a rape survivor, a woman who has found refuge at the Hope Center's women's shelter because she can't sleep if she knows a biological man has access to the room where she rests and where women sometimes change. The presence of any biological man in that setting causes her severe emotional and physical distress. She can't breathe and must leave the situation — even if that means sleeping outside.

She tried staying at other shelters in Anchorage, but trying to sleep around men — or just being near drunk and aggressive men in that vulnerable setting — triggered her past trauma and left her gasping for breath. And she is not alone. Many women at the Hope Center experience similar trauma.

But that experience changed when she found the Hope Center. It was different. The Hope Center had rules. It was clean and sober. And it was safe. The Hope Center slowly gained her trust for being a safe and structured place — one with a sense of family, a deep faith, and an obvious respect for Anchorage's battered, trafficked and vulnerable women who had nowhere else to go. That's why she came and has continued to come to the Hope Center. It's why she's stayed and is now working on her GED, planning a future where she will find a job and a home of her own.

Inspiring that kind of hope is why the Hope Center exists. It's in the name, after all. Yet Anchorage is taking action that will make it impossible for the Hope Center to provide that kind of hope and safety to vulnerable women. If Anchorage gets its way, the Hope Center will have to admit biological men into its women's-only overnight facility to sleep in the single open room that serves as its shelter, three to five feet from women who have survived rape and domestic abuse.

That's why Hope Center, through its Alliance Defending Freedom attorneys, is standing up for its rights to serve these battered women in a way that's best for them and consistent with the center's religious beliefs of protecting the vulnerable.

The details of the story really matter here. Anchorage has taken its dangerous stance based on a complaint from a biological man who identifies as female. The individual, “Jessie Doe,” came to the Hope Center clearly intoxicated and clearly injured. Doe was agitated and aggressive. Hope Center Executive Director Sherrie Laurie spoke with Doe, saw the open wound over Doe's eye, and encouraged Doe to go to the hospital, even paying for the taxi to the emergency room.

Doe then filed a complaint with the Anchorage Equal Rights Commission, alleging sex and gender identity discrimination against the Hope Center. Laurie later learned that, before coming to the Hope Center, the police had picked Doe up from another homeless shelter where Doe had started a fight. The other shelter had even banned Doe from returning until July 4.

In the months that followed, the commission investigated and pressured the Hope Center to change its women's shelter policies. This continued even though the investigation uncovered no evidence of past discrimination and despite the fact that the Anchorage ordinance in question specifically exempted homeless shelters.

Since then, Anchorage has insisted on targeting the Hope Center; but the Hope Center has served neighbors for more than 30 years. By day, the Hope Center provides food, shower, and laundry services, and also job skills training to any man or woman in need, no matter their status, no matter their gender identity. It serves 450-600 cups of soup daily and 142,000 meals annually. In fact, Doe himself has benefited from the Hope Center's free food and showers. And Doe is welcome to come back and use those daytime services again. The Hope Center seeks to love and serve everyone.

And that continues at night. It's just at night, the Hope Center becomes a women's-only shelter to fill a deep need in the community to help homeless women who have been beaten, raped, trafficked and emotionally and physically abused. In fact, nearly all the women who stay at the Hope Center's overnight shelter have been abused by men.

The Hope Center should be allowed to continue to provide these women with the safe place they need and deserve. Anchorage has no business targeting the Hope Center and gains no real benefit from forcing the Hope Center's doors open so wide that battered women feel more comfortable sleeping in the woods.

Kate Anderson is senior counsel with Alliance Defending Freedom, which represents Downtown Hope Center.

The views expressed here are the writer's and are not necessarily endorsed by the Anchorage Daily News, which welcomes a broad range of viewpoints. To submit a piece for consideration, email [commentary\(at\)adn.com](mailto:commentary(at)adn.com). Send submissions shorter than 200 words to letters@adn.com or click here to submit via any web browser. Read our full guidelines for letters and commentaries here.

Comments

The Hope Center Story

It seems like every day you read another heartbreaking story about victims of domestic violence, sexual assault, or human trafficking.

Survivors of these crimes often have nowhere to turn. Many are homeless. For some, the only option is a co-ed shelter where they may feel even more unsafe.

But in Anchorage, Alaska, survivors do have a place to turn: the Hope Center.



The Hope Center provides a vital shelter for homeless, abused, and trafficked women in Anchorage, Alaska.

The government is pushing a political agenda—at the expense of homeless women

The Hope Center is a Christian non-profit that offers job skills training, daily meals, laundry, and clothing for any man and woman in need during the day—all free of charge. At night, the Hope Center becomes a shelter for women, many of whom have escaped sex trafficking, domestic violence, rape, and other emotional and physical abuse. “Inspired by the love of Jesus,” the Hope Center’s mission is to “offer those in need support, shelter, sustenance, and skills to transform their lives.”

For many people, the Hope Center has done just that. It has helped, sheltered, and encouraged numerous women who are trying to escape from abusive situations and even from sex trafficking.

“Many of the women Downtown Hope Center serves have suffered rape, physical abuse, and domestic violence. They shouldn’t be forced to sleep or disrobe in the same room as a man. Battered women need a safe place to stay, but, incredibly, Anchorage is trying to take that place away.” —Alliance Defending Freedom Legal Counsel Denise Harle

You would think that the local government would want to support organizations like the Hope Center, helping provide a valuable service to some of the most vulnerable in society. Instead, Anchorage officials are going after the Hope Center because of their Christian beliefs, twisting the law in order to do so. And now the future of this vital ministry is at risk. That’s why Alliance Defending Freedom has filed a lawsuit against the Anchorage Equal Rights Commission and the city. The Hope Center simply wants to minister to the homeless and hurting in downtown Anchorage. But the city is demanding that it do so on the government’s terms—or shut its doors.

“Many of the women Downtown Hope Center serves have suffered rape, physical abuse, and domestic violence,” said Alliance Defending Freedom Legal Counsel Denise Harle. “They shouldn’t be forced to sleep or disrobe in the same room as a man. Battered women need a safe place to stay, but, incredibly, Anchorage is trying to take that place away.”



The Hope Center serves everyone. But, in order to provide a safe place for the women seeking to escape sex trafficking and abusive situations, the overnight facilities, showers, and changing rooms are open to biological women only.

Facing government punishment for doing a good deed

This all started in January when a biological man, who identifies as a woman, tried to gain access to the women’s shelter. Because he was drunk and injured, however, the Hope Center referred him to a local hospital and even paid for his cab there. Soon after, a complaint was filed against the Hope Center with the Anchorage Equal Rights Commission, claiming the center had discriminated against this individual.

There’s just one problem: the Hope Center never violated the law. In fact, they helped this man get the care he needed.

The Hope Center serves everyone. Men and women alike, no matter how they identify, are welcome to get meals, clothing, and job skill training at the center—and many have. But in order to provide a safe place for the women seeking to escape sex trafficking and abusive situations, the Hope Center’s overnight facilities, showers, and changing rooms are open to biological women only.

***“All Americans should be free to live and serve others according to their faith without fear of unjust government punishment.” —ADF Senior Counsel
Kate Anderson.***

The city's motivation is clear. It wants to force this faith-based homeless shelter to get on board with its political agenda—all at the expense of the battered women that the Hope Center serves.

In the rush to punish certain religious beliefs, Anchorage city officials are pushing these women out in the cold.

“All Americans should be free to live and serve others according to their faith without fear of unjust government punishment,” said ADF Senior Counsel Kate Anderson. “That faith commitment is what motivates Downtown Hope Center and its duty to protect the vulnerable women it serves. It should go without saying, but protecting vulnerable women isn't illegal. Because the center hasn't violated any law, we are asking the court to stop the city from continuing its baseless attack on this remarkable and needed outreach to homeless, battered, and sexually exploited women.”

It seems like every day you read another heartbreaking story about victims of domestic violence, sexual assault, or human trafficking.

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And for many people, the Hope Center has done just that. It has been helping, teaching, and feeding homeless men and women for over 30 years, handing out 450-600 cups of soup during the day and providing a safe place for battered and abused women at night.

You would think that the local government would want to support organizations like the Hope Center, helping provide a valuable service to some of the most vulnerable in society.

Instead, Anchorage officials are going after the Hope Center because of their Christian beliefs, twisting the law in order to do so. And now the future of this vital ministry is at risk.

This all started in January 2018 when a biological man, who identifies as a woman, tried to gain access to the women’s shelter. Because he was drunk and injured, however, the Hope Center referred him to the local hospital and paid for his cab there. Soon after, a complaint was filed against the Hope Center with the Anchorage Equal Rights Commission, claiming the center had discriminated against this individual.

There’s just one problem: The Hope Center never violated the law. In fact, they helped this man get the care he needed.

The Hope Center serves everyone. Men and women alike, no matter how they identify, are welcome to get meals, clothing, and job skill training at the center – and many have. But in order to provide a safe place for the women seeking to escape sex trafficking and abusive situations, the Hope Center’s overnight facilities, showers, and changing rooms are open to biological women only.

The city’s true motivation is clear: It wants to force this faith-based homeless shelter to get on board with its political agenda – all at the expense of the battered women that the Hope Center serves.

That’s why Alliance Defending Freedom (ADF) has filed a lawsuit (<https://adflegal.org/detailspages/press-release-details/women-s-shelter-to-court-end-anchorage-s-attack-on-hurting-women>) against the Anchorage Equal Rights Commission and the City. The Hope Center simply wants to minister to the homeless and hurting in downtown Anchorage. But the City is demanding that it do so on the government’s terms – or shut its doors.

In their rush to push religious beliefs out of the public square, Anchorage city officials are pushing these women out in the cold.

The Hope Center provides a shelter for homeless, abused, and trafficked women in Anchorage, Alaska. But now this vital ministry is facing government punishment for living out its beliefs. Your gift today helps Alliance Defending Freedom as it defends the Hope Center in court. Unless we join together and turn the tide, it's only a matter of time until some authority tries to coerce you to violate your conscience. Your financial support is needed as we stand with those who stand for freedom against government hostility. Your tax-deductible gift today will help us fight back and win. Thank you for being generous!

Donate Now

Gift Information

***Gift Amount:**

\$	
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Yes, automatically repeat this gift every month.

Billing Information

***Credit Card Number:**

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***Expiration Date:**

1	▼
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2018	▼
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***CVV Number:**

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***First Name:**

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Middle Name:

Exhibit D

***Last Name:**

***Address 1:**

Address 2:

***City:**

***State:**

***Zip Code:**

***Country:**

Phone Number:

***Email Address:**

Keep me up-to-date on issues threatening religious liberty.

NEWS RELEASE

WOMEN'S SHELTER TO COURT: END ANCHORAGE'S ATTACK ON HURTING WOMEN

City wrongly accusing ministry of breaking law in attempt to force men into shelter for homeless, sexually abused women

Created by ADF

Nov 01, 2018

Related Case: The Downtown Soup Kitchen d/b/a Downtown Hope Center v. Municipality of Anchorage (<https://www.adflegal.org/detailspages/case-details/the-downtown-soup-kitchen-d-b-a-downtown-hope-center-v.-municipality-of-anchorage>)

ANCHORAGE, Alaska – Alliance Defending Freedom attorneys representing a faith-based women's shelter asked a federal court



(https://adflegal.blob.core.windows.net/mainsite-new/docs/default-source/documents/legal-documents/the-downtown-soup-kitchen-dba-downtown-hope-center-v.-municipality-of-anchorage/hope-center-v-anchorage--brief-in-support-of-motion-for-preliminary-injunction.pdf?sfvrsn=f720a159_4) Thursday to stop Anchorage officials from misapplying a city ordinance against the ministry after it referred an inebriated and injured man who arrived after hours to a hospital and paid for his taxi ride there.

The Anchorage Equal Rights Commission began investigating the shelter for violating the ordinance, which prohibits discrimination based on gender identity. As ADF attorneys explain, the shelter, the Downtown Hope Center, didn't deny the individual on that basis, and, regardless, the ordinance specifically exempts homeless shelters. Women's-only shelters, such as Downtown Hope Center, retain the right to provide overnight housing only to biological females to ensure that they have a safe place to stay and don't have to sleep in close proximity to males. This is particularly important because many of the women at the shelter have been battered or sexually abused by men.

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Exhibit D

Case 3:18-cv-00190-SLG Document 61-2 Filed 12/12/18 Page 9 of 12

protecting vulnerable women isn't illegal. Because the center hasn't violated any law, we are asking the court to stop the city from continuing its baseless attack on this remarkable and needed outreach to homeless, battered, and sexually exploited women."

"Many of the women Downtown Hope Center serves have suffered rape, physical abuse, and domestic violence. They shouldn't be forced to sleep or disrobe in the same room as a man," explained ADF Legal Counsel Denise Harle, who will be available at the center for media interviews until 5 p.m. ADT Thursday. "Battered women need a safe place to stay, but, incredibly, Anchorage is trying to take that place away."

Kevin Clarkson and Sonja Redmond, two of more than 3,200 attorneys allied with ADF, are serving as local counsel for the women's shelter in the case, *The Downtown Soup Kitchen d/b/a Downtown Hope Center v. Municipality of Anchorage*, filed in August (https://adflegal.blob.core.windows.net/mainsite-new/docs/default-source/documents/legal-documents/the-downtown-soup-kitchen-dba-downtown-hope-center-v.-municipality-of-anchorage/hope-center-v-anchorage--complaint.pdf?sfvrsn=9536cb21_4) with the U.S. District Court for the District of Alaska.

- Pronunciation guide: Harle (HAR' -lee)
- One-page summary (https://adflegal.blob.core.windows.net/mainsite-new/docs/default-source/documents/resources/media-resources/cases/the-downtown-soup-kitchen-d-b-a-downtown-hope-center-v.-municipality-of-anchorage/hope-center-v-anchorage---one-page-summary.pdf?sfvrsn=fa9b07be_6): *The Downtown Soup Kitchen d/b/a Downtown Hope Center v. Municipality of Anchorage*

Alliance Defending Freedom is an alliance-building, non-profit legal organization that advocates for the right of people to freely live out their faith

The Government Is Twisting the Law to Target a Christian Women's Homeless Shelter

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By Sarah Kramer (/detailspages/biography-details/sarah-kramer) Posted on: | November 01, 2018

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Case 3:18-cv-00190-SLG Document 61-2 Filed 12/12/18 Page 11 of 12

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"I would rather sleep in the woods than sleep in the same area as a biological man."

#PrivacyForAll

Read more in [@adndotcom](#) here:



Anchorage threatens women's shelter for serving women

The Hope Center should be allowed to continue to provide these women with the safe place they need and deserve.

[adn.com](#)

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10



16



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Great article by @Bre_payton on ADF's latest case #HopeInAnchorage #PrivacyForAll

The Federalist @FDRLST

A battered women's shelter in Anchorage, Alaska, is being investigated because it didn't allow a drunk man to sleep in the same room as women.
fdrl.st/bgt

12:44 PM - 2 Nov 2018

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2 16 22



End The Oligarchy @EndTheOligarch · Nov 14

Replying to @AllianceDefends @Bre_payton

Fact check this. Federalist society is the last organization I would believe.

1



(Drofdem) Birddog @drofdem · Nov 4

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@JudicialWatch @JaySekulow govt targeting women's battered shelters

1





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Thank you [@TuckerCarlson](#) for having ADF on to discuss our latest case where the City of Anchorage is forcing a battered womens shelter to allow men in its overnight sleeping facility. [#HopeInAnchorage](#) [#PrivacyForAll](#)



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BREAKING: Battered women need a safe haven to stay, but Anchorage is trying to take that away. Read more:

adfmedia.org/News/PRDetail/...

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4

19

20



#SOULWAR @CatesDuane · Nov 1



Replying to @AllianceDefends

I identify as SANE.



6



American Patriot @1stA4Ever · Nov 1



Replying to @AllianceDefends

Do they have a shelter for battered men?



Quik J Hit @QuikHit · Nov 1



Replying to @AllianceDefends

Is "she" a dude?



gerry boombatz @Bstn_trumpstah · Nov 1



Replying to @AllianceDefends

Where's the feminists??? Seriously,they can care less about women!!! #Feminism



This Battered Women's Shelter Is Being Investigated For Turning Away A Drunk, Injured Man

A battered women's shelter in Anchorage, Alaska, is being investigated because it didn't allow a drunk man to sleep in the same room as women.

NOVEMBER 2, 2018 By Bre Payton

A battered women's shelter in Anchorage, Alaska, is being investigated by the city's Equal Rights Commission because it didn't allow a drunk man, who came to the shelter after hours and was bleeding from an injury, to sleep in the same room as women.

Attorneys speaking on behalf of the Downtown Hope Center **have repeatedly stated** this man, who identifies as a woman, was not turned away because of his gender, but was sent to a hospital that night in January to get the medical treatment he needed. Shelter officials even paid for his cab fare to ensure that his wounds could be treated in a timely fashion. Yet the commission is investigating the shelter's actions, arguing that it violated a city ordinance that was amended in 2015 to include a prohibition on discrimination based on "sexual orientation and gender identity to the grounds of discrimination."

The Hope Center serves meals, gives away clothing, and offers job skills to both men and women during the daytime hours, but at night offers a space for women, many of whom have suffered from sexual and physical abuse at the hands of men, a safe space to spend the night.

Attorneys at the Alliance Defending Freedom, which is representing the faith-based women's shelter, say the ordinance specifically exempts

shelters from having to comply with the amended version of the ordinance, which means the Hope Center has not broken any laws.

“It should go without saying, but protecting vulnerable women isn’t illegal,” **ADF Senior Counsel Kate Anderson said in a statement.** “Because the center hasn’t violated any law, we are asking the court to stop the city from continuing its baseless attack on this remarkable and needed outreach to homeless, battered, and sexually exploited women.”

In August the Hope Center filed a federal lawsuit against the city and on Thursday, the attorneys representing the shelter **filed a motion in federal court** seeking an injunction to stop city officials from misapplying the amended ordinance.

*Bre Payton is a staff writer at The Federalist. Follow her on **Twitter**.*