



COUNCIL OF THE DISTRICT OF COLUMBIA
THE JOHN A. WILSON BUILDING
1350 PENNSYLVANIA AVENUE, N.W.
WASHINGTON, D.C. 20004

November 18, 2009

Archbishop Donald W. Wuerl
Archdiocese of Washington
P.O. Box 29260
Washington, DC 20017-0260

Dear Archbishop Wuerl:

Over the past week, Catholic Charities of Washington, DC (“Catholic Charities”) has expressed fear that the Religious Freedom and Civil Marriage Equality Amendment Act of 2009 would compel it to choose between adhering to its religious faith and continuing to contract with the District government to provide social services to our residents. Specifically, the issue of providing spousal benefits to employees of Catholic Charities on an equal basis has been cited as an obstacle to its ability to fulfill the requirements of these contracts. While we understand its concerns about protecting religious freedom, we believe, as framed, Catholic Charities’ position represents a false choice. Thus, we are writing to suggest a constructive solution to this dilemma and to reiterate our desire to work collaboratively with you in an effort to strike the appropriate balance between protecting religious freedom while ensuring equal protection under the law.

It is important to note that the requirement to treat same-sex and opposite-sex married couples equally is not being created by the legislation currently under consideration. This requirement has existed in the District since July 7, 2009, when our law recognizing same-sex marriages performed in other jurisdictions became effective.¹ In light of this fact, Catholic Charities’ recent ultimatum regarding the discontinuation of services seems somewhat misplaced. We are thus writing to assist you in reconciling the legal requirement to treat the employees of Catholic Charities equally while also protecting the Church’s deeply held religious beliefs.

Fortunately, we are not the first jurisdiction to confront this predicament, and we think the experience of others can help us find an appropriate solution. We recommend that you consider the thoughtful approach developed by the former Archbishop of San Francisco, William J. Levada. In 1997, the City of San Francisco adopted a new ordinance prohibiting city contractors from discriminating between married couples and domestic partners in the provision of employee benefits.² During the consideration of this ordinance, contractors affiliated with religious institutions raised objections to the new law that closely mirror those raised by the Archdiocese of Washington today.

¹ Equal treatment of same-sex couples registered as domestic partners has been required by law long before this time.

² See Chapter 12B, §12B.1 of the San Francisco Administrative Code.



Thankfully, Archbishop Leveda personally negotiated a compromise with former Mayor Willie Brown and four city Supervisors. Their agreement permitted religious-based employers to “allow each employee to designate a legally domiciled member of the employee’s household as being eligible for spousal equivalent benefits.”³ This allowed religious-based contractors, including the Archdiocese, to comport with the law without violating their religious beliefs.

We believe that the solution described above represents a prudent course of action. In fact, Georgetown University, the District’s largest Catholic institution, has a similar policy in place right now. Specifically, Georgetown provides medical, dental and vision coverage to either a spouse or to a “legally domiciled adult,” which can be any “individual over age 18 who has for at least 6 months lived in the same principle residence” as the employee.⁴ To ensure that only a close personal relationship or blood relative is covered, Georgetown provides a Legally Domiciled Adult Certification Form.⁵ It stands to reason that a solution that has worked elsewhere for at least a decade and is being followed in the District today can also provide a reasonable solution to the concerns you have raised.

We commend the former Archbishop of San Francisco and Georgetown University for working thoughtfully to construct a solution that treats all employees equally while remaining faithful to their religious convictions. We encourage you to consider a similar approach and stand ready to offer any assistance we can provide.

Finally, we understand that resolving the issue of spousal benefits does not address what we understand to be your last remaining issue – the provision of foster care and adoption services. As we have previously stated, we remain willing to consider specific legislative language provided by the Archdiocese that will alleviate your concerns, while ensuring that District funds are not used in a manner inconsistent with our Human Rights Act.

Sincerely,



David A. Catania
Councilmember, At-Large
Chair, Committee on Health



Phil Mendelson
Councilmember, At-Large
Chair, Committee on Public Safety
and the Judiciary

³ See Section II(E)(3)(b), Rules of Procedure for the Nondiscrimination in Contracts: Equal Benefits Provisions of Chapter 12B of the San Francisco Administrative Code, City and County of San Francisco, Human Rights Commission (Rev’d Aug. 13, 1998), available at <http://sf-hrc.org/Modules/ShowDocument.aspx?documentid=385>. Other options available under the rule are to “elect to provide benefits to individuals in addition to employees’ spouses and employees’ domestic partners,” or to “provide benefits neither to employees’ spouses nor to employees’ domestic partners.” Archbishop Leveda wrote about this meeting in an article entitled “The San Francisco Solution,” available at <http://www.firstthings.com/article/2008/09/003-the-san-francisco-solution-15>.

⁴ See Enrolling Your Dependents: Office of Faculty and Staff Benefits, available at <http://benefits.georgetown.edu/enrolling/eligibility>.

⁵ Available at

http://www8.georgetown.edu/benefits/gushare.georgetown.edu/UniversityBenefits/web/Forms/LDA_CertificationForm.pdf