

ITEM #74

ADDITIONAL MATERIAL
Public Hearing

DECEMBER 1, 2020

SUBMITTED AT THE REQUEST OF
COMMISSIONER TIM RYAN



**BROWARD COUNTY HUMAN RIGHTS BOARD
(Advisory Board)**

115 S. Andrews Avenue, Room 427 • Fort Lauderdale, Florida 33301

July 14, 2020

MEMORANDUM

TO: The Honorable Mayor and Commissioners
Board of County Commissioners

THROUGH: Bertha Henry, County Administrator
Broward County 

FROM: Michael Emanuel Rajner, Chair 
Broward County Human Rights Board

VIA: Averill Dorsett, Business Manager 
Professional Standards and Human Rights Section

RE: **Human Rights Board recommendation to amend religious exemption**

This memorandum is to advise the Broward County Board of County Commissioners (Board) that at the May 11, 2020 meeting of the Broward County Human Rights Board (HRB), members voted unanimously on the following:

Motion: “The Human Rights Board recommends that the Commission retain the religious exemptions found in sections 16 1/2-33.1(a)(1) and(2); 16 1/2-34(a)(4); 16 1/2-35.4(a)(5) in the Broward County Human Rights Ordinance. The Human Rights Board further recommends that the Commission rescind the religious exemptions to the Human Rights Ordinance found in 16 1/2-33.1(b); 16 1/2-34(b); 16 1/2-35.4(c). The Human Rights Board affirms federal, state, and local protections for free exercise of religion.”

The above motion is a reaffirmation of a similar recommendation adopted by the HRB on October 20, 2014, and communicated in a memorandum dated December 31, 2014.

The religious exemptions that will remain are consistent with the religious exemptions under Title VII of the Civil Rights Act of 1964.

After the HRB’s vote, the United States Supreme Court (Court) recently issued two opinions relating to protected class discrimination in the workplace. Although these opinions do not affect the recommendation of the HRB, they are briefly summarized below for reference purposes.

Specifically, the Court recognized sexual orientation and gender identity as a protected class under Title VII of the Civil Rights Act of 1964. In Bostock v. Clayton County and Altitude Express v. Zarda – gay

employees claimed discrimination, and in R.G. & G.R. Harris Funeral Homes v. EEOC a transgender employee, claimed discrimination, all of whom lost their jobs because of their Lesbian, Gay Bisexual, Transgender and Queer or Questioning (LGBTQ) identities. The Court ruled that the existing federal ban on workplace discrimination “because of sex” necessarily includes discrimination because of a person’s sexual orientation or transgender status.

Additionally, the Court issued its decision in Our Lady of Guadalupe v. Morrissey-Berru on July 8, addressing employment discrimination by religious institutions. The decision considered claims of discrimination by religious schools on the basis of age and on the basis of having cancer. In Morrissey-Berru, the Court held that the ministerial exception under the religion clauses of the First Amendment foreclosed employment discrimination claims at religious schools for employees educating young people in their faith. The ruling in Our Lady of Guadalupe is not determinative to the HRB’s recommendation in this memorandum that Broward County extend the same approach to nondiscrimination on the basis of sexual orientation and gender identity and/or expression as it extends to other protected categories.

At the May 11 meeting, the Human Rights Campaign (HRC) and Equality Florida presented on the matter and urged the HRB to recommend removing the overly broad and discriminatory provisions of the Human Rights Act’s religious exemptions which solely target individuals based on their sexual orientation and/or gender identity and/or expression in the areas of employment, public accommodation and residential real estate transactions.

The existing language is outdated and no longer used. As new human rights ordinances are enacted in other jurisdictions in Florida, they are adopting language consistent with the HRB’s recommendation.

Furthermore, HRC utilizes the Municipal Equality Index (MEI) which examines how inclusive municipal laws, policies, and services are of LGBTQ people who live and work in their municipalities. Cities are rated based on non-discrimination laws, the municipality as an employer, municipal services, law enforcement and the public position of city leadership’s on equality. At this time, all of the cities in Broward County lose points in their rating due to the County’s overly broad religious exemption.

Should you have any questions or require additional information, please feel free to contact me.

Attachment

C: Monica Cepero, Deputy County Administrator
Andrew J. Meyers, County Attorney
Robert Melton, County Auditor
Adam Katzman, Senior Assistant County Attorney, Office of the County Attorney
Human Rights Board



OFFICE OF INTERGOVERNMENTAL AFFAIRS AND PROFESSIONAL STANDARDS
115 S. Andrews Avenue, Room 426 • Fort Lauderdale, Florida 33301 • 954-357-7575 • FAX 954-357-6573

December 31, 2014

MEMORANDUM

TO: Honorable Mayor and Commissioners
Board of County Commissioners

FROM: Edward G. Labrador, Esq. 
Director

SUBJECT: **Human Rights Board Recommendations – Repeal of Religious Exemptions in Human Rights Act; BSO Policies Affecting Transgender Inmates**

This memorandum is to inform you, the Human Rights Board (HRB), at its quarterly meeting of October 20, 2014, voted to submit the following recommendations to the Board of County Commissioners:

- **Repeal of Religious Exemptions in Human Rights Act**
The HRB recommends amending the Human Rights Act to remove the specific religious exemptions in employment, public accommodations, and real estate transactions relating to the protected categories of sexual orientation and gender identity or expression.

Employment – Subsection 16½-33.1(b), Broward County Code, remove the following language:

The provisions concerning employment discriminatory practices that relate to sexual orientation, or gender identity or expression, shall not apply to any religious school, religious institution, religious association, or religious organization.

Public Accommodations – Subsection 16½-34(b), Broward County Code, remove the following language:

The provisions of this section concerning discrimination in public accommodations that relate to sexual orientation or gender identity or expression shall not apply to any religious school, religious institution, religious association, or religious organization.

Real Estate Transactions – Subsection 16½-35.4(c), Broward County Code, remove the following language:

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Beam Furr • Dale V.C. Holness • Martin David Kiar • Chip LaMarca • Stacy Ritter • Tim Ryan • Barbara Sharief • Lois Wexler
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The provisions of this Act concerning residential real estate transactions shall not apply to any religious school, religious institution, religious association, or religious organization when an allegation(s) of a discriminatory housing practice(s) is based upon sexual orientation or gender identity or expression.

▪ **BSO Policies Affecting Transgender Inmates**

The HRB recommends the Board of County Commissioners initiate a dialogue with the Broward Sheriff to determine what, if any, current policies and practices in [the County's] correctional facilities, relating to transgender inmates, may need to be reviewed and revised to ensure best practices in accommodating these individuals.

Should you have any questions, please feel free to contact me at (954)357-7575.

C: Bertha Henry, County Administrator
Roberto Hernandez, Deputy County Administrator
Alphonso Jefferson, Assistant to the County Administrator
Joni Armstrong Coffey, County Attorney
Evan Lukic, County Auditor
Human Rights Board
Myrna Lopez-Arango, Assistant to the Office Director, OIAPS