



July 5, 2016

Kristin H. Johnson
Executive Director
Iowa Civil Rights Commission
400 East 14th Street #201
Des Moines, Iowa 50319

Executive Director Johnson:

Cornerstone World Outreach retained First Liberty Institute to represent it in this matter. Please direct all correspondence related to this matter to First Liberty Institute at the contact information provided below.

On behalf of Cornerstone World Outreach, we request that you respond to our request for relief by no later than 10:00 A.M. August 5, 2016. Should you fail to respond or deny our request for relief, we are prepared to pursue all available legal options.

Factual Background

Cornerstone World Outreach (hereinafter “Cornerstone”) holds and expresses sincerely held religious beliefs regarding gender and sexuality on its understanding of the Holy Bible. These beliefs, espoused and expressed by this church publicly and privately, are longstanding and founded by millennia old principles stated in the Holy Bible, to which Cornerstone faithfully adheres. Because of Cornerstone’s religious beliefs, teachings, and practices, it cannot comply with Iowa Code Chapter 216 and the Iowa Civil Rights Commission’s (“the Commission”) mandate, as outlined below.

The Commission is a “fact-finding law enforcement agency that enforces the ‘Iowa Civil Rights Act of 1965,’ Iowa’s anti-discrimination law” against citizens and institutions, including religious institutions, within the state of Iowa. The mission of the Commission “is enforcing civil rights through compliance, mediation, advocacy, and education as we support safe, just, and inclusive communities.” The Commission published “A Public Accommodations Provider’s Guide to Iowa Law” brochure entitled “Sexual Orientation & Gender Identity,” (hereinafter, “the Brochure”). The Brochure expressly states that the Commission will enforce Iowa Code Chapter 216 against churches and other religious institutions, such as our client Cornerstone. The First Amendment to the United States Constitution and Article I, Section 3, of Iowa’s Constitution protects our client’s right to free exercise of religion, superseding Iowa Code Chapter 216 and the Commission’s Brochure. Because enforcing Iowa Code Chapter 216 against our client and other churches violates state and federal law, and we request that you retract this position immediately, and notify us of such, in writing.

Legal Analysis

According to the United States Supreme Court, the First Amendment guarantees freedom for religious organizations, which necessarily entails “independence from secular control or manipulation.” *Hosanna-Tabor Evangelical Lutheran Church & Sch. v. EEOC*, 132 S. Ct. 694, 704 (2012) (quoting *Kedroff v. Saint Nicholas Cathedral of Russian Orthodox Church in N. Am.*, 344 U.S. 94, 116 (1952)). Governments may not interfere with matters of church doctrine or governance, compel a church to speak, regulate its speech, or otherwise interfere with the free exercise of ecclesiastical rights. *See id.*

The Brochure states that Iowa law requires places of public accommodation to maintain policies and practices that adopt the state’s view of sexual orientation and gender identity. Specifically, the Commission requires places of public accommodation, which includes churches, to segregate living facilities, locker rooms, and restrooms based on gender identity. In other words, Cornerstone cannot require that patrons and congregants use its facilities based on their biological sex. The Commission further compels Cornerstone to use specific pronouns when referring to certain “gender identities,” and expands the definition of harassment to encompass “verbal, physical, or written conduct.” Furthermore, the Brochure’s sweeping language forbidding “hostility” and “unwelcom[ing]” speech could be interpreted as restricting Cornerstone’s ability to teach its religious beliefs. Each of these mandates is an impermissible violation of Cornerstone World Outreach’s constitutional rights to free exercise of religion and free speech.

Many religious institutions, including churches such as our client, hold sincere religious beliefs that prevent them from complying with the Commission’s mandate. Cornerstone World Outreach holds and teaches many scriptural beliefs pertaining to marriage, sexual morality, sexual identity, gender roles in society and in the church, sexual orientation, sexual redemption, and celibacy. Most relevant for this matter, Cornerstone “believes that God created mankind in His image: male (man) and female (woman), sexually different but with equal personal dignity.” (Genesis 1:26-28, Romans 1:26-32, 1 Corinthians 6:9-11). The church believes and teaches, “God, in his infinite sovereignty, uniquely formed human beings and gave them a special dignity, personal freedom, and individual accountability among all the works of creation. Human beings have been made for relationship with God and to be good and faithful stewards of creation. God created each person’s inmost being, knitting each person together in his mother’s womb. (Psalm 139:13) As God’s individualized and personal creation, each person is fearfully and wonderfully made. (Psalm 139:14).”

As a result, Cornerstone requests that its congregation “affirm their biological sex and refrain from any and all attempts to...change, alter, or disagree with their predominant biological sex. (Genesis 1:26-28, Romans 1:26-32, 1 Corinthians 6:9-11).” Cornerstone also faithfully expresses and preaches that this religious belief includes that men and women of the church

dress in accordance with their biological sex and that the Holy Bible requires that the church affirm and celebrate the sexual complementary of man and woman. (Genesis 1:27, Genesis 2:24, Deuteronomy 22:5, Matthew 19:4-6, Mark 10:5-9, Romans 1:26-27, 1 Corinthians 6:9-11, Ephesians 5:25-27, Revelation 19:7-9, Revelation 21:2).

Because of these religious beliefs, expressions, and practices, Cornerstone cannot comply with Iowa Code Chapter 216 as well as the Commission's Brochure. But Cornerstone cannot be made to open its facilities and restrooms for use by individuals in accordance with their gender identities, rather than their sex, and the Commission cannot stop Cornerstone from preaching and teaching its beliefs on human sexuality without violating Cornerstone's constitutional rights and protections. The Commission's Brochure is a government mandate that the church violate its sincerely held religious beliefs under penalty of law.

Although Iowa Code § 216.7(2)(a) provides a religious exemption, as drafted, the exemption is unconstitutional. Further, the Commission's express intent to target churches singularly for enforcement, as stated in the Brochure, is an egregious constitutional violation. The only text in the entire Brochure that is underlined and italicized is the limitation that a bona fide religious institution must act according to a "*bona fide religious purpose*." Such emphasis highlights the Commission's intention to not only heavily scrutinize the validity and sincerity religious doctrines of our client and other religious institutions, but also the very legitimacy of the church as a religious body.

"Civil courts are bound to accept the decisions of the highest judicatories of a religious organization of hierarchical polity on matters of discipline, faith, internal organization, or ecclesiastical rule, custom, or law." *Kliebenstein v. Iowa Conf. of the United Methodist Church*, 663 N.W.2d 404, 406 (Iowa 2003) (quoting *Serbian Eastern Orthodox Diocese v. Milivojevich*, 426 U.S. 696, 713 (1976)). Governmental agencies, such as the Commission, are not permitted to evaluate the religiosity of church policies and entities. Such inquiries would necessarily involve unconstitutional entanglement in religious matters. As the Supreme Court held, the First Amendment forbids government actors from "question[ing] the centrality of particular beliefs or practices to a faith, or the validity of particular litigants' interpretations of those creeds." *Hernandez v. Comm'r*, 490 U.S. 680, 699 (1989).

Moreover, government actors may not undertake any inquiry that involves "matters at the very core of a religion – the interpretation of particular church doctrines and the importance of those doctrines to the religion." *Presbyterian Church in United States v. Mary Elizabeth Blue Hull Mem'l Presbyterian Church*, 393 U.S. 440, 450 (1969). A state cannot use public accommodations law to coerce churches to violate their beliefs. It is unconstitutional for the Commission to interfere in purely ecclesiastical matters. "Iowa, like virtually every other jurisdiction, avoids 'interfering in purely ecclesiastical matters.'" *Kliebenstein*, 663 N.W.2d at 406.



Relief Requested

For the reasons provided herein, it is improper, unnecessary, and unconstitutional for the Commission to entangle itself in questions that are essentially religious. On its face, Iowa Code § 216, and the Commission's stated intent to force churches to not only facilitate transgender restroom usage, but to refrain from even teaching its Biblical views of human sexuality, violates our client's state and federal constitutional rights — including the Free Speech Clause, the Free Exercise Clause, and the Establishment Clause of the First Amendment

While it is First Liberty Institute's position that the rights of all houses of worship, including churches, synagogues, mosques, are infringed by Iowa Code § 216 and the Commission's Brochure, we respectfully request that the Commission take the following actions to remedy the situation against our client, Cornerstone World Outreach:

- (1) The Commission amend its published policy, the Brochure, to clarify that it will not apply Iowa Code § 216 against churches, such as our client, Cornerstone World Outreach; and,
- (2) The Commission publicly acknowledge that because our client, Cornerstone World Outreach, is a church, that, henceforth it will be exempt from enforcement action by the Commission in regards to Iowa Code § 216.

We request a response by no later than 10:00 A.M., August 5, 2016. Should you deny these requests or fail to respond to this letter, we are prepared to pursue all available legal remedies. I am willing to meet in person to discuss this matter, if you desire. I am the point of contact for this matter and may be contacted via e-mail at cyouman@firstliberty.org.

Sincerely,

Chelsey Youman
Chief of Staff and Counsel