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The Proposed Anti-Discrimination LGBT Ordinance for the City of Coeur d'Alene

FORMAL DOCUMENT AND STATEMENT: The Kootenai County Task Force on Human Relations Board of Directors

Based on our 32 years of promoting human rights and opposing any law, public policy or group action of discrimination resulting in second class citizenship and denial of equality for some segments of our society, we come before the city of Coeur d'Alene to urge your passage of this ordinance to prohibit discrimination in the areas of housing, employment and public accommodations based on sexual orientation, gender identity & expression (The LGBT community).

We respectfully submit to you our responses to seven questions frequently asked when considering adoption of local ordinances baring discrimination based on sexual orientation.

FIRST QUESTION:

Are there any Federal or state of Idaho statutes protecting the LGBT community from discrimination in housing, employment or public accommodations? The answer is NO except for two Federal requirements that protect only a small segment of Idahoans.

The United States Civil Rights Act of 1964 Title II (Public Accommodations), Title III (Public Facilities) and Title VII (Equal Employment Opportunity) gives no protection against discrimination based on sexual orientation. The same is true of the Federal Equal Employment Opportunity Act of 1972 that amended Title VII of the 1964 Civil Rights Act.

The Federal Fair Housing Act of 1968 and as amended only provides protection based on race, religion, color, national origin, disability, gender and since 1988 familial status (non-discrimination of families with children under age 18 or pregnant women).

On January 21, 2011 the U.S. Department of Housing and Urban Development (HUD) issued new rules prohibiting discrimination based on sexual orientation or gender identity in Federal HUD-assisted or HUD-financed housing. As of 2013, the HUD rules apply to only 6.2% of the housing units in Coeur d'Alene. **(See Footnote 1)**

President Bill Clinton, by presidential executive order, banned discrimination based on sexual orientation regarding hiring and promotion of Federal employees. In 2010 the ban against discrimination was extended

to sexual identity. The presidential executive orders only apply to Federal employees leaving all other LGBT employees subject to discrimination unless prohibited by either state statutes or local ordinances.

As of 2012, only 21 states and the District of Columbia had laws prohibiting housing discrimination on the basis of sexual orientation. Many of those same states prohibit discrimination in employment and public accommodations. There are five additional states that prohibit discrimination but limited to only public employment based on sexual orientation.

The attempts over the past seven years to persuade the Idaho Legislature to add protection based on sexual orientation and gender identity and expression to the Idaho Civil Rights statutes have not been given serious consideration or reported out of committee.

The decades of failure to act by the United States Congress as well as the Idaho Legislature directs Idaho human rights advocates and organizations to seek relief by turning to local governments under Article 12, section 2 of the Idaho Constitution and sections 50-301 of the Idaho Code. These constitutional and statutory provisions provide cities the freedom to exercise all powers not specifically prohibited by or in conflict with the general laws or the Idaho Constitution. (**See Footnote 2**)

SECOND QUESTION:

Are there any cases of discrimination based on sexual orientation in our city and region? The answer is YES.

Let us be clear that the overwhelming majority of business in Coeur d'Alene that provide employment, housing and public accommodations are strong supporters and advocates of equality and fairness for all our residents. However and unfortunately there are exceptions from a few entities that practice discrimination.

The KCTFHR with decades of promoting human rights and serving as advocates for persons who have been victims of many forms of discrimination, harassment and hate crimes, we come before you with knowledge and expertise regarding this problem. Let us share with you three of our list of cases involving discrimination against the LGBT community.

CASE ONE:

Approximately five years ago, Tony Stewart received a call from a dental assistant in Coeur d'Alene who had been fired on that day when her employer, the dentist, learned that she was lesbian. Her work evaluations were superior. She asked for advice and assistance from the KCTFHR. Stewart had to sadly inform her that there were no Federal or state laws preventing the discrimination and thus she had no legal remedy.

CASE TWO:

We learned of a housing discrimination case that took place in 2012 in Coeur d'Alene when a North Idaho College student was evicted from her apartment when the landlord learned that she was in a lesbian relationship. Again she had no legal remedy for the discriminatory act.

CASE THREE:

One of the most grievous and sad cases happened recently in a northern Idaho city during the death of a same sex partner. The obituary announcing the gay man's death included the name of his same-sex surviving partner. Upon seeing the obituary, the employer of the surviving partner fired him upon learning of the gay relationship. The grieving partner had to now also deal with loss of his income during one of the most painful moments of his life. Once again the gentleman had no legal remedy.

THIRD QUESTION:

Should the city of Coeur d'Alene reject adopting the anti-discrimination ordinance due to any possible additional cost for the city regarding law enforcement and the legal resources to enforce the ordinance? The answer should be NO.

We find it in direct conflict with the core principles of democracy to suggest that some members of our fair city must remain second-class citizens, subject to discrimination and denied equal rights and fairness based on the argument that the adoption of the ordinance might require some additional resources of the city. This argument is equivalent to proposing that we open our city to all forms of discrimination based on limited resources. At what price, do we forfeit fairness, equality and justice for any of our citizens in our democracy?

FOURTH QUESTION:

Should we not wait until there are Federal & state legislative actions to prohibit the discrimination? The answer is NO.

It has been 49 years since the passage of the United States Civil Rights Act of 1964 that excludes protection for the LGBT community and almost the same amount of time for the other Federal civil rights laws addressing jobs, housing and public accommodations.

This flawed argument is as old as civilization. In reality, it is an attempt to deny rights to the minority. The late Dr. Martin Luther King, Jr. spoke eloquently in condemning this tactic in his "Letter from the Birmingham Jail" on April 16, 1963. He was responding to a group of ministers who had

signed a letter criticizing him for his peaceful disobedience that they described as “unwise and untimely” activities leading to his arrest.

Dr. King’s impatience with further delay in obtaining justice and equality for his people is most pertinent to the issue before you today. Dr. King wrote in part:

“We have waited for more than 340 years for our constitutional and God given rights. The nations of Asia and Africa are moving with jet like speed toward gaining political independence, but we still creep at horse and buggy pace toward gaining a cup of coffee at a lunch counter. Perhaps it is easy for those who have never felt the stinging darts of segregation to say, ‘wait,’...There comes a time when the cup of endurance runs over, and men are no longer willing to be plunged into the abyss of despair.”

FIFTH QUESTION:

What does the ordinance do and not do?

The Ordinance Protects:

First, the ordinance will add protection for the LGBT residents in housing, employment and public accommodations within the city of Coeur d’Alene.

Second, the ordinance will stop employers and landlords from discriminating based on sexual orientation or gender identity.

Third, it will protect the right of sexual minorities to be served in all public accommodations such as restaurants, concert halls, theaters and all other public facilities.

Fourth, the ordinance recognizes, protects and embraces the democratic principal of equality.

The Ordinance does not:

First, the ordinance does not create quotas or special protections.

Second, the ordinance does not create any special rights or privileges.

Third, the ordinance does not create undue financial burdens when the ordinance permits the prosecutor to reduce the violation to an infraction, payable by a \$100 fine, if the defendant engages in corrective action.

Fourth, the ordinance does not require religious organizations or religious businesses or religious non-profits to comply.

Fifth, the ordinance exempts ones own home/residents from the housing ordinance as well as housing accommodations for not more than two families living independently of each other, if the lessor or a member of his family resides in one of the housing accommodations (e.g. duplex).

SIXTH QUESTION:

**Is this a moral, ethical and fundamental democratic issue?
The answer is YES.**

We are before you facing the crucial question of whether we will elect to advance the moral precept of embracing social justice encompassing freedom, equality and justice for our fellow human beings that is the root of any democracy.

The Kootenai County Task Force on Human Relations is before you inspired with the words from the following advocates for justice:

Elie Wissel, a world renowned humanitarian, has said: "There may be times when we are powerless to prevent injustices, but there must never be a time when we fail to protest."

Mike Masterson, Boise Police Chief, during his testimony before the Idaho State Legislature's House and Senate State Affairs Committees on March 20, 2013 stated: "Justice for me professionally must include protecting citizens against being the victims of a crime, including the injustice of being denied housing or employment or refused a service accommodation based solely on sexual orientation or gender identity...."

SEVENTH QUESTION:

Will the decision of the Coeur d'Alene City Council have an impact beyond the boundaries of the city and the state of Idaho? The answer is YES.

Individuals and organizational members and leaders across America will observe your decision and draw conclusions based on that outcome. Most large corporations as well as civic groups today are characterized by a diverse multi-culture employment and membership including policies that embrace and promote diversity. They are correctly sensitive about visiting communities with regard to a welcoming environment for their members including their LGBT employees and members.

Corporate America has already begun voluntarily implementing this type of protection. Ninety-four per cent (94%) of the top 100 companies in the United States have policies banning discrimination based on sexual orientation as well as the top 50 Fortune 500 companies. The companies prohibiting discrimination include for example IBM, Southwest Airlines,

Verizon, Apple, Wal* Mart, Ford, Sears, Micron Technology, Wells Fargo and Hewlett Packard.

CONCLUSION

As members of the human race, each of us is constantly in the process of establishing what our legacy will be when we are no longer here. We will be remembered and judged by future generations based on respect for others.

In an interview with Cynthia Taggart of "The Spokesman-Review" regarding the work of the KCTFHR on June 28, 1998 Tony Stewart said: "I don't think there is anything more important than how human beings treat each other. How you treat people is the essence of who you are."

1

The city of Coeur d'Alene has 19,000 utility units of which 13,754 are residential and of those 895 units are HUD assisted or financed or only 6.2% that protect the LGBT community from housing discrimination.

2

As of 2013, there are 205 cities and counties with local ordinances prohibiting some form of discrimination based on sexual orientation.

Appendix I: KCTFHR February 2, 2013 letter to the Coeur d'Alene Mayor and City Council.