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March 6, 2018

VIA E-MAIL

Mr. Andrew B. Sundboom, Investigator
Anchorage Equal Rights Commission
632 West Sixth Avenue, Suite 110
Anchorage, Alaska 99519-6650

Re: AERC Complaint No. 18-041, Downtown Hope Center/Timothy or Samantha Coyle

Gentlemen,

We represent the Downtown Hope Center, which has operated in the past as the Downtown Soup Kitchen (hereafter "Hope Center"). Hope Center has forwarded to us your February 2, 2018, letter and the Complaint by Timothy Paul/Samantha Coyle ("Coyle") that is attached thereto. Hope Center did not violate AMC 5.20.050 with respect to Coyle. First, Hope Center is not a public accommodation within the meaning of AMC 5.20.010 and AMC 5.20.050. Second, Hope Center did not discriminate against Coyle on the basis of gender identity. Hope Center has permitted Coyle to receive food service and lavatory and shower access in the past without incident. However, on two occasions Coyle, who has a criminal record involving violence and the use of a deadly weapon, was turned away by Hope Center. Coyle was turned away initially because he presented himself to Hope Center under the influence of alcohol after having been ejected and banned from the Brother Francis Shelter for fighting and being under the influence of alcohol. Next, Coyle was turned away when he returned the following day at a time when Hope Center was not open for receiving homeless individuals for shelter. On neither occasion was Coyle turned away because of his gender identity. Third, Hope Center has First Amendment rights to religious liberty and association that permit it to operate exclusively so as to provide charitable shelter to abused and battered women, and to exclude biological males from its abused and battered women's shelter.

Hope Center/History and Operation. Hope Center is a religiously affiliated, private non-profit IRC § 501(c)(3) organization that provides (1) food and showers to homeless individuals in the downtown Anchorage, Alaska, area; and (2) shelter to homeless abused and battered women in the downtown Anchorage, Alaska, area. In addition to providing charitable food and shelter to homeless individuals, Hope Center maintains and operates a church on its property. Hope Center

was originally formed over thirty years ago in a garage as “The Downtown Soup Kitchen.” The Soup Kitchen was prompted by the vision of a few Anchorage church leaders who wanted to share the love of God with Anchorage's homeless. Operating out of a little red house on Fourth Avenue in downtown Anchorage, the Soup Kitchen provided nearly 300 free cups of soup each day to homeless and low-income families; in addition, it offered free showers and clothing handouts from a yellow A-frame located next door. In 2012, the organization moved into its new facility on Third Avenue in downtown Anchorage.

The Soup Kitchen later expanded its mission to include assisting the Brother Francis Shelter (“BFS”), a program of Catholic Social Services that provides free emergency shelter for men and women in Anchorage who are without a home. Essentially, BFS often found itself being asked to shelter more homeless individuals than its facilities would accommodate and it also found itself facing the challenge of trying to provide a safe shelter environment for homeless women who had been abused or battered by men. Therefore, BFS and Hope Center agreed that Hope Center would assist BFS by taking in and providing safe and sober shelter to BFS's overflow of homeless abused and battered women who presented themselves at BFS, and who otherwise qualified for shelter at BFS. Originally, BFS would check individuals in and then Hope Center would transport the overflow of women from BFS to Hope Center. Eventually, however, the Anchorage homeless community learned of Hope Center's “shelter” and began appearing at Hope Center directly. Thus, Hope Center now takes into its shelter both an overflow of abused and battered women from BFS, as well as some abused and battered women who appear at Hope Center directly. Hope Center has the ability to provide shelter to as many as fifty abused and battered women at any given time.

Over time, funded primarily by individual donors and churches, Hope Center was able to customize its facility to allow it to better meet the needs of those abused and battered women it seeks to serve. Hope Center has one large open room in which it provides dinner to abused and battered women. Following dinner, the abused and battered women who have signed up and who qualify—*e.g.*, no one is allowed to stay if they are inebriated or high or if they present a safety threat to others—are permitted to stay for the night, based upon space availability and priority of sign-up time. Those who stay for the night are given mats, along with a bag of blankets and a sheet so that they can sleep on the floor in the one large open room. Showers and laundry are also provided to those who have signed up and qualified to stay the night, and breakfast is provided in the morning to those who stayed the previous night.

In addition to Hope Center's regular services, the organization expanded its programs to create opportunities for its guests to gain experience and marketable job skills. Feed Me Hope Bakery opened its doors in March 2016 to abused and battered women staying in the emergency cold-weather shelter. In the Fall of 2016, Hope Center also launched Feed Me Hope Culinary School—a vocational training program for homeless and formerly incarcerated individuals, both men and women. Already, Hope Center has seen remarkable transformations take place as hope has been restored to students of the bakery and culinary schools. Hope Center's future plans include barista training, a bakery store front, and a food truck for students to work.

Hope Center is Not a Public Accommodation. The provisions of AMC 5.20.050 only apply to “public accommodations.” Under AMC 5.20.010 a “Public Accommodation” is defined as “any business or professional activity that is open to, accepts or solicits the patronage of, or caters or offers goods or services to the general public. . . .” Hope Center is not a “business” or a “professional activity.” Hope Center is a non-profit religious-affiliated charity that operates to provide (1) free food and showers to homeless individuals; (2) free shelter, showers, laundry, breakfast and potential bakery training to homeless abused and battered women; and (3) free culinary training to homeless and/or economically distressed and unemployed individuals.

Moreover, Hope Center is not “open to” “the general public,” and it does not “accept[] or solicit[]” “the patronage of,” nor does it “cater[] or offer goods or services to” “the general public.” Again, Hope Center operates as a religious charity to feed, shelter, and train a select group of qualifying individuals: (1) homeless—the homeless are provided free food and showers and potential training in the culinary school; (2) homeless abused and battered women—homeless abused and battered women are provided shelter overnight along with laundry, showers, and breakfast and also potential training in the bakery and/or the culinary schools; and (3) financially needy/impoverished individuals—these individuals are provided food at lunch time (soup), access to showers and potential training in the culinary school. Members of the general public are not served, catered to, or sheltered at the Hope Center. If non-homeless, economically self-sustaining individuals appear at the Hope Center, they are turned away because they do not qualify as either “needy” or “homeless.”

The Hope Center does not house biological “men” in its abused women’s shelter, *i.e.*, it does not shelter homeless men in its overnight shelter because this would traumatize and present unreasonable safety risks for the abused and battered women who are admitted for overnight shelter. Many of the abused and battered women who stay at the Hope Center have come out of or have been referred by the AWAIC Shelter because they have experienced domestic or other forms of violence and abuse. Also, many of the women who the Hope Center shelters have escaped the horrendous conditions of sexual exploitation and human trafficking. It would be wholly irresponsible and potentially dangerous for Hope Center to house biological males in its shelter overnight with the population of abused and battered women who stay at the shelter. Hope Center has no ability to provide safety or security to the women in the shelter during the night hours. And, because of the building’s open design and high ceiling, it is not possible for Hope Center to segregate a portion of the shelter for biological males. In any event, housing biological males in close proximity to abused and battered women, some of whom have escaped from human trafficking, would be cruel, possibly negligent, and virtually criminal. Also, Hope Center would be opening itself up to substantial civil liability if a biological male were to harm, rape, or, God forbid, kill one of the abused or battered women in the shelter.

Hope Center Did Not Discriminate Against Coyle on the Basis of Gender Identity. Hope Center regularly feeds Coyle and allows him access to showers during daytime hours. Hope

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Center turned Coyle away initially because he presented himself to the abused women's shelter one evening under the influence of alcohol—Hope Center is a clean-and-sober shelter and facility and never admits anyone who is under the influence of drugs or alcohol. Coyle smelled strongly of alcohol when he appeared at the Hope Center and he had apparently been expelled and banned from BFS due to his behavior—fighting and drunkenness. Hope Center explained to Coyle that he would not be admitted to its facility due to his inebriation and Hope Center gave him cab fare to travel to the Hospital Emergency Room for treatment of the wounds he incurred in his earlier fight. When Coyle appeared at Hope Center the following day, a Saturday, at about 2 p.m. Hope Center turned him away because it was not open to receive individuals at that time: Hope Center serves lunch (soup) at mid-day on weekdays and then begins the entry process for abused and battered women at 5:45 p.m. On Saturdays, Hope Center does not serve lunch and only opens to admit qualifying abused and battered women to the shelter at 5:45 p.m. Qualifying women are admitted to Hope Center following 5:45 p.m., after they fill out the necessary paperwork and undergo a bag check (*i.e.*, drugs, alcohol, or weapons are not permitted inside the shelter facility). Coyle was informed that Hope Center did not begin admittance to the shelter until 5:45 p.m. Coyle left and did not return.

Hope Center Has First Amendment Religious Liberty and Association Rights to Operate as It Does. Because Hope Center is a religiously affiliated organization it has First Amendment rights to religious liberty and association. These constitutional rights exempt Hope Center from being required to shelter a biological male in its shelter for abused and battered women.

CONCLUSION

The March 15, 2018, fact-finding conference should be cancelled and Coyle's Complaint should be dismissed for the reasons stated above. Hope Center is not a public accommodation and it is not covered by AMC 5.20.050. Moreover, Hope Center did not discriminate against Coyle on the basis of gender identity. Hope Center has constitutional rights that exempt it from being required to house a biological male in its abused and battered women's shelter. Hope Center will not be attending the March 15, 2018, fact-finding conference. In the event that AERC determines to proceed with this matter, Hope Center intends to file a Motion to Dismiss on the basis that Hope Center is not a public accommodation.

Sincerely,

BRENA, BELL & CLARKSON, P.C.



Kevin G. Clarkson

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