



Legislation Details (With Text)

File #: 19-2221 **Name:**

Type: Other **Status:** Agenda Ready

File created: 6/12/2019 **In control:** City Council Legislative Meeting

On agenda: 6/25/2019 **Final action:**

Title: Consideration of the City Council's support on an amicus brief for three cases to be heard by the US Supreme Court involving how Title VII's ban on workplace sex discrimination protects LGBTQ people from discrimination on the basis of sexual orientation or gender identity

Sponsors:

Indexes:

Code sections:

Attachments:

Date	Ver.	Action By	Action	Result
------	------	-----------	--------	--------

City of Alexandria, Virginia

MEMORANDUM

DATE: JUNE 17, 2019

TO: THE HONORABLE MAYOR AND MEMBERS OF CITY COUNCIL

FROM: JOANNA C. ANDERSON, CITY ATTORNEY /s/
MARK JINKS, CITY MANAGER /s/

DOCKET TITLE:

Consideration of the City Council's support on an amicus brief for three cases to be heard by the US Supreme Court involving how Title VII's ban on workplace sex discrimination protects LGBTQ people from discrimination on the basis of sexual orientation or gender identity

ISSUE: The US Supreme Court is reviewing three cases, *R.G. & G.R. Harris Funeral Homes Inc. v. EEOC & Aimee Stephens*; *Altitude Express Inc. v. Zarda*; and *Bostock v. Clayton County*, involving how the ban on workplace sex discrimination in Title VII of the US Constitution protects those in the LGBTQ community. The City has been approached to sign on to an amicus brief in support of employment nondiscrimination protections for the LGBTQ community.

RECOMMENDATION: That City Council direct the City Attorney to sign on to this local government amicus brief to emphasize the City's commitment to employment nondiscrimination and support of the LGBTQ community.

DISCUSSION: The US Supreme Court will be reviewing these cases after the lower courts in *R.G. & G.R. Harris* and *Zarda* held that it constituted illegal discrimination under Title VII to terminate an employee for being transgender (*R.G. & G.R. Harris*) and based upon their sexual orientation (*Zarda*). In the third case, *Bostock*, the lower court held that the plaintiff could not maintain a discrimination cause of action because Title VII did not prohibit discrimination on the basis of sexual orientation. This amicus brief, in support of upholding *R.G. & G.R. Harris* and *Zarda*, and overturning *Bostock*, has been prepared by a coalition of local government jurisdictions including the City of Los Angeles and the County of Santa Clara. A summary of the brief was sent to us from the Mayors Against LGBTQ Discrimination and is as follows:

“The amicus brief will share the unique perspective of local governments when it comes to protecting LGBTQ people in the workplace. The brief will have two components. **First, a section will discuss discrimination against LGBTQ people, especially in the workplace, and the profound effect of discrimination on LGBTQ members’ lives, and the community itself.** Though LGBTQ people are most immediately and severely harmed by this discrimination, the damage resonates through local governments and the entire community. When LGBTQ people lose their jobs or sustain other workplace injury because of who they are - and then are unable to redress that injury in court - a local government, which provides the first safety net and essential services such as job training, social safety net, health care, housing and the like, carries a significant burden. **Second, a section will detail the experience of local governments** that have long protected LGBTQ people from discrimination in the workplace, and show that these municipalities’ protection of LGBTQ people has benefited and strengthened these communities. “

The actual brief will be circulated after June 24. We will review the brief and will ensure that it is consistent with the summary above.

Alexandria’s Human Rights ordinance, passed in 1975, is one of the oldest and broadest, not only in the Commonwealth of Virginia, but in the United States. It created the Human Rights Commission and the Office of Human Rights with enforcement power. In 1988, after hearings and deliberation, City Council added sexual orientation to the Human Rights Code. The City has a history of protecting the rights of LGBTQ individuals who work, reside in or visit Alexandria. The City government was an early adopter of domestic partner benefits, and recently expanded its transgender health benefits coverage. The City has an LGBTQ Task Force that advocates for policies, programs and protections for LGBTQ individuals. Training on serving the LGBTQ community is provided to all Alexandria Police Department officers, employees of the Department of Community and Human Services, and is open to all City employees. City department and volunteer Commission work plans include the LGBTQ community when addressing the needs of children, youth, families, elders, the homeless, and those living with HIV/AIDS.

From a policy standpoint, the City has advocated for the expansion of protections in the Virginia Human Rights Act for decades, including that position in its “City Package” of legislative proposals for the City’s delegation to the General Assembly. Constrained by the Dillon Rule, City Council has not amended the City Code to include more protected classes. The Office of Human Rights, however, guided by Court precedent and EEOC written guidance, has asserted jurisdiction under sex to protect the rights of LGBTQ individuals who file complaints of discrimination in employment, housing and public accommodations. An adverse ruling by the Supreme Court would effectively turn back time, limiting the rights of individuals and removing protections that now exist in states and localities throughout the United States. The LGBTQ community would not be equally protected under law.

FISCAL IMPACT: None.

ATTACHMENTS: None.