



MICHIGAN  
CATHOLIC  
CONFERENCE

14 August 2017

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Michigan Civil Rights Commission  
Capitol Tower Building  
110 W. Michigan Ave., Suite 800  
Lansing, MI 48933

To Members of the Michigan Civil Rights Commission:

In the Catholic tradition, all persons, regardless of their orientation or identity, are to be treated with dignity and respect (*Catechism of the Catholic Church*, par. 2358.) The Catholic Church opposes all forms of unjust discrimination against individuals who identify as lesbian, gay, bisexual, or transgender, including in the areas of housing and employment. As Pope Francis explained while visiting the White House on 23 September 2015:

*American Catholics are committed to building a society which is truly tolerant and inclusive, to safeguarding the rights of individuals and communities, and to rejecting every form of unjust discrimination. With countless other people of good will, they are likewise concerned that efforts to build a just and wisely ordered society respect their deepest concerns and their right to religious liberty.*

Michigan Catholic Conference (MCC), the official public policy voice of the Catholic Church in this state, encourages the Civil Rights Commission (CRC) to deny petitioners' request to reinterpret unilaterally the definition and understanding of "sex" within the state's Elliott-Larsen Civil Rights Act (ELCRA). Petitioners are requesting an approach to ELCRA that is well out of the mainstream, is without legal precedent, and encourages the Commission to operate in a manner beyond its authority.

Every state in the Union that has expanded its civil rights laws to include "sexual orientation and gender identity" has done so with respect for the constitutional right to religious liberty. Petitioners' request to amend CRC's interpretation of the ELCRA —without religious liberty protections — would set Michigan to an extreme end of state civil rights laws, resulting in prejudice and indeed discrimination against people and institutions of faith.

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Mr. Paul A. Long, *President and Chief Executive Officer*

Petitioners' request for redefinition should also be rejected as the proposal is wholly inconsistent with longstanding federal and Michigan laws. Just recently, in July 2017, the U.S. Department of Justice noted that legal precedent is "consistent with the longstanding position of the Department of Justice, that Title VII does not reach discrimination based on sexual orientation."<sup>1</sup> Further, despite petitioners' submission, there is no ambiguity surrounding the definition of "sex" within the ELCRA. Past efforts to expand the definition of "sex" within the statute, beyond its plain meaning, have been clearly settled (see MCL 37.2103 and MCL 37.2201). Thus, one must pull out of thin air that the category of "sex," as defined and described within the ELCRA, in any way alludes to the inclusion of "sexual orientation" or "gender identity."

Any amendment to the scope of the ELCRA is beyond the authority of the CRC. The Michigan Constitution provides the CRC with the powers to investigate allegations of discrimination and promulgate regulations for its own procedures (MI Const. § 29). Michigan Catholic Conference offers its appreciation to CRC for upholding this important charge. However, the state constitution does not provide the Commission with any power to reinterpret settled law, especially in a manner contrary to its longstanding legal meaning. Any changes to the law remain under the authority of the state legislature. Moreover, the state legislature has explicitly refrained from amending the ELCRA to include "sexual orientation" and "gender identity." It is noted that a CRC approval of petitioners' petition would be non-binding, does not represent the power of state law, and veers an otherwise reasonable Commission down the controversial road of ideological advocacy.

Therefore, we encourage the CRC to refrain from redefining its understanding of the state's civil rights law and allow for the constitutional principle of separation of powers to empower the legislature to rightfully make decisions about state law.

Sincerely,  
Michigan Catholic Conference

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<sup>1</sup> Brief of the United States as Amicus Curiae at 1, *Zarda, et al. v. Altitude Express, Inc.*, No. 15-3775 (2nd Cir. July 2017).