

Court Blocks Enactment of NYC Law Targeting Crisis Pregnancy Centers

The American Center for Law and Justice convinced a federal district court to block enforcement of New York City's recently adopted ordinance targeting crisis pregnancy centers. The measure, scheduled to take effect on Thursday, has been blocked by a preliminary injunction issued in response to a challenge made by the ACLJ in a federal lawsuit.

"This is a resounding victory underscoring what we have argued all along—this law that forces crisis pregnancy centers to adopt and express views about abortion and contraception that they strongly disagree with is constitutionally flawed," says CeCe Heil, senior counsel of the ACLJ. "The court clearly understood that this law punishes pro-life advocates. We're confident that this law will never see the light of day and that the constitutional protections afforded to crisis pregnancy centers will be safeguarded."

In a decision issued by Judge William H. Pauley in U.S. District Court for the Southern District of New York, the court concluded the law violates free speech, saying the law's "over-expansiveness is evident from its very language." The court was especially critical of the city's desire to single-out crisis pregnancy centers with the new law.

"Defendants' second argument—that plaintiffs engage in commercial speech because they are provided an audience to whom they can espouse their beliefs—is particularly offensive to free speech principles," the court declared. "While defendants apparently regard an assembly of people as an economic commodity, this court does not. Under such a view, flyers for political rallies, religious literature promoting

church attendance, or similar forms of expression would constitute commercial speech merely because they assemble listeners for the speaker.”

The opinion states: “This court will not upend established free speech protections in service of defendants’ overly broad definition of commercial speech.” The court added: “Local Law 17’s fundamental flaw is that ... [it] permits the Commission to classify a facility as a ‘pregnancy services center’ based solely on unspecified criteria.”

The ordinance requires crisis pregnancy centers to post signs in the lobbies of their counseling centers, add extensive additional written language to their advertising materials, and to provide oral statements during both “in person” and telephonic conversations regarding the services offered by crisis pregnancy centers. The requirements apply only to crisis pregnancy centers and not to abortion businesses like Planned Parenthood.

The ACLJ represents The Evergreen Association (Expectant Mother Care Pregnancy Centers-EMC Frontline Pregnancy Centers) and Life Center of New York (AAA Pregnancy Problems Center), which operate a total of 13 crisis pregnancy centers across New York City.

The suit contends that the ordinance violates the constitutionally protected rights to freedom of speech, freedom of assembly and association, freedom of the press, and due process of law, guaranteed to Plaintiffs by the First and Fourteenth Amendments to the U.S. Constitution, as well as the New York Constitution.

It remains to be seen whether the City of New York will appeal Wednesday’s decision to the Second Circuit Court of Appeals. In the meantime, the case will continue with discovery, and ultimately consideration of motions already filed to grant a permanent injunction against the City.

The ACLJ is being assisted in the case by Christopher A. Ferrara, New York litigation counsel to American Catholic Lawyers Association, who is serving as local counsel.

Similar ordinances were recently struck down as unconstitutional by federal judges in Baltimore and Montgomery County, Md.