

Civil Rights Commissioner Rebukes Houston Mayor for Pastor Subpoenas

A U.S. Civil Rights Commissioner issued a letter Wednesday to Houston Mayor Annise Parker that asks her to withdraw the city's subpoenas for 17 different forms of private communications belonging to five pastors as part of a lawsuit in which they are not involved. Alliance Defending Freedom represents the pastors in opposition to the subpoena requests in *Woodfill v. Parker*.

In the letter, Commissioner Peter Kirsanow calls the requested subpoenas "a blatant attempt to punish these pastors for expressing their religiously-based political views" and "an abuse of government power." The U.S. Commission on Civil Rights is an independent, bipartisan, fact-finding federal agency concerned with civil rights policies and laws.

"There's only one answer to Houston's shameful problem: Withdraw the subpoenas. We agree with the commissioner that Houston should do just that immediately," said ADF Senior Legal Counsel Erik Stanley. "Even though the pastors are not parties in this lawsuit, the subpoenas still demand from them 17 different categories of information, including their speeches and their private communications with church members. The city must respect the First Amendment and abandon its attempt to strong-arm into silence those who disagree with the city's actions."

"No government entity should be in the business of requiring private citizens to turn over private communications about the issues of the day," the letter states. "Obviously this discovery request would tend to have a chilling effect on political speech, which is the speech subject to the greatest

First Amendment protection.”

“The pastors’ understanding of the ordinance and the petition is irrelevant to the litigation...,” the letter adds, explaining that “the validity of the signatures is the only legitimate issue. If the City wants to argue the merits of the ordinance, let the referendum proceed and let both sides make their case. Thus, the discovery request appears instead to be a blatant attempt to punish these pastors for expressing their religiously-based political views. It punishes them by subjecting them to the stress of a subpoena (though they are not parties to the litigation), impairing their right to petition the government, forcing them to comply with a patently overbroad discovery request, and ... chilling future religiously-informed speech. This is an abuse of government power, and it is unavailing to claim that there is some distinction between the City and its attorneys in this instance.”

The commissioner also explains in the letter that his concerns about the subpoenas “are in no way allayed by the revision ... to remove the reference to sermons. It is troubling that, given the number of lawyers involved, someone did not raise the First Amendment implications of this discovery request.”

In June, the Houston City Council passed its “bathroom bill,” which sparked a citizen initiative to have the council either repeal the bill or place it on the ballot for voters to decide. The public submitted more than three times the legally required number of valid signatures, which the city secretary, who is entrusted by law to examine and certify petitions, certified as sufficient. The mayor and city attorney, however, rejected the certification.

After the initiative supporters filed a lawsuit over the matter, the city’s attorneys subpoenaed a number of area pastors, demanding to see what they preach from the pulpit and to examine their communications with their church members and

others concerning the city council's actions. Public scrutiny of the city's actions intensified after ADF attorneys filed a motion in the District Court of Harris County to quash the subpoena requests.