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Reply to: Venice

MEMORANDUM

TO: Mayor Feinsod and Members of the City Council

FROM: Kelly M. Fernandez, Esq., City Attorney

DATE: December 4, 2019

RE: City of Miami Beach request to sign *amicus* brief related to Human Rights Ordinance

On November 12, 2019, Council directed me to review the City of Miami Beach's request for the City of Venice to sign on to an *amicus* brief supporting Orange County's appeal of a Circuit Court ruling that its Human Rights Ordinance was preempted by the Florida Civil Rights Act (Chapter 760, Florida Statutes). Miami Beach stated as part of its request that Venice is one of 54 local governments that has a Human Rights Ordinance.

The case at issue involved two women being denied entrance into an adult entertainment business in Orange County which required all entrants to have a male companion. The women's Complaint alleged that prohibiting their entrance constituted unlawful discrimination on the basis of sex under Orange County's Human Rights Ordinance. The court, in granting the Defendants' Motion to Dismiss, found that the Florida Civil Rights Act, while not explicitly preempting any local ordinances, provides a comprehensive scheme in which a person can seek relief from unlawful discrimination and, therefore, results in implied preemption of the local ordinance.

Lakewood Ranch
6853 Energy Court
Lakewood Ranch, Florida 34240

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236 Pedro Street
Venice, Florida 34285

Venice's Human Rights Act, adopted in 2012, is found in Chapter 2, Article VII. Its stated intent is "to protect and safeguard the right and opportunity of all persons to be free from all forms of discrimination, including discrimination based on age, race, color, creed, religion, national origin, ancestry, disability, marital status, sex, sexual orientation, gender identity or expression, or physical characteristic." There are sections prohibiting discrimination in employment, housing, business establishments and public accommodations, and educational institutions. No enforcement provisions are provided. Venice's Human Rights Act and Orange County's Human Rights Ordinance are substantively similar. While the ruling from the Orange County Circuit Court is not binding within our jurisdiction, an adverse ruling on appeal to the Fifth District Court of Appeal could be binding within our jurisdiction.

Should Council agree to Miami Beach's request, the City of Venice would be designated in the *amicus* brief as a joining party and would likely be publicized as a supporter. The perception is typically that the more governments that join in the more weight or attention that is given to the legal arguments. No other action would be needed, no expense would be incurred, and there would be no liability. However, with such a passive role, the City would also not be in a position to participate in the framing of the issues or review the final document before it is filed.