



Bob Ferguson

## ATTORNEY GENERAL OF WASHINGTON

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August 11, 2015

The Honorable John Trumbo  
Kennewick City Council  
210 W. 6th Avenue  
Kennewick, WA 99336

The Honorable Bob Hoffmann  
Pasco City Council  
525 N. 3rd Avenue  
Pasco, WA 99301

### **Sent By Electronic Mail**

Dear Councilmembers Trumbo and Hoffmann:

I recently reviewed your proposed Kennewick and Pasco City Council resolutions requesting that I withdraw the State's successful consumer protection lawsuit against Arlene's Flowers for discriminating against a same-sex couple.

That won't happen. A Washington business may not refuse service to customers on the basis of their sexual orientation. As Attorney General, it is my duty to enforce the laws of our state.

My office offered several times not to commence legal action, or to quickly end the lawsuit, if Ms. Stutzman would simply agree to stop breaking state non-discrimination law. After we prevailed in the trial court, my office sought only a \$2000 fine and \$1 for costs and fees. But Ms. Stutzman refuses to end this case. Instead, she and her attorneys are trying to convince the courts to excuse her behavior through a new legal theory, never before approved by any court in the United States. They claim that Arlene's Flowers should be allowed to serve those customers whom Ms. Stutzman's religion approves of, and exclude those whom it does not. Ms. Stutzman's theory is not the law, and it should not be the law.

As the United States Supreme Court has long recognized, religious freedom is not the freedom to discriminate against others in the name of religion. Rather, it is the right to freedom of worship, and to be free from discrimination because of our religion. All of us should be able to eat in a restaurant, rent an apartment, or buy flowers regardless of how, or whether, we choose to worship. If I go to a restaurant with my young twins to celebrate their First Communion, I should not have to worry about whether the restaurant will refuse to serve me because we are Catholic.

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Our state law not only protects our right to be served regardless of our religion, but also our race, our gender, whether we have a disability, our status as a veteran, or whether we are gay or lesbian. Arlene's Flowers refused to serve Mr. Freed and Mr. Ingersoll because they are gay. As Attorney General, I will not stand by and allow that to happen.

Let me be clear: No one is forcing Arlene's Flowers or any other business to provide services to same-sex weddings. Rather, Washington state law says that if a business *chooses* to provide a service to heterosexual customers it must also provide that service to gay and lesbian customers. In fact, Arlene's Flowers has chosen during this litigation to no longer provide flowers for any weddings – a service that previously constituted about three percent of its business. If Arlene's adopted that policy permanently, it would be under no legal obligation to provide flowers for same-sex wedding ceremonies.

A business may have policies like "no shoes, no shirt, no service," because that policy applies to all customers equally regardless of race, religion, sexual orientation, or any other protected classification. But no court, anywhere, has ruled that religious belief allows a business owner to violate an anti-discrimination law.

I encourage you and your colleagues to draft a new resolution – one that affirms the rights of our gay and lesbian brothers and sisters to live in a community in which businesses do not refuse them service based on their sexual orientation. Such discrimination is illegal – and wrong.

Sincerely,

A handwritten signature in black ink that reads "Bob Ferguson". The signature is written in a cursive, flowing style with a long horizontal line extending to the right.

BOB FERGUSON  
Attorney General

RWF/rgp

cc: The Honorable Steve Young, Mayor of Kennewick  
The Honorable Matt Watkins, Mayor of Pasco  
Kennewick City Council Members  
Pasco City Council Members  
Lisa Beaton, Kennewick City Attorney