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November 3, 2009

The Hon. James Doyle
Mayor
Pawtucket City Hall
137 Roosevelt Avenue
Pawtucket, RI 02860

Dear Mayor Doyle:

I write regarding the Center for Sexual Pleasure and Health (“CSPH” or “Center”), which was scheduled to open in Pawtucket in September of this year, but whose opening has to date been prevented, ostensibly on zoning grounds. Both the Rhode Island ACLU and the national offices of the ACLU have followed the development of this case, especially the actions and statements of city officials, with great interest. I wanted to share with you our deep concerns about the city’s actions.

As we understand the facts of this case, the CSPH intends to provide sexuality education to adults, as well as consultation with institutions of higher learning regarding sexuality curricula and similar informational services (www.thecpsph.org). Notwithstanding the legitimate and legally unproblematic nature of the CSPH’s proposed activities, Pawtucket city officials received an inflammatory email “warning” prior to the Center’s planned opening, insinuating that sexual activity was to occur within the Center. City officials appear to have reacted to this misinformation reflexively, and inappropriately. Specifically the Center’s would-be director, Megan Andelloux, was informed that the Center’s intended location, the Grant Building, is not zoned for “educational” use (Letter from Ronald F. Travers, Director, City of Pawtucket Division of Zoning and Code Enforcement, to Megan Andelloux, 9/18/09).

Ample evidence, however, demonstrates that the ostensible basis for the city’s action is pretextual. First, Director of Administration Harvey Goulet publicly stated on behalf of yourself and him: “We are not interested in this type of business. It’s not really something we feel is appropriate for our city” (Donna K. Kirwan, “City Blocks Sex Center,” *Pawtucket Times* (9/22/09)). Mr. Goulet further stated, “You have elderly living near there. And, usually, the elderly are not too much in favor of stuff like that.” (Bob Kerr, “Feeling Good’s a Tough Sell in Pawtucket,” *Providence Journal* (10/2/09)). Presumably, Mr. Goulet does not believe that the elderly object to “education,” but rather that they would object to a business where sexuality topics are discussed.

Moreover, Ms. Andelloux appears to have been improperly singled out for subjection to a shifting series of administrative requirements calculated to prevent the CSPH from opening. Such barriers include being prevented from applying for an event license – sought for a grand opening celebration – unless and until a zoning license was granted, and being required to comply with town regulations regarding “sexually oriented businesses” even though the CSPH clearly falls outside the definition of a “sexually oriented business.” (City of Pawtucket Code §193-8 (1995)). In any event, the existence of other education-focused businesses in the Grant Building conclusively belies the

purported rationale for the city's opposition to the Center. Such businesses include the Blackstone Chess Academy and the Beat Box Studio, which operates a "Progressive Youth Creative Arts Workshop." (www.thegrantat250.com/tenants.php; www.myspace.com/beatboxstudio).

It is therefore apparent that the characterization of the CSPH as "educational" is not, in fact, the reason it has been prevented from opening. Instead, as is made explicit by Mr. Goulet's statement, the nature of the information to be conveyed within the Center is deemed "inappropriate" for "our city." In other words, the city's intent is to suppress the speech that would otherwise occur at the Center. Such content-based discrimination raises serious constitutional concerns. Moreover, in light of the Center's proposed activities, the probability of negative "secondary effects" (such as increased crime) arising from the Center's operation is minimal. Thus, the city cannot justify blocking the CSPH's operation in a particular location through the use of zoning regulations that might be validly applied to sexually oriented businesses.

Even if the city's stated purpose for blocking the CSPH from opening were not pretextual, the basis for the denial cannot withstand even minimal scrutiny. The Grant Building, which the CSPH was to occupy, is zoned for mixed commercial and residential use. Like other tenants in the Grant Building, the CSPH has an educational purpose and, consistent with non-profit status, it will be appropriately selling information and advice pertaining to human sexuality. Commercial zoning districts, as defined under Pawtucket regulations, do not exclude the sale of information, and the regulations establish no specifically "educational" zone. (City of Pawtucket Code §410-2 (1995)) (mentioning "education" only in permitting "public education" uses of "Public Open" zones "in certain instances.") Further compounding the irrationality of the city's opposition to the Center, Mr. Goulet's statement regarding the sensibilities of "the elderly" reveals the grounds for such opposition to be purely speculative, and quite possibly counterfactual.

Finally, the City's actions strike us as particularly unfortunate because it is very rare for women to be able to obtain feminist perspectives on human sexuality and objective information regarding sex in a women-friendly environment. This is precisely what the CSPH proposes to offer, and blocking the Center has the regrettable effect of obstructing women's access to a source of knowledge that could be of particular benefit to them.

We will continue to monitor this dispute as it unfolds, but we hope that the preceding discussion illuminates some of the significant civil liberties implications of the city's continued opposition to the CSPH, and will lead to reconsideration that will permit the Center to open in the very near future. If you require further clarification or have any questions about our views, we and our associates in the national offices of the ACLU would be glad to discuss them further with you.

Sincerely,

Steven Brown
Executive Director

cc: Pawtucket City Council