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City Not Preparing Contractors for Compliance with Equal Benefits Law

The Mayor's Office of Contracts has yet to receive instructions on how to explain and enforce a major new law for those doing business with the city even though it goes into effect before the month is out. Mayor Michael Bloomberg's office refuses to say whether it will enforce the law.

As of October 26, 2004, the 2,600 businesses and non-profit organizations that do more than $100,000 worth of contracts with the City of New York must certify that they provide the same health and leave benefits to the domestic partners of their employees that they do to the spouses of their workers. If a contactor can't purchase domestic partner insurance from its carrier, it must compensate the employee who has a domestic partner.

I called the Office of Contracts in late September and the person answering the phone said, "We've been getting a lot of calls on this, but we haven't been given any direction on it." There is no information on the contract office's Web site . She suggested I call the City Council, "which passed the bill."

Councilmember Christine Quinn, the chief sponsor of the Equal Benefits Bill, said, "That is a completely ridiculous response. The law is clear. The executive has to implement it. But the mayor is opposed to it. We cannot take legal action until the date of implementation has passed. If that date comes and they have not done what they are legally bound to do, the Council has retained outside lawyers to take them to court. Sadly, I'm not surprised, though I am disappointed."

The Equal Benefits Law was passed by the City Council in May by a vote of 43 to 5 and vetoed by Mayor Bloomberg. The Council then overrode the mayor's veto overwhelmingly by a 41 to three vote (with four abstentions) in June, but Bloomberg said he would "probably" take legal action to block its implementation.

Jordan Barowitz, a spokesperson for the mayor, says "the city is still reviewing its options" with respect to enforcing the contract requirement. There has been speculation that either Bloomberg or a city contractor such as Catholic Charities would sue to stop the law from taking effect, although Msgr. Kevin Sullivan, the director of Catholic Charities who testified against the bill, did not return a call for comment on their plans on whether or not to comply with the law.

The benefits that contractors must equalize include health insurance, pension, retirement, disability and life insurance, leave policies, tuition reimbursement, legal assistance, dependent care insurance, moving expenses, membership discounts, and travel benefits. Any of those offered to the spouse of an employee must be offered to the domestic partner of an employee.

Bruce Millman , a labor and employment lawyer who advises many clients who are contractors, sent out an advisory (in pdf format) to his clients of the compliance date. While he said he was not "challenging" the law, his release stated that "these costs may be particularly difficult for small businesses" and that "the law will likely encourage couples who are living together to register as domestic partners because they will have a real economic incentive to do so."

Cynthia Goldstein, a San Francisco official who administers that city's 1997 law that served as a model for New York's, disputed speculation that the law burdened contractors. She said that it did not drive up contracting costs and that virtually all contractors complied, including the Catholic Archdiocese of San Francisco.

There is a clause in the New York law specifically for religious contractors that may have moral objections to co-habiting employees. It says that instead of covering a domestic partner specifically, the employee can name one other person of unspecified relation on his or her benefits policies. While that clause led to Agudath Israel, an orthodox Jewish organization with many city contracts, to drop its opposition to the legislation, it did not assuage Catholic Charities of the Archdiocese of New York, another big contractor, who has yet to announce whether it will comply with the law.

Council Hearings on Police Misconduct at Anti-Republican Demonstrations

The streets may be cleared of barricades and masses of police, but the controversy over

whether the New York Police Department violated the rights of protesters and bystanders at demonstrations during the Republican National Convention will continue for a long time to come in the courts and in City Council hearings.

On September 15, the Council Committee on Government Operations, chaired by Councilmember Bill Perkins, held a hearing on police conduct during the demonstrations. No one from the Police Department or the mayor's office showed up to testify and Perkins indicated that he would consider using subpoena power to compel their testimony, though he hoped that it would not come to that.

The big bones of contention remain whether protesters were processed in a timely fashion and the conditions at the holding pen where thousands were jailed at Pier 57.

The law requires that an arrestee be arraigned within 24 hours. Many of those detained after these demonstrations spent two to three days at the pier, which many testified was filthy and hazardous to health.

Chris Dunn, a lawyer with the New York Civil Liberties Union , testified that his organization had met with the police as early as January 2003 to prepare for these demonstrations, but was troubled that when the actions came, "some of the most basic things for processing people were not in place" at the detention center such as fingerprinting equipment. He called Pier 57 "grossly inappropriate."

Also much discussed was a demonstration by the War Resisters League conducted without a permit starting from Ground Zero. At first, police said that the marchers would be able to proceed if they went two-by-two, stayed on the sidewalk, and did not impede pedestrian traffic. Despite video evidence that the march was proceeding lawfully, police subsequently announced that everyone was under arrest. Councilmember Perkins himself was a witness to the demonstration and arrests.

Michele Weinstein, a city worker who just happened to be passing by when the Ground Zero protest was taking place, testified that it was "a quiet demonstration" until "red-faced police suddenly surrounded the demonstrators and started shouting, 'You're blocking the sidewalk," even though she could see pedestrians freely proceeding. When she offered a peace sign of

support to the protesters, police told her that if she did not have press credentials, she would have to leave. When she told the officer that it was her "First Amendment right" to stand on a public sidewalk, he threatened to arrest her.

"I wanted to be arrested," she said, "but I'm a mother of twin toddlers and my children needed me. I was distressed at having my constitutional rights deprived. I did oppose the Bush agenda and the Iraq war and I had to say it."

Michael Shiller, a filmmaker with press credentials, was ensnared in a police net used to capture demonstrators at the downtown action. He said he was detained for 16 hours in handcuffs, his hands turning "numb." He was not allowed a phone call until 24 hours had passed. And he and the intern with whom he was working were not released until 48 hours had passed. He called the city's conduct an attack "upon our entire democratic process."

Several witnesses testified that arrestees were held more than 24 hours in order to prevent them from going back in the streets and demonstrating again against the Republicans.

At a press conference on September 20, Mayor Bloomberg said there is not "one shred of evidence" that protesters arrested were locked up for long periods to keep them from joining other demonstrations, the Daily News reported. "They broke the law. We will prosecute them. They might as well just plead guilty and go on."

Charges Of Sexual Harassment in the City Council

Just as the City Council was conducting its closed-door investigation into charges that City Councilmember Allan Jennings sexually harassed five female staffers , a story broke that Councilmember Vincent Gentile had been accused of sexually harassing his chief of staff, John Martin.

"When the councilman became aware that I was looking for a new place to live, he on no less than four occasions invited me to move in with him," Martin said in an affidavit. "I thought these invitations that I cohabitate with him were entirely inappropriate."

Gentile denied the charges and said that he is not gay. But the Gay City News reported that civil rights attorney Tom Shanahan now claims he had an affair with Gentile in 1994; he has made this public now, he says, "as a matter of principle." As a State Senator, Gentile voted against the Sexual Orientation Non-discrimination Act, the state lesbian and gay rights bill, in 2002, but as a Council member has supported gay rights initiatives.

Andy Humm is a former member of the City Commission on Human Rights. He is co-host of the weekly "Gay USA" on Manhattan Neighborhood Network (34 on Time-Warner; 107 on RCN) on Thursdays at 11 PM.