Bloomberg, Quinn Defend City Funding of Groups that Discriminate

by Andy Humm
Tuesday, May 10, 2011 12:00 AM - Last Updated Friday, May 25, 2012 08:14 AM

Photo Spencer T. Tucker Mayor Michael Bloomberg and Police Commissioner Ray Kelly marched in this year's Staten Island St. Patrick's Day parade, even after it became widely known that organizers had barred a gay group from participating in the event.

The separation of church and state -- which may seem like a fig leaf in a city where groups with religious roots get hundreds of millions in city contracts -- has been ripped off entirely by the City Council. Through its member items, the council gives many thousands of dollars to groups whose stated purpose is to promote their religion -- and who use their religion to discriminate against gay groups. Such practices are legal -- though upsetting to gays and their allies -- if the group is truly private but not if it receives city funds.

City Council member-item funding went to three private, religious groups to run discriminatory St. Patrick's Day parades in contradiction of the council's own policy prohibiting such funding. When asked about this, City Council Speaker Christine Quinn and Mayor Michael Bloomberg defended the practice, saying that the city may not discriminate against a parade's message even when city funding is involved.

The question, however, is not whether the parades should be allowed to take place -- no one disputes that -- but whether they can receive taxpayer money. Neither Quinn nor Bloomberg would respond to questions about whether giving member item money for such parades could open the door to city funding for even the most extreme messages, such as those of the Ku Klux Klan, who demonstrated in New York in 2004.

City Comptroller John Liu , several city and state legislators and the New York Civil Liberties Union criticized the funding, as did City Councilmember Daniel Dromm , a Democrat from Jackson Heights. But Public Advocate Bill de Blasio and Manhattan Borough President Scott Stringer stonewalled Gotham Gazette when asked about it.

Recently, press accounts have drawn attention to city and state funds going to Jewish organizations that discriminate against women. The instance of the parades, while involving smaller amounts of money, offers another vivid example of government officials sending taxpayer money to religious organizations, turning a blind eye to the groups' policies of violating city human rights law.

The Three Parades

At issue is City Council member item money going to the St. Patrick's Day Parade committees in Bay Ridge , which was funded by Councilmember Vincent Gentile; Throgs Neck , funded by James Vacca ; and Staten Island , where the parade benefits from Deborah Rose 's largess. Staten Island Borough President James Molinaro also funded the parade and would not respond to questions about the legality of the funding.

Unlike the St. Patrick's Day in Sunnyside run by St. Pat's for All and the observances of the holiday in Irish cities, each of these parades has declared itself a private, Catholic event. This allows the three to exclude any groups they want to -- most notably gays.

Many groups affiliated with religious organizations provide valuable services -- from running Little League teams to aiding the poor and the sick -- across the five boroughs. These groups receive city money. But their goal is not and may not be promoting religion, and they may not discriminate against any group, either in hiring or in the provision of services.

The City Council’s discretionary funding policies and procedures say : "All public funds, however awarded, must be used for a city purpose" and must be "open to members of the public, regardless of race, creed, gender, religious affiliation, etc., without restriction, and which does not promote a particular religion."

The three parades clearly violate that policy, but Quinn, who as council speaker has the

authority to review all member items, is trying to say that parades are somehow exempt.

Her initial reaction to the funding flap was conveyed by her spokesperson Nicole Kolinsky: "As we look toward the FY2012 budget, all groups receiving discretionary funding from individual council members will be under review for future funding." But she did not answer questions about the appropriateness of the current funding or how she felt about it going to discriminatory groups who say their sole purpose is promoting a religious message.

When pressed, Quinn's communications director, Jamie McShane, wrote an e-mail: "I spoke with our general counsel today, here's what I have: There is a rigorous review process for City Council discretionary funds. However, as a former member of the Human Rights Commission, you are likely aware that the courts have ruled that government cannot regulate the message of a parade."

Bloomberg spokesperson Jason Post took a similar tact: "The mayor believes that parades should be open to all, those beliefs are well-known and often-repeated. Recipients of City Council grants are thoroughly reviewed, but the administration does not evaluate [grants to the] council recipients based on their message or beliefs, nor should we. The Supreme Court has held that government can't regulate the message of a parade by requiring that its organizers be more inclusive."

What the Law Says

Intentionally or not, Quinn and Bloomberg seem to be confusing the right to hold discriminatory views and even to discriminate in a private parade with the right to city money, which under law entails an obligation to serve the public and be open to all. Art Eisenberg of the Civil Liberties Union said that the city "cannot provide city funds to an organization not open to the public or that promotes a particular religion."

As McShane noted, I am indeed a former member of the city's Human Rights Commission . In 1991, we ruled that the big
Fifth Avenue St. Patrick's Day Parade
run by the
Ancient Order of Hibernians
was in violation of the city's human rights law. It excluded the Irish Lesbian and Gay Organization and continues to exclude any Irish gay group with a banner but receives unique support from the city above and beyond the police protection all are entitled to. The Hibernians

argued in court that its parade was a private, religious event and prevailed in an appeal of that decision. The parade does not, however, receive direct city funding.

The United States Supreme Court ruled unanimously in a case involving Boston's St. Patrick's Day Parade that it has a First Amendment right to exclude whoever its organizers wanted.

For the record, I support that decision and the right of any group to control its message in a demonstration or parade and exclude who they want, but I boycott -- as most city officials do -- those that discriminate.

Brendan Fay is co-chair of the inclusive St. Pat's for All parade in Queens, which includes not just Irish but gay and Korean groups, among many others. He brought to my attention that three of the exclusionary borough parades received city funds and that all the information was available on Gotham Gazette's Councilpedia , which lists City Council member item money.

Following the Money

State Sen. Tom Duane of Manhattan, who noted that he was arrested with Quinn protesting the Throgs Neck parade in 1999 said flatly, "They shouldn't get taxpayer dollars. We shouldn't fund discriminatory activity."

Quinn's press office refused to say whether she had noticed that the Bronx event at which she had been arrested received City Council funds.

State Assembly Member Micah Kellner , who represents Manhattan's East Side, said that state legislators may not direct member item money to groups that discriminate. "If you're a Catholic hospital, you have to serve the LGBT community," he said. And despite the fact that the Catholic Church teaches that gay people are "evil" and "disordered," Catholic agencies receiving government funds know they may not discriminate on the basis of sexual orientation under city and state law.

Kellner said the issue of using state money to help fund a discriminatory parade has not come up, but that the Assembly's oversight arm is "looking to put together guidelines on it."

"I think it is dead wrong for city money" to be going to these discriminatory parades, he said. "They don't have a right to taxpayer money."

Liu's deputy comptroller, Alan van Capelle, said, "City funds shouldn't be used to discriminate against any people." But he said that his office only has oversight over relatively large contracts and that these contractors must <http://law.onecle.com/new-york/new-york-city-administrative-code-new-/ADC06-123_6-123.html>comply with the city human rights law. Given that grants for the local St. Patrick's Day parades are in the $2,000 to $5,000 range, he said, "The Human Rights Commission is responsible for enforcing the human rights law. And the City Council own internal guidelines should be used to enforce the rules around discretionary funds. I don't see a distinction for parades."

Betsy Hertzog, a spokesperson for the City Commission On Human Rights, told Gotham Gazette, "We will look into it."

Since the council is interpreting its own policy as not covering this kind of discrimination, it may be up to a taxpayer or an aggrieved party to press them on it. Gerard Mawn, whose rejected application to the Staten Island parade led Quinn and others to boycott it, said, "They shouldn't get city money because they discriminate." He said he was discriminated against and he was considering taking steps to file a complaint about it.

Donna Lieberman, the executive director of the NYCLU, said the group is open to a lawsuit on the issue. She also noted that her group filed a friend-of-the-court brief defending the right of St. Patrick's Day parades to include or exclude who they want, but that that is different from supporting government funding for them.

The Council Response

In fairness to Councilmember Rose, the Staten Island parade committee had not declared itself to be discriminatory until after she had directed $2,500 in member item money to it. In early March, Quinn held a press conference with Liu, de Blasio, and Stringer condemning the Staten Island parade for nixing the participation of Staten Island Pride Events , a gay group.

Rose said she spoke to Jim Haynes III, president of the Richmond County Ancient Order of Hibernians, which runs the parade, after it excluded Mawn's group. The committee, according to Rose, feels the parade "is an observance of a religious holiday." That alone ought to exclude the group from city funding.

"If we give funds to a group that is religious, they have to prove to the City Council through a vetting process that they are open to everyone regardless of religious affiliation," Rose said. In this instance, though, it seems the discriminatory parades were never asked by council overseers whether they were willing to comply with the city human rights law in the conduct of their events.

Rose said that she "could not in good conscience give them public funds if they" continue to discriminate. She added that discussions are going on about the parade's future, but would not commit to denying them future funds yet. Haynes did not return repeated calls for comment.

Councilmember Vacca said he was not aware of the discriminatory policy of the Throgs Neck parade to which he directed $5,000. He promised to "review it," but after weeks of follow up calls and e-mails he did not release the results of his review nor offer his view on city funding going to discriminatory groups.

The same goes for Councilmember Gentile, a Democrat of Bay Ridge, who dodged questions about the appropriateness of the $2,000 in city funds he directed to the Bay Ridge St. Patrick's Day Parade. In an email, a spokesperson for the council member echoed Quinn, saying, "As of now, all fiscal year 2012 funding and applications for that funding are currently under review and will be approved/allocated by July 2011" -- a statement of the obvious, not whether his funding was appropriate.

Councilmember Dromm takes a more active approach. "Before I appropriate member item money, I want to know what a group's anti-discrimination policy is," he said. He does give money to a Catholic senior center, for instance, but he said that it welcomes gay couples.

Photo by Andy Humm Irish Queers protest the Fifth Avenue St. Patrick's Day parade this year. That event does not receive city money, unlike some of the smaller parades, but some advocates question whether city officials, such as Mayor Michael Bloomberg should continue to march in it.

Fay's Lavender and Green Alliance applied to participate in the Bay Ridge Parade as recently as this year and got no response from organizers. Quinn, Liu and de Blasio, who are eager to be able to participate in all of these neighborhood parades, did not march in the Bay Ridge Parade -- or the one in Throgs Neck -- because they discriminate.

They Keep Marching

The support of city officials for the parades goes beyond the member items and police protection.

While some elected officials, including Quinn, Liu, de Blasio and Stringer, will not march in parades that discriminate, other officials continue to take part. (For more on that, see my report in Gay City News.)

While Bloomberg may "believe" parades should be open to all, he marches in several that are not. After the gruesome anti-gay attacks in the Bronx last year, he wondered aloud where young people get the idea that it is OK to beat up gays. I asked him what kind of message he and Police Commissioner Ray Kelly send to young people when they march in anti-gay parades. Bloomberg said, "I don't think kids pay attention" to who marches in parades.

Quinn said at the press conference on the Staten Island parade that, although she would not march in it, she would not criticize those who do. Marching, she said, "is every individual's personal decision." She continued that she was not "going to judge any police officer or firefighter," who "would take a bullet for a gay person." But she added, "The organizers put people in a terrible situation."

Kelly has served as grand marshal of the Fifth Avenue parade. In response to a question about the exclusion of gays, he said, "Ideally, everybody should be able to go everywhere." But when asked if participating in a discriminatory event sends the wrong message, Kelly answered. "You have to look at the 250-year history of the parade."

Emmai Gelman of the group Irish Queers , which holds annual protests at the Fifth Avenue St. Patrick's Day Parade over its exclusion of gay groups, wrote to Kelly this year demanding that police and other city personnel stop marching in uniform given the discriminatory policy of the parade. She is not trying to stop individual members of the department from marching in civilian clothes or even from carrying a banner identifying themselves as from a police organization. The group has not gotten a response from Kelly and is contemplating a lawsuit.

More Groups, More Funds

The separation of religion and government has taken some other hits recently. Agudath Israel , the largest Jewish social service organization in New York, successfully got $18 million in the state budget this year for tuition assistance for rabbinical students despite such funding being nixed by Albany for years. City Hall newspaper reported that the funding was inserted by Senate Majority Leader Dean Skelos in exchange for support from officials from Agudath for a Republican replacement for indicted Democratic State Sen. Carl Kruger of Brooklyn, a contention denied by Skelos' spokesperson.

The New York Times recently exposed the fact that the Crown Heights Jewish Community Council , a social service agency "that has received millions of dollars in government grants over the years," allows only observant male Jews who are either married, previously married, or over 30 to vote for its leadership. Eliyahu Federman, 26, a recent law school graduate, is challenging the male-only policy as unconstitutional.

The Crown Heights council, like Catholic Charities , is set up as a non-profit that is not a religious organization in order to qualify for government grants. It is obliged to operate in a non-discriminatory fashion in its hiring and in the provision of services.

Scores of groups with religious roots, from the Federation of Protestant Welfare Agencies to the Jewish Home and Hospital , provide valuable services in compliance with human rights laws. The ones that do not only come to light when someone who witnesses or experiences discrimination steps forward to

complain.

Andy Humm, a former member of the City Commission on Human Rights, has been in charge of the civil rights topic page since its inception in 2001. 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.