

Am. Dizon



REPUBLIKA NG PILIPINAS
LUNGSOD NG CEBU

TANGGAPAN NG SANGGUNIANG PANLUNGSOD
CEBU CITY HALL TEL. NOS. 412-2817
254-9004

Ar
Eduardo Abellanosa
10-29-12

12th SANGGUNIANG PANLUNGSOD

3rd SESSION
Regular Session No. 56

EXCERPT FROM THE MINUTES OF THE REGULAR SESSION HELD BY THE
SANGGUNIANG PANLUNGSOD OF THE CITY OF CEBU IN ITS
SESSION HALL ON OCTOBER 17, 2012.

PRESENT:

- Hon. Joy Augustus G. Young Presiding Officer
- Hon. Augustus G. Pe Jr. Majority Floor Leader
- Hon. Lea O. Japson 1st District Asst. Majority Floor Leader
- Hon. Raul D. Alcoseba 2nd District Asst. Majority Floor Leader
- Hon. Sisinio M. Andales Member
- Hon. Alvin B. Arcilla Member
- Hon. Roberto A. Cabarrubias Member
- Hon. Ma. Nida C. Cabrera Member
- Hon. Ronald R. Cuenco Member
- Hon. Jose C. Daluz III Member
- Hon. Alvin M. Dizon Member
- Hon. Margarita V. Osmeña Member
- Hon. Richard Z. Osmeña Member
- Hon. John Philip E. Po II Member
- Hon. Michael L. Ralota Member
- Hon. Eduardo R. Rama Jr. Member
- Hon. Noel Eleuterio G. Wenceslao Member



ABSENT:

- Hon. Rodrigo A. Abellanosa Presiding Officer Pro Tempore
- Hon. Edgardo C. Labella Member
(Both On Leave)

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RESOLUTION NO. 12-4365-2012

The Sangguniang Panlungsod of the City of Cebu, as moved by Members Dizon, M. Osmeña, Cabrera, Po II, Japson, and Pe Jr., and seconded by Member Andales;

RESOLVED, to approve the following Ordinance:

ORDINANCE NO. 2339

**AN ORDINANCE PROHIBITING DISCRIMINATION IN THE CITY OF CEBU ON THE BASIS OF
DISABILITY, AGE, HEALTH STATUS, SEXUAL ORIENTATION AND
GENDER IDENTITY, ETHNICITY AND RELIGION**

WHEREAS, Article XIII, Section 1 (a) of 1987 Philippine Constitution states that the enactment of measures that protect and enhance the right of the people to human dignity, reduce social, economic, and political inequalities, and remove cultural inequities shall be given highest priority;

WHEREAS, Article II, Section 11 of 1987 Philippine Constitution states that the State values the dignity of every human person and guarantees full respect for human rights. Furthermore, Article III, Section 1 of the Constitution guarantees that "no person shall be deprived of life, liberty, or property without due process of law, nor shall any person be denied the equal protection of the law;

WHEREAS, the Philippines is state party to several international agreements such as the Universal Declaration of Human Rights (UDHR), International Covenant on Economic, Social and Cultural Rights (ICESCR), the International Covenant on Civil and Political Rights (ICCPR), the Convention on the Elimination of all Forms of Racial Discrimination (CERD), the Convention on the Elimination of All Forms of

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OFFICE OF COUNCILOR ALVIN M. DIZON
RECEIVED
DATE 11/7/12



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Discrimination Against Women (CEDAW), the Convention Against Torture (CAT), the Convention on the Rights of the Child (CRoC), the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (ICRMW) and the Convention on the Rights of Persons with Disabilities (CRPD)¹ that seek to eliminate all forms of discrimination and abuse;

WHEREAS, pursuant to the democratic precept which places high premium on the importance of fundamental human rights and entitlements, every person must be given equal access to opportunities in all fields of human endeavors and to equitable sharing of social and economic benefits for them to freely exercise the rights to which they are rightfully entitled, free from any prejudice and discrimination;

WHEREAS, promoting and upholding their rights will not only enhance their freedom, welfare, and dignity as humans, but will also promote social justice as a whole and will contribute in the creation of a human rights culture in the country;

WHEREAS, stigma and discrimination still pervades especially against persons with disability, the senior citizens and elderly, children and youth, people living with HIV, women, lesbians, gay, bisexuals, transgender (LGBT), people with different religious persuasion and the indigenous peoples;

WHEREAS, Cebu City in particular has recorded specific cases of discrimination, harassment and violence particularly the series of pellet gun attacks deliberately directed against gays which resulted to the latter's physical injuries; and the 2008 "canister scandal" in Vicente Sotto Memorial Medical Center (VSMCC) which involved medical professionals who performed a delicate surgery on a gay patient and recorded the procedure while laughing boisterously and shamelessly, then uploaded and sharing it via the website Youtube, which incident caused the patient's serious humiliation and embarrassment;

NOW THEREFORE, the Sangguniang Panlungsod of the City of Cebu, in a regular session assembled, hereby ordains that:

SECTION 1. TITLE. – This Ordinance shall be known and cited as "Cebu City Anti-Discrimination Ordinance.

SECTION 2. DECLARATION OF POLICY. – It is hereby declared as a policy of the City of Cebu to promote equality and to effectively eliminate all forms of discrimination that violate and offend the guarantee of equal protection of Human Rights as enshrined in the Bill of Rights and other existing laws as well as in the various international conventions and obligations to which the country adheres.

SECTION 3. DEFINITION OF TERMS. – For purposes of this Ordinance, the following terms shall be defined as follows:

- a) Disability refers to an individual with "1) a physical or mental impairment that substantially limits one or more psychological, physiological or anatomical function of an individual or activities of such individual; 2) a record of such impairment; or 3) being regarded as having such impairment.²
- b) Age refers to the person's time of existence or duration of life. This is in reference to ageism where one is discriminated on the basis of age.
- c) Health status refers to both physical and mental health of an individual, group or populations as perceived by the individual or as diagnosed by a competent medical health officer. In particular, HIV-AIDS status of a person and health conditions such as but not limited to leprosy, hepatitis, and tuberculosis among others, that subject them to social stigma.

¹ Ratification of International HR Treaties – Philippines.

² Republic Act No. 7277, Magna Carta for Disabled Persons



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- d) Sexual Orientation refers to the direction of emotional sexual attraction or conduct. This can be towards people of the same sex (homosexual orientation) or towards people of both sexes (bisexual orientation) or towards people of the opposite sex (heterosexual orientation).
- e) Gender Identity refers to the personal sense of identity as characterized, among others, by manners of clothing, inclinations, and behavior in relation to masculine or feminine conventions. A person may have a male or female identity with the physiological characteristics of the opposite sex, as in the case of transsexuals and transvestites.
- f) Ethnicity refers to the characteristic of a person or group of persons sharing a common and distinctive racial, national, religious, linguistic, cultural and indigenous heritage.
- g) Religion refers to a set of beliefs concerning the cause, nature and purpose of the universe, especially when considered as the creation of a superhuman agency or agencies, usually involving devotional and ritual observances, and often containing a moral code governing the conduct of human affairs.
- h) Discrimination, for purposes of giving effect to this ordinance, shall mean any act or action committed to manifest prejudice, bigotry, unequal treatment, exclusion, restriction, preference, humiliation and vilification towards any individual or group by reason of their disability, age, health status, sexual orientation, gender identity, ethnicity and religion and which has the purpose or effect of nullifying or impairing the recognition, enjoyment, or exercise by all persons of an equal footing of all rights and freedoms.

SECTION 4. PROHIBITED ACTS. – It is hereby prohibited to discriminate any person and/or group of persons on the basis of their disability, age, health status, sexual orientation, gender identity, ethnicity and religion. It is unlawful for any person, natural or juridical, to:

- a) Deny access to public programs and services of any person;
- b) Refuse admission to or expel or dismiss a person from educational institutions on the basis of disability, age, health status, sexual orientation, gender identity, ethnicity and religion, without prejudice to the right of educational institutions to determine the academic qualifications of their students;
- c) Refuse or revoke the accreditation, formal recognition, and / or registration of any organization, group, institution or establishment, in educational institutions, workplaces, communities, and similar settings, solely on the basis of the disability, age, health status, sexual orientation, gender identity, ethnicity and religion of their members or of their target constituencies;
- d) Deny a person's access to medical and other health services as well as to health insurance and other related benefits as provided for under the law³ on the basis of disability, age, health status, sexual orientation, gender identity, ethnicity and religion;
- e) Deny a person's access to and/or the use of private and public establishments, facilities, utilities, transportation or services, including housing, that are open to the general public on the basis of disability, age, health status, sexual orientation, gender identity, ethnicity and notwithstanding the existence of the person's capacity to comply or his/her actual compliance with the requirements set forth in order to access or enter such establishments;

³ Law on Senior Citizens and Magna Carta for disabled persons.



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There is a denial when, among others:

- i. a person is given inferior accommodations or services; and
 - ii. rejection of any application, entry and participation solely on the basis disability, age, health status, sexual orientation, gender identity, ethnicity and religion.
- f) Subject or force any person to any medical or psychological examination without the expressed approval of the person involved on the basis of perceived disability, health status, sexual orientation, gender identity and ethnicity; Provided, that such person is not psychologically incapacitated as determined by competent authority.

SECTION 5. ANTI-DISCRIMINATION PROGRAMS. – The Cebu City Government shall endeavor to ensure that discrimination is prevented and effectively addressed through the following programs:

- a) Discrimination and Stigma Reduction Program: The Cebu City Government shall allocate funds to address discrimination and stigma which has the following components:
 - i. Capacity Building and Education Campaign. To curb social stigma and eliminate discrimination, a comprehensive consciousness and awareness-raising campaign and developing knowledge, harnessing skills, and values formation on respect for human rights and human dignity shall be undertaken public and private institutions, establishments, organizations and communities. Further the program shall include the following:
 - ii. Discrimination and Stigma Studies and Databank. Fund shall be allocated for stigma and discrimination case documentation, researches and information dissemination as well as set-up a databank of different cases and experiences of stigma and discrimination.
 - iii. Discrimination and Stigma Monitoring. This refers to monitoring of discriminating articles, songs, videos, books and other materials published in print media and the internet, broadcasted through television and radio and filing the appropriate charges.
- b) Access to Scholarships, Skills, Employment and Livelihood Opportunities. The Cebu City Government shall ensure that all persons have equal access to scholarships, skills trainings, employment, livelihood opportunities and microfinance opportunities and ensure equitable access to persons who by reason of disability, age, health status, sexual orientation, gender identity, ethnicity and religion are discriminated.
- c) Access to Legal Representation. The Cebu City Government shall facilitate and assist that victims of stigma and discrimination are afforded legal representation when documenting and filing cases as well within the duration of the case.
- d) Policy Review. The Cebu City Government shall ensure that all policies embodied in resolutions, ordinances, codes and other policy documents are free from discriminatory statements and provisions and undertake necessary amendments of those provisions to effectively eliminate discrimination, stigma and stereotypes.



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SECTION 6. IMPLEMENTATION. –

- 1) The Cebu City Government through the Department of Social Welfare and Services (DSWS), in coordination with the Office of Senior Citizens Affairs and the Cebu City Women and Family Affairs Commission, among others, shall be directly and primarily responsible for the implementation of the provisions of this Ordinance. It shall be the duty of DSWS to coordinate with the appropriate agencies and offices to implement the programs provided under Section 5 hereof and to monitor or take action on any complaint brought before it which fall under the provisions of Section 4; Provided, that an Anti-Discrimination Commission under the Department of Social Welfare and Services shall be created within one (1) year from the effectivity of this Ordinance.
- 2) Complaints shall first be lodged with the Katarungang Pambarangay in line with the provisions of the Local Government Code; Provided, that both parties are residents of the same barangay; otherwise, the case shall be filed directly in court.
- 3) Work-related discrimination shall be subject to the provisions of the Labor Code of the Philippines and other pertinent laws such as but not limited to, Magna Carta for Persons With Disability, Magna Carta for Senior Citizens, Child and Youth Welfare Code, Magna Carta for Women, Indigenous Peoples Rights Act, among others. There is work-related discrimination when disability, age, health status, sexual orientation, gender identity, ethnicity and religion are included in the criteria for hiring, promotion and dismissal of workers, when the same are immaterial to the nature of the work required, and in the determination of employee's compensation, training, incentives, privileges, benefits or allowances, and other terms and conditions of employment.
- 4) Discrimination due to the denial of an application or revocation of a professional license, clearance, certification or any other document issued by any government authority due to applicant's disability, age, health status, sexual orientation, gender identity, ethnicity and religion shall be handled by the appropriate administrative agencies of government which grants such license, clearance, certification and other documents without prejudice to recourse by the victims with the appropriate court and other concerned government agencies.

SECTION 7. PENALTIES. –

Any person or entity who violates any provision of this Ordinance shall suffer the following graduated penalties:

- (a) First offense : The offender violating the Ordinance shall be penalized with a fine of One Thousand Pesos (P1,000.00) or an imprisonment of one (1) day to thirty (30) days, or both, at the discretion of the court.
- (b) Second offense : The offender violating the Ordinance shall be penalized with a fine of Three Thousand Pesos (P3,000.00) or an imprisonment of one (1) day to thirty (30) days, or both, at the discretion of the court.



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- (c) Offenses committed a third time or oftener : The offender violating the Ordinance shall be penalized with a fine of Five Thousand Pesos (P5,000.00) or an imprisonment of one (1) day to thirty (30) days, or both, at the discretion of the court.

SECTION 8. SEPARABILITY. – If any provision or part hereof is held invalid or unconstitutional, the remainder of the Ordinance or the provision of otherwise affected shall remain valid and subsisting.

SECTION 9. EFFECTIVITY. – This ordinance shall take effect fifteen (15) days after its publication in a newspaper of general circulation.

CARRIED UNANIMOUSLY.

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I hereby certify to the correctness of the aforementioned resolution/ordinance.

CYNTHIA M. KAHULUGAN
Acting Secretary to the
Sangguniang Panlungsod

ATTESTED:

JOY AUGUSTUS G. YOUNG
Presiding Officer

APPROVED:

MICHAEL L. RAMA
City Mayor

/bkc

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