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BY E-MAIL & FIRST-CLASS MAIL

Steven O'Ban, Esq.
Alliance Defending Freedom
15100 N. 90th Street
Scottsdale, Arizona 85260

Re: Horizon Christian Fellowship et al. v. Jamie Williamson et al.,
Civil Action No. 16-12034 (U.S. District Court, D. Mass.)

Dear Mr. O'Ban:

I am writing to inform you that the Attorney General's Office has revised its website to remove the categorical reference to "houses of worship" as an example of a "place of public accommodation" within the meaning of Mass. Gen. Laws c. 272, §§ 92A & 98. *See* <http://www.mass.gov/ago/consumer-resources/your-rights/civil-rights/public-accomodation.html>. As set forth in section 92A, a "place of public accommodation" is defined as "any place, whether licensed or unlicensed, which is open to and accepts or solicits the patronage of the general public . . ." While religious facilities may qualify as places of public accommodation if they host a public, secular function, an unqualified reference to "houses of worship" was inconsistent with *Donaldson v. Farrakhan*, 436 Mass. 94 (2002), and we have removed that reference.

In *Donaldson*, the Massachusetts Supreme Judicial Court considered whether the public accommodation law, M.G.L. c. 272, §§ 92A & 98, applied to a religiously affiliated event that was not open to women. The event in question was a speaking event promoted, organized, and funded by a mosque, and presented by minister Louis Farrakhan at a city-owned theater, to address drugs, crime, and violence in the community. 436 Mass. at 97-100. The Court found that the event was not a "public, secular function" of the mosque. *Id.* at 100. The Court also found that application of the public accommodation law to require the admission of women to the event "would be in direct contravention of the religious practice of the mosque" because it would impair the "expression of religious viewpoints" of the mosque with respect to the "separation of the sexes" and the role of men in the community. *Id.* at 101-02. The Court thus further held that the "forced inclusion of women in the mosque's religious men's meeting by application of the public accommodation statute" would "significantly burden" the mosque's First Amendment rights of expression and association. *Id.*




The Court's decision in *Donaldson* continues to provide important guidance on the application of M.G.L. c. 272, §§ 92A & 98. The recent amendments to the statute, adding "gender identity" to the categories of impermissible bases for discrimination, do not affect the definition of "public accommodation."

Your lawsuit caused us to focus on these issues and to make this revision to our website. Thank you for bringing the issue to our attention.

Please feel free to contact me if you have any questions or would like to discuss this further.

Very truly yours,



Genevieve C. Nadeau
Chief, Civil Rights Division
(617) 963-2121

cc: Philip D. Moran, Esq.