Republic of the Philippines
QUEZON CITY COUNCIL
Quezon City
18th City Council

PO2012-67

82nd Regular Session

ORDINANCE NO. SP- 2210 *, S-2013,*

AN ORDINANCE PROHIBITING ALL FORMS OF DISCRIMINATION OF WORKERS PERCEIVED OR SUSPECTED OR EVEN FOUND TO BE POSITIVELY INFECTED WITH HUMAN IMMUNODEFICIENCY VIRUS (HIV) IN WORKPLACES WITHIN THE JURISDICTION OF QUEZON CITY.

Introduced by Councilors IVY LIM-LAGMAN, FRANCISCO A. CALALAY, JR., DOROTHY A. DELARMENTE, RICARDO T. BELMONTE, JR., JOSEPH P. JUICO, PRECIOUS HIPOLITO CASTELO, ALFREDO D. VARGAS III, EDEN "Candy" A. MEDINA, JULIENNE ALYSON RAE V. MEDALLA, RODERICK M. PAULATE, GODOFREDO T. LIBAN II, JULIAN ML. COSETENG, ALLAN BENEDICT S. REYES, JAIME F. BORRES, JOSE MARIO DON S. DE LEON, GIAN CARLO G. SOTTO, EUFEMIO C. LAGUMBAY, JESUS MANUEL C. SUNTAY, JESSICA CASTELO DAZA, RAQUEL S. MALAÑGEN, VINCENT DG. BELMONTE, MARVIN C. RILLO and RANULFO Z. LUDOVICA.

WHEREAS, the 1987 Constitution provides 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 laws;

WHEREAS, Section 16 of R.A. No. 7160, otherwise known as the Local Government Code of the Philippines, states that every local government unit shall exercise the powers expressly granted, those necessarily implied therefrom, as well as powers necessary, appropriate, or incidental for its efficient and effective governance, and those which are essential to the promotion of the general welfare;

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WHEREAS, Section 2 (b) (3) of Republic Act No. 8504, otherwise known as Philippine AIDS Prevention and Control Act of 1998, states that discrimination, in all its form and subtleties, against individuals with HIV or persons perceived or suspected of having HIV shall be considered inimical to individual and national interest;

WHEREAS, the Department of Labor and Employment (DOLE) issued a Department Order No. 57-04 which is "aimed at ensuring the effective implementation of the Labor Standards Enforcement Framework in order to build a culture of voluntary compliance with labor standards by all establishments and workplaces, and expand the reach of the DOLE through partnership with labor and employer's organization as well as with other government agencies and professional organizations that also have a stake on the welfare and protection of workers."

WHEREAS, the International Labor Organization (ILO) has produced a Code of Practice on HIV/AIDS and the World of Work. This code provides for the protection of workers' rights, including employment protection, gender equality, entitlement to benefits, and non-discrimination;

WHEREAS, it is believed that the Philippines has the potential to face an AIDS epidemic because of its burgeoning sex industry, changing patterns of sexual behavior (particularly among the young people), relatively high rates of other sexually transmitted infections, non-use or infrequent use of condoms, low general awareness of HIV/AIDS, and highly mobile population-factors and conditions which are conducive to the potential spread of HIV;

WHEREAS, it is believed that HIV/AIDS is a public health emergency and that the workplace is key to preventing the spread of the epidemic as well as providing information and assistance on treatment and support;

WHEREAS, there are 57 reported HIV-positive cases in Quezon City, mostly of working age and that may face prejudice and discrimination in their respective workplaces;

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WHEREAS, contrary to common notion, HIV cannot be transmitted through normal work or social contact, for example, sharing utensils and cutlery, coughing or sneezing, shaking hands, hugging and kissing, using the same glass, toilet seats or using a keyboard, or through a mosquito bite;

WHEREAS, because of stigma and discrimination against people with HIV, many people are reluctant to be tested and those that know they have HIV may not disclose the fact to their partners or to health practitioners. This condition undermines HIV prevention efforts.

NOW, THEREFORE,

BE IT ORDAINED BY THE CITY COUNCIL OF QUEZON CITY IN REGULAR SESSION ASSEMBLED:

Section 1. Title. - This ordinance shall be known as "Anti-discrimination on persons perceived or suspected or having found to be positively infected with HIV in workplaces".

Section 2. Definition of Terms – For purposes of this Ordinance, the following terms are defined as follows:

"Disability" – an HIV-positive individual can be regarded as one if the following conditions are present:

a). A physical or mental impairment that substantially limits one or more of your major life activities, and
b). There is a record of such impairment; or
c). He/she is regarded as having such an impairment

"Discrimination" – any act that may degrade human dignity. It also refers to unequal treatment given, whether in the form of policy, decision, action or sanction, to an employee or applicant with regard to hiring, termination, promotion, compensation, job training, or any other term, condition, or privilege of employment due to the reason that the said employee or applicant is perceived, suspected or confirmed to be infected with HIV.

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"Employee" – a person who works in the service of another person under an express or implied contract of hire, whether or not the contract is written, under which the employer has the right to control the details of work performance.

"Employer" – a person or entity which hires the services of another.

"HIV Positive Individual" – a person confirmed to be infected with HIV based on standard medical procedures.

"HIV Negative Individual" – denotes that a person is negative from HIV infection

"Workplace" – The work setting in general. The location at or from which an employee ordinarily performs the duties of his or her position and, in the case of an employee whose duties are of an itinerant nature, the actual building to which the employee returns to prepare and/or submit reports, etc., and where other administrative matters pertaining to the employee's employment are conducted. It refers to both public and private work setting.

Section 3. Prohibitions. – Employers cannot simply equate HIV to disability. Therefore, it is unlawful to discriminate against any employee or applicant for employment because he/she is perceived, suspected or confirmed to be infected with HIV in regard to hiring, termination, promotion, compensation, job training, or any other term, condition, or privilege of employment.

Further, it is unlawful for employers to require compulsory HIV testing to applicants seeking employment with them or to its current employees who are suspected of having infected with HIV.

Section 4. HIV Protocol. – All local government and private employers, must have an official protocol in handling suspected or positive HIV cases in their respective workplace. Local government and private employers can get the assistance of the Department of Labor and Employment on how to formulate and adopt the said required protocol.

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Section 5. Grievance Process. – The Quezon City Government through the Public Employment Service Office (PESO) and QC Tripartite Industrial Peace Council (QC-TPIC) shall assist any individual who experienced discrimination in workplace within the jurisdiction of Quezon City in seeking justice.

Section 6. Proactive Measures – Each employer shall develop, implement, evaluate and fund a workplace HIV/AIDS education and information program for all their workers. The program shall include the following elements as enumerated in Rule 2, Section 15 of R.A. No. 8054's Implementing Rules and Regulations or IRR.

- *The HIV/AIDS education prototype and the modifications therein suited to the target audience.*
- *List of trainers and other resource persons from the same or other workplace (s).*
- *Training schedule.*
- *Self-learning information materials such as booklets, brochures, flyers and tapes.*
- *Dissemination and distribution schedule of self-learning materials.*
- *A monitoring and reporting scheme.*

Further, HIV/AIDS education shall be integrated in the orientation, training, continuing education and other human resource development programs of employees and employers in all government and private offices.

Section 7. Sanctions. – Licenses/Permits issued by the city government to employer or business entity found guilty of committing discriminatory acts and/or policies as defined by this Ordinance shall be revoked.

Section 8. Implementing Rules and Regulations – Within six (6) months after the passage of this Ordinance, the Public Employment Service Office with the assistance of the City Health Department shall conform the Implementing Rules and Regulations of the Philippine National AIDS Council with regard to the protection and promotion of the rights of the individual with HIV.

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Section 9. Separability Clause – If any provision of this Ordinance is declared invalid, the remainder of this Ordinance or any provision not affected thereby shall remain in force and effect.

Section 10. Repealing Clause – All ordinances, executive orders and their Implementing Rules inconsistent with the provisions of this Ordinance are hereby repealed, amended or modified accordingly.

Section 11. Effectivity – This Ordinance shall take effect fifteen (15) days after its publication in at least two (2) newspapers of general circulation.

ENACTED: March 4, 2013

JOSEPH P. JUICO
President Pro-Tempore
Acting Presiding Officer

ATTESTED:

Atty. JOHN THOMAS S. ALFEROS III
City Gov't. Asst. Dept Head III

APPROVED: 29 APR 2013

HERBERT M. BAUTISTA
City Mayor

CERTIFICATION

This is to certify that this Ordinance was APPROVED by the City Council on Second Reading on March 4, 2013 and was PASSED on Third/Final Reading on March 11, 2013.

Atty. JOHN THOMAS S. ALFEROS III
City Gov't. Asst. Dept Head III

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