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# Court reject's Oakland's arguments regarding selective enforcement of "bubble law"

Posted by [Matt Lacy](#) • December 29, 2011 • [Printer-friendly](#)

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by Matt Lacy –

A judge in California has rejected arguments by the city of Oakland that women approaching an abortion clinic have given "automatic consent" to be approached by clinic escorts and they must enforce the law equally.

Oakland passed a law similar to Colorado's "bubble law" which created a floating eight foot bubble around any woman within 100 feet of an abortion clinic. The Colorado law was upheld by the court's because it applied to everyone approaching the woman, not just pro-life protestors.

In Oakland, authorities were not applying the law equally, permitting "escorts" from the clinic to

come out and assist women into the clinic. The escorts would often surround the protestors including Pastor Walter Hoye, who were outside of the “bubble.”

Training materials by the city on the law specified that the bubble applied “to anyone who is not a doctor, nurse or other employee of a health care facility.” Since the volunteers were not included in the definition, they were technically violating the law by approaching the women.

The city then attempted to argue that a woman was granting automatic consent by simply going to the clinic.

Dana Cody, with the Life Legal Defense Foundation which is defending Pastor Hoye explained, “They said that any clients who come into this particular clinic have already consented to talk to the escorts and not to talk to pro-life individuals on the sidewalk. The problem with that is what if the woman comes with someone that hasn’t consented?”

She went on to say there was no system in place for verifying the woman had given consent.

The Ninth Circuit Court of Appeals ruled that while the law was constitutional, the city had to enforce it equally, not just against pro-lifers and sent the case back to the lower court for reconsideration.

The LLDF asked the court for a permanent injunction against the law. While the court did not grant the request, it did agree that the city was not enforcing the law fairly.

“The judge rejected the city of Oakland's argument that the police officers shouldn't have to enforce the ordinance against clinic escorts or other workers at the family planning specialists because they allegedly had advance consent to approach women,” Cody said, “That’s the most important part of the whole issue.”

Cody told the Gazette that the LLDF is planning on filing a motion of reconsideration regarding the permanent injunction. “That’s the only way to be sure pro-lifers are being treated fairly.”



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