

Lesbians look to boot Boy Scouts from own facilities

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LAW OF THE LAND

Ruling threatens faith-based groups trying to help in their communities

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With work ramping up in Washington on a "hate crimes" bill that would create special rights for homosexuals, a case that addresses a related issue – claims by same-sex couples they have the right not to be "offended" by "straight" morality – has been presented to the U.S. Supreme Court.

The case involves a series of projects by the [Boy Scouts of America](#) in San Diego. The private organization has provided millions of dollars in improvements to public facilities in exchange for their use but faces being banned because homosexuals and lesbians who never even were exposed to the work claimed their feelings were hurt.

The organization has asked the U.S. Supreme Court to overturn the decision from the 9th U.S. Circuit Court of Appeals, and now two major public interest law firms have joined them in their request.

"Radical homosexuals are attempting to use every means possible to destroy the Scouts despite a recent U.S. Supreme Court decision that recognized their First Amendment right to have a morally-based policy excluding homosexual involvement," said Richard Thompson, president of the [Thomas More Law Center](#), which worked with the [Alliance Defense Fund](#) on the friend-of-the-court brief.

At issue in the case are leases from the city of San Diego allowing the San Diego Boy Scouts to build and operate campgrounds and an aquatic center on city property for their use and the public's.

"Lesbian and agnostic couples who had never visited the facilities sued the Scouts on a claim that they felt offended by the fact that the city leases the public property to a 'morally straight' organization such as the Boy Scouts," the public interest legal groups said. "There were no religious symbols at the facilities."

The Scout Oath calls for a member "to do [his] duty to God and [his] country ... and to keep [himself] morally straight."

A three-judge panel at the 9th Circuit dismissed the complaint filed by the team of agnostics and lesbians, determining the individuals lacked standing to sue because "offended observers" have sustained no injury.

But the decision was reversed by the full 9th Circuit panel.

Now the Thomas More Law Center and Alliance Defense Fund lawyers are joining forces with the Boy Scouts to contest the decision.

They argue the court's "permission ideological standing rule" now creates a new threat to faith-based organizations that choose to cooperate with the government in establishing public benefit programs by subjecting them to lawsuits from people who never even "observed" anything.

According to the Thomas More Law Center, "Litigants in the 9th Circuit can now challenge programs like San Diego's with nothing more than general offense at a tenet of an organization's mission. So long as a person *feels* unwelcome by the private groups' beliefs – without any exposure to religious symbols or denial of any services – he can sue to have the program declared unconstitutional."

Because that policy threatens faith-based organizations' ability to work on much-needed social services, it actually creates a new hostility to religion by the government, the organizations say.

"Groups such as the Boy Scouts shouldn't be penalized for their beliefs, and neither should the communities that benefit from their selfless work," said ADF Legal Counsel Dale Schowengerdt. "The Boy Scouts of America spent millions of dollars to improve portions of two public parks that it leased from the city for a nominal fee. The Scouts allowed the public to have full access to the parks, yet two couples filed suit simply because they didn't like the beliefs of the Scouts organization. These types of ridiculous 'offended observer' types of lawsuits should no longer be tolerated."

The Boy Scouts since 1957 have leased a 16-acre parcel at San Diego's Balboa Park. In exchange for paying a nominal fee to the city, the Scouts were allowed to lease the park and make numerous improvements to the property, including a public campground. Hundreds of other groups have similar arrangements with the city.

In 1987, the city leased another half-acre parcel to the Scouts at Mission Bay Park. The Scouts again spent millions of dollars to build an aquatic center, which is open to the entire community on a first-come, first-served basis, according to the ADF.

The attorney for the Boy Scouts, George A. Davidson, said the court conclusion was disappointing, as "none of the plaintiffs has suffered any injury or has any standing to sue."

The organization confirmed it agreed to spend more than \$1.7 million of its funds improving Camp Balboa and \$2.5 million on the aquatics center at Mission Bay Park under its latest leases. The facilities and equipment "are available for use by any youth group."

Meanwhile, San Diego has more than 100 other leases with other community groups on similar terms, the group said.

The "Boy Scouts are asking the court to determine whether the plaintiffs have standing to bring an Establishment Clause challenge to San Diego leases of recreational facilities when they have never visited the facilities and the facilities are available for use by the public and display no religious symbols," the group said.

[WND has had multiple reports](#) on a bill pending in the U.S. Senate now that would provide a special protection to homosexuals and others with alternative sexual lifestyle choices, apparently including pedophiles, against anything that they perceive could hurt or insult them.

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