Supreme Court of the State of New York
Appellate Division: Second Judicial Department

D82212
C/sr

_____AD3d_____ Argued - October 15, 2026

BETSY BARROS, J.P.
DEBORAH A. DOWLING
BARRY E. WARHIT
LISA S. OTTLEY, JJ.

2025-14071 DECISION & ORDER

People of the State of New York, etc., appellant, v
County of Nassau, et al., respondents.

(Index No. 612368/24)

Letitia James, Attorney General, New York, NY (Judith N. Vale and Mark S. Grube of counsel), for appellant.

Thomas A. Adams, County Attorney, Mineola, NY (Robert F. Van der Waag and Melvin Roth of counsel), for respondents.

In an action, inter alia, to permanently enjoin the enforcement of Local Law No. 3-2024 of the County of Nassau, the plaintiff appeals from an order of the Supreme Court, Nassau County (R. Bruce Cozzens, J.), entered October 15, 2025. The order denied the plaintiff's motion for summary judgment on the complaint and granted the defendants' cross-motion for summary judgment dismissing the complaint.

ORDERED that the order is reversed, on the law, with costs, the plaintiff's motion for summary judgment on the complaint is granted, the defendants' cross-motion for summary judgment dismissing the complaint is denied, and the matter is remitted to the Supreme Court, Nassau County, for the entry of a judgment, inter alia, making appropriate declarations in accordance herewith.

In 2024, the Nassau County Legislature enacted Local Law No. 3-2024, entitled "A LOCAL LAW TO MAINTAIN A SAFE AND FAIR COMPETITIVE ENVIRONMENT FOR WOMEN AND GIRLS PARTICIPATING IN SPORTS AND ATHLETIC EVENTS" (hereinafter the local law), which prohibits the use of Nassau County park property "for the purposes of organizing a sporting event or competition that allows athletic teams or sports designated for

females, women, or girls to include biological males as competitors" (*see Long Is. Roller Rebels v County of Nassau*, 242 AD3d 860).

The plaintiff, People of the State of New York, commenced this action, inter alia, to permanently enjoin the enforcement of the local law, which restricted women's sports teams and organizations from obtaining a permit to use the County's parks and facilities if the women's teams included transgender women. The plaintiff moved for summary judgment on the complaint. The defendants cross-moved for summary judgment dismissing the complaint. In an order entered October 15, 2025, the Supreme Court denied the plaintiff's motion and granted the defendants' cross-motion. The plaintiff appeals.

Although a local government is constitutionally empowered to enact local laws relating to the welfare of its citizens through its police power, it is prohibited from exercising that power through the adoption of local laws that are inconsistent with the New York State Constitution or any general law of the state (*see* NY Const, art IX, § 2[c]; Municipal Home Rule Law § 10[1][i], [ii][a][12]; *Cohen v A 2019 Nissan*, ___ AD3d ___, ___, 2026 NY Slip Op 05158, *4).

Civil Rights Law § 40-c(2) provides that "[n]o person shall, because of race, creed, color, national origin, sex, marital status, sexual orientation, gender identity or expression, or disability, as such term is defined in section two hundred ninety-two of the executive law, be subjected to any discrimination in his or her civil rights, or to any harassment, as defined in section 240.25 of the penal law, in the exercise thereof, by any other person or by any firm, corporation or institution, or by the state or any agency or subdivision of the state."

The NYSHRL provides that "[i]t shall be an unlawful discriminatory practice for any person, being the owner, lessee, proprietor, manager, superintendent, agent or employee of any place of public accommodation, resort or amusement, because of the race, creed, color, national origin, citizenship or immigration status, sexual orientation, gender identity or expression, military status, sex, disability, marital status, or status as a victim of domestic violence, of any person, directly or indirectly, to refuse, withhold from or deny to such person any of the accommodations, advantages, facilities or privileges thereof, including the extension of credit, or, directly or indirectly, to publish, circulate, issue, display, post or mail any written or printed communication, notice or advertisement, to the effect that any of the accommodations, advantages, facilities and privileges of any such place shall be refused, withheld from or denied to any person on account of race, creed, color, national origin, citizenship or immigration status, sexual orientation, gender identity or expression, military status, sex, disability or marital status, or that the patronage or custom thereat of any person of or purporting to be of any particular race, creed, color, national origin, citizenship or immigration status, sexual orientation, gender identity or expression, military status, sex or marital status, or having a disability is unwelcome, objectionable or not acceptable, desired or solicited" (Executive Law § 296[2][a]; *see id.* § 292[9]).

"Discrimination on the basis of gender identity or expression is also sex discrimination" (9 NYCRR 466.13[d]). "Gender identity or expression means a person's actual or perceived gender-related identity, appearance, behavior, expression or other gender-related characteristic regardless of the sex assigned to that person at birth, including, but not limited to, the

status of being transgender" (*id.* § 466.13[b][1] [emphasis omitted]). "A transgender person is an individual who has a gender identity or expression different from the sex assigned to that individual at birth" (*id.* § 466.13[b][2]).

Here, the NYSHRL and Civil Rights Law § 40-c expressly prohibit the County from restricting access to places of public accommodation based on a person's gender identity or expression, including whether the person identifies as transgender. Thus, the local law's permitting scheme conflicts with, and is invalid as preempted by, the NYSHRL and Civil Rights Law § 40-c (*see McGrath v Suffolk County*, 232 AD3d 879, 885).

Accordingly, the Supreme Court should have granted the plaintiff's motion for summary judgment on the complaint and denied the defendants' cross-motion for summary judgment dismissing the complaint.

Since this is, in part, a declaratory judgment action, we remit the matter to the Supreme Court, Nassau County, for the entry of a judgment, inter alia, declaring that the local law is invalid on the grounds that it violates the New York State Constitution and the Municipal Home Rule Law (*see Lanza v Wagner*, 11 NY2d 317, 334).

BARROS, J.P., DOWLING, WARHIT and OTTLEY, JJ., concur.

ENTER:

Darrell M. Joseph
Clerk of the Court