

COURT OF APPEALS
EIGHTH JUDICIAL DISTRICT
CUYAHOGA COUNTY, OHIO

CITY OF CLEVELAND ex rel. :
CLEVELAND TAXPAYERS FOR THE :
OHIO CONSTITUTION, et al. : Case No.: CA-09-94327
: Appeal from Cuyahoga County
Plaintiffs-Appellants, : Court of Common Pleas
vs. : Case No.: CV-09-701308
:
CITY OF CLEVELAND, :
:
Defendant-Appellee :

BRIEF OF *AMICUS CURIAE*
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IN SUPPORT OF DEFENDANT-APPELLEE

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SUMMARY OF ARGUMENT

In the Court of Common Pleas, Appellants challenged the validity of Cleveland's domestic partnership registry (the "Registry"), arguing that it violates Section 11, Article XV of the Ohio Constitution (the "Marriage Amendment"), which prohibits the creation of "a legal status for relationships of unmarried individuals that intends to approximate the design, qualities, significance or effect of marriage." The trial court dismissed Appellants' Complaint.

The trial court's decision was correct because, under controlling precedent of the Supreme Court of Ohio, the Marriage Amendment prohibits only the creation and recognition of legal statuses that bear *all* of the attributes of marriage. Simply put, because the Registry bears almost none of the attributes of marriage, it does not run afoul of the Marriage Amendment. Thus, this Court should decide, as courts all across the country have decided in similar cases, that the City of Cleveland (the "City") was well within its constitutional authority to create a domestic partnership registry and that the trial court's decision should be affirmed.

ARGUMENT

I. THE TRIAL COURT PROPERLY DISMISSED THE PRESENT ACTION BECAUSE THE MARRIAGE AMENDMENT DOES NOT PROHIBIT THE CITY OF CLEVELAND FROM CREATING A DOMESTIC PARTNERSHIP REGISTRY.

The Cleveland City Council created the Registry in December 2008 (Attached hereto as Exhibit A). It stands as an important symbol of the City's acceptance of all Ohio couples and their families. Many hope that the Registry will help local businesses and private employers more easily identify those couples who may qualify for domestic partnership benefits provided by such entities. Registration can also be vitally meaningful to elderly heterosexual couples who, for example, could lose Social Security benefits by remarrying. See Grace Ganz Blumberg, Legal Recognition of Same-Sex Conjugal Relationships: The 2003 California Domestic Partner Rights and Responsibilities Act in Comparative Civil Rights and Family Law Perspective (2004), 51 UCLA L. Rev. 1555, fn. 12.

As laudable and important as these objectives are, however, the Registry is by no measure a substitute for marriage. Because the Marriage Amendment conclusively has been construed to bar only "marriage substitutes" that bear *all* the attributes of marriage the court below properly dismissed Appellants' petition.

A. Appellants' Interpretation Of The Marriage Amendment Is Inconsistent With Controlling Ohio Supreme Court Precedent.

In their argument that the Registry runs afoul of the Ohio Constitution, Appellants effectively ask this Court to ignore binding Ohio Supreme Court precedent. The Marriage Amendment, which voters approved in 2004, states:

Only a union between one man and one woman may be a marriage valid in or recognized by this state and its political subdivisions. This state and its political subdivisions shall not create or recognize a legal status for relationships of

unmarried individuals that intends to approximate the design, qualities, significance or effect of marriage.

Section 11, Article XV, Ohio Constitution. The second sentence of the Marriage Amendment was interpreted by the Ohio Supreme Court in *State v. Carswell*. 114 Ohio St.3d 210, 2007-Ohio-3723, 871 N.E.2d 547. In *Carswell*, the defendant had been indicted for domestic abuse after beating up his live-in girlfriend. He argued that Ohio's domestic abuse statute, which included longer prison sentences for acts of violence against family members and those "living as spouses," was unconstitutional under the amendment because it gave recognition to a "legal status for relationships of unmarried individuals that intends to approximate the design, qualities, significance or effect of marriage." The Court unequivocally rejected the broad interpretation of the Marriage Amendment made by the defendant in that case and renewed by Appellants here. The Court made clear that only one specific type of legal status is implicated by the amendment's plain language:

The definition of 'status,' our understanding of the legal responsibilities of marriage, and the rights and duties created by the status of being married, combined with the first sentence of the amendment's prohibition against recognizing any union that is between persons other than one man and one woman causes us to conclude that the second sentence of the amendment means the state cannot create or recognize a legal status for unmarried persons that bears *all of the attributes of marriage – a marriage substitute*.

(Emphasis added.) *Id.*, 114 Ohio St.3d 210, at ¶14.

Carswel recognized the unique role that marriage plays in our society. Marriage is society's most significant public proclamation of, and legal shelter for, commitment to another person for life. It is unparalleled in its expressive power, and it communicates instantly a couple's commitment and the legal sanction and respect accorded their relationship. The effect of marriage legally is to provide instant access to an extensive legal structure. It is designed to protect a couple's relationship, and to help to support the family and its children through myriad

rights and responsibilities. In many arenas, the law treats a married couple as a financial and legal unit.

In addition to well over a thousand federal benefits (see U.S. General Accounting Office, *Defense of Marriage Act: Update to Prior Report* (Washington, D.C.: Jan. 23, 2004), GAO-04-353R, <http://www.gao.gov/new.items/d04353r.pdf>), just a few of the state-granted benefits that automatically accompany marriage include: making medical decisions for an incapacitated spouse (R.C. 2133.08(B)); and accessing various protections designed to increase a family's economic security, such as rights associated with real estate ownership (see, e.g., R.C. 1313.29), taxation (R.C. 5711.14, 5747.05, division of property in the event of divorce (R.C. 5302.20), spousal support obligations (R.C. 3103.03 and 3105.18), and the automatic right to inherit in the absence of a will (R.C. 2105.06).

The Registry, by contrast, bears almost none of the attributes of marriage. Unlike marriage, which is marked by solemnization, see R.C. 3101, and requires the state's permission and a lengthy judicial proceeding to terminate, those who have registered with the City can terminate their domestic partnership at will.¹ See C.C.O. 109.05(a)(2) and 109.05(c). "Domestic partner" completely lacks the social and emotive resonance of "husband" and "wife." Domestic partnerships are not accorded equal respect by society, and they share in none of marriage's history, traditions or celebrations. Registration is simply not as meaningful to couples. Were a

¹ Indeed, the City's domestic partnership registry does not even confer a legal status, and therefore, for that reason as well, is not covered by the Marriage Amendment, which only prohibits the creation or recognition of "a legal status for relationships of unmarried individuals that intends to approximate the design, qualities, significance or effect of marriage." (Emphasis added.) Section 11, Article XV, Ohio Constitution. For more than a century, Ohio law has held that a "legal status," such as being a spouse, is terminable only by a judicial act or death. See, e.g., *Solomon v. Solomon* (1903), 1 Ohio N.P. (n.s.) 113, 13 Ohio Dec. 517 ("Marriage originates in the consent of the parties; but it can be legally dissolved, only at the sovereign pleasure"), reversed on other grounds (1904), 4 Ohio C.C. (n.s.) 321. Ohio's view is not unique. Other commentaries confirm that "[a] 'status' means a legal personal relationship, not temporary in its nature nor terminable at the mere will of the parties, with which third parties and the state are concerned." Restatement of the Law, Conflict of Laws (1937), Section 119.

married couple told that they were no longer married but instead were “registered domestic partners,” they unquestionably would feel that they had lost something precious.

Most strikingly, the Registry does not create any causes of action nor does it confer any legal benefits. Even if one accepted as true Appellants’ contention that the Registry confers *some* rights and duties,² the Registry would still fall far short of a marriage substitute. Indeed, no watered-down collection of rights could adequately substitute for the full bundle of state and federal benefits reserved exclusively for civil marriage.

Furthermore, the Registry does not even apply to the same class of individuals as the marriage statutes. Of the six criteria to file a partnership, only two coincide with the limitations placed on marriage. For example, although domestic partners must share a residence, C.C.O. 109.02(a),³ and both partners must be eighteen years of age, C.C.O. 109.02(e), the marriage statutes have no cohabitation requirement and women are permitted to marry at the age of sixteen. See R.C. 3101.01.

Appellants have attempted to substitute the holding in *Carswell* with their own, alternative interpretation of the Marriage Amendment. They essentially argue that the Supreme Court’s decision in *Carswell* was incorrect because the Court did not adopt the dissent’s approach and separately construe each of the elements of “intend to approximate the design, qualities, significance or effect of marriage.” Appellants are correct that this was not the method

² Appellants have not sufficiently explained the precise rights, duties and liabilities that flow from registration. Further, they have failed to demonstrate how these rights, duties and liabilities bestow the Registry with all the attributes of marriage. For example, the only right that Appellants enumerate is “the legal right of being registered and recognized as a domestic unit.” Initial Brief of Appellants p. 13. The cited provision, however, C.C.O. 109.4(e), merely instructs the City to “register the Declaration of Domestic Partnership in a registry and return a copy” of the paperwork to the registrants’ address. Insofar as this is a “legal right” at all, it would not be enough to make the Registry a marriage substitute.

³ The cohabitation requirement is ongoing. If the partners cease to live together, they are required to remove their names from the Registry. C.C.O. 109.05(2)(b).

the Court's majority used in construing the amendment, but they are incorrect in their assertion that such an approach is appropriate.

An interpretative approach to the Marriage Amendment that parses each descriptive word – “design, qualities, significance or effect” – would deprive the amendment of its context and create greater uncertainty in the law. The Marriage Amendment was promoted as necessary to defend the institution of marriage from gay and lesbian couples. The first sentence thus excludes same-sex couples from marriage, while the second sentence was intended, at least in part, to respond to national marriage litigation developments where parallel institutions were created to provide *all* of the statutory rights, benefits and obligations of marriage, but under a different name. *E.g.*, *Baker v. State* (1999), 170 Vt. 194, 744 A.2d 864 (permitting the legislature to create a status with all the same rights and responsibilities as marriage under the name “civil union”); *Lewis v. Harris* (2006), 188 N.J. 415, 908 A.2d 196 (same). The Supreme Court of Ohio made this same observation in *Carswell* when it explicitly determined the purpose of the amendment: “to prevent the state, either through legislative, executive, or judicial action from creating or recognizing a legal status deemed to be the *equivalent* of marriage of a man and a woman.” (Emphasis added.) *Carswell*, 114 Ohio St.3d 210, at ¶15. The piecemeal analysis that Appellants prefer would necessarily lose this vital context.⁴

Furthermore, Appellants' approach is inconsistent with traditional rules of statutory construction. Treating each word as an isolated rule without regard to the entire sentence would violate the maxim of *noscitur a sociis*. “[T]he coupling of words denotes an intention that they should be understood in the same general sense.” See, *e.g.*, *Wilson v. Stark Cty. Dept. of Human*

⁴ Another problem with the piecemeal approach, as Appellants' brief perfectly illustrates, is its susceptibility to unhelpful or over-specific definitions. As an example, Appellants define “design” as “underlying purpose.” Initial Brief of Appellants p. 7. Were the issue of the Registry's constitutionality a truly close call, this definition would hardly guide an uncertain court in its decision-making.

Servs., 70 Ohio St.3d 450, 453, 1994-Ohio-394, 639 N.E.2d 105 (citing 2A Sutherland Statutory Construction (5th Ed.Singer Rev.1992) 183, Section 47.16). Individual terms must not be divorced from the overall meaning and context of the amendment. See, also, R.C. 1.02(f) (“‘And’ may be read ‘or,’ and ‘or’ may be read ‘and’ if the sense requires it”).

Simply put, the legal status of marriage is exceptional and not remotely approached by the City’s Registry. See, *e.g.*, *Police & Firemen’s Disability & Pension Fund v. Redding*, Franklin App. No. 01-AP-1303, 2002-Ohio-3891, at ¶24 (explaining that marriage “impl[ies] a whole panoply of rights and obligations between the supposed marital partners, as well as in their relation to the world at large” and noting “the enormous significance and import of the institution of marriage”) appeal denied 97 Ohio St. 3d 1484, 2002-Ohio-6866, 780 N.E.2d 287. The Registry does not accord a panoply of rights, benefits and obligations to the couple; does not grant legal sanction to a relationship; and does not confer societal recognition and approval – all of which are hallmarks of civil marriage.

B. The Trial Court’s Ruling is Consistent with Other Courts’ Treatment of Domestic Partnership Ordinances.

The establishment of a municipal domestic partnership registry is not uncommon. Large cities and small towns across America have established similar mechanisms to show support for two individuals taking responsibility for each other. Some of the cities and counties offering domestic partner registries include: Ann Arbor, MI; Athens-Clarke County, GA; Atlanta, GA; Boulder, CO; Brookline, MA; Broward County, FL; Carrboro, NC; Chapel Hill, NC; Cleveland Heights, OH; Cook County, IL; Davis, CA; Denver, CO; Eugene, OR; Eureka Springs, AR; Fulton County, GA; Hartford, CT; Iowa City, IA; Ithaca, NY; Kansas City, MO; Key West, FL; Lacey, WA; Laguna Beach, CA; Long Beach, CA; Los Angeles County, CA; Madison, WI; Marin County, CA; Miami Beach, FL; Milwaukee, WI; Minneapolis, MN; Nantucket, MA; New

York, NY; Oak Park, IL; Oakland, CA; Olympia, WA; Palo Alto, CA; Palm Springs, CA; Petaluma, CA; Philadelphia, PA; Portland, ME; Rockland County, NY; Rochester, NY; Sacramento, CA; Seattle, WA; St. Louis, MO; Travis County, TX; Tucson, AZ; Tumwater, WA and Urbana, IL. Human Rights Campaign, "Search by City and State for Domestic Partner Registries" <http://www.hrc.org/issues/marriage/domestic_partners/9133.htm> (last accessed Feb. 13, 2010).

Such ordinances often face legal challenge. Amicus is unaware, however, of any court that has ever struck down a domestic partner registry enacted by a municipality that enjoys broad home-rule authority comparable to that of Cleveland.⁵ In fact, this Court previously upheld Cleveland Heights's domestic partnership registry as a proper exercise of home rule authority. *City of Cleveland Heights ex rel. Hicks v. City of Cleveland Heights*, 162 Ohio App.3d 193, 2005-Ohio-3582, 832 N.E.2d 1275.

Many ordinances from comparatively empowered home rule cities have been upheld by courts. Unlike the City's Registry some of these ordinances even grant specific municipal benefits to those who register. See, e.g., *Ralph v. City of New Orleans* (La.App.2009), 4 So.3d 146; *Tyma v. Montgomery Cty.* (2002), 369 Md. 497, 514-515, 801 A.2d 148; *Schaefer v. City and Cty. of Denver* (Colo.App.1998), 973 P.2d 717, 717-721; *Lowe v. Broward Cty.* (Fla.App.2000), 766 So.2d 1199, 1205-1206; *Crawford v. City of Chicago* (Ill.App.1999), 710 N.E.2d 91, 98, petition to appeal denied (Ill.1999), 720 N.E.2d 1090; *Slattery v. City of New York* (Sup.Ct.N.Y.1999), 179 Misc. 2d 740, 686 N.Y.S.2d 683, 686-688, affirmed (Sup.Ct.App.Div.1999), 697 N.Y.S.2d 603, appeal dismissed (N.Y.2000), 727 N.E.2d 1253; *City*

⁵ The rare occasion when a domestic partner registry has been overturned appears to occur only when a non-home-rule local governing body exceeds an express limitation on the power granted it by the state legislature. See, e.g., *Arlington Cty. v. White* (2000), 259 Va. 708, 713, 528 S.E.2d 706.

of *Atlanta v. Morgan* (1997), 268 Ga. 586, 492 S.E.2d 193. These cases also evidence the universally-accepted principle that entities with broad home-rule authority possess the power to enact such domestic partner registries without running afoul of states' interests in regulating marriage.

Most recently, in *Ralph*, an appellate court in Louisiana upheld a domestic partnership registry that is almost identical to the Registry at issue here. *Ralph*, 4 So.3d 146. The New Orleans's ordinance permits cohabiting domestic partners to register their relationship with the city clerk if they fill out a Declaration and pay an administrative fee. The Registry was challenged after the city began providing health care benefits for the registered partners of city employees. That court heard, and rejected, many of the same arguments currently before this Court now. The Appellants in *Ralph* asserted that the city's ordinance, passed in 1999, "created" domestic partnerships in New Orleans and that the registry there "created" a new civil entity. The court dismissed the argument:

[I]t is clear from the legislative history of the ordinance that it did not create the concept of domestic partnership, and was intended merely to acknowledge the previous and continuing existence of these arrangements, not to give them any particular legal status by setting forth a set of legal rights and obligations that would flow from the already existing relationships.

Id. at 154. Ultimately, the court found determinative the same qualities of New Orleans's ordinance that define the City's Domestic Partner Registry: "The registry ordinance has no effect on the Civil Code articles relating to marriage, creates no obligation between the parties who choose to register, and provides neither an enforcement mechanism nor a cause of action for which redress may be sought in the courts of this state." *Id.* at 157.

Courts all across the country have upheld these registries because marriage is *sui generis* and cannot be reduced to a handful of rights (if any rights are granted at all). Even statutory schemes that grant *all* the right and responsibilities of marriage have been recognized to fail to

provide what marriage confers. For example, Massachusetts's high court ruled in *Opinions of the Justices to the Senate* (2004), 440 Mass. 1201, 1208, 802 N.E.2d 565, that civil unions do not provide the same status as marriage, which "is specially recognized in society and has significant social and other advantages." See, also, *Varnum v. Brien* (Iowa 2009), 763 N.W.2d 862, 906 (creating a distinct institution for same-sex couples as an alternative to marriage would violate the fundamental principles of state equal protection); *Kerrigan v. Comm'r of Pub. Health* (2008), 289 Conn. 135, 957 A.2d 407 (explaining that "the institution of marriage carries with it a status and significance that the newly created classification of civil unions does not embody."); *In re Marriage Cases* (2008), 43 Cal.4th 757, 183 P.3d 384 (novel, alternative institution for same-sex couples does not provide stature or equal dignity comparable to the family relationship of opposite-sex couples who may marry). By comparison, the question of whether the City's Registry is a marriage substitute does not even begin to come close.

CONCLUSION

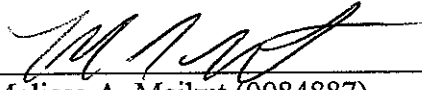
Domestic partnership registries are not by any measure "marriage substitutes." Instead, municipalities create such registries because they have important symbolic and practical implications. Cities that wish to communicate their commitment to fair treatment of all Ohio families, including same-sex couples, can create a registry as a signal of their acceptance. In Cleveland, the City heralded its efforts to enact its Registry as part of its pitch to host the 2014 Gay Games. Cleveland was granted the bid in 2009, and the City expects to bring in tens of millions of dollars to the City's restaurants, hotels and small businesses as a result. See Elizabeth Sullivan, *Effort to attract 2014 Gay Games to Cleveland showcases teamwork* (Sept. 18, 2009), Cleveland.com (attached hereto as Exhibit B) (citing the Registry as boosting the City's reputation for tolerance and noting how a prior Gay Games pumped the regional economy of that year's host city by \$80 million). Conversely, the absence of any domestic partnership

provisions can send a signal of intolerance and may deter city investment. Indeed, the American Political Science Association recently decided to investigate a city's respect for same-sex relationships before siting a convention in that city, and specifically expressed concern regarding whether or not members in same-sex couples would be respected in New Orleans, where the organization plans to hold its 2012 annual meeting. See American Political Science Association, "Specific Siting Policy Resolutions Passed by the Council (June 26, 2008) (attached hereto as Exhibit C)

To the registered couples themselves, the absence of legal rights does not equate to an absence of interests. As this Court has acknowledged, some couples may be able to receive ancillary benefits from their employers. *City of Cleveland Heights ex rel. Hicks v. City of Cleveland Heights*, 162 Ohio App.3d 193, at ¶15 fn. 1. Additionally, many same-sex couples sincerely fear that their relationships will not be respected in hospitals or emergency settings. Even in everyday situations, registration provides same-sex couples with a vocabulary to communicate the authenticity of their relationship – in filling out emergency contact forms, signing up for joint bank accounts or describing the relation who may pick up the children after school.

These interests are important, but do not embody all the attributes of marriage. As a result, for all the reasons set forth above, the Court of Common Pleas properly dismissed Appellants' case.

Respectfully submitted,



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CERTIFICATE OF SERVICE

The undersigned does hereby certify that a true and accurate copy of the foregoing Amicus Brief was served by Melissa A. Majkut on February 17, 2010, upon the following counsel:

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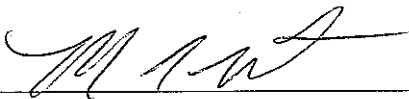
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APPENDIX

Exhibit

- A. C.C.O. 109
- B. Elizabeth Sullivan, *Effort to attract 2014 Gay Games to Cleveland showcases teamwork* (Sept. 18, 2009), Cleveland.com.,
http://www.cleveland.com/opinion/index.ssf/2009/09/effort_to_attract_2014_gay_gam.html
- C. American Political Science Association, *Specific Siting Policy Resolutions Passed by the Council* (June 26, 2008), https://apsanet.org/content_54401.cfm

EXHIBIT A

Search Cleveland Codes

Search [Search Tips]

PART ONE — ADMINISTRATIVE CODE

Title I — General Provisions

Chapter 109 — Domestic Partnership Registry

Complete to June 30, 2009

109.01 Definitions

As used in this Chapter:

(a) "Domestic partnership" refers to the non-marital committed relationship of two adults of the same or different sex, who share a common residence and affirm that they share responsibility for each other's common welfare, and have signed and filed a Declaration of Domestic Partnership with the city.

(b) "Share a common residence" means that both domestic partners share the same residence. It is not necessary that both domestic partners have title to the property where they reside or the legal right to possess the common residence. Two people may share a common residence even if one or both have additional residences. Domestic partners do not cease to share a common residence if one leaves the common residence but intends to return. Nothing in this definition or chapter shall affect or supersede any residency requirement set forth in Section 74 of the City's Charter. Shared common residence does not have the same meaning as bona fide residence.

(c) Domestic partners will be deemed to have an "committed" relationship and to "share responsibility for one another's common welfare" if they execute a Declaration of Domestic Partnership affirming that such facts are true.

(Ord. No. 1745-08. Passed 12-8-08, eff. 1-7-09)

109.02 Domestic Partnership Criteria

To establish a domestic partnership, both individuals must file a Declaration of Domestic Partnership with the City affirming that they meet all of the following qualifications:

(a) Both individuals share a common residence;

(b) Both individuals affirm that they have an committed relationship and share responsibility for each other's common welfare;

(c) Neither individual is married to any other individual;

(d) Neither individual is part of an existing domestic partnership with any third party;

(e) Each individual is 18 years of age or older; and

(f) The individuals are not related to one another by blood in a way that would prevent them from being married to one another in this State.

(Ord. No. 1745-08. Passed 12-8-08, eff. 1-7-09)

109.03 Filing

(a) Filing Location. Two individuals seeking to become domestic partners must complete and file a Declaration of Domestic Partnership with the Division of Assessments and Licenses.

(b) Filing Prohibition. No individual who has previously filed a Declaration of Domestic Partnership in this City may file a new Declaration of Domestic Partnership until a Notice of Termination of Domestic Partnership has

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been filed with the City. However, this prohibition shall not apply if the previous domestic partnership ended because one of the domestic partners is deceased.

(Ord. No. 1745-08, Passed 12-8-08, eff. 1-7-09)

109.04 Registration

(a) **Registration Forms.** The Commissioner of Assessments and Licenses shall develop "Declaration of Domestic Partnership" and "Notice of Termination of Domestic Partnership" forms, and shall not add to or alter the requirements listed in Section 109.02 of this Chapter.

(b) **Registration Requirements.** The "Declaration of Domestic Partnership" form shall require each registrant to:

(1) Affirm that he or she meets the requirements of Section 109.02 of this Chapter;

(2) Provide a mailing address;

(3) Sign the form under penalty of perjury; and

(4) Have a notary public acknowledge his or her signature.

(c) **Availability of Forms.** The city shall have declaration and termination forms available at the Division of Assessments and Licenses.

(d) **Administrative Fee.** The city shall charge an administrative fee of \$55 to persons filing a Declaration of Domestic Partnership. No fee shall be charged for the filing of a Notice of Termination of Domestic Partnership.

(e) **Partnership Registration.** The city shall register the Declaration of Domestic Partnership in a registry and return a copy of the declaration form to the domestic partners at the address provided as their common residence.

(f) **Termination Registration.** The city shall register the Notice of Termination of Domestic Partnership pursuant to the requirements set forth in Section 109.05 of this Chapter.

(Ord. No. 1745-08, Passed 12-8-08, eff. 1-7-09)

109.05 Termination

(a) **Termination.** A domestic partnership ends when:

(1) One of the domestic partners dies; or

(2) A Notice of Termination of Domestic Partnership has been filed by one or both domestic partners with the city.

(b) **Notice of Termination.** If the facts affirmed in the Declaration of Domestic Partnership cease to be true, one or both parties to a domestic partnership shall file a Notice of Termination of Domestic Partnership with the Division of Assessments and Licenses. Upon receipt, the city shall return a copy of the notice marked "filed" to each of the partners, if jointly filed; or two copies to the filing partner. Unless the partners jointly file the notice, the partner filing the notice shall, within five days, send a copy of the filed notice to the other partner's last known address. However, this requirement shall not apply if the termination is due to the death of one of the domestic partners.

(c) **Effective Termination Date.** Termination of a domestic partnership shall be effective upon filing of the Notice of Termination of Domestic Partnership with the City by one or both partners, or on the date of the death of one of the domestic partners.

(d) **Notice to Third Parties.** Following the termination of a domestic partnership the burden of notification rests with, each former domestic partner who has received or qualified for any benefit or right based upon the existence of a domestic partnership and whose receipt of that benefit or enjoyment of that right has not otherwise terminated, to give prompt notification to any third party who provides such benefit or right that the domestic partnership has terminated. The City shall not be liable for any injury to any third-party by virtue of lack of notice of termination to the domestic partnership, including any third-party which has provided any benefits regarding the domestic partnership.

(e) **Failure to Give Notice.** Failure to provide notice to third parties as prescribed in this section shall not delay or prevent the termination of the domestic partnership.

(Ord. No. 1745-08, Passed 12-8-08, eff. 1-7-09)

109.06 Legal Effect

(a) Registering as domestic partners by two individuals who are also married to one other, in this or in another state, shall under no circumstances, be considered as evidence, knowledge, awareness, or an admission that the partners are not lawfully married and it shall not be given any other legal effect, in this or any other state, with

regard to whether the persons are lawfully married.

(b) Nothing in this Chapter shall be interpreted to alter or contravene county, state or federal law.

(c) Nothing in this Chapter shall be construed as recognizing or treating a Declaration of Domestic Partnership as a marriage or a legal status that intends to approximate the design, qualities, significance or effect of marriage.

(Ord. No. 1745-08. Passed 12-8-08, eff. 1-7-09)

109.07 Severability

If any section, subsection, clause or provision of this Chapter is held invalid, the remainder shall not be affected by such invalidity.

(Ord. No. 1745-08. Passed 12-8-08, eff. 1-7-09)

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Editorial »

Effort to attract 2014 Gay Games to Cleveland showcases teamwork

By Elizabeth Sullivan
September 18, 2009, 4:01AM

City Councilwoman Phyllis Cleveland said it best: "We may have a winning team in Cleveland, finally."

She wasn't referring to the usual suspects, but rather to a diverse group of players from the mayor's office, city hall, city council and the business community. They have come together under the leadership of the Cleveland Synergy Foundation, a nonprofit corporation that works to enhance the quality of life in the local gay, lesbian, bisexual, transgendered and heterosexual communities by attracting athletic and cultural events.

Their goal is to bring the 2014 Gay Games here and, luckily for Cleveland, they are a formidable team. In a competition that began with 40 cities worldwide, Cleveland has made it to the final three, beating out such powerhouses as London and Miami.

Now we're in the elimination round with Boston and Washington, D.C.

The aggressive leadership shown in the pursuit of this popular 10-day Olympiad has paid off in positive reviews, not just from the site selection committee but also from gay activists around the world who in turn are changing the perception of Cleveland -- and Ohio.

The passage last December of the domestic partners registry boosted the city's reputation for tolerance. And the historic vote in the Ohio House to protect gays and transgendered citizens from housing and employment discrimination earlier this week was another landmark step forward in civil rights.

To win the Gay Games won't just enhance our reputation, it also will put cash in our pockets. The 11,700 participants and over 100,000 spectators to the 2006 Chicago games pumped \$80 million into its regional economy.

A final decision on site selection will be made Tuesday. Our bet's on Cleveland.

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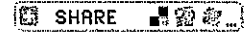
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Specific Siting Policy Resolutions Passed by the Council



Specifically, the APSA Council adopted the following language. With respect to future site selection, the Council affirmed that:

Resolved: In locating its future meetings, APSA presumes that states with legal restrictions on rights afforded recognized same-sex unions and partnerships create an unwelcoming environment for our members in cities where we might meet. We would notify authorities at all levels that these conditions make it difficult for us to site our meeting in these states. APSA would closely examine practices on a case-by-case basis in cities within these states to assess whether demonstrated positive local practices or other Association goals warrant holding our conferences there. Approved 11 in favor; 6 opposed; no abstentions. After a motion to reconsider and insertion of the phrase "states with legal restrictions" in place of "states with constitutional restrictions" the motion passed 16 in favor; 2 opposed; and no abstentions.

Additionally, in conjunction with continuing the 2012 meeting in New Orleans, the Council adopted a policy of public and intellectual engagement:

Resolved: APSA continue with its 2012 meeting in New Orleans as contracted; APSA siting policy further be modified to call for enhanced engagement with host cities on state and local issues of importance to APSA, including restrictions on rights for same-sex unions and the economic development of meeting cities; and APSA policy call for the Association to promote the advancement of scholarship and enhancement of intellectual engagement among members at the annual meeting on questions of inequality that may arise in relation to the siting of the annual meeting, including restrictions on same-sex unions and the economic development of meeting cities. Approved 14 in favor, 2 opposed; 2 abstentions.

The Council also affirmed that APSA should approach the meeting in New Orleans with particular sensitivity to the needs of all members, and with respect for those members who may opt not to attend.

In developing Association initiatives, policies and practices to follow up with these commitments in future meetings, APSA leadership and staff will work vigorously with the Council, program committee chairs, and all APSA committees.

APSA Siting Policy Decision

- **Introduction**
- **Background Materials:**
 - General Background
 - Four Elements of APSA's New Siting Policy
 - Specific Siting Policy Resolutions Passed by the Council
 - Report of Council Committee on Siting
 - Complete APSA Meeting Siting Policy Document
 - APSA Council Discussion at the June 26 Meeting
 - Questions and Answers about APSA Policy on Siting
 - Chronology of APSA Council Decision Process