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**GLAA**  
GAY AND LESBIAN  
ACTIVISTS ALLIANCE

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*Fighting for equal rights since 1971*

Testimony regarding whether the proposed Initiative  
“Preservation of Traditional Marriage One Man One Woman 2009”  
is a proper subject for initiative in the District of Columbia

Before the D.C. Board of Elections and Ethics  
Tuesday, February 16, 2010, 10:30 AM  
One Judiciary Square, Old Council Chamber

Good morning. I am Rick Rosendall. I live at 1414 17<sup>th</sup> Street, NW. I am Vice President for Political Affairs of the Gay and Lesbian Activists Alliance, and I speak for them.

The proposed Initiative, “Preservation of Traditional Marriage One Man One Woman 2009,” should be rejected as it violates D.C. law and is not in proper legislative form, as my colleague Bob Summersgill has spelled out. This Board in the past year ruled against two referenda and an initiative that bore similar purposes. As in those cases, the present Initiative violates a provision of the law enacted at the behest of the Gay Activists Alliance in 1979 which bars any referendum or initiative that “authorizes, or would have the effect of authorizing, discrimination prohibited under Chapter 14 of Title 2....” In 2002, the Human Rights Act was amended to apply its provisions expressly to the District Government.

D.C. Attorney General Peter Nickles wrote to Mr. McGhie on February 9: “Revoking marital recognition based on one’s gender and sexual orientation deprives homosexuals of the over 200 rights and responsibilities of marriage.” That count was performed by GLAA. Nickles continues, “[A]ny effort to foreclose same-sex couples the rights and responsibilities of civil marriage discriminates, or has the effect of discriminating, in contravention of the HRA.”

The Initiative would also violate the subject-matter restriction by causing a loss of revenue to the District. This is supported by documents from the Williams Institute and the D.C. Office of the Chief Financial Officer, for which I provide references in my written testimony.<sup>1,2</sup> The Board has ruled against this argument as applied to referenda, but we believe that it remains valid as applied to initiatives.

As the court has found, the *Dean* case, cited by our opponents in the past, is no longer a controlling authority because the facts and the law have changed. The court also found that the

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<sup>1</sup> Christopher Ramos, M.V. Lee Badgett, and Brad Sears, "The Economic Impact of Extending Marriage to Same-Sex Couples in the District of Columbia," The Williams Institute, April 2009, <http://www.law.ucla.edu/williamsinstitute/pdf/DC%20Econ%20Impact.pdf>

<sup>2</sup> Analysis of the potential revenue implications of same-sex marriages in the District of Columbia, D.C. Office of the Chief Financial Officer, December 15, 2009, <http://www.glaa.org/archive/2009/cfoanalysisonssmrevenue1215.pdf>

Council acted within its authority in 1979 when it added restrictions to the subject matter of referenda and initiatives.

Insisting on the primacy of ballot measures goes against American traditions of representative government. Article IV, Section 4 of the U.S. Constitution guarantees a republican form of government, not one based on plebiscites. GLAA has worked openly within the prevailing system for decades to move District law toward full equality for gay people. Our opponents are not entitled to change the rules now just because they have lost the argument.

Claims by our opponents that marriage is inherently religious and has remained unchanged for millennia are ahistorical and legally false. Prior to the establishment of marriage equality in this and other jurisdictions, civil marriage changed in a number of ways, including elimination of racial discrimination and recognition of the equal status of women.<sup>3</sup> We are merely continuing a tradition in our city and our nation of expanding rights to embrace everyone.

We reject the junk science used by our opponents to support allegations that children are harmed by being raised by gay parents. Credible studies consistently refute those claims.<sup>4</sup> Legal adoption by same-sex couples has been a normal occurrence here since 1995.<sup>5</sup>

During previous hearings, our opponents have used even innocent children's books in an effort to portray gay people's relationships as being based solely on sex. Yet the efforts against us target not sex, which requires no license, but legal protections for committed same-sex couples. Our lives are a living rebuke to those slanders. My own partner and I are among an estimated 36,000 same-sex couples involving an American and a foreign partner, according to the 2000 U.S. Census.<sup>6</sup> Our love has been strong enough to withstand the added legal, financial, and emotional pressures of being separated most of the time by 3,500 miles of ocean.

Marriage is recognized in *Loving* and other cases as a fundamental human right. The Initiative would illegally discriminate by preventing me from marrying the person I love, and should therefore be rejected.

Thank you.

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<sup>3</sup> Empire State Pride Agenda, "Same-Sex Marriage Myths Busted," <http://www.prideagenda.org/IssuesExplained/MarriageandFamilyProtection/SameSexMarriageMythsBusted/tabid/480/Default.aspx>

<sup>4</sup> Brad Sears and Alan Hirsch, "No harm done to children of gay marriages: U.S. studies consistently dispute claims of opponents," *Edmonton Journal*, April 10, 2004, <http://www.law.ucla.edu/williamsinstitute/press/noharm.html>

<sup>5</sup> *In re M.M.D. v. B.H.M.*, 662 A.2d 837 (D.C. 1995)

<sup>6</sup> Scott Long, Jessica Stern, and Adam Francoeur, "Family, Unvalued: Discrimination, Denial, and the Fate of Binational Same-Sex Couples under U.S. Law," Human Rights Watch and Immigration Equality, 2006, <http://www.hrw.org/en/reports/2006/05/01/family-unvalued>