

IN THE SUPREME COURT OF THE STATE OF NEW MEXICO

ALEXANDER HANNA and YON HUDSON

Petitioners,

v.

No. 34,216

SUPREME COURT OF NEW MEXICO
FILED

**GERALDINE SALAZAR, in her official
Capacity as Santa Fe County Clerk,**

JUL 15 2013



Respondent.

CITY OF SANTA FE'S MOTION TO FILE AMICUS CURIAE BRIEF

COMES NOW City of Santa Fe (hereafter, "the City"), by and through its counsel, Eugene (Geno) I. Zamora, City Attorney, and Zachary Shandler, Assistant City Attorney, NMRA, and pursuant to Rule 12-215 requests leave to file an amicus brief in support of the Petitioners in the above-captioned matter.

As grounds for this Motion, the City states as follows:

1. The City of Santa Fe ("City") is a political subdivision and chartered municipal corporation organized under the laws of the state of New Mexico.
2. The City's Governing Body has by resolution authorized the filing of an Amicus Brief in this matter on behalf of the City and Petitioners, specifically stating that "the City will support legal efforts to obtain marriage equality under the law of New Mexico, including filing amicus briefs in any same-sex marriage litigation to represent the City of Santa Fe's interest in protecting citizens from

discrimination and denial of equality in marriage rights”. City of Santa Fe, N.M., Resolution No. 2013-44 (Apr. 24, 2013).

3. The City’s resolution further states its position that: “Santa Fe has always been a proud leader in recognizing basic human rights and in fighting against discrimination.” Id. As articulated in the Municipal Charter adopted by its voters, the City has an interest in advocating for the legal rights of its citizens and its employees. Specifically, the Charter States:

- a. “We, the people of Santa Fe, a capital city for four centuries, [are] a community with rich and lasting multi-cultural traditions and a history of tolerance towards all peoples, cultures, traditions, and lifestyles.... With this Charter we ... express our determination to secure for ourselves and our children the continuity of our cultural values, our personal freedoms and our well being.” City of Santa Fe, N.M., Municipal City Charter, Preamble (Rev.Ord.Supp. 3/08).
- b. “The human and civil rights of the residents of Santa Fe are inviolate and shall not be diminished or otherwise infringed. To that end, ... [no action shall be] condoned which discriminates on the basis of ... sex, gender, [or] sexual orientation...”. Id. Article II, Section 2.02.

- c. “The governing body shall preserve, protect and promote human rights and human dignity, and shall, through all of its activities, including but not limited to employment, awarding of contracts, housing accommodation, and the provision of city services, prohibit and discourage such discrimination.” Id.
- d. “The people of Santa Fe derive invaluable benefits from our multi-cultural heritage... The result is a community that ...celebrates the diversity of those who have chosen to live here.” Id. Section 2.04.

4. The UCLA School of Law’s Williams Institute has stated there are approximately 18.07 same-sex couples per 1,000 households in the City. See Gary Gates and Abigail Cooke, “U.S. Census Snapshot 2010”, UCLA School of Law Williams Institute (2011).

5. That percentage compares favorably against other larger cities in states where same-sex marriage is legal, such as San Francisco (30.25 couples per 1,000 households), Seattle (23.06), Washington D.C. (18.08), Boston (14.70) and Baltimore (10.76). Id. at 7.

6. In public hearings during the process adopting the above-cited city resolution, the City was able to hear and consider the statements of dozens of same-sex couples who are currently being denied the right to marry the person they

love, in their own community, among friends and family; without having to leave their community and travel or move to another state to enjoy the right of marriage.

7. The City's amicus curiae brief would assist the Court because the City, in preparation for adoption of the above-cited city resolution, has already done detailed research on the statutory interpretation of NMSA 1978, Section 40-1-1 et seq., and the City believes it would be helpful to the Court's analytic review of these matters if the City could present its information in an amicus brief to the Court.

8. The City wishes to present the Court with its adopted position, based on legal research performed by its City Attorney's Office, that under current New Mexico law "same sex-marriage is legal in our State and that our State Citizens have the right to marry the partner of their choice" and prohibition of such marriage would "violate the New Mexico Constitution, which requires equality under law regardless of sex." City of Santa Fe, N.M., Resolution No. 2013-44 (Apr. 24, 2013).

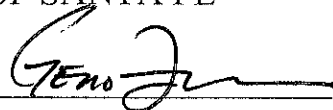
9. The City's amicus curiae brief would also assist the Court by presenting argument that writ of mandamus to this Court is proper because the claims raised by the Petitioners regarding marriage equality are matters of great public importance and immediately affect the rights of citizens of the City, as well as citizens throughout the State of New Mexico.

10. Petitioners and the State Attorney General's Office were telephonically contacted on or about July 8, 2013 and do not oppose this Motion. The Santa Fe County Attorney's Office was telephonically contacted prior to the filing of this Motion, but did not respond.

11. If this Motion is granted, the City would respectfully request, pursuant to Rule 12-215(E), leave from the Court to receive an allotment of time at oral argument.

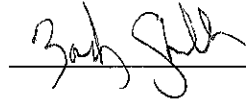
Accordingly, the City respectfully requests that the Court grant leave for the City to file an amicus brief in support of the Petitioners' rights for marriage equality and in opposition of the continuing discrimination endured by same-sex couples who have been denied their right to marry in the State of New Mexico.

RESPECTFULLY SUBMITTED,
GENO ZAMORA, CITY ATTORNEY
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I hereby certified that a true and correct copy of the foregoing pleading was served on the parties on this 15 day of July 2013.



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