

BEFORE THE BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON

RESOLUTION NO. 04-039

Approving Chair's Administrative Decision Regarding Marriage Licenses

The Multnomah County Board of Commissioners Finds:

- a) In January 2004 Commissioners Naito and Cruz requested County Attorney Agnes Sowle to give her legal opinion on whether the County's practice of denying marriage licenses to same sex couples was permissible under current Oregon law and whether the County was at any risk of liability if it continued that practice.
- b) On March 2, 2004, the County Attorney delivered to each Board member both her written legal opinion and an opinion letter from Charles F. Hinkle, who was asked to review this practice as independent counsel for the County. The County Attorney concluded the County's "refusal to issue marriage licenses to same sex couples violates Article I, section 20, of the Oregon Constitution." She further concluded that the Board and each of the Commissioners were required by law to act in compliance with the Constitution and that the County was at risk of incurring liability if it did not do so. Mr. Hinkle concurred, stating "If Multnomah County issues marriage licenses to opposite sex couples, it must issue marriage licenses to same sex couples." He further stated that "to do otherwise would be...in direct violation of the constitutional command of Article I, section 20."
- c) No opinion was solicited from the Oregon Attorney General regarding the County's marriage licensing practice because the AG is advisory counsel for the State and State agencies rather than local government.
- d) On March 3, 2004, Chair Linn directed the County's Tax Collection and Records Management Division to issue licenses to same sex couples. Commissioners Rojo de Steffey, Cruz and Naito held a press conference acknowledging the Chair's authority to change this administrative procedure and supporting her executive decision.
- e) On March 8, 2004, Greg Chaimov, Legislative Counsel, released an opinion letter to Senator Kate Brown, in which he concluded that denying marriage licenses to same sex couples was a violation of the Oregon Constitution on the same grounds as cited by the County Attorney and Mr. Hinkle.
- f) On March 12, 2004, Attorney General Hardy Myers released an opinion requested by the Governor, in which he concluded that the Supreme Court would likely find that denial of marriage licenses to same sex couples is a violation of the Oregon Constitution.

The Multnomah County Board of Commissioners Resolves:

1. To support Chair Linn's March 2, 2004, decision whereby she directed the Tax Collection and Records Management Division of the Department of Business and Community Services to issue marriage licenses to all qualified persons regardless of their gender or sexual orientation.

ADOPTED this 1st day of April, 2004.

BOARD OF COUNTY COMMISSONERS
FOR MULTNOMAH COUNTY, OREGON

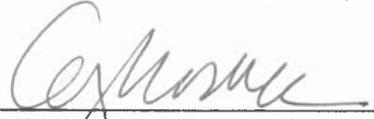


Diane M. Linn, Chair



REVIEWED:

AGNES SOWLE, COUNTY ATTORNEY
FOR MULTNOMAH COUNTY, OREGON

By _____
Agnes Sowle, County Attorney