



## Legislation Text

---

**File #:** Res 0442-2004, **Version:** \*

---

### Res. No. 442

Resolution calling upon the Council of the City of New York to support the Albany County Supreme Court petition of Elissa Kane and Lynne Lekakis and Robert Barnes and George Jurgsatis seeking to compel the State Department of Health to permit the Albany County City Clerk to issue marriage licenses to the two couples who were recently joined by a Unitarian Universalist Minister.

By Council Members Lopez, Jackson and Gerson

Whereas, Two same-sex couples married by a clergy member earlier this year have brought an Article 78 proceeding which seeks to compel the State Department of Health to permit the Albany County City Clerk to issue them marriage licenses; and

Whereas, Unitarian Universalist Reverend Samuel Trumbore in March 2004 married two same-sex couples in Albany, and signed notarized affidavits of marriage pursuant to New York State's Domestic Relations Law, but the couples were then refused marriage licenses; and

Whereas, The petition states that the State's Domestic Relations Law recognizes ceremonial marriages regardless of whether the parties have a valid marriage license and thus, either Elissa Kane and Lynne Lekakis and Robert Barnes and George Jurgsatis unions should be recognized as valid marriages or that section of the Law should be stricken as unconstitutional; and

Whereas, The State Department of Health has stated that New York's Domestic Relations Law does not allow marriage licenses for same-sex couples and that anyone issuing a license or anyone solemnizing such a marriage would be violating State law; and

Whereas, New York State Attorney General Eliot Spitzer's Office has recently informally opined that while New York State Law does not currently authorize same-sex marriage, such law is ripe for constitutional

challenge, which is best resolved by the courts of this State; and

Whereas, The ban on same-sex marriage is akin to the hateful and shameful ban on interracial marriage, which was declared unconstitutional by the United States Supreme Court in the 1967 landmark case of *Loving v. Virginia*, where the Court held that such ban violated the Due Process Clause of the Fourteenth Amendment, as “[t]he freedom to marry has long been recognized as one of the vital personal rights essential to the orderly pursuit of happiness by free men.”; and

Whereas, It is crucially important that this year, which is the 50<sup>th</sup> anniversary of the landmark case of *Brown v. Board of Education*, where the United States Supreme Court struck down the long adhered-to doctrine of “separate but equal”, that the courts declare that discriminatory doctrine has no place in our society whatsoever, and especially not in that “vital personal right” of marriage which is a fundamental right which should be equally available to all human adults; now, therefore, be it

Resolved, That the Council of the City of New York supports the Albany County Supreme Court petition of Elissa Kane and Lynne Lekakis and Robert Barnes and George Jurgsatis, which seeks to compel the State Department of Health to permit the Albany County City Clerk to issue marriage licenses to the two couples who were recently joined by a Unitarian Universalist Minister.

LS No. 1324

SML 6/21/04