



JCRC Statement on the Knight Initiative (Proposition 22) and Discrimination Against Gay Men and Lesbians

February 8, 2000

Approved by the Jewish Community Relations Council of San Francisco, the Peninsula, Marin, Sonoma, Alameda and Contra Costa Counties

Preamble

The Jewish Community Relations Council has been asked by numerous groups and individuals to consider opposing Proposition 22, known as the Knight Initiative, which seeks to add a line to the State of California's Family Code stating that "only marriage between a man and a woman is valid or recognized in California." The initiative will appear on the ballot in the March 2000 primary election, and if approved, would preclude the legal recognition of same-sex marriage in California. The JCRC decided that the subject should be addressed within a broader framework of public policy issues that have a particular effect on the gay and lesbian community, while acknowledging the historic religious teachings within Judaism on the subject of homosexuality.

Based upon our examination of the broader issues, we have decided to oppose Proposition 22. The initiative purports to focus solely on the institution of marriage. We believe, however, that its main impact would be to perpetuate discrimination against gay men and lesbians in areas ranging from inheritance rights to hospital visits. Our consensus to oppose the initiative stems from our community's historic opposition to discrimination and our concern that its passage could create a climate of increased hostility toward gay men and lesbians.

We recognize that some members of our community may choose to support, or not actively oppose, Proposition 22 for religious or other reasons. We urge that discussions about the substance of the initiative, the sensitive religious issues it involves, and the common goal of ending discrimination, take place in an atmosphere of civility and mutual respect.

Background

Efforts to end discrimination against minority groups have been a cornerstone of the Jewish Community Relations Council since its inception. In recent years, those efforts have included extending such protection to individuals on the basis of sexual orientation. This has ranged from supporting inclusion under the federal Hate Crimes Prevention Act to supporting domestic partner benefits within our own community.

Our national organization, the Jewish Council for Public Affairs, summarized the position of the community relations field when it articulated its position six years ago. “The JCPA opposes discrimination based on sexual orientation in employment, housing, public accommodation and education. The JCPA supports legislation to bar discrimination in these areas, and opposes ballot initiatives and other measures that would threaten these protections. This position is not based on the endorsement of any particular orientation or lifestyle, but is premised on the longstanding and deeply felt opposition on the part of all Jewish communal groups to discrimination in any quarter.” The Orthodox Union, for the record, dissented. In their dissent they wrote, “[w]e are opposed to discrimination and vigilantism against any individual or group. The halacha, however, prohibits homosexual activity, and we cannot join in a statement that could be misinterpreted to imply otherwise.”

The religious Jewish community has diverse views about the relevance of historic Jewish teaching to contemporary issues of equal rights and protections for gay men and lesbians. The Union of Orthodox Jewish Congregations of America opposes the civil recognition of same-sex relationships. In 1996, the Central Conference of American Rabbis of the Reform movement expressed “support [for] the right of gay and lesbian couples to share fully and equally in the rights of civil marriage.” The Rabbinical Assembly of the Conservative movement has stated that they “support full civil equality for gays and lesbians in our national life.”

Statement

We are sensitive to and respect historic Jewish teaching. We believe that efforts aimed at eliminating discrimination need not be in conflict with maintaining support for the traditional view of marriage as an essential tenet of Judaism and our society. Discrimination is inconsistent with Jewish values, which affirm the dignity of each human being as having been created “in the image of God.” Similarly, the historic Jewish experience of discrimination heightens our concern for and commitment to ensuring the equal protection of all under the law. The recent unanimous *Baker vs. State Vermont* Supreme Court decision, which directs the Vermont state legislature to extend legal protections and benefits to same-sex partnerships, made the matter of dignity clear

when it ruled that to extend equal rights to homosexual couples “who seek nothing more, nor less, than legal protection and security for their avowed commitment to an intimate and lasting relationship is simply, when all is said and done, a recognition of our common humanity.”

Proposition 22 states that “only marriage between a man and a woman is valid or recognized in California.” California law already reads that “marriage is a personal relation arising out of a civil contract between a man and a woman...” Passage of the initiative is therefore unnecessary and could, in fact, increase discrimination by delegitimizing civil arrangements, such as registered domestic partnerships, which might be legally recognized as a means of extending to same-sex couples the same benefits as exist for legally married couples. This has already been demonstrated by the fact that legal disputes challenging the extension of certain rights and benefits to domestic partners have arisen in states where laws similar to Proposition 22 have been approved. In fact, in different communities around the country, the passage of similar provisions has created a political climate that has resulted in the dissolution of previously established rights and benefits for gay men and lesbians. Moreover, by adding the term “recognized in California,” state law would then bar the recognition of same-sex marriages that might eventually be performed legally in other states. This could conflict with the “full faith and credit” clause of the U.S. Constitution, which requires states to recognize the laws of other states.

We are concerned about the perpetuation of discrimination against gay men and lesbians which, in part, results from the absence of full legal status for domestic partnerships. Eligibility for health care benefits, insurance policies, survivor entitlements, equal treatment in inheritance, the application of income tax laws and the ability to make family medical decisions are a few of the issues at stake. The Vermont Supreme Court’s opinion addressed the matter of equal treatment in stating, “we hold that the state is constitutionally required to extend to same-sex couples the common benefits and protections that flow from marriage under Vermont law. Whether this ultimately takes the form of inclusion within the marriage laws themselves or a parallel “domestic partnership” system or some equivalent statutory alternative rests with the Legislature.”

The organized Jewish community supports the goal articulated in the Baker opinion of extending the common benefits and protections that flow from marriage to same-sex couples. In so doing, we are neither endorsing same-sex marriage, nor are we advocating a change in the definition of marriage, whether it be civil or religious. (*Note: the state must have no role in determining what constitutes a religious marriage.*) We are convinced that Proposition 22 represents a serious step backward in the effort to eliminate discrimination. We therefore oppose the initiative. We encourage members of

our community to become educated about the complex issues raised by the initiative and to join in opposing it, as well as similar measures that make it even harder to eliminate persistent discrimination against individuals on the basis of their sexual orientation.