

CITY COUNCIL
CITY OF NEW YORK

-----X

TRANSCRIPT OF THE MINUTES

of the

COMMITTEE ON CIVIL RIGHTS AND IMMIGRATION

-----X

September 29, 2009

Start: XX:XXam/pm

Recess: XX:XXam/pm

HELD AT: Council Chambers
City Hall

B E F O R E:
KENDALL STEWART
LARRY B. SEABROOK
Chairperson

COUNCIL MEMBERS:
Charles Barron
Mathieu Eugene
Julissa Ferreras
Darlene Mealy
Michael C. Nelson
Annabel Palma
David I. Weprin

A P P E A R A N C E S (CONTINUED)

Erin Drinkwater
Congressman Jerry Nadler

Terry Boggis
Director of Family Programs
Lesbian Gay Bisexual and Transgender Community
Center

Ethan Ganc
Member of Lesbian, Gay, Bisexual, and Transgender
Rights Committee
New York City Bar Association

Rachel Tiven
Executive Director
Immigration Equality

Naveen Manglani

Eleanor Batchelder

Carlan Langley

Dr. Thomas Moulton

2 CHAIRPERSON STEWART: Good

3 morning, my name is Kendall Stewart and I am
4 the Chair of the New York City Council's
5 Committee on Immigration. I would like to
6 thank Council Member Seabrook, Chair of the
7 Committee on Civil Rights for participating in
8 this morning's hearing. I would also like to
9 thank my colleagues for attending today's
10 hearing. I would also want to thank Julene
11 Beckford, Israel Rodriguez, Damien Butvick,
12 and Eric Botcha [phonetic] who has worked on
13 this resolution.

14 Today's hearing will be on the
15 Uniting American Families Act of 2009 and
16 Resolution number 2172 currently before this
17 New York City Council.

18 Resolution number 2172 calls on
19 Congress to pass the Uniting American Families
20 Act. If passed, citizens and legal permanent
21 residents of the United States in bi-national,
22 same-sex relationship would be allowed to
23 sponsor their foreign-born partners for lawful
24 permanent resident status in a manner
25 consistent with the requirement and rights

1
2 currently enjoyed by opposite sex couples.

3 This is not the first time that
4 this issue has come before the Committee on
5 Immigration and the City Council as a whole.
6 In 2006, I introduced Resolution number 366
7 which called on the 110 Congress to
8 reintroduce and pass the Uniting American
9 Families Act. The Committee on Immigration
10 held two hearings on that resolution between
11 2006 and 2007, which ultimately led to its
12 passage by the entire City Council on March
13 14th, 2007.

14 Despite the strong message that
15 was sent by the City Council to Congress, the
16 Uniting American Families Act did not get
17 signed into law. With a new administration
18 and a new Congressional session, we can now
19 only hope that the promised changes will, in
20 fact, take place.

21 The Uniting American Families
22 Act is just one part of the bigger immigration
23 reform that has been promised and that needs
24 to happen in order for American and the
25 America to continue to be a just society where

2 equal opportunities are made available to
3 everyone.

4 Once again, I would like to
5 thank everyone for attending this morning's
6 hearing. Now I would like to give my
7 colleague Council Member Seabrook, Chair of
8 the Committee on Civil Rights, the opportunity
9 to speak.

10 COUNCIL MEMBER SEABROOK: Thank
11 you very much, Mr. Chairman. Good morning, my
12 name is Council Member Larry Seabrook and I am
13 the Chair of the Committee on Civil Rights.

14 I'd like to begin by thanking
15 Council Member Stewart for co-chairing this
16 important hearing with me. I'd also like to
17 welcome everyone in the audience today to this
18 hearing and thank those of you who will be
19 providing testimony.

20 As my esteemed colleague
21 already said, today we will be hearing
22 Resolution number 2172, which calls upon the
23 Congress to pass the Uniting American Families
24 Act of 2009 or other legislation that would
25 permit citizens and permanent residents in bi-

1 national same-sex relationships to be able to
2 sponsor their foreign-born partners for
3 permanent residency, a right that opposite sex
4 bi-national couples already enjoy.
5

6 Currently, same sex couples can
7 legally marry in the states of Massachusetts,
8 Iowa, Connecticut, and Vermont. New Hampshire
9 will be recognizing same sex marriages in
10 January and, pending results of a statewide
11 vote, Maine may do the same in November. A
12 number of other states in the country either
13 recognize the same sex marriage performed out
14 of state or have civil unions or domestic
15 partnership programs. While there is still
16 much to be done and many battles yet to be
17 fought, these are truly awesome victories and
18 foretell a bright future for the marriage
19 equality movement.

20 Despite the increasing number
21 of states that officially recognize the same
22 sex unions however, the Defense of Marriage
23 Act continues to deny legally married same-sex
24 couples the 1,138 federal rights which are
25 afforded to opposite sex married couples.

1
2 Because DOMA precludes the federal government
3 from recognizing same-sex marriages, it also
4 prevents the extension of spousal immigration
5 rights, even if a couple resides in a state
6 where same-sex marriages is recognized.

7 At the time of the 2000 census,
8 there were approximately 35,820 bi-national
9 same-sex couples living in this country.
10 Although experts agree that this number is
11 grossly underestimated, those couples the
12 inability to sponsor a significant other has
13 the potential to destroy loving relationships,
14 tear apart families and compel talented
15 Americans to move to countries that represent
16 their relationships. Americans whose partners
17 become undocumented, moreover, they can enter
18 into legal trouble if they continue
19 cohabitating in the United States after their
20 partner's legal status has expired.

21 Until we have fully marriage
22 equality in the United States or until the
23 federal government repeals the discriminatory
24 Defense of Marriage Act, it is imperative that
25 our elected officials in Washington take the

2 legislative steps necessary to protect and
3 expand the rights of all LGBT Americans.

4 And, again, I'd like to thank
5 the committee staff, Julene Beckford, Damien
6 Butvicks, Israel Rodriguez, and the Community
7 Outreach Division of the Speaker's office,
8 Eric Botcher, for their support in this
9 legislation.

10 And I'd also like to recognize
11 our colleague from Brooklyn, the esteemed
12 Councilman Charles Barron from Brooklyn.
13 Thank you very much, Mr. Chairman.

14 CHAIRPERSON STEWART: Well at
15 this time, we'd like to call our first panel
16 is Eric Drinkwater.

17 FEMALE VOICE: Erin--

18 [Crosstalk]

19 CHAIRPERSON STEWART: Erin
20 Drinkwater. And we have Ethan Ganc, and we
21 have Terry Boggis.

22 [Pause]

23 CHAIRPERSON STEWART: If you
24 can just identify yourself and we can begin.
25 You can start from our left.

2 ERIN DRINKWATER: Good morning,
3 my name is Erin Drinkwater and I'll be
4 testifying on behalf of Congressman Jerry
5 Nadler who is the sponsor of the Uniting
6 American Families Act.

7 Good morning, Chairman
8 Seabrook, Chairman Stewart and Members of the
9 Committees on Civil Rights and Immigration.
10 Thank you very much for holding this important
11 hearing on the Uniting American Families Act
12 of 2009.

13 As a sponsor of this
14 legislation in the U.S. House of
15 Representatives, I appreciate the opportunity
16 to testify today and to offer my thanks to the
17 City Council of New York for your
18 consideration of Resolution number 2172
19 calling on the United States Congress to pass
20 the Uniting American Families Act of 2009,
21 H.R. 1024 and S424.

22 I've always found that among
23 the worst kinds of injustice are those in
24 which the law acts in a gratuitously cruel
25 manner, that is to say it harms individuals

1
2 for no purpose. It is this kind of injustice,
3 this kind of gratuitous cruelty that the
4 Uniting American Families Act would correct.
5 I first introduced the Uniting American
6 Families Act in 2000 after hearing from my
7 constituents and others about the pain that
8 immigration laws were inflicting on their
9 lives because they were gay or lesbian and, as
10 such, these Americans were not allowed to
11 sponsor their partners for immigration
12 purposes. This unequal policy forces tens of
13 thousands of gay and lesbian Americans to face
14 a terrible choice between leaving the country
15 to be with the person they love or remaining
16 here in the United States, separate from their
17 partner. Depending upon the law in their
18 partners country, it may be impossible for the
19 two partners to be together in either country.

20 This runs directly counter to
21 the goal of family unity, which is supposed to
22 be the bedrock of American immigration policy.
23 Our unequal immigration laws wreck havoc on
24 the lives of thousands of bi-national couples
25 and families across the country. It does not

1
2 have to be that way, Congress can end this
3 injustice and stop this gratuitous cruelty
4 right now by passing the Uniting American
5 Families Act. UAFA is very simple, it would
6 give same-sex couples the same immigration
7 benefits as opposite sex couples. Same-sex
8 couples would have to prove the bona fide
9 nature of their relationship, just as opposite
10 sex couples do or face the same harsh
11 penalties for fraud.

12 We are making progress in
13 Washington on righting the wrongs done by our
14 immigration laws to gay and lesbian couples
15 and families. Today, UAFA has 116 cosponsors
16 in the House and in 2009 UAFA has companion
17 legislation in the Senate for the very first
18 time. In February, Senator Leahy introduced
19 the Senate version of the Uniting American
20 Families Act of 2009, which currently has 22
21 cosponsors. In June, the Senate Judiciary
22 Committee held the first congressional hearing
23 on the bill where I was honored to testify.
24 These bills have the support of the majority
25 of the New York congressional delegation,

2 including both our junior and senior senators.
3 In addition to working for the passage of the
4 Uniting American Families Act, I have been
5 working to ensure the provisions of UAFA are
6 included in a bill for comprehensive
7 immigration reform.

8 To that end, I am pleased that
9 my colleague, Representative Mike Honda,
10 included the provisions of UAFA in H.R. 2709
11 the Reuniting Families Act, a bill that
12 addresses all families and the impacts of
13 current immigration law.

14 As the discussion around
15 comprehensive immigration reform moves
16 forward, I will continue to work with my
17 colleagues in the House and Senate to ensure
18 that the provisions of UAFA are included in
19 any immigration legislation. It is time once
20 and for all to end this unnecessary cruelty to
21 loving couples.

22 Thank of your consideration of
23 this important resolution supporting our
24 efforts to do so in Washington. Thank you
25 again for holding this hearing and providing

2 me the opportunity to testify.

3 TERRY BOGGIS: Good morning.
4 My name is Terry Boggis and I'm the Director
5 of Family Programs at the Lesbian, Gay,
6 Bisexual, and Transgender Community Center
7 here in New York City.

8 In the 20 years since its
9 founding, the center, my family program has
10 seen many thousands of families come through
11 its doors seeking services, support, and
12 social connections for themselves as parents
13 and couples and for their children. Though
14 witnessing this process has been largely a
15 joyful experience, it is impossible to do so
16 without first being aware of why such a
17 program as ours is necessary to begin with.

18 Our constituents come to the
19 center for many reasons, but across the board
20 they come because they seek a space in which
21 their intimate relationships are validated,
22 honored, respected, and celebrated, this often
23 doesn't happen out in the world where law
24 renders our family's invisible and
25 illegitimate.

2 And these are the lucky
3 families, the intact families, the families
4 that don't have to stare down the barrel of
5 that gun that tells them they have to choose
6 between separation and relocation because only
7 one partner is an American citizen. This
8 variation on Sophie's Choice is excruciating
9 for bi-national couples, no one should be
10 forced to choose between one's country and
11 one's closest companion. To require that
12 choice is barbaric.

13 I've received countless calls
14 from LGBT people seeking information on the
15 legal steps that they can take to legitimize
16 their relationships--the powers of attorney,
17 the wills, guardianship agreements, domestic
18 partnership, second parent adoptions, living
19 wills, and so forth, all in an attempt to
20 prove the sincerity of their commitment and
21 the depth of their connection when scrutinized
22 by their government and its intimidating
23 institutions, institutions like the school
24 system, the medical system, and the welfare
25 system like so many others. Until the federal

2 government makes fundamental changes in the
3 law, changes that reflect the reality of true
4 family diversity in the United States, all
5 these efforts to protect themselves on the
6 part of LGBT people will only go so far.

7 The Uniting American Families
8 Act is a profoundly powerful, meaningful, and
9 affirming measure, serving to remove obstacles
10 to family formation and longevity, shoring up
11 this deep and meaningful variation on family
12 relationship.

13 We are most grateful to
14 Congressman Jerrold Nadler and Senator Patrick
15 Leahy for introducing the Uniting American
16 Families Act and we appreciate the efforts of
17 the New York City Council, particularly the
18 Committees on Civil Rights and Immigration and
19 their leadership in endorsing this resolution
20 in support of that federal legislation.

21 It is especially appropriate
22 for the governing body of New York City, both
23 the primary gateway to United States for so
24 many immigrants and the destination of choice
25 for so many LGBT Americans, to endorse the

2 Uniting American Families Act of 2009. On
3 behalf of the thousands of LGBT families in
4 New York, we also register our support of the
5 Uniting American Families Act and of this
6 Resolution. Thank you.

7 ETHAN GANC: Good morning my
8 name is Ethan Ganc, and I'm a member of the
9 Lesbian, Gay, Bisexual, and Transgender Rights
10 Committee of the New York City Bar
11 Association. On behalf of the city Bar, the
12 committee voices its support for the City
13 Council's resolution urging passage of the
14 Uniting American Families Act of 2009.

15 The bill would amend the
16 Immigration and Nationality Act and permit
17 U.S. citizens and legal residents in same-sex
18 relationships to sponsor their partners for
19 immigration purposes in the same manner as
20 spouses of citizens and lawful permanent
21 residents, and to penalize immigration fraud
22 in connection with permanent relationships.

23 The bill applies similar
24 standards to same-sex couples in permanent
25 partnerships that the U.S. applies to opposite

1 sex married couples where one member is
2 seeking to bring a foreign partner into the
3 country. Under the INA, a U.S. citizen or
4 permanent resident may petition for his or her
5 opposite sex spouse to receive legal status in
6 the United States. However, the INA does not
7 recognize same-sex relationships and this
8 discriminatory practice often forces a couple
9 to separate or move abroad in order to stay
10 together. Enactment of the bill would fulfill
11 the promise of family unification in the U.S.
12 immigration system by bringing same-sex
13 couples into parity with opposite sex married
14 couples in this context.

15
16 The UAFA does not add same-sex
17 couples to the category of spouse in the INA,
18 instead, it recognizes a new category
19 relationship: permanent partnership under the
20 INA. The standards of proof and the
21 procedures governing adjudication would be
22 identical to the INA's current immediate
23 relative category, absent the marriage
24 certificate. The beneficiary would need to
25 prove that he or she is at least 18 years of

1
2 age, in a intimate relationship with a
3 sponsoring adult, U.S. citizen, or legal
4 permanent resident in which both parties
5 intend a lifelong commitment, financially
6 interdependent of that person, not married or
7 in a permanent partnership with anyone other
8 than that person, and unable to contract with
9 that person a marriage that is recognized
10 under the INA, this is referred to as the
11 permanent partner checklist.

12 The bill strikes a balance
13 between protecting families and preventing
14 fraud. To ensure that the foreign national
15 does not become a public charge, the U.S.
16 citizen partner would need to commit through
17 an Affidavit of Support to support the foreign
18 national for 10 years, even if the partnership
19 dissolves.

20 The bill would mark an advance
21 in the rights of bi-national same-sex couples
22 and the committee supports the City Council's
23 resolution urging the United States Congress
24 to passage. Attached to my testimony is the
25 committee's full report to the bill's

1
2 sponsors, which I will now summarize that
3 details our support for the bill, including
4 our position that the bill should be updated
5 to reflect recent developments in the law of
6 same-sex relationships around the world.

7 When the bill was originally
8 written, no international jurisdiction offered
9 marriage and only a few jurisdictions offered
10 marriage equivalence to same-sex couples.
11 Thus, in 2000 a legal test that gave
12 substantial weight to marriage or equivalents,
13 such as civil unions or California-style
14 domestic partnerships, which I will refer to
15 as MOEs, had less practical importance than
16 the kind of facts and circumstances test that
17 the INA already applied to immediate
18 relatives.

19 Currently, 10 states, plus the
20 District of Columbia and at least 27
21 international jurisdictions have MOEs meaning
22 that for millions of same-sex couples
23 worldwide, it is no more difficult to acquire
24 government authorized MOE status than it is
25 for opposite sex couples to marry.

Under ordinary circumstances, American law does not judge the quality of a marriage. Instead, because of the serious and binding nature of the legal responsibilities, it assumes that couples will bear the risk of policing themselves so that they do not enter into impulsive marriages that exist in name only. The same is true of virtually all of the 38 jurisdictions that offer MOEs to same-sex couples. The bill, however, because it was originally drafted in an era when MOEs were rare, gives no deference to MOEs, thus, the bill requires same-sex couples who have entered into MOEs to submit to additional level of proof not required of their opposite sex married counterparts. Even if a same-sex couple in a long-term relationship has entered into an MOE, the non-U.S. national will not have immigration rights unless he or she can satisfy the criteria of the permanent partner checklist in the eyes of immigration law judges who do not follow common standards and are subject to limited appellate review. Therefore, it is our committee's hope that the

2 bill will be modified to recognize or give
3 deference to couples who have entered into an
4 MOE subject to immigration law standard anti-
5 marriage fraud divisions.

6 In summary, the committee
7 supports the City Council's Resolution urging
8 passage of the bill. Thank you.

9 [Pause]

10 CHAIRPERSON STEWART: We have a
11 few questions that we would like to ask.

12 [Pause] First I want to ask my colleagues, do
13 you have any questions for this panel?

14 [Off mic]

15 COUNCIL MEMBER SEABROOK: I
16 just want some clarity, probably from the bill
17 sponsors. The permanent partnership, it says
18 that the same-sex couples will be included and
19 I wanted to know if it exists for opposite sex
20 couples too, and what are they being included
21 to? Is this a category created--I'm a little
22 confused, so just bear with me--is this a
23 category created for the same-sex couples
24 since their marriage is not recognized by the
25 federal government even if their state

1
2 recognizes it, or is that permanent
3 partnership, does that apply--'cause I looked
4 at the criteria and it's not like it says that
5 it has to be a same-sex couple, so does it
6 apply to opposite sex couples as well?

7 MS. DRINKWATER: So it creates
8 additional status of permanent partner--

9 COUNCIL MEMBER SEABROOK:
10 Right.

11 MS. DRINKWATER: --That you
12 would have to meet certain criteria and that's
13 because of the fact that same-sex couples are
14 denied marriage at the federal level--

15 COUNCIL MEMBER SEABROOK: Got
16 that.

17 MS. DRINKWATER: --And those
18 benefits. In terms of it relating to opposite
19 sex partners, I believe that it does not
20 relate to them because they have the
21 opportunity to--

22 [Crosstalk]

23 COUNCIL MEMBER SEABROOK:
24 [Interposing] No, I understand that, but
25 there's nothing in this language, I don't

2 think and I could be wrong, but when I looked
3 at the criteria, if I just looked at that
4 criteria, there would be nothing in that
5 criteria that would say to me that this just
6 applies from--or maybe it is somewhere and I
7 just didn't catch up to it.

8 MS. DRINKWATER: So you're
9 unable to contract with a person that marriage
10 is recognized under the Immigration and
11 Nationality Act, so because you are allowed--
12 because the INA will recognize an opposite sex
13 marriage, the permanent partner status only
14 relates to same-sex couples.

15 COUNCIL MEMBER SEABROOK:
16 Right, because of that piece there.

17 MS. DRINKWATER: Correct.

18 COUNCIL MEMBER SEABROOK:
19 Because a opposite sex couple can apply for
20 marriage.

21 MS. DRINKWATER: Correct.

22 COUNCIL MEMBER SEABROOK: Got
23 you. Thank you.

24 CHAIRPERSON STEWART: What is
25 the status of this bill in both the House and

2 the Senate?

3 MS. DRINKWATER: Currently in
4 the House there's 116 cosponsors and the bill
5 has been referred to committee, there has been
6 no committee hearing at this point in the
7 House.

8 In the Senate, the bill has 22
9 cosponsors and Senator Leahy chaired a hearing
10 in, I believe, June, which was the first
11 hearing on the bill on either side.

12 CHAIRPERSON STEWART: So you
13 don't know if this will come to a vote before
14 we have a comprehensive immigration bill.

15 MS. DRINKWATER: The bill would
16 have to work its way through committees on
17 both sides of the House before it would come
18 to the floor for a vote, because there are no
19 hearings scheduled in the House, I don't
20 believe that would happen. But as
21 comprehensive immigration moves forward
22 Congressman Nadler is committed to ensuring
23 that the provisions of UAFA are included in
24 any comprehensive immigration bill. [Pause]
25 And if I can just add one more bit of

2 information, the inclusion of the provisions
3 of UAFIA in Representative Honda's Reuniting
4 Families Act was the first time that the
5 provisions for LGBT Americans for immigration
6 purposes was included in a larger immigration
7 bill, so that is progress that we're very
8 pleased with.

9 CHAIRPERSON STEWART: So in
10 that sense, you're saying basically that
11 you're not concerned that this bill passed by
12 itself, but if it's included in the
13 immigration comprehensive immigration bill
14 that would suffice.

15 All right, it has been reported
16 that the 2010 census will count same-sex
17 couples, what impact do you think such
18 information will have in the debate on this
19 legislation?

20 MS. DRINKWATER: I think that
21 any time we can get numbers on same-sex
22 partners is beneficial, but because it's a
23 self reporting mechanism, I'm not sure that it
24 will adequately count all same-sex couples,
25 but it will provide us additional information

2 about the universe of people that this bill
3 could affect.

4 I don't know if my colleagues
5 have anything else--

6 [pause].

7 RACHEL TIVEN: It's my
8 understanding that that count will be for
9 legally married couples and that does not
10 include the vast majority of same-sex
11 partnerships in the nation. So, although what
12 my colleague is saying is true, the more
13 numbers we get, the more data we get, the more
14 we can make our families visible in national
15 dialogue, but it will neglect to recognize
16 most of our families.

17 CHAIRPERSON STEWART: Do you
18 have any idea as to how many same-sex bi-
19 national couples live in New York City?

20 Give your name first.

21 MS. TIVEN: Rachel Tiven, the
22 Executive Director of Immigration Equality,
23 and I'll be testifying shortly about some of
24 those numbers, but 5,000 bi-national couples
25 at the last census count live in New York

2 State.

3 [Pause]

4 CHAIRPERSON STEWART: So does
5 the Department of Homeland Security have
6 adequate resources to implement the benefits
7 under the Uniting American Families Act? Do
8 you think the Department of Homeland Security
9 has the resources to adequately take care of
10 this problem, if this bill was passed?

11 MS. DRINKWATER: I don't have
12 that information with me, I'm happy to get it
13 to the committee if they have a report on
14 that.

15 CHAIRPERSON STEWART: All
16 right. I thank you for your information,
17 thank you for your testimony.

18 And before we call the next
19 panel, we have a vote to take because I know.
20 [Pause]. He's not here? All right. Well
21 we'll call the next panel, Rachel Tiven,
22 Eleanor Batchelder, and Naveen Manglani
23 [phonetic].

24 [Pause]

25 CHAIRPERSON STEWART: We have

1
2 been joined by Council Member Mathieu Eugene.

3 And we've also been joined by
4 Council Member Ferreras and Council Member
5 Barron, who was mentioned before.

6 If you're ready, we can start.

7 MALE VOICE: Members of the
8 Council and distinguished guests, my name is
9 Naveen Manglani and I'm a 30-year-old native
10 New Yorker, who was born and raised in New
11 York.

12 I am here today to tell my
13 story and to persuade this committee to pass
14 the proposed resolution urging Congress to
15 pass the Uniting American Families Act or a
16 similar legal instrument granting me and my
17 family the same rights as my neighbors and end
18 the illegal discrimination I currently face.

19 After completing my MBA here at
20 Columbia Business School in New York, I took
21 over the helms of my family business in the
22 garments district. A few years later, I met
23 my partner who was then pursuing a master's in
24 Public Health at SUNY Downstate. He is
25 currently in medical school and expects to

1
2 complete his M.D. in about a year. If he
3 isn't able to find a job in the United States
4 upon graduating, we will be forced to relocate
5 to another country in order to stay together.
6 In addition to this being a daunting
7 possibility for the two of us, it would
8 negatively impact a wide variety of New
9 Yorkers. First, the business that I run in
10 the garments industry currently employs 12
11 full-time people. We will be forced to close
12 our company if I leave and this will not only
13 result in job loss for our employees, but also
14 loss of business for the numerous vendors we
15 work with and a loss of tax revenue for the
16 city and state of New York.

17 Second, since my father passed
18 away, my mother, younger sister, and younger
19 brother have been dependent on me to run
20 numerous aspects of our household ranging,
21 from financial management of the family's
22 money to being there for my siblings as a
23 father figure. There is no doubt that my exit
24 from this country would present a hardship to
25 my family. And it's quite likely that

1
2 numerous other New Yorkers in similar
3 situations are also facing the very real
4 possibility of seeing their families torn
5 apart.

6 Third, my partner and I are
7 involved in a number of community activities.
8 I run a nonprofit foundation here in New York,
9 serve as a treasurer of my condominium,
10 volunteer with local community orchestras as a
11 cellist, and I'm involved in a number of
12 charity groups, while my partner has
13 volunteered at numerous hospitals in New York
14 in various capacities. If my partner and I
15 are forced to leave because the federal
16 government fails to recognize same-sex couples
17 for immigration rights, it would not only be a
18 loss to our family, friends, and colleagues,
19 but also to the community at large.

20 The United States has already
21 lost a number of valuable citizens who are in
22 similar situations. Please don't let us join
23 that statistic, please pass this resolution
24 presented to you today and urge Congress to
25 pass UAFIA or a similar legal instrument so

2 that I and other New Yorkers can sponsor a
3 partner to stay with us just as other New
4 Yorkers can. Thank you.

5 ELEANOR BATCHELDER: Good
6 morning, my name is Eleanor Batchelder and I'm
7 honored to be with you today and to offer my
8 story as you consider a resolution in support
9 of ending discrimination against LGBT bi-
10 national families.

11 I'm here today visiting from
12 Toronto, Canada, where I currently live with
13 my partner as we are unable to live together
14 in the United States. I lived in New York
15 City for 45 years and my heart is still here,
16 but because my commitment to my partner is
17 invisible to the immigration laws of the
18 United States, my life is now in Canada.

19 I first came to New York City
20 in 1962, the fall that Lincoln Center opened
21 as a young wife and mother. In subsequent
22 years, I divorced, moved from the Bronx to the
23 upper West side of Manhattan, and worked as a
24 secretary and then statistician on Wall
25 Street. During the blackout of 1965, I spent

1
2 the night on the 49th floor of Chase Manhattan
3 Plaza. I got a bachelor's degree at night
4 from Hunter College while working days as a
5 computer programmer. My three children went
6 to both public and private schools including,
7 PS 84, Bank Street, and ethical culture
8 schools. In the 1970s, I worked for New York
9 City Human Resources in computer services. In
10 1974, I came out as a lesbian feminist in what
11 proved to be the early years of the women's
12 movement, and I was co-founder of Womanbooks,
13 a women's bookstore on West 92nd Street, an
14 exciting venture in a very exciting time.

15 In 1983, I took a trip to Japan
16 and began learning Japanese. In 1986, I met
17 Fumiko, a Japanese woman who was visiting New
18 York City and we became permanent partners,
19 despite several separations. These
20 separations were because of visa difficulties
21 and because of the stress of a situation where
22 we had no future and where Fumiko could not
23 legally work, forcing her to rely upon my
24 money, my apartment, my language, and my
25 family--very hard for a self-respecting and

1
2 generally independent woman. At several
3 points, it became too much for her and she
4 would leave for a year or so to regain her
5 balance.

6 In 1997, I completed a Ph.D. in
7 linguistics from CUNY Graduate Center and I
8 went to join Fumiko in Japan. I taught
9 English there and then received a post-
10 doctoral fellowship from the Japanese
11 government on recommendation of the National
12 Science Foundation, and Fumiko finished her
13 bachelor's degree at a Japanese college.

14 In early 2001, after three
15 years absence, we returned to New York. It
16 was a bad time for employment, but I finally
17 managed to get a job at my old agency, HRA,
18 and Fumiko got a visa, which it later turned
19 out, would not bear close inspection.
20 Eventually, after having tried every possible
21 way to remain with me legally in New York, she
22 returned to Japan in 2004. Despite our then
23 18 year relationship, we were strangers before
24 the law in the United States and I could not
25 sponsor her for residency.

2 This time it was not until
3 three years later that we rejoined when we
4 both had Canadian visas in hand. I qualified
5 for permanent residence under the Canadian
6 skilled worker program and, after we
7 documented our long partnership, Fumiko
8 qualified as my common-law spouse, since
9 Canada had legalized same-sex marriage.

10 It was hard for me to leave New
11 York, I have children here and now a
12 grandchild, and I was then managing the care
13 of my 96-year-old mother still in her own
14 apartment. When we decided to go to Canada, I
15 had to put mom in a nursing home where she
16 died a year later. It was a hard decision, I
17 was very conflicted and felt as though I was
18 abandoning her.

19 Fumiko had created a new life
20 for herself in Japan too, including a new
21 career she had found their working with
22 developmentally disabled young adults. Being
23 in Japan also meant being available to assist
24 her older sister who has debilitating
25 osteoporosis. It was difficult for her to

1
2 leave, but for both of us being together
3 turned out to be more important than any other
4 consideration and we are grateful to Canada
5 for making that possible. Neither Japan nor
6 the United States offered us this hospitality.

7 Our is just one example of the
8 unacceptable choices affecting our family and
9 community, as well as ourselves, that many
10 couples like us are forced to make. Do you
11 think that any American citizen should be
12 forced to become an exile in order to keep
13 their family together? Couples like us who
14 have committed no crime but to fall in love
15 with a foreigner are asked to choose between
16 the person we love and the country we call
17 home. We shouldn't have to and it's long past
18 time to end this discrimination.

19 As Congress considers the
20 Uniting American Families Act, the Reuniting
21 Families Act, and a comprehensive immigration
22 reform bill, I hope that my country will again
23 embrace me and allow me to come home with my
24 partner and to be with my family here in New
25 York. It doesn't seem like a lot to ask, and

2 it is certainly the right thing to do.

3 I urge the Council to approve
4 the proposed resolution for this New Yorker
5 and her family and for many others. Thank
6 you.

7 MS. TIVEN: Thank you very much
8 to Chairman Stewart, to Chairman Seabrook, to
9 Members of the Council. My name is Rachel
10 Tiven, I am the Executive Director of
11 Immigration Equality and we're very
12 appreciative of the long-standing leadership
13 that Chairman Stewart, Chairman Seabrook, and
14 Speaker Quinn have provided on this issue.

15 Immigration Equality is a
16 national organization based here in New York
17 City that works to end discrimination in U.S.
18 immigration law against lesbian, gay,
19 bisexual, transgender, and HIV-positive
20 people, and to help win asylum for those
21 persecuted in their home countries because of
22 their sexual orientation or gender identity.

23 Immigration Equality was
24 founded in 1994 as a lesbian and gay
25 immigration rights task force, and since then

1
2 we've grown to a fully staffed organization
3 with our headquarters in lower Manhattan and a
4 policy office in Washington, DC. We are the
5 only national organization dedicated
6 exclusively to immigration issues for the LGBT
7 and HIV-positive community. More than 15,000
8 people subscribe to our monthly newsletter and
9 nearly 20,000 people visit our website every
10 month for legal information and our legal
11 staff answers almost 2,000 inquiries a year
12 from individuals around the country and
13 abroad.

14 In 2006, we collaborated with
15 Human Rights Watch to publish a groundbreaking
16 report on the plight of gay and lesbian bi-
17 national couples entitled, "Family Unvalued:
18 Discrimination, Denial, and the Fate of Bi-
19 National Same-Sex Couples Under U.S. Law."
20 Although Immigration Equality works on many
21 issues affecting the LGBT immigrant community,
22 no issue is more essential to our mission than
23 ending the discrimination that gay and lesbian
24 bi-national couples face. Because there is no
25 recognition of the central relationship in the

1
2 lives of LGBT people, they are faced with a
3 heartrending choice that no one should have to
4 make: separation from the person they love or
5 exile from their own country.

6 Family unification is central
7 to American immigration policy. Congress has
8 recognized that the fundamental fabric of our
9 society is family, family-based immigration
10 accounts for roughly two-thirds of all legal
11 immigration to the United States. Family ties
12 transcends borders and, in recognition of
13 family as a core value, the American
14 immigration system gives special preference to
15 the spouses of American citizens and green
16 card holders to obtain lawful permanent
17 resident status in this country. Lesbian and
18 gay citizens are completely excluded from this
19 benefit.

20 An analysis of data from the
21 2000 decennial census, we're very much looking
22 forward to new numbers in the 2010 census, but
23 the 2000 census already indicated the scope of
24 the problem. There were approximately 36,000
25 same-sex bi-national couples living in the

1
2 United States, more of them live in New York
3 than in any other state except California,
4 approximately 5,000 couples by the 2000
5 census, and the vast majority of those in New
6 York City.

7 And it's important to note that
8 the number of same-sex bi-national couples is
9 miniscule compared to overall immigration
10 levels. So in 2008, more than 1.1 million
11 individuals obtained legal permanent resident
12 status in the United States, green cards, so
13 if every permanent partner currently in the
14 U.S., as measured in the census data, were
15 granted legal permanent residence today, these
16 applications would count for 3/100ths of a
17 percent of all grants of legal permanent
18 residents. So although the problem is small
19 in number, it is acute for the 36,000 couples
20 who suffer from discrimination.

21 And one of the striking
22 features of the statistical analysis from the
23 2000 census is how many same-sex bi-national
24 couples are raising children together--almost
25 16,000 of those couples, 46% of the total,

1
2 report having minor children living in their
3 household; among female couples, the figure is
4 even more striking, 58% of lesbian bi-national
5 households include children, and the vast
6 majority of those children are U.S. citizens
7 and they are facing their family being ripped
8 apart by immigration discrimination.

9 The lack of recognition of
10 same-sex relationships affects not only
11 individual family, but the larger community as
12 well. As Naveen and Eleanor describe--the
13 impact on their extended families, their
14 businesses, their communities. In many
15 instances, large companies are unable to
16 retain talented workers who are forced to
17 leave the U.S. to keep their family together.
18 That's why a growing number of businesses have
19 endorsed the Uniting American Families Act,
20 including Pfizer, Omnicom, Cisco, and Intel.

21 As my colleague from the city
22 bar described the bills requirements, the
23 solution for this discrimination would be the
24 passage of the Uniting American Families Act
25 or the inclusion of the language of the

2 Uniting American Families Act in comprehensive
3 immigration reform. The Uniting American
4 Families Act was introduced in the House, of
5 course, by New York City's own Congressman
6 Jerrold Nadler and in the Senate by Patrick
7 Leahy.

8 And the definition was
9 described ably by my colleague from the city
10 bar, but I want to be clear that the UAFA is
11 by no means a free pass for same-sex couples.
12 As with any opposite sex married couple,
13 permanent partners would need to prove that
14 they are in a long-term committed
15 relationship, that they are financially
16 interdependent, they would have to provide the
17 same types of proof of their relationships
18 genuineness as opposite sex couples currently
19 provide at their green card interview, joint
20 leases if they have a lease together, proof of
21 co-ownership of property, proof that they're
22 raising their children together, joint bank
23 accounts, joint credit cards, naming one
24 another as beneficiaries of their wills and
25 insurance policies, affidavits from extended

2 family members, photos of extended family,
3 etc., etc. If the immigration official had
4 any questions about the validity of the
5 relationship, the couple can be called back
6 for a second interview, separated and grilled
7 on the details of their relationship, just as
8 U.S. Citizenship and Immigration Services
9 currently does with opposite sex couples. And
10 if the petition were denied, the foreign
11 partner would face deportation if he or she
12 were here without otherwise lawful status.
13 And as with cases involving opposite sex
14 couples, the American partner would be
15 required to provide evidence that he or she
16 could support the household at 125% of the
17 poverty line and sign a binding affidavit of
18 support for the foreign partner that would
19 remain in effect for 10 years. The affidavit
20 permits the U.S. government to sue the
21 American citizen if the foreign partner ever
22 seeks public assistance. And, as with current
23 laws regarding marriage fraud, anyone who
24 seeks immigration benefits based on a
25 fraudulent relationship would face up to five

2 years imprisonment and a fine of up to
3 \$250,000.

4 There are currently more than
5 19 countries that allow their citizens to
6 sponsor long-term same-sex partners for
7 immigration benefits, including Brazil,
8 Canada, Israel, South Africa, and many others.
9 In several, notably the United Kingdom and
10 Australia, immigration benefits were granted
11 independent of other rights for same-sex
12 couples in the kind of legislation that the
13 Uniting American Families Act presents to the
14 U.S. Congress today, due to the particularly
15 grievous harm caused by separation.

16 And there is a strong consensus
17 that the U.S. immigration system is broken
18 overall and needs a top to bottom overhaul--I
19 don't need to tell anybody on this committee
20 that that's the case. There are millions of
21 undocumented individuals in the country with
22 no path to legalization and there are backlogs
23 of decades for some categories of family-based
24 immigration. Congress must address the
25 overall problems within the immigration system

1
2 and when it does so, it must include families
3 headed by gay and lesbian Americans. The
4 language of the Uniting American Families Act
5 is included, as my colleagues described, in
6 pending legislation called the Reuniting
7 Families Act, which is H.R. 2709, and it is
8 imperative that Congress include all families
9 in forthcoming comprehensive immigration
10 reform.

11 There is broad support in the
12 civil rights, faith, and immigration
13 communities for this inclusion. The Mexican
14 American Legal Defense Fund, the NAACP, SEIU,
15 the AFL-CIO, the United Methodist Church, the
16 Episcopal Church, and the American Bar
17 Association just to name a few, are
18 enthusiastic endorsers of an inclusive
19 comprehensive immigration reform package that
20 would provide benefits for same-sex couples.

21 And in conclusion, I want to
22 say a word about why now. Mr. Stewart, you
23 asked a very important question about the
24 prospects of the bill and why do this now. As
25 the House and the Senate are putting

2 comprehensive immigration reform packages
3 together, passage of a resolution by the City
4 Council would send a message both to New
5 York's congressional delegation and to
6 everyone around the country that the greatest,
7 most diverse city in the world wants reform
8 that helps all families.

9 So thank you very much for your
10 consideration of this resolution, and I hope
11 that you will pass it today.

12 CHAIRPERSON STEWART: Before we
13 ask any questions, we would like to first
14 recognize that we've been joined by Council
15 Member Darlene Mealy. And we'd like to at
16 this time call a vote on this resolution.

17 COUNSEL: Resolution 2172,
18 Council Member Stewart.

19 CHAIRPERSON STEWART: I vote
20 aye.

21 COUNSEL: Barron.

22 COUNCIL MEMBER BARRON: Aye.

23 COUNSEL: Mealy.

24 COUNCIL MEMBER MEALY: Aye.

25 COUNSEL: Eugene.

2 COUNCIL MEMBER EUGENE: Aye.

3 COUNSEL: Ferreras.

4 COUNCIL MEMBER FERRERAS: Aye.

5 COUNSEL: By a vote of five in
6 the affirmative, zero in the negative, and no
7 abstentions, item is adopted. Council
8 Members, please sign the committee report.

9 CHAIRPERSON STEWART: All
10 right. Council Member Barron. Seabrook.

11 COUNCIL MEMBER SEABROOK: Thank
12 you very much, I'd just like to acknowledge--
13 it's not a bad thing. But anyway, I'd like to
14 recognize whomever of the Civil Rights
15 Committee, who is also here Councilman Mike
16 Nelson from Brooklyn.

17 CHAIRPERSON STEWART: I have a
18 couple of questions and concerns. In your
19 testimony, Ms. Tiven, you said that your
20 organization basically it's the only national
21 organization dedicated exclusively to
22 immigration issues for the LBGT and the HIV-
23 positive communities. What happens if someone
24 who is not those community that come in to
25 see--for example, same-sex is one thing, but

2 if a mixed-couple comes in to see you, what do
3 you do in terms of immigration?

4 MS. TIVEN: You're asking if
5 someone who is not a lesbian, gay, bisexual,
6 transgender--

7 CHAIRPERSON STEWART: Right.

8 MS. TIVEN: --or HIV-positive
9 person comes to our office or calls, we are
10 very happy to be part of a terrific network of
11 immigration groups here in New York City and
12 we refer them to Catholic Charities or to the
13 Legal Aid Society or to another organization
14 that can help them with their immigration
15 needs.

16 CHAIRPERSON STEWART: So in
17 other words, you're saying that they are not
18 us just cast aside.

19 MS. TIVEN: No.

20 CHAIRPERSON STEWART: All
21 right. Thank you.

22 COUNCIL MEMBER SEABROOK: Just
23 have to recognize another member of my
24 committee who is here, Dr. Mathieu Eugene from
25 Brooklyn, who's a member of the Civil Rights.

2 CHAIRPERSON STEWART: All

3 right, the other question that I have
4 basically is, I was always concerned, and one
5 of the reasons why I jumped on this resolution
6 a couple of years ago is the fact that same-
7 sex couples is not about sex, there's a lot of
8 other things that deal with why I think this
9 bill should be passed. And I want to know if
10 the definition of same-sex couples is not
11 somewhat misleading when we deal with--as we
12 put this thing together. Because I can think
13 of someone who is a female, but is a cousin to
14 another female and she has to take care of
15 that and she'll be taking care of that cousin
16 for years, because that cousin might be sick
17 and in this country and has no one else. I'm
18 saying, isn't that it's as much justification
19 for us to have that couple being granted the
20 same opportunity as if they were man and wife
21 or...?

22 MS. TIVEN: This bill as it's
23 written would benefit couples who are in
24 romantic relationships, that they are gay and
25 lesbian couples who have a relationship

1
2 between two adults who are not relatives. One
3 of the provisions is that you can't be a
4 first, second, or third degree relative in
5 order to qualify as a permanent partner.

6 Family immigration is enormously important and
7 one of the elements of the Reuniting Families
8 Act, the larger package that Congressman Honda
9 has introduced, which my colleague from
10 Congressman Nadler's office, described would
11 streamline the family immigration categories
12 for siblings, for children, for adult
13 children, of green card holders, and other
14 family categories where right now there is a
15 terrible backlog and people are not able to
16 keep their family together as expeditiously or
17 as easily as they should be able to.

18 And so there's no question that
19 the system as a whole needs reform so that
20 loving family members can protect one another
21 and can care for one another. This bill would
22 right the wrong that gay and lesbian couples
23 face because they have no way at all to be
24 recognized as family under the current
25 immigration system.

2 CHAIRPERSON STEWART: I totally
3 agree, but my question basically is the fact
4 that there could be two people who have been
5 taking care of each other, just because they
6 are not us of the different sex, why shouldn't
7 they be granted an opportunity if they can
8 prove that they are in a relationship, a
9 loving relationship, but it may not be a
10 sexual relationship, for years?

11 MS. TIVEN: Even unfortunately,
12 I am personally in agreement with you that
13 family relationships are crucial and should be
14 respected by our government. Unfortunately,
15 the way the current law is written, even an
16 opposite sex pair like you're describing, two
17 cousins, if one were male and one were female,
18 they would not be able to be recognized as
19 family under the immigration system. So what
20 this bill is intended to do is relatively
21 modest, it's to mirror the existing system as
22 it exists for opposite sex couples, and this
23 would give an opportunity to same-sex couples
24 that resemble opposite sex couple seeking
25 benefits and, unfortunately, it doesn't add a

1
2 way for the cousins providing caretaking that
3 you're describing to sponsor one another.

4 CHAIRPERSON STEWART: So we
5 need to also tie in the fact of marriage.
6 What is really marriage? What you have said
7 there, to me, we're discriminating against a
8 number of people, a number of people who for
9 some reason or the other, who are no
10 different, and who I think will be a model
11 citizens that we're discriminating against. I
12 feel that we should look into the definition
13 and make sure that the definition is not
14 something that really ties in sex with it,
15 because there are a lot of couples that live
16 together for years, sex is not an issue, and
17 they just love each other, take care of each
18 other, and things like that and I feel they
19 should be given the opportunity also to at
20 least get the benefit of the regular mix
21 couples who are married.

22 MS. TIVEN: This is precisely
23 why we need comprehensive immigration reform
24 that is respectful of all families. Quite
25 right.

2 CHAIRPERSON STEWART: All
3 right. Is there anything else that the City
4 Council can do to ensure passage of the
5 Uniting American Families Act during this
6 congressional session?

7 MS. TIVEN: I think to send a
8 terrific message as you are doing,
9 particularly to Senator Schumer and Senator
10 Gillibrand and to the wonderful House members
11 of the New York delegation that this is a
12 priority for New Yorkers, that in the most
13 diverse city in the world that immigrants who
14 our greatest natural resource as New Yorkers
15 need to be included and respected fully in
16 comprehensive immigration reform.

17 CHAIRPERSON STEWART: Do you
18 know of any other cities who have such
19 resolutions put together and do you think that
20 some sort of a letter writing to their
21 congressional folks and that to make a
22 difference? Because I feel that sometimes
23 these issues get blow over by the fact that
24 because if we don't really make it an issue,
25 we don't let them know. So do you know of any

2 plan or anything? Because I would hate to see
3 the comprehensive immigration bill passes
4 without really having some semblance of
5 inclusion of this [off mic]. So do you know
6 of anything like that?

7 MS. TIVEN: Yes, in addition to
8 the New York City Council, there is a
9 resolution that has been passed by the city of
10 West Hollywood, by the city of Portland,
11 Oregon, and the state of California
12 legislature has considered recently a
13 resolution in support of the legislation as
14 well. And there is terrific activism from all
15 over the country, some of the organizations
16 that I mentioned, like the NAACP, Mexican
17 American Legal Defense and Education Fund,
18 unions, churches are engaging around this
19 issue and sending information to their members
20 to encourage them to call their members of
21 Congress and support inclusive legislation.

22 CHAIRPERSON STEWART: All
23 right, thank you. Any questions from my
24 colleagues? I want to recognize Council
25 Member Annabel Palma, who has just joined us

2 from the Bronx. Do you want to say something
3 now?

4 COUNCIL MEMBER PALMA: No, I
5 would like to request that my name be added to
6 the resolution.

7 CHAIRPERSON STEWART: At this
8 time, you may vote on this resolution--

9 [Crosstalk]

10 COUNCIL MEMBER PALMA: I vote
11 aye on the resolution.

12 CHAIRPERSON STEWART: All
13 right, thank you, I want to thank you folks
14 for coming in. I hope you can keep the fire
15 burning because of the fact that this is
16 something very important, that we have
17 Congress look at this issue, and don't have
18 another immigration reform and not include
19 this part because it means it will take
20 another 10 or 15 years before we can really
21 adjust the system. So if you can reach out to
22 all those folks and ask them to maybe write
23 letters, call and, we'll try to do the same.
24 Thank you.

25 Our last panel includes Carlan

2 Langley [phonetic] and Dr. Thomas Moulton.

3 [Pause] Well, if you could just identify
4 yourself and we can get right into it. Could
5 you press...

6 CARLAN LANGLEY: My name is
7 Carlan Langley, I'm a resident of Queens.
8 Mine's a personal story. I'd like to start by
9 thanking Speaker Quinn and the Council for the
10 opportunity to speak on this very important
11 and personal subject.

12 In the summer of 2006, while on
13 a European vacation I met a man in Macedonia
14 after we'd been communicating on the Internet
15 for six months getting to know each other.
16 Being from a Muslim family in a non-EU country
17 which did not condone homosexuality, when we
18 met, I had to pretend to be his relative just
19 to get a hotel without suspicion. The more
20 time we spent together, the more we fell in
21 love with each other.

22 After me making four trips to
23 Europe to be with him in Prague, Serbia, and
24 to get to know him better, we decided we
25 wanted to live together and began to make

1 plans on how we could make that happen.

2
3 Unemployment in his country is
4 35%, so even with his bachelor's degree in
5 law, he was unable to find a job and,
6 therefore, could not get a visa to come to the
7 United States. We made plans for me to
8 relocate to Europe so that we could build a
9 life together in Prague or Barcelona, but then
10 I developed a health problem that prevented me
11 from leaving the country due to my insurance
12 not covering the surgery, which I needed,
13 outside of the United States and before I
14 could have the surgery I needed to lose 200
15 pounds.

16 The only way for us to be
17 together was for him to come here. So we
18 found a graduate school program for him to
19 attend, I paid his tuition and he came to help
20 me through the surgery, taking care of me, and
21 to continue his education, hoping that he
22 would be able to find a job to allow him to
23 get a green card so that we could continue to
24 be together. He wasn't allowed to work under
25 his student visa so he was unable to

1
2 contribute to our finances the entire time he
3 was here.

4 If we were a heterosexual
5 couple, we could've gotten married, applied
6 for a green card for him, he could've worked,
7 and we'd probably still be together now. But,
8 because my government doesn't recognize our
9 relationship as valid, upon completion of his
10 school and an internship at the ill-fated
11 Merrill Lynch, being unable to find a job with
12 a company who would sponsor him, a year and a
13 half ago he was forced to return to his
14 country after two years of us being together.
15 Going back to pretending that he's straight,
16 finding reasons not to marry the wife his
17 family has chosen for him, sneaking around
18 while hoping he doesn't get caught, and back
19 to 35% unemployment and his hopeless life.

20 It's very difficult for someone
21 like me being my size and age to find someone
22 who wants to commit to a long-lasting
23 relationship, but he truly loved me and I love
24 him. I'm sorry. We were very happy. Now I
25 can't afford to go to Europe because I've been

2 unable to find a job to return back to the
3 workforce since having my surgery. After
4 investing two years of my life and tens of
5 thousands of dollars traveling to get to know
6 him, making sure he was the one, and bringing
7 him to New York so we could be together, now
8 I'm alone again, jobless, and possibly facing
9 homelessness because my love and my
10 relationship wasn't recognized by my
11 government.

12 The Uniting American Families
13 Act would address this injustice. Even though
14 it's too late for me and my lover, gay people
15 are entitled to be together with the ones they
16 love too, just the same as most of you are.
17 UAFA would allow that to happen. We don't
18 want special rights, just equal and fair
19 treatment under the law.

20 I really appreciate you holding
21 this event today to address this issue and,
22 again, thanks for allowing me the opportunity
23 to speak to you today.

24 DR. THOMAS MOULTON: My name is
25 Dr. Thomas Moulton and I am married to Brendan

2 Fay, who is an Irish immigrant. And I am here
3 to urge the New York City Council to vote as
4 you did, and I am grateful for that, in
5 support of same-sex families and the Uniting
6 American Families Act.

7 We thank the New York City
8 Council, the Committee on Immigration
9 services, especially Chair Stewart Kendall and
10 the Chair on Civil Rights, Mr. Larry Seabrook,
11 for taking up the issue of the plight of bi-
12 national same-sex couples. Thank you for
13 holding this hearing and welcoming
14 submissions.

15 Among the immigrants who arrive
16 in the U.S. daily are LGBT persons. As with
17 other immigrants, many come through the
18 airport in Queens with hopes and dreams of
19 finding new life here and Brendan often tells
20 friends and family that Kennedy Airport is
21 what Ellis Island was for our own immigrant
22 ancestors, and we are all immigrants in our
23 ancestry--almost all sorry, not the American
24 Indians.

25 It is fitting that the New York

2 City Council is taking up this issue for this
3 is the city of immigrants. Our national
4 symbols of immigration include Ellis Island
5 and the Statue of Liberty. And this is
6 probably the most diverse city in the United
7 States.

8 This is also the place of
9 Stonewall, 40 years ago. Sadly, it is
10 sobering to acknowledge that in some 40 years,
11 we continue to debate and discuss the equal
12 protection under the law for all LGBT people.

13 Over the years, as a community
14 activist Brandon could not be silenced in the
15 face of so much pain, hardship, and suffering
16 of his fellow New Yorkers, and also his fellow
17 constituents in the world.

18 Non-recognition of our families
19 is the sanctioned discrimination of LGBT
20 people in the United States. As a result,
21 LGBT immigrants often feel excluded from
22 traditional places of immigrant service
23 providers, such as the Emerald Isle
24 Immigration Service. Like other immigrants
25 Brendan made New York his home, settled here,

1
2 and found an active community. As a Catholic,
3 he joined the group Dignity. His first years
4 here were as a high school teacher, but he was
5 fired for being gay. Now he is a documentary
6 filmmaker.

7 He met me at Sunday Mass in
8 January of 1996. I am a pediatric
9 hematologist oncologist, and for many years
10 I've been serving the needs of children with
11 cancer and blood diseases, particularly sickle
12 cell disease, in the Bronx. Shortly after we
13 met we moved in together, and yet, unlike most
14 heterosexual couples, I could not apply for
15 legal sponsorship for Brendan, who is my Irish
16 born partner.

17 Since 1998, Brendan has been
18 active in lobbying for reform with the
19 immigration law and marriage law advocating
20 for equality for same-sex couples. Brendan
21 gets calls from LGBT immigrants from Mexico,
22 Peru, South Africa, Bangladesh, and Ireland
23 asking for help with their immigration status.
24 For a while we provided hospitality for an
25 immigrant fleeing from persecution in Peru.

2 Many are hard-working, taxpaying residents of
3 New York simply trying to regulate their
4 status, but often they find they are facing
5 the obstacles of unjust discrimination in
6 immigration laws. Brendan and I have heard
7 too many stories and sat through many tears.

8 We have heard of Sligo Annie
9 [phonetic], an immigrant from Ireland who was
10 so afraid of being deported that she neglected
11 her own health and died of a preventable
12 disease because she was afraid to go to the
13 doctor. We know of Tom, also from Ireland,
14 who met Alex on a vacation. Alex has HIV.
15 Tom had supported his mother who had
16 Alzheimer's for many, many years and was the
17 main support of his mother in Ireland but,
18 because of their same-sex status, he could not
19 be recognized here in New York and chose to
20 remain here illegally to marry his partner
21 Alex. But, because of that, when his mother
22 died, he was unable to go back to Ireland for
23 her funeral.

24 In March 8th of 1970, the
25 police raided a gay club called the Snake Pit,

1
2 they arrested employees and over 160
3 customers. One was Diego Vanalis [phonetic],
4 an Argentinian immigrant who tried to escape
5 by jumping out the second floor window of the
6 police station, impaling himself on the
7 wrought iron fence below, he was rushed to St.
8 Vincent's Hospital. Community protests
9 followed. The reason: he was afraid of being
10 deported.

11 Too many families and couples
12 are torn apart. Some of our friends, U.S.
13 citizens and their partners are forced to move
14 to more hospitable countries such as Canada,
15 and others live in daily fear of their loved
16 ones being deported. Those that leave are
17 needed for jobs in the United States. In your
18 previous resolution several years ago you
19 mentioned a teacher who had to leave. When we
20 had questions of whether or not Brendan would
21 be able to stay had to consider leaving. And
22 so me serving an underserved community would
23 have to leave just to be with my spouse.

24 In 2003, at the height of work
25 as an activist for marriage equality and

1
2 shortly after our legal marriage, we were
3 married in Brooklyn in May of 2003 for our
4 religious ceremony, actually the same day as
5 former Mayor Giuliani was marrying his third
6 wife. We had many family and friends around
7 us, there were approximately 300 to 400 people
8 who attended our religious ceremony. Soon
9 afterwards, Ontario Supreme Court ended
10 discrimination in marriage law in Canada
11 extending equal rights to same-sex couples.
12 Brendan made his way to Toronto on July 4th,
13 2003, to apply a for our marriage license in
14 Canada.

15 Then unexpectedly he received a
16 notice from the INS to appear for a hearing at
17 their Woodside office. He was gripped by fear
18 and anxiety.

19 Though Brendan had won his
20 green card through a lottery some years prior,
21 we had heard rumors in immigrant community, as
22 well as reading newspaper articles of green
23 cards being revoked and lost of legal status
24 with subsequent deportation proceedings. And
25 with all of this, even though Brendan was at

1
2 that time able to apply for U.S. citizenship,
3 was afraid to apply under the Bush
4 Administration for these reasons because of
5 his civil disobedience in protests of
6 discrimination for women, gays and lesbians,
7 and race.

8 Brendan will never forget the
9 night before his Woodside office and neither
10 will I, as we held each other and wondered
11 about our future as a couple, and as a family.
12 We talked about what we would do and thought
13 about life maybe in Toronto or in Galway,
14 should he be not denied renewal of his green
15 card. Brendan got on the train wondering
16 whether his activist life, which many had
17 warned him would jeopardize his immigration
18 status, would be his downfall. In the end,
19 his green card was renewed for another 10
20 years. And he walked outside with tears
21 welling up like he had actually won the
22 lottery. He would not be parted or separated
23 from me, his married spouse, and legally
24 recognized by New York State.

25 Through the years we have sat

2 down with and heard of gay and lesbian Irish
3 immigrants working in kitchens, bars, and
4 construction sites, and they are also living
5 in daily fear and hardship.

6 Besides the U.S., Brendan also
7 hopes that Ireland will soon join the 19
8 countries that legally recognize same-sex
9 couples for immigration, such as South Africa
10 and Canada. Brendan and others were lucky to
11 get green cards in a lottery, and others are
12 lucky enough maybe to get it through
13 professional sponsorship.

14 Unlike opposite sex couples,
15 gay and lesbian immigrants often end as
16 undocumented for whom the fear of deportation
17 is constant and is one of the main reasons why
18 the U.S. Census will never document them
19 because they will never allow themselves to be
20 documented and expose themselves to the
21 potential for deportation.

22 Our same-sex families need to
23 be included in the national dialogue and
24 conversation around immigration reform. It is
25 noted that at the heart of U.S. immigration

2 law is the principle of, "family unification."
3 This allows U.S. citizens and permanent
4 residents to sponsor their spouses, fiancés,
5 and other family members for immigration
6 purposes. Yet current law does not allow the
7 sponsorship of same-sex partners.

8 Currently, same-sex couples
9 cannot marry in New York, but they are
10 recognized if they are married in a legally
11 recognized jurisdiction. But we still have no
12 legal recognition on the federal level, which
13 is where immigration rights come from.

14 We are pleased that the Council
15 supports the resolution urging the U.S.
16 Congress to reintroduce and pass the United
17 American Families Act as part of equal
18 treatment of LGBT people as due citizens of
19 the United States, and as directed by our own
20 United States Constitution, which grants us
21 all U.S. citizens, supposedly, equal treatment
22 under the law. Thank you.

23 CHAIRPERSON STEWART: You
24 mention that in some states it's legal for
25 same-sex to get married. But in the federal

2 level, it's not recognized. I wanted to find
3 out, has there been any what we call action
4 case been filed so as to settle this so as to
5 get the federal government in line to really
6 give--

7 [Crosstalk]

8 DR. MOULTON: [Interposing]

9 Well probably the Immigration Rights Task
10 Force can probably give you more information
11 on that. Certainly there has been an appeal
12 in California in terms for to try to repeal
13 DOMA, the domestic, Defense of Marriage
14 "Defense"--God--of Marriage Act, in which case
15 then if same-sex couples were able to legally
16 marry, then they would be able to be granted
17 immigration rights.

18 And the state of Massachusetts
19 has also submitted a suit stating that the
20 federal government discriminates against its
21 state citizens by not recognizing the marriage
22 that they find legal in their state.

23 So there are through the repeal
24 of the Defense of Marriage Act, that would
25 also indirectly help in terms for immigration

2 of same-sex partners.

3 CHAIRPERSON STEWART: So there
4 is some cases pending, you're saying.

5 DR. MOULTON: Yes, but
6 unfortunately, cases that go through the court
7 take years and many people just don't have
8 that time.

9 CHAIRPERSON STEWART: All
10 right. Council Member Mealy.

11 COUNCIL MEMBER MEALY: Yes, I
12 just would like to say, you just stated that a
13 lot of same-sex couples are not going to
14 participate in the 2010 census, did you not
15 just say--

16 DR. MOULTON: [Interposing] Bi-
17 national same-sex couples.

18 COUNCIL MEMBER MEALY: Bi-
19 national, that is living here.

20 DR. MOULTON: Right, and there
21 are a lot of same-sex couples who will protest
22 it anyway because they will not put down
23 unless they can actually be classified as
24 being married, so a lot of long-term same-sex
25 couples will not be part of that census in

2 that particular protest because the government
3 will not recognize them as being married.

4 COUNCIL MEMBER MEALY: All
5 right, we know that you're trying to do the
6 right thing, but imagine the 2010 census is to
7 make sure the resources come back for that
8 area where people are living.

9 [Crosstalk]

10 DR. MOLTON: It is--

11 COUNCIL MEMBER MEALY: It's a
12 catch 22--

13 [Crosstalk]

14 DR. MOULTON: It is, it is, I
15 mean, when you're talking about bi-national
16 couples and, particularly a lot of them remain
17 here illegally in order to be together, they
18 want to be under the radar no matter what and,
19 as the example I gave, to such an extent that
20 one lesbian lost her life, though it was
21 preventable, because she was so afraid to go
22 to the doctor because she was afraid she would
23 be reported to the immigration service. So
24 these people are afraid for their lives,
25 they're not going to put their names down on

that census.

COUNCIL MEMBER MEALY: So we definitely have to change that where a lot of people are still putting their names down because they understand the resources and, if we believe the law, they say we do not come out and check that, but we have to still make sure that we get the resources for our communities. So I hope some of them do fill out the census 2010.

DR. MOULTON: Well obviously there were 5,000 that filled it out in 2000, and certainly people may try and do more, but those 5,000 may be bi-national couples where the one international partner has a green card. But what I'm saying is that just for those who don't have a green card and who are here illegally, the numbers you will always have to look at those numbers about LGBT people with a jaundiced eye. They are always, always, always going to be underreported until LGBT people get treated equally throughout the United States in all 50 states in everything, not just immigration law.

2 COUNCIL MEMBER MEALY: Do you
3 think they have a committee to check on the
4 government agencies, who do not keep up their
5 word? If you fill out the form, is there any
6 follow up?

7 DR. MOULTON: I don't know of
8 any instances, I don't know if anything has
9 come and it may not come to the immigration--

10 COUNCIL MEMBER MEALY:
11 [Interposing] We should look into that 'cause-

12 -

13 DR. MOULTON: --services, but
14 it would be very hard to find out because
15 those people would be deported.

16 COUNCIL MEMBER MEALY: No, well
17 if one or two get deported, we should start
18 documenting that and see which agencies are
19 not keeping up with what our rights are, so we
20 should start thinking about getting a
21 committee to do that.

22 [Crosstalk]

23 DR. MOULTON: It's a nice
24 thought, but I find that would be hard to do
25 because people would have to voluntarily come

2 forward and once that's happened to them, it's
3 very painful. And frequently the U.S. partner
4 will leave with the international partner, so
5 if they're not here, they're not going to be
6 counted.

7 COUNCIL MEMBER MEALY: Okay.

8 Thank you.

9 CHAIRPERSON STEWART: Well

10 first I want to thank everyone for coming here
11 to this hearing and providing such testimony.

12 I know it must be difficult for
13 some of us to come here and speak about these
14 things and some of these things are personal,
15 you don't always want to share your personal
16 situation with everybody, but to me, it's so
17 hard, not only to come here and do that, but
18 to know that you've been going through so many
19 problems that you have no handle on, there's
20 very little you can do to at least change the
21 system, except for coming here. And I want to
22 thank you for doing that, for coming, so that
23 we can get a better picture of what is
24 happening so that we can make a dent, we can
25 let the federal folks know what is happening.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22

So I want to thank you for taking that step
and coming forward and doing that.

I also want to thank, again,
Julene and Israel and Damien and Eric for
putting this hearing together.

And we have no other--if
there's no other questions, we would like to
call this hearing to a close. Thank you.

[Off mic]

[END TAPE 1, SIDE A]

[START TAPE 1, SIDE B]

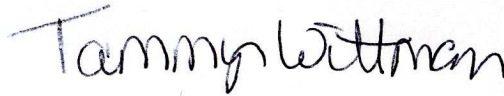
COUNSEL: Council Member
Weprin.

COUNCIL MEMBER WEPRIN: Aye.

COUNSEL: Final vote on the
Committee on Immigration is now seven in the
affirmative, zero in the negative, no
abstentions.

C E R T I F I C A T E

I, Tammy Wittman, certify that the foregoing transcript is a true and accurate record of the proceedings. I further certify that I am not related to any of the parties to this action by blood or marriage, and that I am in no way interested in the outcome of this matter.

A handwritten signature in cursive script that reads "Tammy Wittman". The signature is written in black ink and is positioned above a horizontal line for the signature field.

Signature_____

Date October 12, 2009