Legislation Details (With Text)

File #:	Res 1390-2012	**Version:**	*	**Name:**	Supporting the plaintiff's position that section 3 of the Defense of Marriage Act.
Type:	Resolution			**Status:**	Adopted
				In control:	Committee on Civil Rights
On agenda:	6/28/2012				
Enactment date:				**Enactment #:**	

Title: Resolution authorizing the Speaker to file or join amicus briefs on behalf of the Council in the litigation captioned Windsor v. United States, currently on appeal in the United States Court of Appeals for the Second Circuit, for the purpose of supporting the plaintiff's position that section 3 of the Defense of Marriage Act, which defines the terms "marriage" and "spouse" under federal law to mean only heterosexual unions and individuals, is unconstitutional.

Sponsors:

Indexes:

Attachments: 1. Committee Report, 2. Hearing Testimony, 3. Hearing Transcript, 4. Hearing Transcript - Stated Meeting 7-25-12

Date	Ver.	Action By	Action	Result
6/28/2012	*	City Council	Introduced by Council	
6/28/2012	*	City Council	Referred to Comm by Council	
7/24/2012	*	Committee on Civil Rights	Hearing Held by Committee	
7/24/2012	*	Committee on Civil Rights	Approved by Committee	Pass
7/25/2012	*	City Council	Approved, by Council	Pass

Res. No. 1390

Resolution authorizing the Speaker to file or join amicus briefs on behalf of the Council in the litigation captioned *Windsor v. United States*, currently on appeal in the United States Court of Appeals for the Second Circuit, for the purpose of supporting the plaintiff's position that section 3 of the Defense of Marriage Act, which defines the terms "marriage" and "spouse" under federal law to mean only heterosexual unions and individuals, is unconstitutional.

By The Speaker (Council Member Quinn) and Council Members Dromm, Mendez, Palma, Rose, Van Bramer, Brewer, Chin, Comrie, Ferreras, James, Koppell, Koslowitz, Lander, Mark-Viverito, Lappin and Garodnick

Whereas, In 1996, President Bill Clinton signed into law the Defense of Marriage Act (DOMA), which precludes recognition of legally married same-sex couples for purposes of federal law and which purports to allow states to refuse to recognize marriages between same-sex partners performed in other jurisdictions; and

Whereas, DOMA denies legally married same-sex couples over 1,100 federal benefits associated with

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marriage, including the ability to file taxes jointly, sponsor one's spouse for immigration purposes, receive a spouse's healthcare and retirement benefits, and the right to visit a spouse who has been hospitalized; and

Whereas, In November 2010, Edith Schlain Windsor filed a complaint, *Windsor v. United States*, No. 10 Civ. 8435 (S.D.N.Y.), arguing that section 3 of DOMA, which defines the terms "marriage" and "spouse" under federal law to refer only to heterosexual unions and individuals, violates the Equal Protection Clause of the Fifth Amendment to the U.S. Constitution; and

Whereas, Ms. Windsor met her late wife, Thea Spyer, in 1963 in New York City, and the couple lived in a committed union for the next forty-four years, registering as domestic partners in New York City in 1993 and marrying in 2007 in Toronto; and

Whereas, Ms. Spyer, gravely ill with multiple sclerosis when they wed, died less than two years later, naming Ms. Windsor as her sole executor and beneficiary; and

Whereas, Solely because of DOMA, which requires the federal government to disregard state-recognized marriages between same-sex couples, the Internal Revenue Service charged the Spyer estate over $363,000 in taxes that would not have applied to a heterosexual widow; and

Whereas, In February 2011, Attorney General Eric Holder announced that the U.S. Department of Justice would no longer defend DOMA's constitutionality, and as a result, the Bipartisan Legal Advisory Group of the U.S. House of Representatives (BLAG) is currently defending the constitutionality of DOMA; and

Whereas, On June 6, 2012, District Court Judge Barbara Jones granted Ms. Windsor's motion for summary judgment and declared DOMA to be unconstitutional; and

Whereas, BLAG has appealed the district court's ruling to the Second Circuit Court of Appeals; and

Whereas, The Second Circuit should assure that Ms. Windsor's rights are vindicated, not to mention those of countless other same-sex couples within New York, Connecticut, and Vermont; now, therefore, be it

Resolved, That the Council of the City of New York authorizes the Speaker to file or join amicus briefs on behalf of the Council in the litigation captioned *Windsor v. United States*, currently on appeal in the United

States Court of Appeals for the Second Circuit, for the purpose of supporting the plaintiff's position that section 3 of the Defense of Marriage Act, which defines the terms "marriage" and "spouse" under federal law to mean only heterosexual unions and individuals, is unconstitutional.

LGA
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6/19/12 11:30am