



Written by [Joe Wolverton, II, J.D.](#) on June 16, 2010

Philadelphia Pressures Local BSA to Admit Gays or Lose Lease

The City of Brotherly Love is demanding that the local councils of the Boy Scouts of America renounce the national organization's stance against homosexuality or face the rescission of the sweetheart lease agreements they currently enjoy.

Lawyers for Philadelphia have called upon local Boy Scout leadership to muster "the courage of their convictions" and admit open homosexuals for membership in the local councils. The statements were made as part of a federal trial that is underway to determine whether the City of Philadelphia must allow the Boy Scouts to continue benefiting from the \$1-a-year lease of its local headquarters located in a building owned by the city.



The city argues that the Boy Scout rule that forbids "avowed" homosexuals from joining the organization violates the city's local ordinance that outlaws discrimination based on sexual preference. Since 1991, persons who openly declare themselves to be homosexuals have been officially prohibited from assuming leadership roles in the BSA. A position statement released that year states, "We believe that homosexual conduct is inconsistent with the requirement in the Scout Oath that a Scout be morally straight and in the Scout Law that a Scout be clean in word and deed, and that homosexuals do not provide a desirable role model for Scouts." Similarly worded policy statements were promulgated in 1993 and in 2004.

In 2000, in *Boy Scouts of America v James Dale*, the Supreme Court overturned a New Jersey court ruling and reaffirmed that the BSA's opposition to homosexuality is protected by the First Amendment's guarantee of the freedom of association. The Court *in dictum* stated that interference with the BSA's stance on homosexuality would negatively affect the group's ability to advocate public and private viewpoints.

Local councils and other units of the BSA are required to adhere to the policies established by the National Council.

One of the local councils of the BSA, the Cradle of Liberty Council, sued the City of Philadelphia in federal court claiming that the city's attempts to revoke the lease of the headquarters violated the group's First Amendment rights of free speech and freedom of peaceable assembly.

At the core of their averments is what the council calls the "selective" application of the anti-discrimination ordinance. There are at least two other private groups — a Roman Catholic parish and a chapter of the Colonial Dames of America — that "enjoy subsidized leases" in buildings owned by the



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city of Philadelphia. These groups have not been threatened with the end of their next-to-nothing lease agreements.

In it's defense, the city of Philadelphia, through its attorney, David Smith, claims that both the parish and the Colonial Dames chapter have vowed to eliminate all forms of discrimination and "open the doors" of their buildings to all.

The position of the city government is that it is unlawful for the city to "subsidize" the BSA's ban on homosexual membership.

Counsel for the Cradle of Liberty Council told ABC News, "They want us to change the policy and they know they can't make us do it. And the only leverage they have is this building."

Although certainly opposed to the city's position, the lead lawyer for the council, Jason Gosselin, called former director of the council, William T. Dwyer, III, to the stand to testify as to the difficulty in "walk[ing] that fine line" between diversity and adherence to the National Council's policy.

During his testimony, Dwyer described a sort of "don't ask, don't tell" course of dealing with the situation that he pursued while director. Gosselin said that Dwyer insisted that no one be asked about his sexual orientation and that if a boy brought up such a topic that leaders were instructed to encourage the boy to "discuss it with their parents or clergy."

After the *Dale* decision was handed down in 2000, the local council felt pressure to hew closely to the restrictions set out by the National Council and it drew national attention when it expelled Greg Lattera from the Boy Scouts after he appeared on television dressed in his Scout uniform and proclaimed that he was homosexual.

The decision to insist that Lattera leave the council was motivated less by intolerance for a particular lifestyle than for the plain fact that by wearing his uniform Lattera's purposed was to advance "his own agenda at the expense of the Boy Scouts," said Gosselin.

Curiously, although the city does indeed own the building occupied by the Cradle of Liberty Council of the Boy Scouts of America, the money to construct the downtown edifice, known as the Beaux Arts building, was raised by the Boy Scouts themselves over 80 years ago pursuant to an agreement signed between the mayor and the local council. Since that time, the Council has paid all costs associated with the maintenance, repair, and capital improvements of the building, with "no financial contribution from the City," according to the complaint.

The land upon which the building was constructed was then and is now owned by Philadelphia. According to city officials, the rent for a similarly situated building would be about \$200,000 a year.

Opening statements in the case of the *Cradle of Liberty Council v the City of Philadelphia* began on June 14 in the United States District Court for the Eastern District of Pennsylvania located in Philadelphia.

Photo: The city-owned Boy Scouts headquarters in Philadelphia: AP Images



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