



Written by [Dave Bohon](#) on July 19, 2011

Possible Legal Loophole for N.Y. Clerks Opposed to Gay Marriage

As New York prepares to usher in legalized homosexual marriage, a new twist has developed over whether town clerks in New York State will be required to facilitate same-sex couples coming to them for licenses and ceremonies. As reported by The New American, Laura Fotusky, clerk in the central New York town of Barker, submitted her resignation on July 11, explaining that her Christian beliefs would prevent her from issuing marriage licenses to homosexual couples.



On July 15 Rosemary Centi, clerk for the town of Guilderland in Albany County, offered her own resignation of sorts, informing her town supervisor that she would no longer be serving as the community's official marriage officer, explaining that her Catholic faith would prevent her from officiating at marriage ceremonies for homosexual couples.

According to [CBS News](#), the towns supervisor, Ken Runion, expressed his dismay over Centi's decision to put faith above municipal duty. I was surprised because we all take the oath of civil service and promise to follow the law, Runion said. Regardless of personal beliefs, same-sex marriage is now legal and we have to follow the law.

Unlike Fotusky, whose moral convictions proscribed her from any involvement in facilitating same-sex marriage, Centi will continue to serve as the towns clerk, issuing marriage licenses to all eligible applicants including homosexual couples wishing to marry in Albany County.

Meanwhile, the Alliance Defense Fund (ADF), a conservative legal advocacy group, has released a memo to [New York Municipal Clerks Responsible for Issuing Marriage Licenses](#), advising them that under New York's human rights law, employers including municipal governments are required, as much as is practical, to accommodate an employees sincerely held religious beliefs.

It is true and very disappointing that the narrow religious exemptions enacted by the Legislature in the same-sex marriage bill do not contain any individual conscience protections, noted the ADF memo. Indeed, it is disturbing that public officials have so blithely dismissed New Yorkers sincerely held beliefs even though millions of New Yorkers believe that marriage is only between a man and a woman. Nonetheless, the memo continued, New York's Human Rights Law requires employers to accommodate those beliefs, unless it places an undue hardship on the employer.

The memo explained that since New York law explicitly allows a municipality to delegate a clerks duties



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concerning marriage licenses to a deputy clerk or any other municipal employee, a city or town should have no reason to deny a clerks request for an accommodation.

Under the relevant provisions included in New Yorks Domestic Relations Law, continued the memo, a municipality's governing body would have little basis to refuse a clerks request that his or her religious beliefs be accommodated by having a deputy clerk or other city employee issue marriage licenses to same-sex couples. In fact, because the broad wording of the provision allows all of a clerks duties to be delegated, a clerk requesting an accommodation should be entirely removed from the process, including signing licenses.

The memo included a sample letter clerks could use to request a religious accommodation, and offered further legal assistance to those clerks rebuffed by their municipalities.

Doubtless, such a potential loophole in the new same-sex marriage law will not sit well with homosexual activists and their facilitators, including Governor Andrew Cuomo, who scolded town clerks whose moral convictions were at odds with the new measure, that you don't get to pick and choose which laws to obey. It remains to be seen whether or not Mr. Cuomo will insist that the provisions delineated in the ADF memo are included in the laws not up for choice.



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