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OFFICE OF THE DISTRICT ATTORNEY

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March 11, 2004

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Dear Officiant: *Rev. Maria Viscel*
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It is our understanding that you intend to perform marriage ceremonies under the authority of New York State law between persons who have not obtained marriage licenses from the appropriate State authority, in this case the Town Clerk of the Town of New Paltz.

I am fully aware and respect the separation of Church and State and the intentions of individual ministers to perform religious ceremonies. Please be assured that this office does not seek to interfere or in any way hinder your rights to conduct or preside over religious ceremonies where couples are married in the eyes of the church and not under the law of New York State.

However, as you are aware, §17 of the Domestic Relations Law states, "[i]f any clergyman or other person authorized by the laws of this State to perform marriage ceremonies shall solemnize or presume to solemnize any marriage between any parties without a license being presented to him or them as herein provided...he [or she] shall be guilty of a misdemeanor..." This law applies to public officials and clergymen alike who are authorized by the laws of this State to perform marriage ceremonies, regardless of the gender or sexual orientation of the participants.

Indeed, as I am certain you are equally aware, on March 5th, the New York State Attorney General issued a public statement recognizing the illegality of such conduct and recommending that officiants should not solemnize the marriages of same-sex couples until these issues are adjudicated by the courts. Moreover, that same date, the Honorable Vincent G. Bradley, Supreme Court Justice, issued a temporary order restraining Jason West, the Mayor of the Village of New Paltz, from solemnizing marriages without first being presented with a marriage license issued by a town or city clerk. The Court stated in this order, "It is beyond dispute that the provisions of the Domestic Relations Law referred to above provide that a marriage license must be obtained and presented to the officiant before the marriage ceremony can be performed."

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Individuals who do not agree with the clear requirements of the Domestic Relations Law or any other law have every right to seek appropriate and lawful redress via numerous options. These include petitioning the New York Legislature to draft new laws addressing the concerns; applying for legal process to the Courts of New York State seeking declaratory relief concerning the particular law; or seeking a court order compelling the town clerk to issue the appropriate license. Finally, parties who have standing and believe they are aggrieved by a particular law may request an advisory opinion of the State Attorney General.

It is not the intention of this office to interfere with every individual's right to express their religious beliefs or to perform religious ceremonies as I understand has been the tradition of the Unitarian Church and other faiths. I trust, however, that as members of the clergy who have been authorized to perform marriage ceremonies under New York law you are familiar with its restrictions and the consequences. If not, I believe that this letter fully explains the law and the position of this office.

Yours truly,



DONALD A. WILLIAMS
District Attorney

DAW/las