

Post Office Box 909  
Chicago, Illinois 60690  
November 17, 1971

Dr. Thomas Parker  
533 North Norris  
Tucson, Arizona 85719

Dear Dr. Parker:

At the suggestion of Arthur Warner, I am taking the liberty of enclosing herewith a copy of a proposal submitted recently by the Chicago Gay Alliance to the Illinois Fair Employment Practices Commission. The Illinois fair employment act was recently amended to add the word "sex" to the list of grounds on which discrimination is forbidden. The FEPC issued tentative guidelines for use in connection with the law, and in response to its requests for comments before final guidelines are issued the CGA's proposal was submitted.

Although I was the one who drafted the CGA proposal, I did so within the limitations both of (1) the fact that the law is already written and its interpretation, not substantive change, is the immediate issue, and (2) the fact that CGA through its president had already testified at an FEPC public hearing and indicated its wishes so far as Commission action was concerned. While I have no particular quarrel with the goals in favor of which the CGA had expressed itself, and while of course I would be delighted if the FEPC actually interpreted "sex" as our proposal requests, I personally have no hope that they will do so, nor, for that matter, do I regard as very persuasive the case which I tried hurriedly to make for their doing so. However, I consider the effort to have educational value, with respect both to the Commissioners and to the general public; and I do hope that eventually the FEPC will be persuaded at least to lend its support to any legislative proposals that may later be introduced to amend the FEPC law to cover discrimination against homosexuals specifically.

Nonetheless, since the framework of the enclosed proposal may serve as the basis for future legal as well as educational efforts, I would like it to be as sound as possible within its own limitations, and for that purpose I am sending a copy to you and respectfully soliciting your comments and suggestions for improvement. I would especially appreciate your suggestions of additional sources for comment, data, and precedent in the area of job discrimination against homosexuals--statistical studies, agency decisions, "respectable" opinion, etc.--so that they may be cited in future public statements or legal papers.

To date, the FEPC has not acted on our proposal or issued its final enforcement guidelines. One reason may be that they have just lost their first and only executive director.



November 17, 1971

On December 7, the Judiciary Committee of the Chicago City Council will hold hearings on two proposed ordinances introduced October 27 by Mayor Daley which would add "sex" to the list of specific areas in which the Chicago Commission on Human Relations is empowered to combat discrimination in employment, public accommodations, and housing and which would add "sex" to the ordinance governing discriminatory practices by real estate brokers. CGA's thinking at this point is that we should testify at the committee hearing, asking that the proposed ordinances be amended by adding such a term as "sexual orientation" so as clearly to cover homosexuals, while at the same time not abandoning our previous position that even without such specific language (which we consider highly desirable but probably not absolutely necessary) the term "sex" is susceptible of construction in the fashion we have proposed. What are your views on this course of action?

Also, have you ever hit upon a term superior to "sexual orientation" to insert in statutes so as to cover homosexuals? I am not quite satisfied with "sexual orientation," yet I can think of nothing better except "homosexuality," and "homosexuality" seems undesirably specific considering the numerous other varieties of sexuality which could serve as the basis for discrimination and considering also the fact that under a law specifying "homosexuality" an aggrieved individual would have to be considerably more specific and persuasive in establishing the precise nature of his sexuality than would be the case if the statute read more broadly ("sexual orientation"). I observe that the bill that was introduced in the New York legislature through the efforts of GAA used the term "sexual orientation" but then, in the "definitions" section, defined "sexual orientation" as "a tendency toward homosexuality" (I am paraphrasing as I do not have the bill before me, but I think the paraphrase is almost literally exact); I have considerable reservation about the advisability of such a definition. What do you think? This point will be important in Illinois when and if efforts are begun to have the General Assembly amend state law, and of course in connection with the City Council hearing it is important now.

*see  
attached* →

The last time we were in contact with each other was when the Illinois Constitutional Convention was meeting and Mattachine Midwest was debating whether to testify before the Bill of Rights Committee of the Convention. Your comments at that time were very helpful, but I must tell you that MM was prevailed upon by the committee chairman and staff director not to testify because it was said that certain reactionary committee members would use the occasion to cause an uproar, make insulting remarks, and possibly report out recommendations directly contrary to what we might propose. I was not wholly convinced by such advice, but in view of the additional fact that at the time we encountered some difficulty in getting anyone to agree to go down to Springfield and because the committee suddenly changed its hearing schedule after we had found someone to go, we effectively dropped the matter. As I look back on it, I am much more regretful now than then that we did so, as I now feel the dire consequences predicted at the time would not have ensued. The result of Con-Con was that the Constitution did pass and is now in effect. It contains a number of salutary Bill of Rights provisions which you are probably already familiar with; one in particular, to which I did not refer in the enclosed proposal, accords the right of privacy and does so in such a way that it may not necessarily be



Dr. Thomas Parker

-3-

November 17, 1971

ted to such matters as telephone eavesdropping, electronic surveillance, etc., which are other matters dealt with in the same section, but may be interpreted more broadly so as to set a standard for legislative and executive action that would prohibit statutes as well as public and private practices that tend to invade an individual's privacy. At least, that is the implication I derived from remarks subsequently made by the Illinois ACLU counsel Bernard Weisberg, who was a member of the Bill of Rights Committee, as well as from the committee's report to the Convention. Time will tell about all this, however.

I will eagerly await any comments you care to offer on the matters I have mentioned.

Sincerely,

A handwritten signature in dark ink, appearing to read "Bill Kelley". The signature is written in a cursive style with a long, sweeping tail on the final letter.

William B. Kelley