



**John W. Suthers**  
Attorney General  
**Cynthia H. Coffman**  
Chief Deputy Attorney General  
**Daniel D. Domenico**  
Solicitor General

**STATE OF COLORADO**  
**DEPARTMENT OF LAW**  
Office of the Attorney General

**Ralph L. Carr**  
Colorado Judicial Center  
1300 Broadway, 10th Floor  
Denver, Colorado 80203  
Phone (720) 508-6000  
Attorney.general@state.co.us

June 27, 2014

Ms. Hillary Hall  
Clerk and Recorder  
Boulder County  
*Via electronic mail: clerkandrecorder@bouldercounty.org*

Dear Ms. Hall:

It is clear that your office and ours have a difference of opinion regarding your authority to issue marriage licenses that do not comply with existing Colorado law. But I am certain we share an interest in having the questions surrounding this issue resolved as expeditiously and clearly as possible. For that reason I write with a proposal that should be of benefit to both of our offices, and more importantly, to the People we serve.

As things currently stand, nobody can be happy. You, alone, are issuing marriage licenses to same-sex couples, and many of these couples have declared that they believe their licenses to be legal and valid. Yet the State's constitutional and statutory prohibitions on such licenses remain in effect and on the books. The State's position is that those licenses cannot be recognized and are invalid and of no legal effect. This confusion on so important an issue is of serious concern to this office. As both Attorney General Suthers and his predecessor, J.D. MacFarlane, recognized issuing license in these circumstances has no effect other than to "mislead the recipients of the license and the general public."

Meanwhile, same-sex couples wishing to be married elsewhere in the state cannot do so, as the rest of the state's clerks do not believe they have the authority to override state law. This is so, even though many of them agree with your position on the underlying issue of same-sex marriage. Indeed, along with the Governor, your fellow clerks from Denver and Adams Counties, and a number of plaintiffs, we are in the midst of litigation seeking to provide the resolution the state needs through our legal system. While we would have preferred to allow that process to play out in the traditional manner, the confusion caused by having one of the state's 64 clerks issue licenses while the other 63 do not requires more immediate action.

I therefore write to propose the following:

- You agree to immediately cease issuing marriage licenses that do not comply with Colorado's current law and section 31 of Article II of the Colorado Constitution.

June 27, 2014

Page 2

- In exchange, the State agrees to file a joint petition with you to the Colorado Supreme Court under Article VI, section 3, of the Colorado Constitution, seeking expeditious resolution of the question of your authority to issue licenses to same-sex couples. *See Salazar v. Davidson*, 79 P.3d 1221 (Colo. 2003). We would be prepared to do this within a week.

Meanwhile, we will also seek expeditious resolution of the ongoing District Court cases, and likewise seek Supreme Court review of that decision concurrent with yours.

If you agree to this proposal, please contact our office at [attorney.general@state.co.us](mailto:attorney.general@state.co.us) or 720-508-6000 by noon on Tuesday, July 1. Doing so will not only provide needed uniformity and certainty, it will obviate the need for us to take any further action regarding your issuance of licenses. *See Lockyer v. City and Cnty. of San Francisco*, 95 P.3d 459 (Cal. 2004); *Denver Urban Renewal Authority v. Byrne* (Colo. 1980) 618 P.2d 1374, 1379-1380; *Ames v. People* (1899) 26 Colo. 83 (56 P. 656, 658).

We look forward to hearing from you.

FOR THE ATTORNEY GENERAL,

A handwritten signature in black ink, appearing to read 'Dan Domenico', written over a horizontal line.

Dan Domenico  
Solicitor General