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November 4, 2009

Dear Honorable Senator Cruz:

This letter follows recent discussion in your office regarding our proposed amendments to Bill 185. A group of us, including representatives of Guam's Alternative Lifestyle Association, the Guam Youth Congress, concerned Catholics, and other members of the community, worked together to address the comments expressed by a wide segment of our island population over the last several months. In preparing for these amendments, we attended the various village meetings, participated in the public hearings on Bill 158, 185, and 212, met with several Senators, watched the TV coverage of these bills, spoke with our friends and relatives, and read newspaper articles, editorials, and electronic blogs on the matter of same-gender partnerships.

We carefully listened to the views of all those who have participated in this lively dialogue. We, like many, are concerned that this issue has been divisive to our community and that the time to begin the healing process is now. While we believe that the matter of legally recognizing committed same-gender relationships is solely a civil matter, we understand that our religious institutions, and the values they teach us, do not operate in a vacuum. They influence who we are and what we think. Therefore, in recognition of this fact, and in the spirit of compromise, our suggested amendments provide same-gender relationships the dignity, respect, and legal protection they deserve while preserving the institution of marriage to a man and woman, and making clear that no religious institution can be forced to solemnize same-gender relationships.

In preparing these amendments, we relied heavily on Nevada's domestic relations law. This law addresses most of the concerns raised by Nevadans during their long debate on the matter of same-gender relations. Their concerns were very similar to the concerns raised by Guam's residents. Nevada's domestic partnership law is seen by many as a middle-ground approach to legislating same-gender relationships. For this reason, we chose it as an appropriate model for Guam's legislative approach. Although we used Nevada's law as a model, we have made modifications where necessary to address specific concerns we encountered during our research.

A summary of our proposed significant amendments are as follows:

1. The term "domestic partnership" is changed to "civil partnership". In discussing the proper terminology of same-gender relationships, many people expressed the view that the term should not carry any religious connotations. Therefore, the term should not include the words "marriage" or "union" which for many, are synonymous. Others did not like the word "domestic" since for them it conjured images of women stuck in subservient roles to men. We believe the term "civil partnership" addresses both these concerns.

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2. Marriage is preserved for a personal relationship between a man and a woman. This major concession on the part of the gay community endorses that part of Bill 158, introduced by Senators Blas and Muna-Barnes, that precludes same-gender persons from taking a marriage vow. Instead, their relationship will be recognized as a civil partnership. Again, this significant change addresses the religious arguments against same-gender marriages.

3. Those wishing to enter into a civil partnership must demonstrate that their commitment is more than casual. Consequently, the registration process includes a requirement that the couple share a common residence. In addition, they must provide a written statement that they have chosen to share one another's lives in an intimate and committed relationship of mutual caring. Numerous people expressed the view that Bill 185, as currently drafted, requires no showing of commitment by the prospective couple. Any two people, including a non-committed couple, could simply register their relationship and enjoy the significant benefits of a committed relationship without the actual commitment. This amendment requires the prospective couple to demonstrate their commitment as a prerequisite to registering their relationship.

4. While, under our proposed amendments, Guam will recognize civil unions/partnerships from other jurisdictions, only marriages as defined by Guam law, will be recognized as marriages on Guam. Thus, if a same-gender couple who married in a state that recognizes gay marriages moves to Guam, their relationship will not be recognized as a marriage. Rather, it will be recognized as a civil partnership as long as the couple follows the mandated registration process.

5. The amendments include specific rights and responsibilities granted to civil partners. In his Bill 212, Senators Espaldon, Blas, and Ada specify certain rights to be provided those couples who register as designated beneficiary. While we do not believe that Bill 212 provides adequate legal protection for same-gender couples, we do appreciate his approach to enumerating rights and responsibilities. Our proposed amendments make it clear to those couples wishing to enter into a civil partnership that although they will enjoy all the benefits given to spouses, they also will shoulder the burdens and responsibilities that come from civilly recognized relationships. Thus, for instance, all property acquired during the relationship will be community property. One partner cannot defeat the other's interest in community property by leaving such property to another person in a Will. Also, debts incurred during the relationship will be community debts. Therefore, each will have to answer for the debts of the other partner. One of the major flaws of Bill 212 is the ease by which one beneficiary can secretly undermine the expectations of the other beneficiary by entering into a superseding instrument. Under our proposed amendments, this cannot happen. Each party will understand from the very beginning that by registering their relationship as a civil partnership, they are incurring significant responsibilities and obligations toward their partner. They are entering into a very serious, lifelong commitment. It is not a commitment to be taken lightly.

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6. Under our proposed amendments, no religious institution can be forced to solemnize a civil partnership, although they may do so if they so wish. As provided in our amended version, "[r]ecognition [of] partnerships through a civil partnership system in no way interferes with the right of each religious faith to choose freely to whom to grant the religious status, sacrament or blessing of marriage under rules or practices of that faith."

In submitting these proposed amendments to you and the Legislature, we sincerely hope that they will help heal our community's festering wounds of divisiveness and go a long way toward restoring our island community's reputation for tolerance and acceptance. We have carefully considered the diverse views of our community. While we acknowledge these amendments will not satisfy everyone's objections to the recognition of same-gender relationships, we believe that they will be acceptable to the vast majority of Guam's residents who share our belief that committed same-gender couples, and their families, deserve the right to live their lives with respect and dignity and to enjoy basic civil protections enjoyed by all families.

Sincerely,



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