

# LGBT Sidebar

 Capell Vishnick LLP

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## A Letter From Joe Milizio



*Joseph Milizio, Esq.*  
Managing Partner

The LGBT Community has special strengths - the ability to speak our minds, stand up for our rights and be proud of who we are. However, we don't have the security of knowing that the law works for us with respect to matters such as financial and estate planning, relationships, parental rights and health care issues. We have to be proactive in our planning to make sure that we and our loved ones are properly protected. At Capell Vishnick, we listen to your concerns and offer advice in a secure and understanding environment. I hope this edition of our LGBT newsletter provides you with some insight. Please contact me at [jmilizio@capellvishnick.com](mailto:jmilizio@capellvishnick.com) or 516.437.4385 for a complimentary meeting.

*Joe Milizio*

## Home Sweet Home

*Joseph G. Milizio, Esq.*

The most frequently asked question when preparing a life or estate plan for a gay or lesbian couple, or when representing them in the purchase of a home is "How should we own the house?" Perhaps you own your own home and want to make sure your partner is protected in the event of your

death, or perhaps you're combining funds and purchasing a new home together.

There are two ways that couples can hold title to real property. The first, joint tenants with rights of survivorship, provides that upon the death of

one party, the entire property is automatically owned by the survivor. The second form of ownership, tenants in common, means that each of the parties owns an undivided interest in a portion of the property. The ownership interest of a deceased owner passes under his or her will, or by intestacy. It does not automatically pass to the survivor.

There are a number of additional options, as well as considerations, which must be explored when determining how real estate should be owned. To discuss the advantages and disadvantages of each type of ownership and to find out which type is right for you, please contact Joseph at 516-437-4385 x 108. ●

You can reach Joseph directly at  
[jmilizio@capellvishnick.com](mailto:jmilizio@capellvishnick.com).



## Wedding Destination Spurs Real Estate Boom



The legalization of same-sex marriage in Massachusetts has resulted in a positive impact on the real estate market in Provincetown, which has become a popular location for wedding celebrations. The influx of people to Provincetown (1,647 same-sex marriage licenses were issued in 2004) supports business, and both support rents and home prices. At the beginning of the decade, the median sales price for a single family home was \$350,000.00. In 2005, the year after same-sex marriage was legalized, it jumped to \$680,000.00. Although the recent downturn in the real estate market has also affected Provincetown (the median price fell to \$530,000.00 in 2006), prices have reportedly been on the upswing in 2007. The median price was up to \$594,500.00 in the last quarter of 2007. More information about Provincetown can be found at [www.provincetown.com](http://www.provincetown.com). ●

## Money Matters

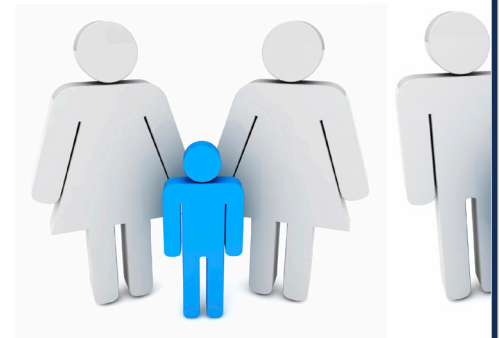


New York City's five pension funds have issued shareholder resolutions to a number of Fortune 500 companies, calling on them to revise their anti-discrimination policies to include sexual orientation and gender identity. 50 companies have changed or expanded their policies on discrimination as a result of resolutions passed by the City's pension funds. The City's pension funds invest over \$100 billion. Although few of us can claim investments of that magnitude, we can do our part on a smaller scale, by purchasing products and services from companies that support equality for the LGBT community. HRC publishes the Buying for Equality Guide, which rates companies that support equality for the LGBT community. The 2008 Guide is available at [www.hrc.org/buyersguide](http://www.hrc.org/buyersguide). ●

## And Daddy Makes Three

*Joseph G. Milizio, Esq.*

In 1989, while Dr. K was working at a Nassau County hospital, he agreed to be a sperm donor for Dr. D, also a physician at the hospital. Although Dr. K was married with children, he agreed to provide the sperm to Dr. D based upon [verbal] promises that he would have no rights or benefits in raising the child, nor any financial responsibilities. Dr. D was inseminated by her same-sex partner, also a physician. Dr. K agreed to the use of his name on the child's birth certificate, because he did not want the child 'to have no father listed'. In 1993, Dr. D, her son and her domestic partner moved to Oregon and there was no contact between Dr. K and the child, aside from an occasional phone call and one brief visit. In 2007, 18 years after the child was born, Dr. D filed a petition to establish paternity and sought Dr. K's child support to help pay for tuition at a private college. The Judge referred the case back to the support magistrate for a determination of child support based on the mother's earning capacity, the reported income of her domestic partner and the current income of Dr. K. ●



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# Employment Discrimination

Andrew A. Kimler, Esq.



New York has long prohibited discrimination on the basis of certain characteristics, such as race, sex and religion. With the passing of the Sexual Orientation Non-Discrimination Act ("SONDA") by the New York legislature in 2002, "sexual orientation"—defined as "heterosexuality, homosexuality, bisexuality, or asexuality, whether actual or perceived"—was added to the list of specifically protected characteristics in various State laws, including the New York State Human Rights Law.

Under the Human Rights Law, if discrimination exists, a lawsuit may be brought or a complaint filed with the New York State Division of Human Rights; such plaintiffs are entitled to the immediate cessation of the discriminatory practice, an order requiring that the discriminating employer take affirmative action—including reinstatement, restoration in

membership organizations and possible back pay—and compensatory damages.

Relief for sexual orientation discrimination is also available on a local level. The Administrative Code of the City of New York prohibits employment discrimination on the basis of sexual orientation. The Code differs from State law in two important respects. First, the Code covers gender identity and expression, while the State law does not. Secondly, in addition to the above-referenced remedies for sexual orientation discrimination, punitive damages and attorney's fees are recoverable under the New York City Code, whereas they are not under State law. In Nassau County, Local Law No. 9-2006 declares it unlawful to discriminate against an individual based on his or her sexual orientation. It directs that, in addition to corrective action, the violating party shall incur a penalty of \$5,000-\$10,000, payable to the aggrieved individual, as well as a fine of \$5,000-\$10,000 for a first offense and \$10,000-\$20,000 for each subsequent offense. ●



# Your Pets Are Important Too!

New York State Law allows an individual to establish a trust for the care of pets. The statute treats the trust in a manner similar to that for a minor child. The person appointed to enforce the trust is in a position comparable to that of a guardian. The trust will include guidelines for the pet's care, such as the type of food, payment for veterinary expenses and medications. The trust must terminate when no living pet is covered by the trust, or at the end of twenty-one years, whichever occurs earlier. The trust can then provide for the disposition of remaining trust property upon the death of the pet and the trust's termination. ●





## In The News...

Opera singer and heiress Halina Avery and real estate agent Molly Caldwell met in college. The couple shared a fourteen year committed relationship that ended in 2006 after Caldwell allegedly kissed another woman.

Caldwell commenced a lawsuit for spousal support and half of their joint savings even though they were not married and had a 1995 agreement which states neither woman would make a claim for support, money or property in case of a breakup.

A ruling is expected soon and could set a major precedent in the same-sex domestic partnership arena. ●

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## DID YOU KNOW?

The New Hampshire legislature approved a measure that establishes civil unions. The bill became effective January 1, 2008.

For more information about Capell Vishnick LLP and a complete listing of our practice areas or to subscribe to our LGBT Sidebar, visit [www.capellvishnick.com](http://www.capellvishnick.com), or call 516.437.4385.



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