

Keith K. Stewart is a member of the Bar Association for Human Rights of Greater Houston, and I've known him for about 10 years. Keith is an advocate. KEITH IS AN ADVOCATE. As a young man he was one of the plaintiffs in a case that was filed against Texas A & M University contesting its policy which refused to allow gay/lesbian student groups to meet on campus. This case went all the way to the 5th Circuit Court of the United States, where they won. It went to the United States Supreme Court where certiorari was denied, in effect affirming the 5th Circuit's decision. What better person is there to tell you how to hold on to the place where you live when some bigot is trying to evict you. Keith.



By Keith Stewart

Good morning. Well thank you for that introduction Phyllis. I got here this morning, and I went over to the registration room. There were all these outlines and handouts. Then I listened to Sharon, and I got more and more apprehensive. I've never been known for doing anything according to the program, and I don't expect them to do that today.

First of all let me show you my T-shirt. For those of you who are reading this transcript, here is a T-shirt with the Bill of Rights on the front of it and then stamped in big bold letters over that is "void where prohibited by law." That is sort of the state of the law with respect to housing rights in this country. Not only for transgendered persons but for everyone.

In terms of law respecting protection from discrimination in the area of housing, the housing committee came up with that there ain't none. That is an accurate statement of what the law is. In terms of Federal Constitutional Law one of your speakers later on this afternoon will be talking to you about the fact that there are certain clauses of the United States Constitution which guarantee equal protection of the law. That is in fact true. The problem is that the definition of who that applies to has been strictly limited. It does not include transgendered persons.

Basically, the bottom line on that is, you're going to have to make yourself known and let these folks know, that have the power up in Washington, that you are transgendered and you do in fact vote. That despite what they may think, you are subject to the terms of the equal protection clause and the due process clauses of the United States Constitution.

At the present time the equal protection clause is limited to race, religion, ethnicity, national origin, and creed and sometimes sex. Sex, male, female, has been the outer most reaches of the clause and there are situations in which the United States Supreme Court says that yes discrimination based on sex is unconstitutional and there are situations where the court has said that no it is not. So, it's sometimes yes and sometimes no on sex.

One thing you have to remember when you're talking about Federal Constitutional law is that you have eight old men and one old woman sitting in Washington deciding what your rights are. For better or for worse, whether you like it or not, these folks are in view with what we have come to call traditional values. There is no stretch of the imagination under which transgendered persons are going to fit under traditional values any more than gays or lesbians. Those conservatives, the conservative block on the United States Supreme Court, have made it real clear that they're not going to expand protected classes any time soon. So appealing to them and appealing through the federal judiciary, given the fact that Bush and Reagan have made that top heavily conservative, I think is a dead-end street.

Another tact that they've used -- not only restricting the classes to which constitutional protection applies -- is to give a narrow reading to the Constitution. My guess on their philosophy is that if it ain't specifically stated in the Constitution it don't exist. If any of you are interested you may want to read the United States Supreme Court decision in Bowers vs. Hardwick which was the decision upholding George's sodomy statute. That will give you an idea of how the Court is going to handle a transgender issue

if it ever reaches that court. They took great pains and wrote lots of words to reach back 200 years to what the Founding Fathers thought these phrases meant. There's very little law in it. It's mostly just gut-wrenching, Eisenhower era explanations of the traditional family values. I think that is what you're going to get when we get transgender issues up before the U.S. Supreme Court.

To give you a specific example of the Texas Constitution, we have some Texas Courts and, in fact, the Court of Appeals has recently decided that the Texas Constitution gives more constitutional protection, more privacy rights, and rights associated with privacy rights than does the Federal Constitution. That may be a trend among the States that is an area that is worth looking at.

I don't know how some of you from other jurisdictions select your judges. In Texas we vote on every judicial race. People pick the judges. You will want to know, as a politically active transgendered person, what the view of a candidate for a particular court, whether that's the State Supreme Court or State Court of Appeals or a State District Court. What is that person's view on your State's Constitution as it applies to transgender persons. And you will want to vote that view. That is one avenue available to you.

I know Sharon Stuart said that education was the way with respect to Military Law. I'm not trying to downgrade education but there's something to be said for knocking on the doors of the portals of power. As much as possible. And the way to do that is through the Courts. Some State Laws are not necessarily constitutional.

The Equal Rights Amendment has not been passed nationally, but some States have approved a local Equal Rights Amendment. Texas is one of them, and the language of it is extremely broad. The question is whether discrimination on transgenderal basis is discrimination on the basis of sex and I think that's one area that is worth pursuing.

Thanks to Roxanne, I happen to know that Washington State is the only State that has adopted a statewide anti-discrimination law based on housing and other matters. Washington, I think, is the exception that proves the norm. I don't think that pursuing these issues in State Legislature is going to get very far any time soon. Certainly not in my lifetime, but if it does it will probably be based on sexual orientation.

In other words, once sexual orientation makes an end road into some of these legislatures and laws are enacted protecting people on that basis then transgender persons have a way to get in. So my suggestion is to grab onto the "sexual orientation" and hold tight. It's going to be a bumpy ride. Especially the next four months.

The way I see it, local ordinances are the best way in terms of enacting laws to guarantee housing rights. Local ordinances are the best way to do it, and again thanks to Roxanne for enlightening us on the experience of Seattle. She indicated, in our committee meeting, that it was by virtue of the fact that there was a very vocal and up front transgender community in Seattle, that the city enacted an ordinance which includes the word gender.

The transgender community in Seattle did not merely settle for sexual orientation. They have their own individual protection there and it's because they were vocal about that. They said, hey that's all well and good but we're in favor of protection on the basis of sexual orientation, but we have specific needs. We are not the same community. We need those things addressed, and that's exactly what they did.

There are also ordinances in Tacoma which do not, if I remember correctly, do not at this time include sexual orientation. I believe there's one in Austin. There's one in Madison, Wisconsin and other places. So, it can be done, it can be done. It's a lot easier to work with your local City Council than it is to work with the State Legislature. So I think that in terms of getting guaranteed protection the best way to do is through local ordinances in your area. And of course that's going to require that you be up front and vocal. I'll get to that in a minute.

Practical consideration as far as housing issues were concerned and the best way to avoid being evicted from your apartment is to own your own home. Clearly that's not an option for a lot of people.

One thing that you do want to keep in mind, and this applies to whether you're buying a home or whether you're trying to rent an apartment or a house or some other place to live, housing is -- bottom line -- an economic issue. It has to do with the market. We, in our committee, talked about experiences that we have had or had heard of in regard to being denied housing for whatever reason. What I was sort of surprised to find was that most people had not had unpleasant experiences in housing. If you approached a Landlord on the basis of, this is an economic issue, and you have money do you want it or not, and if you make it clear that you are

quite willing to take your money some place else, Landlords get the message pretty quick.

That's especially true in a situation where there is a real depressed housing market that there are a number of units available and less people to rent them. But you have to keep that in mind: it's the power of the dollar. I know last year the more strident gay activist here in Houston and in other parts of the country took to taking all of their dollar bills and stamping "queer buck" on them or giving out little cards when they went shopping that said, "you just sold something to a queer." I don't know how effective those were or not but it sort of gets the point across that economics is real important. That is the overriding campaign issue this year. That's what people are going to vote on is economics. So if you look at this as an economic issue, it puts it in a little different perspective. It's a different approach than the Rights issue.

Let me let you know that, in terms of practical considerations about renting, the landlord-tenant relationship is one that is established by contract. The contract in this case is a lease. And you are always, always, always better off having a written lease than having no lease at all. The written lease will specify the relative rights and obligations of the tenant and landlord. It will limit the landlord in terms of the rent that can be charged. It will limit the landlord in terms of procedures and reasons for eviction, so it is really important that you get a written lease.

Another suggestion, and I have found this useful for myself too, when you're out shopping for accommodations, ask the management person that you're talking to, to get a copy of the lease. Take your time to read it over! Make sure you understand what's in it. If you would like to retain an attorney to read it over for you and explain it, it's a good idea. If you have a friend that's an attorney, that's willing to do that for free so much the better. Have your friends read it. Sometimes someone can see something that you might not see in the lease that poses a problem or it's unclear. So don't at all be afraid to ask for a blank copy of the lease and review it. There's absolutely nothing that says you must sign this think while you're there in the office. And nine times out of ten anytime you sign a contract, a lease, or any other kind of contract when you're there on the premises you may end up with a surprise later on that you hadn't anticipated.

If the manager won't give you a lease take your money and go some place else. I think most landlords are amenable to letting you review their lease in advance. If they're not amenable to doing that then my suggestion is there's something wrong there. And you need to look elsewhere.

Negotiate, negotiate, negotiate. This is a contract. This is no different from buying a car. You will want to review the lease and once you know what's in the lease you will want to, if applicable, negotiate with the landlord as to what you don't like about the lease. When you're negotiating basically the term of the lease you can negotiate all the other clauses in the lease too. These are not things that are take it or leave it. If there are clauses in there that you want in the lease suggest to the landlord they be inserted. If there's clauses in the lease that you don't like suggest that they be amended or deleted. If the manager won't negotiate with you or the landlord won't negotiate with you take your money elsewhere.

Let them know you're going to take your money elsewhere, and you're going to tell your friends to take their money elsewhere.

One problem, in my practice as an Attorney, this is probably the most often, most frequently voiced complaint that I get from people, is on the issue of repairs. It's important in the context of what we're talking today because sometimes a landlord with a written lease will use repair clauses to make life so unpleasant for the tenant that they've got to move out. They don't repair air conditioners or some other fixture in the apartment with the same degree of efficiency as they do other tenants. Makes life difficult. You need to look very carefully at the clauses regarding repairs. Who's responsible for repairs. How much the landlord is going to pay. How much you're going to pay.

You need to be particularly cautious with respect to how long the landlord has to make repairs. The law says that a landlord must make repairs within a reasonable period of time. Well, reasonable is a lawyer's word. It means everything, and it means nothing, as most lawyer's words do. You will want to negotiate with the landlord as to what a reasonable time is. You will want to put that in writing, and you will want to make that an addendum to the lease if necessary. That the landlord will repair these defects within 10 days. Within 5 days, if you live in Houston. It's August and your air conditioner is out you want it fixed now. You don't want it fixed in ten days because in ten days you will be cooking from the inside out. There's no way to live in the city without air conditioning so that's something that you can negotiate, something you need to be aware of, and it's something you should negotiate.

Our committee discussed something that's a common feature of standard leases and these are what I call morals clauses. They usually provide that the landlord can evict on the basis of some illegal activity or some immoral activity occurring on the premises. In Houston, we no longer have a cross dressing ordinance so the illegal portion is ineffective, but the morals portion is still there and could still conceivably be used against a transgender person. Again, negotiate. Have it deleted. If the landlord is not wanting to delete it, have the landlord make an exception for transgender activity. Clearly you can understand that if you have just been convicted of capital murder the landlord does not want you residing in this complex any more. But cross dressing is not capital murder. So if you're not successful in deleting the clause all together just have them narrow it and make a decision.

Again, any changes to the written lease need to be in writing and need to be made a part of the lease by making them an addendum!

Know the landlord-tenant laws in your area better than your landlord does. This is especially true with respect to leasing from an individual. Leasing a house. Those people never know what the law is. They try all these walks into your house at any time. They think they can evict you for any reason or no reason. That's not the way it works. Know those landlord-tenant laws better than your landlord does, and don't in the least bit be shy to stand up for your rights.

The issue of name change came up in our committee, and I'll frankly admit that I hadn't thought about that. This has been an educational weekend for me, too. I suggest in thinking about what you can do is let the folks at the apartment complex know when you're negotiating the lease. If the name change issue is going to occur, during the period of your tenancy there, let them know that up front and perhaps have the lease refer to it, either in a clause or in a A/K/A situation. You can see a landlord's prejudice up front. With your landlord in your situation, and then you come back and the name change issue comes up, they say well Jennifer is not on the lease. All I've got is a David here and you're not permitted. It can cause problems for you so I think the better thing to do is to approach that issue up front. Either address it with respect to a specific clause or that you will be leasing those premises under this name now and under an assumed name later.

Another situation that was discussed in our committee, again this is a market matter and it's just a practical matter, is the area of town is going to make a lot of difference, as to whether you're going to have problems in housing or not. That was brought to my attention in one person's experience. More affluent areas tend to be more tactful accepting. We know from last week's Republican convention that they're not any more accepting, they're merely more tactful. They are less likely to confront you. They do tend to be a little more concerned with the appearance of where you're living. As long as the lawn is mowed and everything is nice so that it doesn't disturb the outward appearance of uniformity then you'll be okay. The problem seems to arise in the context of living in poverty sections of town, where they're more curious. There is less social inhibition. Definitely less tact. So that's a consideration that you will want to take in mind.

Another thing is in larger cities like Houston. There is going to invariably be a gay ghetto. And generally, they're pretty nice parts of town. People have come in and redone houses and everything is pretty tasteful, so I think that you will find that there is more acceptance there than perhaps some of the suburban areas. That will want to be a consideration.

I kind of want to sort of segway into something here which will release me into what I'm going to close with. I came out in 1976. I was a bicentennial queer. When I came out it was sort of a lag time. I knew for the longest time that I was gay before I was able to do anything about it. But there was a long period of time when I didn't really know what I was. I just knew that I was different. That didn't really cause any problems until I started getting into Junior High School. I learned what the different was, and I learned that people didn't like it.

So when I came out I sort of not only came out with a bang, but the bang happened to blow up my closet. As Phyllis indicated I didn't get into politics by choice. It just happened. I enrolled in Texas A & M University because there was a man there that I went to High School with and I was in love with him. The story of my life is that he was straight and unavailable.

I enrolled nonetheless and got involved in politics through a series of events. It had been decided that the gay organization on campus was going to sue the University. The problem was they couldn't find any plaintiffs. Everybody else was in the closet. Well my parents knew, and I was 19, so I was too dumb to know anything. I said, "well sure, I'll be a plaintiff in this case," and there I was. Not only plaintiff, but I was suing the most conservative University probably in the country. Phyllis can give



you more background on that. Maybe she'll show you her senior books.

I really didn't know what I was getting into, but I was in it. When we filed suit it was quite a news story. I was on TV, and the rest of my family found out. It was a mess. Boy, it was a mess. I was scared. I was really, really scared. My mother would call me daily and beg me to come home. All these people's aspirations and hopes were riding on me. I was 19, and I didn't know what to do with it.

Those of you who are familiar with Texas A & M during football season, which is a real joy to behold, in the area where they have all the dorms, during football season the dorm committees put up these posters. "Beat the hell out of U of H" or "beat, kick somebody's ass," or all this macho bullshit. Of course, all the women are in it too. They put up these football posters that said things like "Aggies aren't queers" and "kick the hell out of gay student services." I passed this stuff on my way to class. My professors were concerned for my person safety so much so that one of these, whose husband was a Dean, had her husband walk me back and forth to my car.

The Corp of Cadets, which is a particularly unenlightened group of people there, knew that we all sat together as a group in the student center. They took over the Student Center for the entire week after we filed suit. They literally sat in every chair from 8:00 a.m. until 6:00 p.m. to avoid us going in there.

We had to change our telephone number three times. Every time we got a new unlisted telephone number the operator gave it out.

So I finally, I just couldn't handle it any more. I came running home to Mother and got involved in politics here. Then I went through a period of time where I did the marriage thing. I was marrying everyone in sight, and we did that for a while. Then I found out in 1983 that I was HIV positive. That didn't really sink in until the people that I had come out with and had come up with it began to die. And it became something in me that I've heard expressed here this weekend. Anger.

Anger. I have in the last couple of years harnessed my anger and tried to direct it to the appropriate people. Now I know that the anger was in there all along and it was just directed to me. It was a self-directed thing. We call it shame. I've learned to harness that and direct it to the appropriate target.

What I want to say -- I'll start preaching so watch out -- never thought I'd be a preacher -- this conference represents the vanguard transgenderal politics. In the fact that you folks are out enough to be here at a self-identified function like this means that, for better or for worse whether you like it or not, you are the leaders of this community. You know it sort of like the way I got involved in politics. I didn't intend that, all I wanted was a white picket fence and a station wagon, a couple of dogs, all of that Ozzie and Harriet stuff and when I found out it wasn't available for me, I took a different path.

This has been an education experience for me: this weekend in listening to y'all talk about your concerns. It just occurred to me that I've never heard them before. I've known Phyllis, contrary to what she said -- she was being cordial by saying 10 years -- we've known each other for about 16 years, and of course I was very young when we first met. But this is really the first time that I have every heard these concerns and these issues addressed. And it's really important that you do that. Not just amongst yourselves but in the community at large.

You have to remember that a gay white man is no different from a straight white man. There's really no difference, I mean I guess the one difference would be that gay white men intend to be more-- You can educate them a little bit better. But they're raised the same way. They have the same mind set, and they're just as scared of y'all as straight men are. They may not appear to be but they are.

Transgenderal issues represent the gray area between sex and sexual orientation, and I can tell you that among regular average white gay men, transgendered persons especially male to female are considered to be confused homosexuals. Just like bisexuals are considered to be fence strattling lighting homosexuals. That's a perception that needs to be corrected and only you folks here today can do that. You need to educate the Lesbian and Gay Community about your issues. That they exist, that they are not the same as sexual orientation, and that you have a right to be heard. Do not be put off by, "well that's really not our issue." It is their issue. It is your issue, and you need to make it known.

You need to cooperate with Lesbians and Gay groups, feminist, any other groups that serve your political ends. When you're playing politics, and it's great to have coalitions, but you have to keep your own goals and needs firmly in front of you and pursue those with diligence. You all have to keep in mind that you're all fighting the same big bad wolf. The same white heterosexist male and the pin-strip suit that drives a Mercedes is oppressing me and you and women and people who have alternative religious views. It's the same enemy. We get so sidetracked in our differences that we forget. We're individuals and our community is diversified, but we still have the same enemy and we forget that sometimes.

Be prepared to adopt in-your-face confrontation: fuck you, I-am-not-going-away-tactics, if that's appropriate. There is a time and a place for working within the system. My experience has been because of the AIDS issue that sometimes working within the system is giving up. Sometimes you have to go outside the system. You have to realize that the system is sort of a self perpetuating structure and it has a vested interest in keeping you where you are. The system may have to be tinkered with. The system may have to be torn down. If it's appropriate work within it but be prepared to work outside of it. That means if you get involved in political activities and your coalitioning with gay men and they're not being receptive to you, get in their face. Don't let them get away, collar them. If you're working with any other group, take the same approach. That has been in my experience the only way that things have worked in the last couple of years.

I told a fishing story the other day at one of the sessions and of course I am probably the worst fishing person in the world. In Texas we have these awful dreadful fish that are called Hardheads. They're a version of catfish. They have these sharp spines and sharp fins and you know they're just nasty and they're icky, but you catch them with some degree of regularity when you go fishing. They eat your bait and then they won't let go of your hook. While sometimes the only way to get a hardhead, off your hook is to beat the damn thing in the head with a hammer. And sometimes that's the way, the only way you can get your point across is to beat them in the head with a hammer. Make yourself so loud and so obnoxious that they're just tired of listening to you. Sometimes that's the only way it's going to work, and you have to be prepared to do that.

Now that's an individual decision on everybody's part. I didn't come to where I am by some magic of fate or anything like that. It was an evolutionary process and I am where I am now because I've just had enough. Some of you have had enough. Some of you are not quite there yet. Some of you aren't there at all. So, it's an individual thing but even those of you are not comfortable with being strident and vocal and, as the Republicans would say, militant -- I love that word but I always use it derogatorily but I think it's a fabulous word because it gets the point across -- If you're not there, there are other things that you can do.

Phyllis is a great example. Phyllis has been quietly strident, you know. She has not been throwing picket signs. She's done some picket signs but that is not been her modis operandi. She has been herself. She is there for any one to talk to. But, people don't mess with her. I wouldn't mess with her. First of all, she's a hell of a lot bigger than me. And she's gotten her

point across just by being who she is and that comes from his inner gleam. This is with the Quakers, and it's a Quaker inner light thing. She's hooked into that and so if that's the way you are that's great.

Get involved, I guess is my point. Get rid of shame. You don't need it. Shame is the gift of white male heterosexist today of Christian culture. It's something that they gave to you. You didn't develop it, you have no reason for it, you don't need it, get rid of it. Throw it out the window. Once you've thrown it out the window, or as a process of throwing it out the window, you will be able to develop your own culture and your own values and your own system. And that's when the cycle starts. Once you have done that you can take pride in your accomplishments and you can take pride in your own culture.

It's a process of emphasizing your similarities to each other and your differences from other groups. There's nothing wrong with that. We're not all the same. But the sameness is in that hatred, that anger, that is in each of us because of our experiences, whether we're in touch with it or not. And you need to harness that and direct it towards the appropriate person, appropriate target.

Don't buy into white male heterosexists notions of appropriate female roles or behavior. If you adopt traditional notions of womanhood, you lose. That will be how they will get you after the change and make you buy into their ideas of what women should be. You be who you are. And if that means being untraditional, then that's what that means. Don't let them define you, don't let them set the standard for your behavior for your dress, for your thoughts. That's something that you need to do on an individual and collective basis.

Boy, I really am preaching, aren't I? Traditional family values -- hear a lot more of that in the next four months and let me tell you what I think it is. Your family is in this room right now. This is your family. Now you may have biological family, but this is the family that in the long run when all is said and done is going to support and nurture you. Your brothers and sisters are the ones who can't be here at this conference for whatever reasons. And your children are the transgender boys and girls who don't have a clue about where they are. That's your family.

And let me just say one thing in closing. Actually one comment. And that is that the next four months are going to be pretty ruckus. I encourage you to get involved. I just want you to remember that the big bad wolf wears a Bush/Quayle button.