

# Then and now: The fight for LGBT rights

Donna Eschenbrenner, Correspondent 5:43 p.m. EDT June 22, 2016

**Several Ithaca couples were part of the transformation of how the courts viewed same-sex marriage throughout the country**



From left, Elizabeth Bixler, Mariette Geldenhuys, and Jason Hungerford. Bixler and Geldenhuys were two of the lawyers, and Hungerford was one of the plaintiffs of the noteworthy “Ithaca 50” case.(Photo: Provided Photo)

The struggle for LGBT rights has been a long and arduous one, and one issue that exemplifies this is the fight for marriage equality. According to Mariette Geldenhuys, an attorney and advocate for LGBT civil rights, Tompkins County is nationally known as a welcoming community for LGBT people, but that wasn’t always the case. Decades of activism by LGBT residents helped produce the results we see today.

Geldenhuis has written a comprehensive and moving narrative, “A Legal History of LGBT Civil Rights and the Struggle for Marriage Equality in Tompkins County, New York” that tells this story.

“The city of Ithaca prohibited discrimination on the basis of sexual orientation in 1984, one of the first municipalities in the country to enact such a provision,” she wrote. But that progress seemed vulnerable by the 1990s when advocates were trying to ensure the inclusion of sexual orientation in Tompkins County’s human rights law. It was defeated in July 1991, and the effort to have it passed later in the year brought out sharp divisions in the local population as well as in the legislature.

The tension between supporters and opponents at that December legislative session was palpable, partially kept in check by Sheriff’s deputies patrolling the aisle between the two groups. Sadly, even family members found themselves on opposite sides of the issue. It passed that evening by nine votes to six and LGBT residents and advocates began to have hope for the future.

In 1995, a local gay couple applied for a marriage license and sued the City of Ithaca when their application was denied. The local Supreme Court ruled against the couple, and they lost a second time in State Appellate Court. Fortunately for future progress, the case this time was dismissed on the basis that the state should have been included as a necessary party, so there was no negative legal precedent set on the merits of same-sex marriage.

Since action in the courts was unsuccessful, advocates took to lobbying the state legislature, hoping that New York would join with other Northeastern states as they considered domestic partnerships and civil unions.

Then in 2004, same-sex marriage hit the national spotlight when San Francisco Mayor Gavin Newsom instructed city clerks to issue marriage licenses to same-sex couples, and New Paltz Mayor Jason West actually officiated at same-sex marriages. Ithaca couples urged then-Mayor Carolyn Peterson to do the same. While she knew that she could not legally issue the licenses, “she encouraged couples to apply for marriage licenses, which would be denied, and promised the City’s support if the couples then sued the City and the State for a court order that same-sex couples should be granted the right to marry.”

The lawyers who volunteered their services for the couples included Geldenhuis, Elizabeth Bixler, Richard Stumbar, and later Pamela Bleiwas and Diane Bruns. As potential plaintiffs came forward, the lawyers approved all of them and ultimately 25 gay and lesbian couples came to be known as the “Ithaca 50.”

The case came before the Tompkins County Supreme Court, with a legal strategy aimed at seeking equal protection under the New York State Constitution. The claim was denied, and then appealed to the Appellate Division around the same time that other same-sex marriage cases were working their way through the New York State Court system. After failure at this level, Ithaca’s case and three others were argued in the highest court in the state, the Court of Appeals.

“The decision,” wrote Geldenhuys, “was a devastating blow. Not only did the majority of the Court rule that same-sex couples were not protected by the equal protection and due process clauses of the New York Constitution, but the court showed an astonishing lack of understanding of the effects of generations of discrimination on same-sex couples.”

These determined advocates soldiered on to lobby the state legislature, where a vote in 2010 was defeated in the state Senate. But finally, in June 2011, many long years after efforts were first begun here in Ithaca, the State Legislature passed the Marriage Equality Act, enabling same-sex couples in New York to marry.

In 2013, the United States Supreme Court struck down a provision of the Defense of Marriage Act, allowing federal recognition for same-sex marriages that were performed in several states, including New York. And finally, in June 2015 the case of Obergefell v. Hodges was decided in the US Supreme Court, extending marriage rights to same-sex couples everywhere in the country. The arc of history did indeed bend toward justice, and Ithaca residents were a part of this momentous transformation.

In 2015, The History Center sponsored a program highlighting Ithaca’s place in this civil rights struggle featuring Mariette Geldenhuys, former Ithaca mayor Carolyn Peterson, former Tompkins County Legislature Chair Barbara Mink, and Jason Hungerford, Co-chair of the Ithaca LGBT Task Force, and a plaintiff in the “Ithaca 50” case.

The wide-ranging discussion generated much interest, and several people generously donated copies of materials highlighting this rich history, including the above-mentioned chronicle by Geldenhuys. The History Center has compiled these materials into our Marriage Equality Collection, and they can be seen any Tuesday, Thursday, or Saturday in our research library.

*Donna Eschenbrenner is the archivist at The History Center in Tompkins County*