

**WRITTEN TESTIMONY OF JERRY S. GOLDMAN, ESQUIRE TESTIFYING IN HIS
INDIVIDUAL CAPACITY
Before the Committee on Consumer Affairs, City Council of the City of New York
June 19, 2017**

My name is Jerry S. Goldman. I'm an attorney and I primarily handle complex litigation at a major national law firm headquartered right here in NYC..

I'm a father and a grand-father, and I'm a 65 year old drummer.

I'm a member of the Board of the Dance Parade, a member of LegalizeDance.Org and I chair the board of a non-profit arts organization which promotes participatory arts both here and at Burning Man in Nevada. I was born in Brooklyn, lived in Sunnyside, lived and went to college in the Bronx (I'm omitted boring Nassau County), was a prosecutor in the County of Kings and presently live and work in Manhattan. I have no personal or professional economic interest in the outcome of any change in the law.

Thank you for the opportunity to speak- these remarks on my own and are not on behalf of any client or any organization with which I am affiliated.

We've already heard about the racist history of the law- with its original purpose to keep whites and blacks apart. We have already heard how it has been improperly used to punish- to deprive -those who were deemed different by those in then in power-- be it because of the color of their skin or where they were from; -be it their gender or sexual orientation; -be it their personal taste in music or how they choose to live their lives.

That's against our most fundamental laws – the rights afforded to each and every one of us under our federal and state constitutions. And, even more importantly, is just isn't right.

We've heard how it has sadly been and is still enforced in a discretionary, discriminatory, arbitrary and capricious manner. No government should operate in that way- not in this City; not in 2017. It leads to the risk of improper behavior- and criminal scandal; it leads to the lack of respect for governmental institutions and officials; it hurts legitimate business interests- favoring one against the other, harming small businesses and the inability to plan; it stifles creativity and diversity; it just isn't right. A government must be fair, open and impartial in order to gain the respect and trust of the populace, for whom all government officials serve and govern on their behalf.

Some may claim that there is no harm keeping a law on the books if not fully enforced. I say no as this breeds distrust and reeks of hypocrisy.

At this time – in this day and age we cannot have a government act in such a manner; we really can't afford to.

We've heard about the legal issues from Mr. Muchmore, who is quite learned in that area. He speaks from both his heart and his head. I would like to supplement the record with a copy of his briefing and that I submitted on behalf of a number of dancers, along with the judge's decision.

Simply put, the courts have been clear that speech is much broader than the spoken words. That is because physical expression is a clear and critical component as to how we, as a species, communicate. I smile- it's a message without a sound; I

frown- it's a message without words; I raise a fist; a blow a kiss, stomp my foot – its all communication- I have sent a message. Dance is a critical form of this physical communication.

Constitutionally protected dance is not just the dancers of Joffrey or Alvin Ailey or a performer at a strip club. It is the dance of each and every one of us. It is you and I dancing to any type of music – and in any style of dance that we choose to utilize to send a message. It even includes bad dancers - the shufflers.

Dancing is hard wired into our DNA. I don't care if you are black or white or blue; male or female or gay or straight or whatever you want to be; Brazilian or Bosnian; Latino or white bread ; a Chasidic Jew or Sufi Muslim; born here or born there; young or old or old thinking that you are young. I don't care if you live in a village in West Africa or a slum in Kingston Jamaica, man; A rural town in the DR or in Rio; a farming village in rural Mexico or downtown Mumbai; in Brooklyn, Queens, the Bronx, Staten Island or Manhattan. Folks dance and while their dances may be different, they are all human and their dance- a form of communication – is protected under the constitution.

I had the honor a couple of weeks ago of emceeing the Dance Parade, New York. The one with something like 10,000 dancers; 165 or so groups if I have it correctly, and 80 or so styles of dance. I had the marvelous opportunity to dance with all of them - House and hip hop; Salsa and Swing; Dances from hometowns from Russia to Bolivia; from China to Lithuania.

Dance is what infants and adults can do to communicate, with or without training. Dance is what you HAVE to do, if you hear the Rolling Stones or the Dead or Tito Puente or Jennifer Lopez or Jay-Z or Michael Jackson or the gods and goddesses from Motown- or an EDM dj or conga players in East Harlem, the Heights or on Aqueduct Avenue. I truly suggest that in each of those circumstances it is impossible not to dance.

Dance is life - Dance is us -Dance is each and every one of us-Dance is speech protected under the Constitution. Dance is something, quite frankly, that this, or any other governmental body, cannot lawfully regulate. It is a power that the people- all of us- did not give you, our anointed leaders- anointed by the People of the City of New York.

This is a City of Dance- from Broadway musicals to the dance companies; to Juilliard and NYU to the dance schools in Corona, Bay Ridge, Central Harlem, and Belmont; to the classes at gyms and senior citizens centers; to the waves at the Stadium or City field or the Garden or Barclays Center. It is dance from the big dance clubs in Chelsea and the meat packing district, to small venues in Bushwick and Bay Ridge, in East Harlem and in the Heights, in the LES and in Jackson Heights- literally all over the city. It is the dance at orthodox weddings to Russian parties in Brighton Beach; from dancing with the drummers by the band shell in Central Park to those who are slow dancing under the boardwalk in the dark. While the places and styles are different; we are all unified by dance.

Quite frankly, no matter what you do- or do not do, you cannot stop people from dancing as a matter of human spirit, human right, and, I dare say human necessity. It is the oxygen that we need to survive, and to thrive. Let alone as a matter of a protected constitutional right.

NYC is the greatest city in the world. NY's culture, include dance in all shapes and forms is part of what makes it so great. It's why people flock to move here- even with all of its hassles. It is why people flock to visit here- It is not because of sports bars. We are not in Cincinnati- you want vanilla, go there- not here. They have great chain restaurants in the mall and awesome sports bars I hear. NYC is diverse, creative and alive. Aside from our constitutional arguments, let's encourage and celebrate our diversity and creativity. Let's together make this an even greater City – an even better place to live, work and visit.

Let this venerable Council, which is based upon a governing body founded in New Amsterdam on February 2, 1653; let the City administration; ;et each and every one of us, make this a better place- together. Instead of arguing over such a, quite frankly and with all due respect to the proponents, stupid, unnecessary and Illegal law (exposing the City to numerous lawsuits should some dancers chose to assert their constitutional rights), let's work together on housing, mental health care, health care, drug abuse, the plight of the homeless and victims of domestic abuse, economic disparity and job creation, racism and the issues which divide us, and better transportation and water and sewers and schools and cleaning up our waste. Let's celebrate both what makes us diverse and what makes us one.

This is the progressive capital of the world- the heart and soul of the so called resistance. Let's not be that small Midwest town that banned dancing and forced Kevin Bacon to successfully fight a reactionary local government. As was said in Footloose- NOW IS OUR TIME. I say now is ALL of our time; now is our time to dance free and live. Let's do the right thing and get rid of this reactionary, racist, unconstitutional and just plain stupid law. We can deal with necessary health, safety, and community issues in a neutral, lawful manner. I implore you- follow your oaths of office to obey and defend the constitution, and do the right thing.

Thank you members of the Council for your time, your attention, and your service to the people of this great city. Thank you for your concern as to this critical, and thus far, neglected issue. Thank you, as well, to those who are attending this historic proceeding – both for your support and your anticipated comments and testimonies. And thank you, too, to the representatives of the Mayor's office for listening, with an open mind, and who, I expect, in the end, will too, do the right thing.

I would be pleased to answer any questions that you may have.

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