

LGBT Caucus weighs in on police situation

BY MATT SIMONETTE

Members of the LGBT Caucus of the Chicago City Council each issued statements weighing in on the resignation of Police Superintendent Garry McCarthy on Dec. 1.

Ald. James Cappleman (46th Ward) said in an email to Windy City Times, "We must restore the trust between the Chicago Police Department and the residents of Chicago. Replacing Supt. Garry McCarthy is the first of many steps needed to restore that trust. I join my colleagues in the City Council in calling for a Subject Matter Hearing on these recent events."

Ald. Raymond Lopez (15th), who had been critical of McCarthy, did not return a request for comment by press time, but he had released



Ald. Carlos Ramirez-Rosa.
Photo by Matt Simonette

a Dec. 1 statement with explicit proposals, among them thorough reviews of general police orders, training procedures, post-shooting follow-ups, equipment functionality, CPD crime reporting and statistics and Independent Police Review Authority (IPRA) investigative policies and timelines. He also called for funding for body cameras, a mandated six-month investigative structure for IPRA, the permanent reinstatement the Force Policy Analysis Panel and a requirement of quarterly reports to the Committee on Public Safety.

"Resignations are not enough," Lopez said. "Short-term decisions are not enough. We need

long-term solutions to long-standing inequities felt in our communities."

Ald. Deb Mell (33rd) said in a statement, "On Monday, Mayor Emanuel announced the resignation of Police Superintendent Garry McCarthy, the appointment of interim Superintendent John Escalante, and the creation of a Task Force on Police Accountability. I support these positive first steps, but I also know that much more needs to be done to heal the damaged relationship between the CPD and the citizens of Chicago. Additional measures must be taken to identify and remedy systemic problems so that we, as a city, do not face similar situations in the future."

"To that end, I believe the circumstances behind the death of Laquan McDonald absolutely warrant a federal investigation into the workings of the Chicago Police Department."

Ald. Carlos Ramirez-Rosa (35th) said in a statement emailed to Windy City Times, "After 400 days of closed-door conversations at Mayor Emanuel's office on Laquan McDonald's murder, Mayor Emanuel now asks Chicagoans to wait 122 days for recommendations from his appointed task force. Chicago doesn't need more closed door meetings, we need an independent investigation, and a transparent and inclusive conversation on police accountability reform."

"The resignation of Superintendent Garry McCarthy was a step in the right direction, but the Council must now work to hold hearings on police accountability and support an independent investigation that will give us a full account of what appears to be an official cover up of Laquan McDonald's murder."

Ald. Tom Tunney (44th), in a statement, said, "The City Council approved a settlement between the McDonald family and the City last April, but were not shown the video prior to this decision. As your Alderman, I am committed, along with my fellow Council members, to finding better ways to prevent such tragedies from happening in the future. We must all remember that the vast majority of Chicago police officers are dedicated to serving and protecting our wonderful city and act appropriately. I have the utmost respect for the men and women who put their lives on the line to keep us safe."

"I want to thank Superintendent Garry McCarthy for his last four and a half years of service and dedication. I look forward to forming a strong working relationship with Interim Superintendent, John Escalante as we continue to improve safety in our neighborhood. Safety is, and has always been, my top priority for our [Lake View] neighborhood."

immigrants hours away from legal counsel and community support, making it nearly impossible for advocates to ensure accountability at the facility," said Aaron C. Morris, Immigration Equality's legal director. "While we continue to advocate for alternatives to detention as the only safe option for LGBT immigrants, taking Adelanto off the table is an enormous victory for our community."

Marco A. Quiroga, Immigration Equality's national field officer who leads the National LGBTQ Immigration Working Group added, "Adelanto is a terrible facility that should be shut down because is not a safe place for anyone. We will continue to work with grassroots leaders in Southern California and across the country to advocate on behalf of the thousands of immigrants still trapped in inhumane detention centers. Fundamentally, vulnerable individuals such as pregnant women, families with children, people living with HIV, and LGBTQ people should not be detained in the first place."

ICE will not house trans immigrants at remote facility

Immigration Equality, which represents and advocates for lesbian, gay, bisexual, and transgender (LGBT) and HIV-affected immigrants, celebrated news from Immigration and Customs Enforcement (ICE) that it would no longer pursue using Adelanto Detention Facility in California as a center for detaining transgender immigrants.

The news comes after a months-long campaign by the National LGBTQ Immigration Working Group headed by Immigration Equality, which included sending an open letter to President Obama from the group's more than 100 LGBTQ, immigration, and civil-rights organizations, including CIVIC, National Center for Transgender Equality and United We Dream.

"Adelanto would have kept transgender

Relationships & the Law Today



BY ANGELO D. DIBARTOLOMEO

Protecting your home from your spouse's creditors

The most important asset that a married couple is likely to acquire during their marriage is their home.

Accordingly, it is also the most important asset in need of protection from creditors. It is not uncommon for spouses to incur separate debts and/or judgments against them individually, and thus, spouses can have individual creditors.

The mechanism used by a married couple in purchasing their home can impact whether or not one spouse's creditor is able to attach to the couple's home to satisfy one spouse's debt or judgment. It is therefore very important for married couples to understand the ways in which they are able to own property in Illinois, and the legal benefits and consequences that come with owning a home.

In Illinois, a married couple can purchase their home in one of three of the following ways: (1) as a tenancy in common; (2) as a joint tenancy; or (3) as a tenancy by the entirety. Each of these types of tenancies has various legal nuances and ramifications associated with them. The focus of this article is the ability of a married couple to protect its home from the individual creditors of one of the spouses.

The default tenancy created in Illinois when two or more people purchase any real estate is a tenancy in common. See

has a right of survivorship while a tenant in common does not. 765 ILCS § 1005/1. A right of survivorship means that, upon the death of one of the joint tenants, the surviving joint tenant takes the decedent's interest in the property. However, a joint tenancy does not protect the property itself from being subject to satisfaction of a debt or judgment incurred by one of the joint tenants. In this regard, a joint tenancy is generally identical to a tenancy in common. Accordingly, if a married couple chooses to hold property as joint tenants, pursuant to the provisions of 765 ILCS § 1005/1, although they enjoy the benefit of the right to survivorship, one of the spouse's creditors may still be able to use the couple's home to satisfy a debt or judgment.

Because of the lack of protection afforded to joint owners of property noted above, Illinois specifically recognizes the third type of tenancy available to married couples—a tenancy by the entirety. A tenancy by the entirety is recognized only for married couples and only applies to a married couple's primary residence and cannot be utilized for additional properties that the couple may own. See 765 ILCS § 1005/1c. Furthermore, such a tenancy will only be recognized during the couple's marriage. A tenancy by the entirety, like a joint tenancy, has a right of survivorship.

Important to this discussion, however, is that Illinois law explicitly provides that the creditors of one spouse may not use a home held by a married couple as a tenancy by the entirety to satisfy a debt or a judgment against that spouse. See 735 ILCS § 5/12-112. Note, however, that this protection is not

"Purchasing your home with your spouse can and should be one of the greatest moments that a married couple can enjoy together. That being said, however, the way in which your home is owned can have negative consequences if you do not take the proper legal steps to protect it."

765 ILCS § 1005/1. Such a tenancy is created upon purchase unless the spouses in the contract expressly state that the property is to be held as a joint tenancy or tenancy by the entirety (explained in more detail below). Spouses who own their home as tenants in common each own a 50% interest in the property. The problem, however, is that tenants in common are free to encumber and transfer their interest in the property without consent of any of the other tenants. In kind, this also means that one spouse's creditor may attach to that spouse's 50% interest in the property to obtain satisfaction for a debt or judgment. Furthermore, the creditor can foreclose on the married couple's home and force a sale to use its 50% interest in the home to satisfy the debt or judgment.

A second—and widely popular—type of tenancy used to own property in Illinois is a joint tenancy. One of the main differences between a joint tenancy and a tenancy in common is that a joint tenant

afforded if both spouses are jointly liable to a single creditor or if spouses transfer property into such a tenancy with the sole intent of avoiding debts and judgments at the time of the transfer. See 735 ILCS § 5/12-112. It is therefore important that married couples create this tenancy early on to protect their home prior to one of the spouses being in a position where he or she is going to be held liable for an outstanding debt.

Purchasing your home with your spouse can and should be one of the greatest moments that a married couple can enjoy together. That being said, however, the way in which your home is owned can have negative consequences if you do not take the proper legal steps to protect it. If you are interested in learning more about the various ways in which you can protect your home and your other assets from potential creditors, please feel free to contact any one of Clark Hill's attorneys.

Angelo D. DiBartolomeo is an Associate with the Litigation Practice Group in Clark Hill's Chicago office. His focus is on various areas of litigation, including commercial litigation, business litigation, and employment litigation. Contact him at 312-985-5549 or adibartolomeo@clarkhill.com.