

IN THE CIRCUIT COURT OF THE COUNTY OF ST. LOUIS
STATE OF MISSOURI

FILED

SEP 27 2006

JOAN M. GILMER
CIRCUIT CLERK, ST. LOUIS COUNTY

STEPHANIE REYNOLDS, FLORENCE)
STREETER, JACQUELINE GRAY, and)
THE METROPOLITAN ST. LOUIS)
EQUAL HOUSING OPPORTUNITY)
COUNSEL, INC.,)

Plaintiffs,)

v.)

Cause No. 06-CC-3802

CITY OF VALLEY PARK, MO,)
JEFFERY WHITTEAKER, in his official)
capacity as Mayor of the City of)
Valley Park, MO, and JOHN BRUST,)
DANIEL ADAMS, RANDY HELTON,)
DON CARROLL, MICHAEL PENNISE,)
ED WALKER, STEVE DRAKE, and)
J. MICHAEL WHITE, in their official)
capacity as Aldermen of the City of)
Valley Park, MO)

Division No. ~~42~~ 13

Defendants.)

AMENDED TEMPORARY RESTRAINING ORDER

This cause came on for a hearing on Plaintiffs' Motion for an Amended Temporary Restraining Order. The Court, on September 25, 2006, issued a Temporary Restraining Order enjoining Defendants from enforcing Ordinance No. 1708, but is advised by Counsel from both parties that the Valley Park City Council last night, September 26, 2006, approved a new Ordinance addressing the same topic as Ordinance No. 1708.

Plaintiffs today have filed a Motion for An Amended Temporary Restraining Order and Amended Complaint seeking to enjoin the enforcement of the new ordinance. Plaintiffs' Counsel notified Defendants' Counsel by phone of their intention to bring this Motion for Amended Temporary Restraining Order before this Court at 3:00 p.m. this date.

Both Plaintiffs and Defendants appear now by counsel. The Court has considered the Motion for an Amended Temporary Restraining Order, the Amended Complaint, the previously filed Memorandum in Support, and all affidavits, evidence and arguments.

Wherefore, the Court, being advised in the premises, hereby finds and orders:

1. On September 26, 2006, less than 30 hours after this Court entered its Temporary Restraining Order enjoining Defendants from enforcing Ordinance 1708 which ostensibly relates to illegal immigration, the City Council of Valley Park, without debate among its members and without an opportunity for comment from the public, unanimously adopted a new ordinance addressing the same issues as Ordinance No. 1708.

2. Plaintiffs are likely to succeed on the merits of their claim that the new ordinance, Bill No. 1858, also known as Ordinance No. 1715, is void for one or more of the following reasons: (1) it usurps the exclusive federal authority to regulate immigration, and is thus preempted by federal law under the Supremacy Clause, U.S. Const., art. VI, cl. 2; (2) it was enacted in excess of Valley Park's delegated authority, and is repugnant to the Missouri Constitution; (3) it is so vague and overbroad that it provides no notice of its own scope, therefore violating the state and federal constitutional right to due process; (4) it impairs existing contracts in violation of both the Missouri and United States Constitutions; (5) it impedes interstate commerce, and thus violates the Commerce Clause of the United States Constitution, art. I, § 8, cl. 3; (6) it promotes discrimination in housing and hence violates, and is preempted by, the Fair Housing Act; and (7) it violates the constitutional guarantee of free speech set forth in the First Amendment to the United States Constitution.

3. Plaintiffs each have a protectable interest that has suffered and will continue to suffer irreparable injury by the enforcement of Bill No. 1858, also known as Ordinance

No. 1715. Entry of a temporary restraining order is warranted to prevent this immediate and irreparable injury.

4. Defendants will suffer no harm by the entry of a temporary restraining order, and the public interest weighs in favor of entering one.

ACCORDINGLY, THE COURT HEREBY ORDERS THAT:


A. Defendants City of Valley Park, Missouri, Jeffery Whitteaker, John Brust, Daniel Adams, Randy Helton, Don Carroll, Michael Pennise, Ed Walker, Steve Drake, and J. Michael White are hereby enjoined from enforcing Bill No. 1858, also known as Ordinance No. 1715, as well as any portions of Ordinance No. 1708 still in effect. This Order shall be binding upon Defendants and their agents, including any police officials operating in the City of Valley Park who are acting under contract with, or as agents of, that City.

B. It is further ORDERED that the bond required by Missouri Rule 92.02 shall be set at \$250. The bond posted previously by Plaintiffs shall satisfy bond for this Order.

C. This Order shall remain in effect through November 1, 2006, unless extended in accordance with the Missouri Rules of Civil Procedure. Counsel for Defendants has stipulated to the extension of the Order past the 15-day period.

D. The hearing on Plaintiffs' Motion for a Preliminary Injunction is scheduled for November 1, 2006, 2006 at 9:00 a.m.

SO ORDERED this 27th day of September, 2006, at 4:00 p.m.:



Honorable Barbara Wallace
Circuit Judge