



Ordinance seeks to regulate immigration at the local level and imposes severe burdens on tenants living in apartment complexes and the local business people who operate those complexes. Courts in other jurisdictions, faced with similar local laws, have enjoined their implementation. *See Lozano v. City of Hazleton*, No. 3:06cv1586, 2006 U.S. Dist. LEXIS 79301 (M.D. Pa. Oct. 31, 2006); *Garrett v. City of Escondido*, No. 06CV2434 JAH (NLS) (S.D. Cal. Nov. 20, 2006); *Reynolds v. City of Valley Park*, No. 06-CC-3802 (Circuit Court of the County, Missouri, Sept. 27, 2006).

3. The Farmers Branch Ordinance imposes substantial criminal penalties on property owners, property managers and tenants, but provides no guidance on its implementation, putting local business owners and tenants at substantial and imminent risk of violating a law they cannot understand. The Ordinance also irrationally apportions its burdens on classes of tenants and landlords, exempting some landlords completely from the law's requirements and banning some lawful immigrants from renting in an apartment complex.

4. Plaintiffs have no plain, speedy, or adequate remedy at law other than the relief requested in this complaint. Unless enjoined by this Court, the Ordinance will impermissibly burden the constitutional and statutory rights of Plaintiffs.

#### **JURISDICTION**

5. This Court has original jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1343 over Plaintiffs' causes of action under the Constitution of the United States, 42 U.S.C. §§ 1983, 1981 and 3601 *et seq.* Declaratory and injunctive relief is authorized by 28 U.S.C. § 2201 and § 2202 and Fed. R. Civ. P. 57 and 65.

## VENUE

6. Venue is proper in the Northern District of Texas under 28 U.S.C. § 1391(b) because all of the events giving rise to the claims made in this complaint occurred and will occur in this judicial district and because the Defendant City of Farmers Branch is located in this district.

## PARTIES

### **Plaintiffs**

7. Plaintiff Alfredo Vasquez is Latino and a legal permanent resident of the United States. He lives in the City of Farmers Branch. Mr. Vasquez and his family are tenants in an apartment complex. Some of the family members with whom Mr. Vasquez lives are neither U.S. citizens nor resident aliens of the U.S.

8. Plaintiff Ramiro Perez is Latino and a legal permanent resident of the United States. He lives in the City of Farmers Branch. Mr. Perez and his family are tenants in an apartment complex. Some of the family members with whom Mr. Perez lives are neither U.S. citizens nor resident aliens of the U.S.

9. Plaintiffs Vasquez and Perez are not capable of determining, as required by the Ordinance, which of their non-citizen family members have “eligible immigration status.” Plaintiffs Vasquez and Perez risk criminal conviction and civil sanctions if they fail to correctly interpret and comply with the Ordinance.

10. Plaintiff Jane Doe #1 is a U.S. citizen child living with her family in an apartment complex in Farmers Branch. Some of the family members of Jane Doe #1 are neither U.S. citizens nor resident aliens of the U.S. Plaintiff Jane Doe #1 is Latina.

Pursuant to Fed. R. Civ. P. 17(c), Plaintiff Jane Doe #1 is proceeding by and through her next friend Beatriz Almanza.

11. Plaintiff Jane Doe #2 is a U.S. citizen child living with her family in an apartment complex in Farmers Branch. Some of the family members of Jane Doe #2 are neither U.S. citizens nor resident aliens of the U.S. Plaintiff Jane Doe #2 is Latina.

Pursuant to Fed. R. Civ. P. 17(c), Plaintiff Jane Doe #2 is proceeding by and through her next friend Mary Montgomery.

12. Jane Doe #3 and John Does #1 and #2 are siblings and U.S. citizen children. They reside together with their family as tenants in an apartment complex in Farmers Branch. Some of the family members of Jane Doe #3 and John Does #1 and #2 are neither U.S. citizens nor resident aliens of the U.S. Jane Doe #3 and John Does #1 and #2 are Latino. Pursuant to Fed. R. Civ. P. 17(c), Jane Doe #3 and John Does #1 and #2 are proceeding by and through their next friend Mary Montgomery.

13. Plaintiffs Vasquez, Perez and the Doe children believe that if the Ordinance is allowed to go into effect, it will force them to separate from their family members or, in the alternative, that the Ordinance will force them to leave their homes, schools and communities and move away from Farmers Branch.

14. Plaintiffs Vasquez, Perez and the Doe children have a well-founded fear that the Ordinance will be enforced against them and that they will suffer substantial adverse consequences as a result if the Ordinance is not declared invalid and enjoined. Unless the Ordinance is permanently enjoined and declared invalid, Plaintiffs Vasquez, Perez and the Doe children are subject to irreparable harm by, *inter alia*, losing their

homes, having to separate from members of their immediate family with whom they currently reside, and facing criminal liability and significant monetary fines

15. Plaintiff Todd Mongeon is co-owner and property manager of two apartment complexes in Farmers Branch.

16. Plaintiff Andrew Mongeon is co-owner and property manager of two apartment complexes in Farmers Branch.

17. Plaintiffs Todd and Andrew Mongeon (the “Landlord Plaintiffs”) receive substantial income from their rental apartments in the two apartment complexes in Farmers Branch. The Landlord Plaintiffs do not know the immigration status of their present tenants nor do they require their tenants to prove their citizenship or immigration status prior to occupying an apartment in one of their apartment complexes.

18. The Landlord Plaintiffs are not capable of determining, as required by the Ordinance, which of their tenants have “eligible immigration status.” They rent their apartments pursuant to written lease agreements that expressly state the terms and conditions under which they can evict a tenant or terminate a tenancy. Their lease agreements do not provide that they cannot renew current leases, many of which are month-to-month leases, on the ground that any occupant of the apartment lacks “eligible immigration status.” Plaintiff Landlords will be subject to criminal conviction and civil sanctions if they fail to correctly interpret and comply with the Ordinance.

19. The Landlord Plaintiffs have a well-founded fear that the Ordinance will be enforced against them and that they will suffer substantial adverse consequences as a result if the Ordinance is not declared invalid and enjoined. Unless the Ordinance is permanently enjoined and declared invalid, the Landlord Plaintiffs are subject to

irreparable harm by, *inter alia*, being subject to significant monetary fines for violating the Ordinance, facing criminal liability, and being unable to collect rent on their rental units.

**Defendant**

20. Defendant City of Farmers Branch is a municipal corporation created pursuant to the Texas Constitution Art. XI, § 5 and located within the State of Texas. During the relevant time period alleged herein, the City and its agents, including its governing body, the Farmers Branch City Council, acted under color of law.

**STATEMENT OF FACTS**

**The City of Farmers Branch**

21. Farmers Branch is located in Dallas County and is a short drive from the City of Dallas. According to the 2000 Census, the population of Farmers Branch is 27,508. The 2000 Census also showed that foreign born persons of all nationalities comprise 25% of the City's total population.

22. The Latino population of Farmers Branch is much greater than the foreign born population. Over the course of the 1990's, the Latino population in Farmers Branch almost doubled -- increasing from 20% to 37% of the City's total population. Although the Latino population has been rising in Farmers Branch, the 2005 Census estimates for the City show an overall decline in population.

23. Similar to the national average, close to one-third of occupied housing in the City is renter-occupied. Compared to the United States as a whole, in 2000 Farmers Branch City had a higher than average number of residents in the workforce; the rates of

individuals (6.3%) and families (4%) living in poverty in Farmers Branch were less than half that of the United States.

24. Public schools in the Carrollton-Farmers Branch School District have been recently recognized by Texas for academic excellence, and none, including those schools located in Farmers Branch, are below what the state considers to be academically acceptable. Furthermore, statistics compiled by the state of Texas show a reduction in the total number of criminal offenses in Farmers Branch over the past few years – from 1,413 in 2003 to 1,306 in 2005.

25. Latinos living in Farmers Branch reside disproportionately in apartment complexes. According to the 2000 Census, 42% of Latino-headed households in Farmers Branch live in apartment complexes. By contrast, only 14% of White Non-Hispanic-headed households in Farmers Branch live in apartment complexes.

#### **Events Leading up to Enactment of the Ordinance**

26. In August, 2006, the Farmers Branch City Council began discussing the possible adoption of ordinances directed against “illegal aliens” living in the City. Such ordinances had recently been passed in Escondido, California and Hazleton, Pennsylvania.

27. On November 13, the Farmers Branch City Council enacted the Ordinance at issue in this case. Prior to taking the vote to adopt the Ordinance, the Council did not make available the text of the Ordinance or permit public comment in its regular meeting.

28. Immediately following the introduction of the August proposal to sanction undocumented immigrants, their landlords and employers, the City of Farmers Branch was swept up by a racially-charged debate over the wisdom of adopting such a law. On

August 26, 2006, for example, over 300 protestors rallied outside of City Hall decrying such proposals. An estimated two dozen counter-protestors also demonstrated near City Hall.

29. The sponsor of the August proposal as well as the Ordinance, Councilman Tim O'Hare, publicly described his motives for introducing the law, claiming, "I saw our property values declining . . . what I would call less desirable people move into the neighborhoods, people who don't value education, people who don't value taking care of their properties." He also claimed that his immigration and language-related proposals would "turn this city around" and that illegal immigrants were largely responsible for the decline of local schools and local retail operations, "leaving no place for people with a good income to shop."

30. According to the Dallas Observer newspaper, during a protest held in August, one proponent of the August proposal said: "They're taking our jobs, our homes. There's unemployment partly because of the Hispanics. The lady who took my job is Hispanic, and she's bilingual." Another proponent, quoted by the Dallas Morning News at a subsequent City Hall protest, explained: "The education system is tanking, health care has gone through the roof, everybody is bilingual." The Dallas Observer reported that at a protest held outside of City Hall on the evening the Ordinance was passed, proponents explained: "The schools are being overrun by non-English speaking kids. . . ." and "I'm tired of paying for 'anchor babies.'"

31. The Mayor of Farmers Branch, Bob Phelps, vehemently denied the assertions of O'Hare and other Ordinance proponents: "Our crime rate is down, our schools have moved up to "Recognized," property values are up." Mayor Bob Phelps



publicly expressed a lack of support for the Ordinance before it was enacted. On November 4, 2006, vandals defaced the home of Mayor Phelps, spray painting the grammatically-incorrect statement “Viva Mexico [sic]” on the side of his house.

32. On November 13, 2006, the City of Farmers Branch (“Farmers Branch” or the “City”) enacted the Ordinance.

### **The Ordinance**

33. The Ordinance requires apartment owners and/or managers of apartment complexes in Farmers Branch to obtain and review documentation from each and every person occupying one of their apartments, regardless of age, to verify that each tenant is either a United States citizen or has “eligible immigration status.”

34. The Ordinance provides no explanation or other sufficient guidance to property owners, property managers or tenants as to the meaning of “eligible immigration status.” Similarly, the Ordinance provides no explanation or other sufficient guidance as to what documents constitute “evidence of citizenship” or prove “eligible immigration status.”

35. In the event that even one member in a tenant family does not or cannot produce the required evidence of “eligible immigration status,” the Ordinance forces property owners and managers to deny housing to the entire tenant family or face criminal liability and fines of up to five hundred dollars per day.

36. The Ordinance only applies to property owners, managers and tenants of buildings that contain three or more apartments; the Ordinance does not apply to property owners, managers and tenants of single-family rental homes or buildings with less than three apartment units.

37. The Ordinance also prohibits certain classes of non-citizens lawfully present in the United States from renting an apartment in an apartment complex in Farmers Branch.

38. The Ordinance provides no mechanism or procedure by which a tenant family can challenge a designation that a member is “ineligible” to occupy an apartment in Farmers Branch.

39. The Ordinance will take effect on January 12, 2007.

40. The Ordinance fails to cite any studies, reports, or statistics that would support the conclusion that the citizenship certification requirements of the Ordinance are necessary for the safety and welfare of its residents.

### CAUSES OF ACTION

#### FIRST CAUSE OF ACTION

##### SUPREMACY CLAUSE OF THE U.S. CONSTITUTION

41. Plaintiffs incorporate all of the allegations contained in the previous paragraphs of this complaint as though fully set forth herein.

42. The Ordinance violates the Supremacy Clause, Article VI Clause 2 of the U.S. Constitution, because it attempts to regulate matters that are exclusively reserved to the federal government, because it operates in a field over which Congress has exercised exclusive authority, and because it conflicts and interferes with federal laws and regulations.

#### SECOND CAUSE OF ACTION

##### EQUAL PROTECTION CLAUSE OF THE THE 14<sup>TH</sup> AMENDMENT TO THE U.S. CONSTITUTION

43. Plaintiffs incorporate all of the allegations contained in the previous paragraphs of this complaint as though fully set forth herein.

44. The Ordinance irrationally and impermissibly discriminates against property owners and managers of apartment complexes while exempting from regulation property owners and managers of single-family homes and rental properties with less than three units per building.

45. The Ordinance irrationally and impermissibly discriminates against tenants of apartment complexes while exempting from regulation tenants of single-family homes and rental properties with less than three units per building.

46. The Ordinance irrationally and impermissibly discriminates among similarly-situated classes of non-citizens living with lawful status in the United States.

### THIRD CAUSE OF ACTION

#### DUE PROCESS CLAUSE OF THE 14<sup>TH</sup> AMENDMENT TO THE U.S. CONSTITUTION

47. Plaintiffs incorporate all of the allegations contained in the previous paragraphs of this complaint as though fully set forth herein.

48. The Ordinance deprives all Plaintiffs of liberty and property interests without due process of law.

49. The Ordinance deprives Plaintiff tenants of their right to family integrity.

FOURTH CAUSE OF ACTION

CONTRACTS CLAUSE  
OF THE U.S. CONSTITUTION

50. Plaintiffs incorporate all of the allegations contained in the previous paragraphs of this complaint as though fully set forth herein.

51. The Ordinance substantially impairs the contractual relationship between plaintiff property owners and managers and their tenants in violation of the Contracts Clause, Article I, Section 10, Clause 1 of the U.S. Constitution.

FIFTH CAUSE OF ACTION

FIRST AMENDMENT  
TO THE U.S. CONSTITUTION

52. Plaintiffs incorporate all of the allegations contained in the previous paragraphs of this complaint as though fully set forth herein.

53. The Ordinance deprives Plaintiff tenants and their families of their right to association preventing them from sharing a deep attachment and experience with family members who share their home, and also by preventing them from living in certain geographic areas of the city.

SIXTH CAUSE OF ACTION

FAIR HOUSING ACT  
42 U.S.C. 3601, *et seq.*

54. Plaintiffs incorporate all of the allegations contained in the previous paragraphs of this complaint as though fully set forth herein.

55. By enacting the Ordinance, Defendant has imposed terms and conditions on the rental of housing in the City that has a disproportionate negative impact on Latinos in violation of the federal Fair Housing Act.

SEVENTH CAUSE OF ACTION

42 U.S.C. §1981

56. Plaintiffs incorporate all of the allegations contained in the previous paragraphs of this complaint as though fully set forth herein.

57. The Ordinance, by targeting the disproportionately Latino occupants of apartment complexes in the City, denies to Latino Plaintiffs, because of their national origin, the right to make and enforce contracts on the same basis as white persons in violation of 42 U.S.C. 1981.

ATTORNEYS' FEES AND COSTS

Plaintiffs are entitled to an award of reasonable attorneys' fees and costs pursuant to 42 U.S.C. § 1988.

PRAYER FOR RELIEF

WHEREFORE, plaintiffs respectfully request the following relief:

- i. A declaratory judgment pursuant to 28 U.S.C. §§ 2201 and 2202 declaring the Ordinance void because it violates numerous provisions of the United States Constitution and various other federal laws as set forth herein;

- ii. A temporary restraining order and a preliminary and/or permanent injunction pursuant to Fed. R. Civ. P. 65 prohibiting Defendant and its officials, employees and agents from implementing or enforcing the Ordinance;
- iii. An order awarding plaintiffs costs and attorneys' fees, pursuant to the statutes cited herein, 42 U.S.C. § 1988, and any other applicable law;
- iv. Such other and further relief as this Court deems just and proper.

Dated: December 26, 2006

Respectfully submitted,



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