

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

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

Plaintiffs,)

v.)

CITY OF VALLEY PARK, MO)

SERVE AT: City Clerk's Office)
320 Benton Street)
Valley Park, MO 63088)

**HOLD
SERVICE**)

and at)

Jeremiah Nixon)
Attorney General)
207 West High Street)
Jefferson City, MO 65102)

and)

JEFFERY WHITTEAKER, in his official)
capacity as Mayor of the City)
of Valley Park, MO)

SERVE AT: 79 Guylyn Pl.)
Valley Park, MO 63088)

HOLD SERVICE)

and)

JOHN BRUST, in his official capacity as)
Alderman of the City of Valley Park, MO)

SERVE AT: 530 Leonard Ave.)
Valley Park, MO 63088)

HOLD SERVICE)

and)

39

Cause No.
Division No.

0500-000000

CLERK OF COURT
ST. LOUIS, MO
2019

DANIEL ADAMS, in his official capacity)
as Alderman of the City of Valley Park, MO)

SERVE AT: 809 Leonard Ave.)
Valley Park, MO 63088)

HOLD SERVICE)

and)

RANDY HELTON, in his official capacity)
as Alderman of the City of Valley Park, MO)

SERVE AT: 70 Fernridge Ave.)
Valley Park, MO 63088)

HOLD SERVICE)

and)

DON CARROLL, in his official capacity)
as Alderman of the City of Valley Park, MO)

SERVE AT: 130 Quinwood)
Valley Park, MO 63088)

HOLD SERVICE)

and)

MICHAEL PENNISE, in his official)
capacity as Alderman of the City of)
Valley Park, MO)

SERVE AT: 80 Inez Ave.)
Valley Park, MO 63088)

HOLD SERVICE)

and)

ED WALKER, in his official capacity as)
Alderman of the City of Valley Park, MO)

SERVE AT: 833 Crescent Ridge)
Valley Park, MO 63088)

HOLD SERVICE)

and)

STEVE DRAKE, in his official capacity)
as Alderman of the City of Valley Park, MO)
))
SERVE AT: 455 Valparaiso)
Valley Park, MO 63088)
HOLD SERVICE)
and)
))
J. MICHAEL WHITE, in his official capacity)
as Alderman of the City of Valley Park, MO)
))
SERVE AT: 500 Emanuel Ct.)
Valley Park, MO 63088)
HOLD SERVICE)
))
Defendants.)

**PETITION FOR DECLARATORY
AND INJUNCTIVE RELIEF**

For their Petition, Plaintiffs Stephanie Reynolds, Florence Streeter, Jacqueline Gray, and The Metropolitan St. Louis Equal Housing Opportunity Commission, state as follows:

INTRODUCTION

1. This action is filed under MO.R.STAT. § 527.020, and pursuant to MO.R.CIV.P. 87.02, to seek a declaration that Ordinance No. 1708, entitled “An Ordinance Relating to Illegal Immigration Within the City of Valley Park, MO,” enacted by Valley Park, Missouri on July 17, 2006, is void. It also seeks a temporary, preliminary, and permanent injunction restraining enforcement of those provisions.

2. For the first time in Missouri history, a political subdivision of this State has enacted a law which punishes individuals if they fail to exercise an apparently delegated police power to rid their businesses and rental properties of “illegal aliens,” a classification nowhere defined within the Ordinance granting these powers. The Ordinance also purports to penalize those who would “aid and abet” an “illegal alien” in any manner. Also, for the first time in this

State, a political subdivision has declared that all of its official business -- whether written or oral -- must be conducted only in the English language.

3. Ordinance No. 1708: usurps the exclusive federal authority to regulate immigration; was enacted in excess of Valley Park's delegated authority; is arbitrary and unreasonable; unconstitutionally impairs existing contracts; is so vague and overbroad that it provides no notice of its own scope, therefore violating the constitutional right to due process; impedes interstate commerce; promotes discrimination in housing and violates the Fair Housing Act; and violates the constitutional guarantee of free speech.

4. Attempts to enforce Ordinance No. 1708 have resulted in racial profiling, and it has negatively impacted and stifled the continuation and development of businesses in the Valley Park community. Indeed, the plain wording of Ordinance No. 1708 suggests that any business within Valley Park that serves food to, sells products to, or otherwise interacts with someone who is found to be an "illegal alien" by the City of Valley Park could be punished under its provisions for "aiding and abetting" such "illegal alien." Similarly, individuals, churches, medical clinics, and legal service providers could be subject to penalties under the Ordinance if the services they provide are somehow construed to "aid and abet" an "illegal alien." Unless enjoined, enforcement of Ordinance No. 1708 will continue to, not only allow, but in fact encourage both police and ordinary residents to racially profile individuals as they attempt to enforce its provisions, and it will continue to degrade the livelihoods of those residing in, and carrying on business in, Valley Park.

5. Plaintiffs herein have standing to challenge the validity of Ordinance No. 1708 under MO.R.STAT. 527.020 which provides, in relevant party, that "[a]ny person ... whose rights, status or other legal relations are affected by a ... municipal ordinance ... may have

determined any question of construction or validity arising under the ... ordinance ...and obtain a declaration of rights, status or other legal relations thereunder.” The rights of the Plaintiffs herein have been affected by Ordinance No. 1708, and they thus seek a determination of its validity and a declaration of their rights and legal relations, as well as an injunction to preserve the same. Plaintiffs also have standing because they have suffered, and continue to suffer, irreparable injury-in-fact as a direct result of the enactment and attempted enforcement of Ordinance No. 1708.

PARTIES

6. Stephanie Reynolds is a resident of Valley Park, Missouri, and the owner of multiple rental units in that City, as well as a local convenience store. She has lost business as a direct result of the enactment of Ordinance No. 1708 in that Hispanic tenants have left her properties, and the departure of immigrant residents has resulted in a decrease of her business profits. Stephanie Reynolds does not know what it means to be an “illegal alien” and does not know how to identify any such person. She never has based, and currently does not want to base, her decision to lease a property to, or to do business with, an individual upon that individual’s race, national origin, or ability to speak English. She is fearful that, as a landlord and business owner, she could be fined, jailed, or denied a business license if a tenant living in her rental properties is determined to be an “illegal alien” by the City of Valley Park, or, likewise, if an employee or customer in her business is determined to be an “illegal alien” by the City of Valley Park.

7. Florence Streeter is the owner of residential and commercial rental units within the City of Valley Park. She also is the owner of rental units outside the Valley Park area. She does not know the legal status of the tenants leasing her properties, and she does not know how

to determine whether an individual is lawfully in the United States. Tenants in the rental units owned by Florence Streeter in Valley Park have moved due to the enactment of Ordinance No. 1708. Since the enactment of the Ordinance, Florence Streeter has had a decline in interest by Hispanics in renting her properties. She is fearful that, as a landlord, she could be fined or jailed if a tenant living in her rental properties is determined to be an “illegal alien” by the City of Valley Park.

8. Jacqueline Gray is a resident of St. Louis County, and owns rental units in Valley Park, Missouri. She does not know how to determine if a prospective tenant is an “illegal alien,” and thus has made no attempt to do so in leasing her rental units. Because she does not know how to enforce Ordinance No. 1708 she lives in fear of being fined and possibly sent to jail.

9. The Metropolitan St. Louis Equal Housing Opportunity Council, Inc. (“EHOC”) is a Missouri nonprofit corporation. It is a fair housing agency funded by the United States Department of Housing and Urban Development, as well as other sources, to investigate and eliminate housing discrimination and to educate the public about fair housing matters. Because Ordinance No. 1708 promotes discrimination in the provision of housing, it frustrates the organizational mission of the EHOC. Since the enactment of Ordinance No. 1708, the EHOC has been forced to devote significant resources to conducting outreach activities in the Valley Park area, and in its immigrant communities, to ensure people are aware of their fair housing rights, to educate housing providers in Valley Park about their responsibilities under the Fair Housing Act, and to meet with local organizations and individuals concerned about the impact of the ordinance on immigrant communities. These activities have interfered with the EHOC’s mission of fair housing, counseling, and education by causing a diversion of its resources.

10. Defendant City of Valley Park, Missouri is a City of the fourth class located in St. Louis County, Missouri.

11. Defendant Jeffrey Whitteaker is the mayor of Valley Park, Missouri and was actively involved in, and gave final approval for, the enactment of Ordinance No. 1708.

12. Defendants, John Brust, Daniel Adams, Randy Helton, Don Carroll, Michael Pennise, Ed Walker, Steve Drake, and J. Michael White are alderpersons in Valley Park, Missouri, and were actively involved in, and voted in favor of, the passage of Ordinance No. 1708.

13. At all times alleged herein, Defendant City of Valley Park and the Defendant Mayor and Aldermen were acting under color of state law, and are sued only in their official capacities.

VENUE AND JURISDICTION

14. Jurisdiction in this Court is proper pursuant to MO.R.STAT. § 478.220.

15. Venue in this Court is proper in this Court pursuant to MO.R.STAT. § 508.010.

ORDINANCE 1708

16. On July 17, 2006, Defendants enacted Ordinance No. 1708. Prior to such enactment, Defendants had done no investigation or research to determine the effects of illegal immigration on crime rates, educational opportunities, neighborhoods, or quality of life. Prior to such enactment, Defendants had no evidence in their possession which related to the effects of illegal immigration on crime rates, educational opportunities, neighborhoods, or quality of life.

17. After the enactment of Ordinance No. 1708, the Defendants admitted that the Ordinance had been enacted as a “preventative measure.”

18. Despite the fact that they had done no investigations, and had no evidence, relating to the effects of illegal immigration on local communities, Defendants enacted Ordinance No. 1708 which declared and mandated, in full, as follows:

WHEREAS, the Board of Alderman of the City of Valley Park finds that illegal immigration leads to higher crime rates, contributes to overcrowded classrooms and failing schools, and destroys our neighborhoods and diminishes our overall quality of life; and

WHEREAS the City of Valley Park is empowered and mandated by the people of the City of Valley Park to abate the nuisance of illegal immigration by aggressively prohibiting and punishing the acts, policies, people and businesses that aid and abet illegal aliens;

NOW, THEREFORE, BE IT ORDERED BY THE BOARD OF ALDERMEN OF THE CITY OF VALLEY PARK, MISSOURI, AS FOLLOWS:

Section One

DEFINITIONS.

Whenever used in this chapter, the following terms shall have the following meanings:

“**City**” means the City of Valley Park, Missouri;

“**Contract employer**” means any person who obtains the services of one or more individuals through a day labor agency; and

“**Vehicle**” means a vehicle as defined in State or [sic] Missouri Vehicle Code as the same now reads or may hereafter be amended.

Section Two

BUSINESS PERMITS, CONTRACTS OR GRANTS.

Any for-profit entity, including acts committed by its parent company or subsidiaries, that aids and abets illegal aliens or illegal immigration shall be denied approval of a business permit, the renewal of a business permit, city contracts or grants for a period not less that [sic] five (5) years from its last offense.

- A. Aiding and abetting shall include, but not be limited to, the hiring or attempted hiring of illegal aliens, renting or leasing to illegal aliens, or funding or aiding in the establishment of a day laborer center that does not verify legal work status.
- B. Any act that aids and abets illegal aliens within the United States, not just within the City limits, will constitute a violation.

Section Three

RENTING TO ILLEGAL ALIENS.

- A. Illegal aliens are prohibited from leasing or renting property. Any property owner or renter/tenant/lessee in control of property, who knowingly allows an illegal alien to use, rent or lease their property shall be in violation of this section.
- B. Any person or entity that violates this section shall be subject to a fine of not less than Five Hundred Dollars (\$500.00).

Section Four

ENGLISH ONLY.

- A. The City of Valley Park declares that English is the official language of the City.
- B. Unless explicitly mandated by the federal government, the State of Missouri or the City of Valley Park, all official city business, forms documents, signage, telecommunication or electronic communication devices will be conducted or written in or utilize English only.

Section Five

SEVERABILITY.

If any part of [sic] provision of this Chapter is in conflict or inconsistent with applicable provisions of federal or state statutes, or is otherwise held to be invalid or unenforceable by any court of competent jurisdiction, such part of [sic] provision shall be suspended and superseded by such applicable laws or regulations, and the remainder of this Chapter shall not be affected thereby.

Section Six

This ordinance shall become effective from and after its passage and upon approval by the Mayor.

WHY AN AWARD OF DECLARATORY AND INJUNCTIVE RELIEF IS PROPER

19. Ordinance No. 1708, enacted by Valley Park, Missouri on July 17, 2006, should be declared void and unenforceable, and a temporary, preliminary, and permanent injunction restraining enforcement of those provisions should be entered to effectuate this declaration, for the following reasons:

(a) Ordinance No. 1708 violates the Supremacy Clause of the United States Constitution, art. VI, cl. 2. The power to regulate immigration is vested exclusively in the federal government pursuant to the Constitution's grant to the Federal government of the power to "establish a uniform Rule of Naturalization," (U.S. Const. art. I, § 8, cl. 4), and "to regulate Commerce with foreign Nations." U.S. Const. art. I, § 8, cl. 3. The Federal government has established a comprehensive system of laws, regulations, procedures, and administrative agencies that determine, subject to judicial review, whether and under what conditions a given individual may enter, stay in, and work in the United States. 8 U.S.C. § 1101, et seq. These Federal immigration laws also include provisions directed at other classes of individuals, such as those who employ or assist immigrants. The federal immigration scheme is comprehensive and includes sanctions, documentation, and anti-discrimination provisions directly applicable to employers, as well as a criminal and civil scheme applicable to those who assist individuals who are not lawfully in the United States. Under this federal scheme,

certain categories of non-citizens, and certain individual non-citizens, are allowed to remain in the United States, even though they may not have valid immigrant (permanent) or non-immigrant (temporary) status. Ordinance No. 1708 encroaches on the federal government's exclusive power to regulate immigration, attempts to legislate in fields which are completely occupied by the federal government, and conflicts with federal laws, regulations, policies and objectives. The Ordinance is thus preempted;

(b) Ordinance No. 1708 was enacted in violation of the limited powers delegated to the City of Valley Park by the Missouri legislature. More specifically, a city's authority to exercise police power must come from a specific delegation by the state. Pursuant to MO.R.STAT. § 79.110, the City of Valley Park has the power to enact only those ordinances "not repugnant to the constitution and laws of this state, and such as they shall deem expedient for the good government of the city, the preservation of peace and good order, the benefit of trade and commerce and the health of the inhabitants thereof, and such other ordinances, rules and regulations as may be deemed necessary to carry such powers into effect, and to alter, modify or repeal the same." No authority has been delegated to the City of Valley Park to regulate immigration. Furthermore, Ordinance No. 1708 is repugnant to the Constitution of the State of Missouri, including those provisions set forth below and, in addition, Article I, § 2 which guarantees "all persons" in this State the "right to life, liberty, the pursuit of happiness and the enjoyment of the gains of their own industry" and that "all persons" will be given "equal rights and opportunity under the law." In addition,

there is no basis to conclude that the Ordinance is expedient for the good government of the city, the preservation of peace and good order, the benefit of trade and commerce, or the health of the inhabitants of Valley Park;

(c) Ordinance 1708 is invalid on its face and in violation of RSMo. 79.470 in that it exceeds the maximum punishment which the board of aldermen in a class four city is authorized to impart. RSMo. 79.470 authorizes the aldermen of a fourth class city to set the punishment of a municipal ordinance violation at “not exceeding a fine of five hundred dollars.” The Ordinance, which dictates that a violation of its provisions will result in a “fine of not less than Five Hundred Dollars (\$500)” therefore permits the city of Valley Park to impose a greater punishment upon a person convicted of violating the Ordinance at an amount greater than that designated permissible by state law. The Ordinance therefore authorizes the imposition of a fine in excess of the statutorily allowed maximum fine and, in fact, fails to restrict a municipal judge's discretion in imposing a fine on a person convicted of violating the Ordinance. By doing so, this Ordinance clearly violates the 8th and 14th Amendments to the United States Constitution and Article I Section 21 of the Constitution of the State of Missouri which prohibit the imposition of excessive fines and unusual punishment.

(d) Ordinance No. 1708 is void as arbitrary and unreasonable, because the express requirements of the ordinance bear no substantial or rational relationship to the health, safety, peace, comfort or general welfare of the residents of the City of Valley Park. There is no evidence that illegal immigration leads to higher crime rates or deterioration of schools and neighborhoods. Thus,

Ordinance No. 1708 is not a legitimate exercise of the police power granted to the City of Valley Park;

(e) Ordinance No. 1708 is repugnant to Article I, § 13 of the Constitution of the State of Missouri, and Article I, § 10 of the United States Constitution in that it impairs obligations made under contracts. To avoid prosecution under Ordinance No. 1708 a property owner who has entered into a contract for the lease of rental property with someone who is deemed to be an “illegal alien” by the City of Valley Park must breach that lease or be subject to the penalties provided under the Ordinance;

(f) Ordinance No. 1708 violates Article I, § 10 of the Constitution of the State of Missouri, as well as the Fourteenth Amendment of the United States Constitution, which guarantee that no person shall be deprived of “life, liberty, or property without due process of law.” Ordinance No. 1708 does not provide sufficient procedural due process safeguards to protect the liberty and property interests of individuals like Plaintiffs, and is so vague and overbroad that persons of common intelligence must guess at its meaning. For example, the Ordinance is devoid of any definition of specified terms set forth therein such as “aiding and abetting,” “illegal alien,” and “illegal immigration.” The Ordinance thus lacks explicit standards necessary to avoid arbitrary and discriminatory application by those enforcing its provisions. Yet, individuals like Plaintiffs, are subject to fines and confinement if they fail to recognize the meaning of these terms as they are understood by the City of Valley Park. The vagueness of the various terms used throughout the ordinance will lead to differing applications of the law by different

persons. As such, the Ordinance fails to afford *any* process by which individuals like Plaintiffs can ensure they are not subject to the loss of liberty or property for a violation;

(g) Ordinance No. 1708 violates the Commerce Clause of the United States Constitution, art. I, § 8, cl. 3, under which Congress is granted the right to regulate interstate commerce. Under the Commerce Clause, state and local governments are prohibited from enacting ordinances that discriminate against or unduly burden interstate commerce. Ordinance 1708 imposes penalties on for-profit entities and their parent companies and subsidiaries for acts that “aid and abet” illegal aliens *anywhere in the United States*. It directly burdens interstate commerce by virtue of the fact that it purports to have extraterritorial reach which attempts to control conduct occurring wholly outside the boundaries of the City of Valley Park and the State of Missouri, and by virtue of the fact that it requires local businesses with out-of-state operations, their parent companies and subsidiaries to conduct their out-of-state commerce in such a way to ensure that they do not “aid and abet” “illegal aliens” as those phrases are understood by the City of Valley Park. Furthermore, under Ordinance No. 1708, local businesses with out-of-state operations, their parent companies and subsidiaries are required to monitor all actions of the entity in the United States and determine whether such actions constitute a violation of “aiding and abetting” “illegal aliens” under the Valley Park Ordinance. These burdens are clearly excessive in relation to the putative local benefits;

(h) Ordinance No. 1708 violates the Fair Housing Act, 42 U.S.C. §§ 3601–19, which prohibits housing practices that discriminate on the basis of, *inter alia*, race, color, and national origin. Ordinance No. 1708 puts individuals, like Plaintiffs, in a predicament, whereby they must choose between facing a potential punishment for leasing property to a person who may be an “illegal alien,” and a potential punishment for refusing to lease to a person based on his apparent heritage when that person cannot prove that he is not an “illegal alien” as that classification is understood by the City of Valley Park;

(i) Ordinance No. 1708 is preempted by the Fair Housing Act which expressly provides that “the law of a State, a political subdivision, or other such jurisdiction that purports to require or permit any action that would be a discriminatory housing practice under this subchapter shall to that extent be invalid.” 42 U.S.C. § 3615. Ordinance No. 1708 promotes discriminatory housing practices by requiring lessors to demand that tenants prove they are not an “illegal alien” as that classification is understood by the City of Valley Park;

(j) Ordinance No. 1708 violates the First Amendment to the United States Constitution which provides that States “shall make no law ... abridging the freedom of speech.” By offering such protection, the First Amendment serves to ensure that all persons can effectively participate in and contribute to our system of government. By requiring that all city business, both oral and written, “be conducted or written in or utilize English only,” the Ordinance impairs the ability of non-English speaking individuals to participate in and contribute to our system of government. The English only requirement harms many people of

various heritages who are legally residing in Valley Park, and effectively gags non-English speaking individuals from receiving information from and providing information to the City of Valley Park, and its officials, employees and agents. It is thus detrimental to the health, safety, economic, social, and cultural interests of both the residents of the City of Valley Park and others who may seek assistance there. The “English only” provision serves no legitimate governmental function.

20. By being subject to the imposition of an invalid and unconstitutional ordinance, Plaintiffs have been irreparably injured in their businesses and livelihoods, and will continue to be until such time as Ordinance No. 1708 is declared void and invalid, and an injunction is entered enjoining its enforcement.

PRAYER FOR RELIEF

FOR RELIEF Plaintiffs respectfully request that this Court declare Valley Park Ordinance No. 1708, entitled “An Ordinance Relating to Illegal Immigration Within the City of Valley Park, MO,” enacted by Valley Park, Missouri on July 17, 2006, void, and that it enter a temporary, preliminary, and permanent injunction restraining enforcement of its provisions to effectuate this finding, and that this Court award Plaintiffs their costs and attorneys’ fees incurred herein.

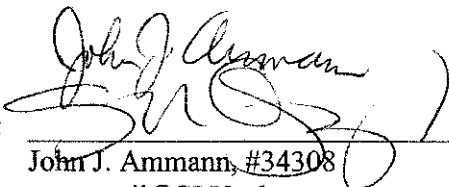
Respectfully submitted,

Respectfully submitted,

BRYAN CAVE LLP

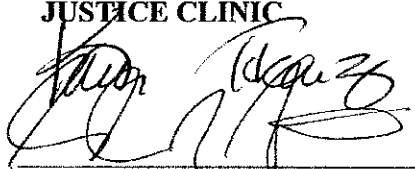
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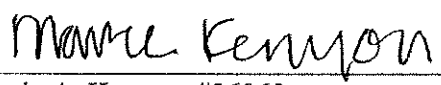
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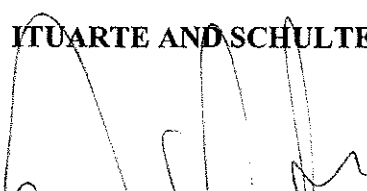
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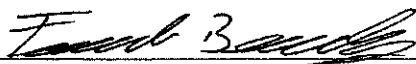


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