

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

STEPHANIE REYNOLDS; )  
FLORENCE STREETER; )  
CASH FLO PROPERTIES, LLC; )  
JAMES ZHANG, and )  
THE METROPOLITAN ST. LOUIS )  
EQUAL HOUSING OPPORTUNITY )  
COUNCIL, INC., )

Plaintiffs, )

v. )

CITY OF VALLEY PARK, MO; )  
JEFFERY WHITTEAKER; JOHN BRUST; )  
DANIEL ADAMS; RANDY HELTON; )  
DON CARROLL; MICHAEL PENNISE; )  
ED WALKER; STEVE DRAKE; and )  
MIKE WHITE, )

Defendants. )

Cause No. 07CC-001420

Division: 31

31

07CC-001420

2007-07-04 11:57

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**PLAINTIFFS' MOTION FOR A  
TEMPORARY RESTRAINING ORDER**

COME NOW Plaintiffs, and pursuant to MO.RCIV.P. 92.02, move this Court to enter a temporary restraining order ("TRO") enjoining enforcement of Valley Park Ordinance No. 1721, and its amendments as set forth in Valley Park Ordinances No. 1723 and 1725.<sup>1/</sup> Ordinance No. 1721 is another in a series of Ordinances enacted by Defendants seeking to prohibit property owners from renting (and now selling) property to anyone who the City of Valley Park determines to be an "alien unlawfully present in the United States." Valley Park Ordinance No. 1708 and Ordinance No. 1715 – similar in form, and identical in intent, to Ordinance

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<sup>1/</sup>Unless otherwise noted, all references to Ordinance No. 1721 from this point forward are intended to also include the amendments to that Ordinance as set forth in Ordinance No. 1723 and Ordinance No. 1725.

No. 1721 – were declared void by the Circuit Court of St. Louis County on March 12, 2007, and their enforcement has been permanently enjoined. Enforcement of Ordinance No. 1721 should likewise be enjoined because its provisions: infringe the constitutionally granted federal immigration power which the United States Supreme Court has repeatedly held is reserved to the federal government, and conflict with federal immigration law; were enacted in excess of Valley Park's delegated authority; are arbitrary and unreasonable; are being enforced inconsistently with the intent of the legislative body which enacted them; serve no legitimate purpose; interfere with business expectancies; were enacted for a discriminatory purpose, have a discriminatory impact, and promote discrimination in housing, all in violation of the federal Fair Housing Act; are preempted by the federal Fair Housing Act; and were enacted in violation of the Missouri Open Meetings Act (a/k/a Sunshine Act).

A TRO is necessary because continued enforcement of Ordinance No 1721 will immediately and irreparably harm Plaintiffs in the following ways: rental/sales of properties have been, and will continue to be, inordinately delayed due to the verification procedures mandated by the Ordinance; Plaintiffs will be put at risk of being accused of violating federal fair housing laws as the applications of prospective tenants/buyers who claim to be United States citizens are processed immediately, while those from a different national origin are delayed days and perhaps even weeks due to the procedures being employed to enforce Ordinance No. 1721; and Plaintiffs risk losing the goodwill they have developed over many years in their rental/property businesses. *See* Affidavits of Stephanie Reynolds, Florence Streeter, and Mira Tanna, attached hereto as Exhibits A, B, and C, respectively. For these reasons, as more fully detailed below, Plaintiffs respectfully request that this Court enter a temporary restraining order enjoining enforcement of Ordinance No. 1721.

## **PROVISIONS OF ORDINANCE NO. 1721**

Ordinance No. 1721 was enacted as a provision of Valley Park's "Property and Maintenance Code." By its express terms, the provisions contained in that Code are intended to apply to "existing residential and nonresidential *structures* and all existing *premises* ..." The intent of the Code is "to ensure public health, safety and welfare *insofar as they are affected by the continued occupancy and maintenance of structures and premises.*"

Ordinance No. 1721 is not aimed at existing structures or premises; nor does it address the health, safety and welfare of the public insofar as these things are affected by structures and premises. Instead, Ordinance No. 1721: (1) mandates that when any household member of a potential lessee/buyer is not a United States citizen a verification process must be followed before the landlord can have the premises inspected to ensure compliance with Code mandates and before the potential lessee/buyer will be eligible for an occupancy permit; and (2) prohibits the Building Commissioner from conducting an inspection and issuing an occupancy permit if any member of the household of a potential lessee/buyer is found to be an "alien unlawfully present in the United States."

Under Ordinance No. 1721, if a potential lessee/buyer admits on an occupancy application that one of his household members is not a United States citizen, the Building Commissioner is mandated to "verify with the federal government whether the alien is lawfully present in the United States." The Ordinance provides that "[t]he determination of whether an alien is lawfully present in the United States shall only be made by the federal government." If the federal government cannot verify that the alien is in this Country illegally, the Building Commissioner is required to perform an inspection of the premises, and he cannot deny an occupancy permit once the premises passes the inspection.

Defendants have repeatedly stated, in both court proceedings and publicly, that the intent of the legislature in enacting Ordinance No. 1721 (in lieu of its predecessors) was to take the burden off of landlords/sellers to prove a tenant/buyer is lawfully in the United States, and to put the burden on the City of Valley Park to prove that a prospective tenant/buyer is not lawfully in the United States. Despite this expressed intent, Defendant City of Valley Park and Defendant Mayor Jeffrey Whitteaker have concocted an enforcement scheme under which the burden effectively remains on landlords/sellers to prove, not only that a prospective tenant/buyer is in this Country legally, but also to prove that every person who will live in the household of that prospective buyer/tenant is in this Country legally. As part of that enforcement scheme, landlords/sellers must provide the information listed in the mandate issued by Defendant City of Valley Park and Defendant Mayor Jeffrey Whitteaker entitled “Documents Required to Apply for a Valley Park Occupancy Permit.” That mandate expressly indicates that a landlord/seller must provide, for every member of the household of a prospective tenant/buyer, “Proof of Lawful Presence” and “Proof of Identity.” *See* Exhibit H to Petition.

#### **LIKELIHOOD OF SUCCESS ON THE MERITS**

Plaintiffs are likely to prevail on the merits of their claim on one or more of the following grounds:

**Immigration Preemption:** Plaintiffs are likely to prevail on their claim that Ordinance No. 1721 is void because it usurps the exclusive federal authority to regulate immigration. More particularly, the immigration power is constitutionally reserved to the federal government, which has fully occupied the field. The United States Supreme Court has declared that the “[p]ower to regulate immigration is unquestionably exclusively a federal power.” DeCanas v. Bica, 424 U.S. 351, 354 (1976). States, and *a fortiori* municipalities, may not arrogate to themselves the

regulation of immigration – even when states seek merely to “complement” federal law “or enforce additional or auxiliary regulations.” Hines v. Davidowitz, 312 U.S. 52, 66-67 (1941) (invalidating Pennsylvania alien registration law).

Moreover, when Congress occupies a field, state law in that area is preempted. *See, e.g., Crosby v. Nat’l Foreign Trade Council*, 530 U.S. 363, 372 (2000). In this area, any state laws that add to Congress’s “comprehensive legislative plan for the nation-wide control and regulation of immigration and naturalization” (Takahashi v. Fish & Game Comm’n, 334 U.S. 410, 419 (1948)), are therefore preempted. *See, e.g., Hines*, 312 U.S. at 67; League of United Latin American Citizens v. Wilson, 908 F.Supp. 755, 776 (C.D.Cal.) (“Congress has fully occupied the field of immigration regulation through enactment and implementation of the INA [Immigration and Nationality Act].”)

Finally, even if constitutional preemption and “field” preemption were not each themselves wholly sufficient to doom the statute, Ordinance No. 1721 would still be preempted because it acts “as an obstacle to the accomplishment and execution of the full purposes and objectives of Congress” in the area of immigration. Hines, 312 U.S. at 67. It conflicts with: Congress’ considered provision of discretion to specifically designated agencies and officials responsible for administering the immigration laws, *see, e.g.,* 8 U.S.C. § 1229b (providing for cancellation of removal in the discretion of the Attorney General); and the extensive federal procedures for determining immigration status, *see, e.g.,* 8 U.S.C. §§ 1154, 1228-1252, 1255-1259;

**Lack Of Any Rational Or Reasonable Relationship To Statutory Scheme:** The provisions of, and the means employed for enforcing, Ordinance No. 1721 – by which a property owner is required to provide information and documents proving a prospective tenant or buyer’s

citizenship or lawful presence – bear no rational or reasonable basis to the purpose or intent of the Valley Park Property Maintenance Code. The Code is directed at ensuring that buildings and structures are safe for human habitation; not at regulating who can occupy a building or structure. Whether a potential occupant is lawfully in the United States or otherwise has no bearing on the safety of any structure or building. Ordinance No. 1721 is therefore void. *See Jones. v City of Jennings*, 595 S.W.2d 1, 3 (Mo.App. 1979) (ordinances enacted “without consideration of and in disregard of the facts and circumstances” are void);

**Lack Of Legitimate Purpose:** The clear and unequivocal intent of Ordinance No. 1721 – as expressly stated in the Ordinance itself and as testified to by the City of Valley Park in other judicial proceedings – is to put the burden on the City to prove that a prospective tenant/buyer is *not* legally in the United States, and to relieve the property owner of any obligation to prove that a prospective tenant/buyer *is* legally in this Country. And, under the Ordinance, the only way that the City of Valley Park can prove that a prospective tenant/buyer is unlawfully in this Country is by obtaining such information from the federal government. But, upon information and belief, the City of Valley Park has already been informed that the federal government cannot disclose to Valley Park whether *any* person is lawfully in the United States for the purposes outlined in the Ordinance. Thus, requiring a property owner to provide voluminous information relating to a person’s citizenship and/or legal status serves no purpose, whatsoever, other than to harass the landowner and prospective tenant/buyer. Indeed, under the terms of the Ordinance, even if a prospective tenant/buyer stated he was not in this Country legally, Defendant City of Valley Park could not deny an occupancy permit based on that admission because the federal government will not verify that fact;

**Exceeding Delegated Powers:** Plaintiffs are also likely to prevail on the merits of their

separate claim that Ordinance No. 1721 is void because Defendants exceeded their delegated powers in enacting it. “It is a general and undisputed proposition of law that a municipal corporation possesses and can exercise the following powers and no others: first, those granted in express words; second, those necessarily or fairly implied in or incident to the powers expressly granted; third, those essential to the declared objects and purposes of the corporation - not simply convenient, but indispensable. Any fair, reasonable doubt concerning the existence of power is resolved by the courts against the corporation and the power is denied.” State ex rel. Curators of Univ. of MO v. McReynolds, 193 S.W.2d 611, 612 (Mo. en banc 1946) (*quoting* Dillon, Municipal Corporations § 237 (1911); *see also* Premium Std. Farms, Inc. v. Lincoln Township of Putnam Cty., 946 S.W.2d 234, 238 (Mo. en banc 1997) (same). Defendants have been delegated no power to regulate immigration. Nor have they been delegated any power which could conceivably be interpreted to allow them to use the “Property and Maintenance Code” to prohibit a specific class of people from occupying buildings in Valley Park. Furthermore, Defendants lacked any factual basis for justifying the enactment of Ordinance No. 1721;

**Interference With Legitimate Business Expectancies:** Under Ordinance No. 1721, as stated and enforced, a land owner cannot have a property inspected for compliance with legitimate Code requirements until after: *first*, the landowner provides voluminous documentation to Defendant City of Valley Park identifying the specific individual(s) who will occupy each property leased or purchased, and proving that each of them is lawfully present in the United States; and *second* the City approves each specific individual who has applied to occupy the property. The process of identification of specific individuals and their approval for occupancy has taken multiple days, after which an inspection is then done and, if any legitimate

Code violations are found, the process is delayed further while the Code violations are corrected and a re-inspection occurs. The inordinate delay resulting from the means employed for enforcing Ordinance No. 1721 interferes with the legitimate business expectancies of Plaintiffs;

**Improper Use Of Police Power:** Defendant City of Valley Park cannot enforce Ordinance No. 1721 as originally contemplated because there is no means for the “Building Commissioner” to fulfill his duty of “verify[ing] with the federal government whether [a prospective tenant or property buyer] is lawfully present in the United States pursuant to 8 USC § 1373(c).” As a result, Defendant City of Valley Park has, contrary to prior representations made in Court documents and Court testimony, put the onus on property owners to supply voluminous documentation from which a determination of legal status can be made. This employed means of enforcement not only unreasonably interferes with the property rights of Plaintiffs, it is contrary to that contemplated by the Ordinance itself. It is thus not a legitimate exercise of police power;

**Improper Purpose In Enactment:** Plaintiffs are also likely to prevail on their contention that Ordinance No. 1721 is void because it was enacted for a discriminatory purpose. In prior deposition testimony, all Defendants admitted that Defendant Mayor Jeffery Whitteaker was the sole impetus for Valley Park’s enactment of ordinances directed at “illegal aliens.” And, Defendant Whitteaker has publicly admitted that Valley Park’s “illegal alien” ordinances are directed at a specific class of people based on their national origin, *i.e.*, those of Hispanic descent. More specifically, Defendant Whitteaker has publicly stated that Valley Park’s Ordinances are aimed at alleviating “overcrowding” which occurs when “Cousin Puerto Rico and Taco Whoever” move into dwelling units occupied by “one guy and his wife that settle down here, [and] have a couple of kids.” Because Ordinance No. 1721 was enacted for a



discriminatory purpose, it violates the Fair Housing Act, 42 U.S.C. §§ 3601–19;

**Improper Discriminatory Impact:** Ordinance No. 1721 is also void because it has a discriminatory impact. The Ordinance provides for a procedure whereby only those persons who are not citizens of the United States are subject to a burdensome verification process, and they are required to undergo this verification process even if they are in this Country lawfully. This verification process results in an inordinate delay in the issuance of occupancy permits. Thus, not only are non-citizens more likely to lose housing opportunities, property owners are more likely to avoid renting/selling to them to avoid the lengthy and cumbersome verification process. This discriminatory impact constitutes a separate and independent violation of the Fair Housing Act, 42 U.S.C. §§ 3601–19;

**Fair Housing Act Preemption:** Ordinance No. 1721 also conflicts with the Fair Housing Act, 42 U.S.C. § 3601, *et seq.* (“FHA”). The FHA 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. Because of its discriminatory origins and its discriminatory impact, Ordinance No. 1721 is preempted by the FHA. *See* 42 U.S.C. § 3615; Geier v. American Honda Motor Co., Inc., 529 U.S. 861, 873 (2000) (state law is preempted if it “stands as an obstacle to the accomplishment and execution of the full purposes and objectives of Congress”);

**Due Process Violations:** Ordinance No. 1721 is also void because the means employed to enforce it violate 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.” The means employed to enforce the Ordinance has caused unreasonable and unwarranted delays. These delays, in turn,

result in a loss of tenants and potential property buyers.

### **IRREPARABLE HARM AND THE BALANCE OF THE EQUITIES**

In prior court proceedings involving these exact same parties, at the temporary injunction phase of the litigation, the Circuit Court of St. Louis County was faced with the identical issue of: Will Plaintiffs be irreparably harmed if a temporary injunction is not entered enjoining enforcement of ordinances which penalize them in their rental business if their tenants or prospective tenants are unlawfully present in the United States? In that prior court proceeding, the Court answered this issue in the affirmative, and granted Plaintiffs a temporary injunction. The Court subsequently made that temporary injunction permanent when it entered a final judgment in favor of Plaintiffs and against Defendants. *See* Exhibit E to Petition. Under principles of issue preclusion, Defendants are thus barred from contesting the element of irreparable harm here. *See, e.g., Woods v. Mehlville Chrysler-Plymouth, Inc.*, 198 S.W.3d 165, 168 (Mo.App. 2006).

Even if issue preclusion were not applicable here (which it is), entry of a temporary injunction would still be warranted because it is clear that, without one, Plaintiffs will be irreparably harmed. Plaintiffs are property owners in Valley Park who regularly lease residential dwelling units, and a fair housing agency which is charged with investigating and eliminating housing discrimination and educating the public about fair housing matters. There is no adequate remedy at law to protect Plaintiffs from the burdensome and unwarranted practices being utilized by Defendants to enforce Ordinance No. 1721. If Ordinance No. 1721 continues to be enforced under the current scheme, Plaintiffs will suffer: a loss of prospective tenants/buyers due to the inordinate delays caused by Ordinance No. 1721; and a loss of good will in their rental businesses due to having to seek burdensome verification of citizenship status

and/or lawful presence. Such damages cannot be compensated by monetary awards.

Finally, the balance of equities and the public interest favor injunctive relief. Plaintiffs and their prospective tenants are being subjected to ongoing diminution of their livelihoods and threat of severe sanction, while the putative benefits of the Ordinance are illusory.

WHEREFORE, Plaintiffs respectively request that this Court enter a temporary restraining order ("TRO") enjoining enforcement of Valley Park Ordinance No. 1721, and its amendments as set forth in Valley Park Ordinances No. 1723 and 1725.

Respectfully submitted,

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**Exhibit A**

**AFFIDAVIT**

Before me, the undersigned authority, personally appeared Stephanie Reynolds, who, being by me duly sworn, deposed as follows:

1. My name is Stephanie Reynolds. I am a resident of the City of Valley Park Missouri.
2. I am a business owner and landlord in the City of Valley Park, Missouri. My husband, William, and I are the sole owners of the Valley Deli Convenience Store, under our company KOBASA, Inc. We are also, individually, the owners of 18 rental units within the City of Valley Park.
3. This affidavit summarizes information I have obtained and events I have witnessed with regard to ordinances in the City of Valley Park concerning illegal immigrants and the new process for obtaining occupancy permits. The information in this affidavit is not meant to encompass all of the events I have witnessed or information I have knowledge of at this time.
4. On Tuesday February 27, 2007, before Ordinance 1721 became enforceable, I submitted an occupancy permit application for my property on 314 St. Louis Avenue. For this application I was required to submit the name, driver's license number, and dates of birth for the potential occupants of this property. On this evening, following the submission of my occupancy permit application, the City of Valley Park voted to make Ordinance 1721 enforceable.
5. On the following day, February 28, 2007, I went to City Hall and requested an updated occupancy permit application form and instructions, for the purpose of conforming to the new requirements under Ordinance 1721. I was informed by City officials that they did not have a new form, or directions, for compliance with the new ordinance.

6. On Friday March 2, 2007, I returned to City Hall and renewed my request for the new occupancy form and any accompanying instructions. I was provided with a form titled "Application for Residential Occupancy Permit." It required me to provide the City with the names, birth dates, social security numbers, and relationships of prospective tenants, and whether they claimed to be U.S. citizens. The form also directed me to provide a copy of the prospective tenant's driver's license. I asked Roxanne Ruppel, a City official, if there was any further instruction she could provide to me. She said that she "did not know how it works," that she had not yet spoken with Jeff Schaub, the City's Building Commissioner and Inspector, and that they would "figure it out later."

7. Also on March 2<sup>nd</sup>, after speaking with Roxanne, I spoke to Jeff Schaub. I asked Mr. Schaub about the procedure for approving the occupancy permit. He said that it "wouldn't take long to check everybody" and that they would check everything "through the computer," and that Cassy Kollmeyer, the City Court Clerk, "would take care of it." He told me that the City would be "on a learning curve for the next week or so," but that the only time delay would be if the "computer system" went down. He also told me to be sure to send applicants to City Hall with "someone who knows how to speak English, because we don't have any interpreters and we don't need any interpreters." He further informed me that "English is the language up here," under previous immigration ordinance 1708. I also asked Mr. Schaub what the procedure entails if I were to sell a home, as opposed to renting it. He told me I could sell a house "just like usual," and that the new owners would have to obtain the occupancy permit. If the owner were "to come back illegal" the City would not grant them the occupancy permit. He was, however, unable to

explain the repercussions if someone were to have already purchased a house and then became unable to obtain the occupancy permit.

8. On Monday March 12, 2007, at approximately 11:00 am, I received a call from my employee at the Valley Deli that there were 3 police cars at the home of one of my tenants of Hispanic origin, who lives at 316 St. Louis Avenue, two doors down from the Deli. When I arrived at the tenant's house, the police were no longer there. I then proceeded to City Hall to inquire why the police had been to my tenant's house, where I met Officer Templeton. I asked Officer Templeton what had happened, and he responded that he'd received a call that "someone suspicious was walking around the house" and that the caller was "afraid this person would break into the house."

9. At around 4:00 pm this same day, March 12, I was at the Valley Deli and witnessed an officer writing down the license plate number of one of my regular customers of Hispanic origin. When my customer left the Deli, I witnessed that he was immediately pulled over by the officer in front of City Hall, a block away. The officer proceeded to ask my customer if he "was from Mexico," and if he "had papers." The officer's badge number was 3575, and car number was H538. It is my belief that these March 12<sup>th</sup> incidents were directly related to both the passage of immigration ordinances with the City of Valley Park and to the ruling issued against the City on that same day by the St. Louis County Court, regarding my challenge to the City's previous immigration ordinances.

10. I have spoken with Jeff Schaub on several occasions about the occupancy permit process. On each occasion he has relayed to me that the City "has a computer program to run the information through" in order to determine the citizenship status of a tenant. Valley Park has



otherwise provided me with no instructions or guidance about how to submit applications for tenants beyond what appears on the "Application for Residential Occupancy Permit" form.

11. I have read Ordinance 1721 regarding illegal aliens. I find it to be unclear and difficult to understand.

12. Ordinance 1721 has interfered with my ability to rent my property, and has caused KOBASA, Inc. and me to lose additional business due to bad will created by both the City of Valley Park and City officials in relation to the immigration ordinances, due to a diminished prospective client base, and due to the delay in time usually needed to rent my property. I fear that my customers have been and will continue to be intimidated by the police and city officials, further resulting in a direct loss of income to my store.

13. In recent months, I have had one tenant vacate their rental unit as a direct result of the immigration ordinances enacted in the City of Valley Park. I have also lost potential tenants as a direct result of the enactment of these ordinances, and further have difficulty renting unoccupied units because of a decreased interest in renting in Valley Park on the part of prospective tenants.

14. I have never based my decision whether to rent to a prospective tenant upon their race, national origin, or ability to speak English. As a general business practice I do not inquire into the legal status of my tenants or applicants. Further, I am not even aware as to how I might verify an individual's immigration status, and I am not familiar with immigration law.

15. I am dismayed by the unlawful and discriminatory actions of the City of Valley Park and its officials. I feel that if Ordinance 1721 is not repealed, I will continue to lose business and revenue as both a landlord and as a business-owner and operator in the City of

Valley Park. I am also concerned that landlords in Valley Park will be forced to discriminate against Hispanics in attempting to comply with City immigration ordinances.

16. Because I am a business owner and a landlord I worry that I will be penalized with fines, jail time and an inability to obtain the necessary permits from the City because of these ordinances and their effect, and because of the practices of the City of Valley Park.

The undersigned swears that the matters set forth in the foregoing affidavit are true and correct according to the undersigned's best knowledge and belief. Subject to the penalties of making a false affidavit or declaration.

Stephanie Reynolds  
Affiant

STATE OF MISSOURI )  
County OF ST. LOUIS ) SS.  
)

Stephanie Reynolds, of lawful age and being first duly sworn upon her oath, states that she has read same and that the statements contained therein are true and correct to the best of her knowledge, information and belief.

Stephanie Reynolds

Subscribed and sworn to before me this 3 day of April, 2007.

Julie Lockhart  
Notary Public

My commission expires:

JULIE LOCKHART  
Notary Public-Notary Seal  
State of Missouri, Jefferson County  
My Commission Expires Aug 2, 2008

**Exhibit B**  
**AFFIDAVIT**

Before me, the undersigned authority, personally appeared Florence Streeter, who being by me duly sworn, deposed as follows:

1. My name is Florence Streeter and I am 46 years old.
2. This affidavit summarizes information I have obtained and events I have witnessed with regard to ordinances of the City of Valley Park regarding illegal immigrants and the new process for obtaining occupancy permits. The information in this affidavit is not meant to encompass all of the events I have witnessed or information I have knowledge of at this time.
3. I am the sole owner of Cash Flo, LLC, properties. Cash Flo Properties and I, as an individual, own several rental units in Valley Park, as well as a commercial rental space which includes a tenant which conducts business in Valley Park and surrounding communities. I also own several rental units in neighboring Fenton and Pacific, Missouri, as well as rental units in Jefferson and Franklin Counties, in Missouri.
4. I have applied for numerous residential occupancy permits in the past from officials at the Valley Park City Hall. In my experience, occupancy permits are issued within one business day following the application being made at City Hall.
5. On February 28, 2007, the day after Ordinance 1721 became enforceable, I requested that the City of Valley Park provide me with forms and instructions to be able to apply for an occupancy permit for my properties under the new law. City officials could not provide me with any forms or directions about how to comply with the new ordinance.

6. On March 2, 2007, I again requested that City officials provide me with the necessary forms and directions to apply for an occupancy permit. A city official provided me with a one page form labeled "Application for Residential Occupancy Permit" which required me to provide the City with basic information about the property, and the names, birthdates, social security numbers, and relationships of those in the household, and whether the person applying for the occupancy permit claimed to be a U.S. citizen. The form also required me to provide a copy of the prospective tenant's driver's license.

7. On Wednesday, March 7, 2007, I submitted to City Hall an "Application for Residential Occupancy Permit," along with a copy of the driver's license of the prospective tenant, Ramon Gallardo. The application was for occupancy of a property which I own at 701 Benton Street in Valley Park.

8. Since I had not heard about approval of my application yet as of Friday, March 9, I went to City Hall that day. Roxanne Ruppel, who is the Assistant to the Mayor of Valley Park, told me the City had to purchase a "new system" but that they would have it up and running shortly and that she would have an answer on the permit for me by the end of the day. I understood the "new system" to be one that would tell the City a person's legal status. Then at 3:30 p.m. on March 9 Roxanne left a message on my phone that she would not have an answer that day.

9. On Monday, March 12, I went to City Hall to check on the status of the application. I was told by a city official that the "system" Valley Park had purchased could only be used by employers checking a person's legal status and that they discovered it could not be used to check

on prospective tenants. Because the application for the occupancy permit for the first family was not being approved, at that time, I submitted a second Application for Residential Occupancy Permit, along with the driver's license for a different applicant. A city official told me the application would not be processed until I provided a driver's license for the other adult who was listed as a member of the household. I was told that the City could not utilize the federal system it wanted to use to check the legal status of applicants and that the City was adopting a new application system. I was handed a document entitled, "Documents Required to Apply for a Valley Park Occupancy Permit." This is a nine page document and I do not understand its purpose or the wording of the document.

10. When I submitted the second application for the second family, officials initially indicated it would not be a problem as the application indicated that applicant was a United States citizen.

11. During my most recent visit to City Hall, Roxanne Ruppel stated to me, regarding the new application system, "I know it's confusing." She also stated, "I don't understand it either."

12. In recent months, I have had two vacancies in residential rental property in Valley Park. I eventually rented the units for \$100 less than the original rent. I was forced to do so to attract tenants because the pool of renters interested in renting in Valley Park has decreased since the City began adopting ordinances regulating illegal aliens.

13. Ordinance Number 1721 has interfered with my ability to rent my property, and will cause Cash Flo Properties and me to lose additional business due to a diminished prospective client base and due to the delay in the time usually needed to rent my property.

14. I have read the Ordinances 1721 regarding illegal aliens. The language is vague to me and I don't understand it.

15. I have never based my decision to rent or not rent any of my property to any particular individual based upon race, national origin or ability to speak English. I do not know the legal status of my tenants or applicants, and in general as a business practice I do not inquire as to any tenant's immigration or legal status. I am in fact not even aware how to go about checking an individual's immigration status, and I am not familiar with U.S. Immigration law.

16. Valley Park has provided me with no instructions or guidance about how to submit applications for tenants, other than handing me the forms attached to this affidavit.

17. I am appalled at the unlawful and discriminatory actions of Valley Park and its officials. I feel that if these Ordinances are not repealed, my business will suffer further loss. I feel the reputation of Valley Park will continue to suffer, which in turn will bring down the value of my properties. I am also concerned that landlords in Valley Park will be forced to discriminate against Hispanics if they must abide by these ordinances.

18. Because of my ownership interest in commercial and residential real estate, I fear penalties, including jail, fines, and inability to obtain necessary permits from the City due to the effect of these ordinances and the practices of the City of Valley Park.

The undersigned swears that the matters set forth in the foregoing affidavit are true and correct according to the undersigned's best knowledge and belief. Subject to the penalties of making a false affidavit or declaration.

Florence Streeter  
Affiant

STATE OF MISSOURI )  
County OF ST. LOUIS ) SS.  
)

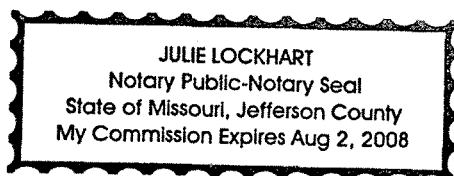
Florence Streeter, of lawful age and being first duly sworn upon her oath, states that she has read same and that the statements contained therein are true and correct to the best of her knowledge, information and belief.

Florence Streeter

Subscribed and sworn to before me this 3 day of April, 2007.

Julie Lockhart  
Notary Public

My commission expires:





**Exhibit C**

**AFFIDAVIT**

Before me, the undersigned authority, personally appeared Mira Tanna, who, being by me duly sworn, deposed as follows:

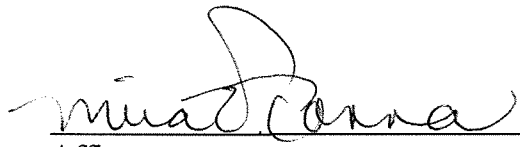
1. My name is Mira Tanna. I am Assistant Director of the Metropolitan St. Louis Equal Housing Opportunity Council (EHOC).
2. EHOC is a nonprofit corporation organized under the laws of Missouri; it is charged by its bylaws with ensuring equal access to housing for all peoples through education, counseling, investigation, and enforcement.
3. In our view, the intent of the Valley Park ordinance relating to illegal immigration is to exclude and dissuade Hispanics from residing within the City. Remarks made by Mayor Whitteaker are evidence of his intent to exclude Hispanics, even legal residents and U.S. citizens, such as Puerto Ricans, from Valley Park. Further, tenants and potential homeowners who face scrutiny over their immigration status are likely to avoid living in Valley Park; even where the City may otherwise be their chosen home.
4. It is also our view that the ordinance promotes discrimination in the provision of housing, thereby frustrating our organizational mission. Out of fear of prosecution, landlords are likely to refuse to rent to a prospective tenant who is not proficient in English, or whose appearance indicates that they might be foreign born. In our experience, individual immigrants who have been injured as a result of housing discrimination, including as it relates to the passage of this Ordinance, are often unable to vindicate their own rights because of limited English proficiency, out of fear, or out of a lack of confidence in reporting their complaint to a governmental authority.

5. We believe that Ordinance 1721 has a disparate impact on persons based on their national origin. Persons who are U.S. citizens are granted occupancy permits immediately, provided the unit passes inspection; whereas non U.S. citizens must go through a lengthy verification process before the unit can be inspected and an occupancy permit can be acquired. This procedure could result in the delay or loss of housing to non-citizens legally present in the United States.

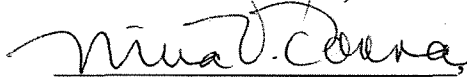
6. The Valley Park ordinance relating to illegal immigration has caused us to devote scarce resources to conducting outreach and educational activities in the Valley Park area and in the immigrant communities to ensure people are aware of their fair housing rights, to educating housing providers in Valley Park as to their responsibilities under the Fair Housing Act, and to meeting with local organizations and individuals concerned about the impact of the ordinance on immigrant communities. EHOC staff met and spoke to real estate agents, members of the St. Louis Association of REALTORS, and to landlords in Valley Park concerning this ordinance. EHOC staff produced flyers and leafleted at religious services in the immigrant community and met with various community organizations concerned about this issue. EHOC staff met with members of the Department of Justice Community Relations Service to attempt to resolve the issue without recourse to litigation. EHOC staff contacted residents of Valley Park by telephone and email to educate them about this issue. EHOC staff contacted international student offices at various colleges and universities in the area. EHOC staff sent out newsletters (print and electronic), sent a letter to the editor and provided educational information on our website related to this ordinance in Valley Park. EHOC intends to conduct future outreach, educational and enforcement activities now that the ordinance has taken effect.

7. The ordinance has further frustrated our mission by reducing the amount of time and resources we have available to dedicate to the investigation of fair housing complaints, and to the adequate counseling of complainants. As a result, we have further diverted focus from planned audits.

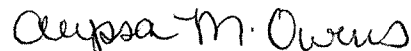
The undersigned swears that the matters set forth in the foregoing affidavit are true and correct according to the undersigned's best knowledge and belief. Subject to the penalties of making a false affidavit or declarations

  
Affiant

STATE OF MISSOURI     )  
  ) SS.  
CITY OF ST. LOUIS     )

 of lawful age and being first duly sworn upon her oath, states that she has read same and that the statements contained therein are true and correct to the best of her knowledge, information and belief.

Subscribed and sworn to before me this 4<sup>th</sup> day of April, 2007.

  
Notary Public

My commission expires:

ALYSSA M. OWENS Notary Public - Notary Seal State of Missouri Commissioned for St. Louis City My Commission Expires: March 05, 2011 Commission Number: 07020307
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