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

STEPHANIE REYNOLDS, et al.	)	
	)	
	)	
Plaintiffs,	)	
	)	Cause No.: 07CC-001420
v.	)	
	)	Division: 31
CITY OF VALLEY PARK, MO,	)	
	)	
Defendant.	)	

PLAINTIFFS' OPPOSITION TO DEFENDANTS' MOTION TO DISMISS

The Honorable Barbara Wallace has already expressly and unequivocally held that the Defendants in this case cannot moot a legal action challenging an ordinance by repealing it. For this reason alone, Defendants' Motion to Dismiss – which is based entirely on the notion that this case has been "mooted" by Defendants' repeal of the ordinance challenged in this case – is entirely frivolous. Furthermore, both the Missouri Supreme Court and the United States Supreme Court precedent makes clear that Defendants' act of repeal does not moot this case.

I. PROCEDURAL HISTORY

The City of Valley Park has repeatedly passed and repealed a series of ordinances that attempt to prohibit property owners from leasing or renting property to illegal aliens (See Ord. Nos. 1708, 1715, 1721, 1723, 1725 and 1730). Plaintiffs initially filed suit against Valley Park challenging Ordinance 1708 (Reynolds v. City of Valley Park, Reynolds v. City of Valley Park, Cause No. 06-CC-3802, Circuit Court of St. Louis County, Missouri (March 13, 2007)("Valley Park I")(Exh. 1 attached)). Valley Park I was heard by the Honorable Barbara Wallace in Division 13 of this Court. Id. Just hours after Judge Wallace issued a temporary injunction enjoining Valley Park from enforcing Ordinance 1708, Valley Park repealed it and passed

Ordinance 1715 in its place. Plaintiffs chose to amend their pleadings to challenge the validity of Ordinance 1715 as well. Id. Upon Plaintiffs' motion, the Court also enjoined Valley Park from enforcing Ordinance 1715. Id. ¶ 9.

Just weeks before the trial in Valley Park I, the City repealed Ordinance No. 1715 and passed Ordinance No. 1721. Id. ¶ 10. As originally enacted, Ordinance No. 1721 expressly stated that it would become effective only if, and when, the injunctions restraining enforcement of Ordinances No. 1708 and No. 1715 were terminated. After two subsequent amendments (Ordinance No. 1723 and No. 1725), Ordinance No. 1721 became effective and enforceable immediately, regardless of whether the injunctions restraining Ordinances No. 1708 and No. 1715 were terminated.

In pretrial briefing in Valley Park I, the City argued that the Plaintiffs' challenges to Ordinances No. 1708 and No. 1715 were "moot" because the ordinances had been repealed. Id. ¶ 10. In her order permanently enjoining Valley Park from enforcing Ordinances No. 1708 and No. 1715, Judge Wallace rejected Valley Park's mootness argument holding that "[w]hen a party files suit seeking to void a local ordinance, a defendant cannot unilaterally moot the litigation by repealing the ordinance." Id. ¶ 2 (citing R.E.J., Inc. v. City of Sikeston, 142 S.W.2d 744 (Mo. banc. 2004) and Northeastern Florida Chapter of the Assoc. General Contractors of America v. City of Jacksonville, 508 U.S. 656, 661-62 (1993). The Court then addressed the substance of Plaintiffs' challenges to the repealed ordinances and ruled that both Ordinances No. 1708 and No. 1715 were in conflict with various Missouri statutes. Id. ¶¶ 8-13.

After Judge Wallace entered judgment against Defendants in Valley Park I, Plaintiffs filed this lawsuit challenging Ordinance No. 1721 (as amended) and seeking a permanent injunction restraining enforcement of its provisions. The Court entered a temporary restraining

order prohibiting enforcement of Ordinance 1721 until final resolution of this action. During the pendency of the TRO, Valley Park passed and approved Ordinance 1730, yet another amendment to Ordinance 1721.

Most recently, on July 16, Valley Park passed and approved Ordinance 1735 which, according to Defendants, amends Ordinance 1721 "by deleting all of the controversial provisions pertaining to citizenship, illegal immigration, and aliens." (Def. Mot. ¶ 2). Defendants have now filed a motion to dismiss Plaintiffs' Petition asserting, as they did unsuccessfully in Valley Park I, that this case is "moot" because they repealed Ordinance No. 1721. Id.

II. ARGUMENT

A. Defendants Are Collaterally Estopped from Arguing that this Lawsuit is Moot Because Judge Wallace Decided this Issue in Valley Park I.

Collateral estoppel, also known as issue preclusion, precludes relitigation of an issue previously decided and incorporated into an earlier judgment. Woods v. Mehlville Chrysler-Plymouth, 198 S.W.3d 165, (Mo. App. 2006). Once a party litigates an issue and loses, it cannot waste the court's or litigant's time or resources relitigating the issue in a subsequent proceeding. Id. For an issue to be precluded by the doctrine of collateral estoppel: (1) it must be identical to an issue decided in a prior adjudication; (2) the prior adjudication must have resulted in a judgment on the merits; (3) the party against whom the doctrine is being asserted must have been a party or was in privity with a party to the prior adjudication; and (4) the party against whom the doctrine is asserted must have had a full and fair opportunity to litigate the issue in the prior adjudication. Johnson v. Missouri Dept. of Health and Senior Services, 174 S.W.2d 568, (Mo. App. 2005) (citing James v. Paul, 49 S.W.3d 678, 682 (Mo. banc. 2001); see also Woods, 198 S.W.3d at 168.

All four of these requirements are met here and Defendants are collaterally estopped from arguing that repealing an ordinance moots a pending lawsuit challenging that ordinance. To begin with, Defendants' mootness argument in Valley Park I is identical to the argument asserted in their motion to dismiss in this case. In Valley Park I, Defendants repealed Ordinances No. 1708 and No. 1715 shortly before trial and argued that Plaintiffs' challenge was moot and there was no need for the Court to enter judgment (Exh. 1 ¶ 10). Judge Wallace issued a final order and judgment in that case holding, in relevant part, that Valley Park could not unilaterally moot a pending lawsuit by repealing an ordinance. Id. ¶ 2. Here, Defendants raise the identical issue to this Court asserting that Plaintiffs' challenge to Ordinance No. 1721 should be dismissed because Valley Park repealed the ordinance, and, as a result, all matters before the Court are moot (Def. Mot. ¶¶ 2-3). There is simply nothing to distinguish Defendants' mootness argument in Valley Park I from that asserted here. Moreover, the remaining requirements of collateral estoppel are clearly met. Defendants cannot dispute that Judge Wallace already decided this issue in her final order and judgment in Valley Park I; that they were named defendants in Valley Park I; or that they fully briefed and argued the mootness issue before Judge Wallace issued the final order and judgment inValley Park I. This Court has already flatly rejected Valley Park's strategy of repealing ordinances to dodge legal consequences. Defendants are thus collaterally estopped from relitigating the frivolous "mootness" issue at the cost of Plaintiffs and their counsel.

B. The Law is Clear that Valley Park Cannot Moot this Litigation by Repealing Ordinance No. 1721.

Even if Defendants were not collaterally estopped from relitigating the mootness issue (which they clearly are), Judge Wallace's final order and judgment in Valley Park I was factually and legally sound. Both the Missouri Supreme Court and the United States Supreme Court have expressly held that a defendant cannot unilaterally moot pending litigation by repealing the

ordinance at issue. See R.E.J., Inc. v. City of Sikeston, 142 S.W.2d 744 (Mo. banc. 2004) and Northeastern Florida Chapter of the Assoc. General Contractors of America v. City of Jacksonville, 508 U.S. 656, 661-62 (1993)).

In R.E.J., the plaintiff filed a petition asking the trial court "to declare that a zoning ordinance ... was void and unenforceable." 142 S.W.3d at 744. Before the case reached trial, the city which enacted the ordinance repealed it. Id. The city then filed a motion to dismiss, as moot, the case wherein the plaintiff sought to have the ordinance declared "void and unenforceable," and the trial court granted the motion. Id. The R.E.J. court framed the issue before it as: "[W]hether [plaintiff] was entitled to a determination of whether the ordinance was 'void and unenforceable." Id. at 745. In holding that the repeal of the ordinance did not moot the plaintiff's right to such a determination, the Missouri Supreme Court stated:

> Black's defines 'repeal' as the 'abrogation or annulling of a previously existing law,' and it means to 'revoke, abolish, annul, to rescind or abrogate by authority.' Black's Law Dictionary 1299 (6th ed. 1990). In contrast, something that is void is 'null; ineffectual; nugatory; having no legal force or binding effect ... an instrument or transaction which is wholly ineffective, inoperative, and incapable of ratification and which thus has no force or effect so that nothing can cure it. Id. at 1573. The difference is clear: a valid ordinance can establish enforceable rights and obligations. Once repealed, although the statute becomes prospectively ineffective, its previous effect is not necessarily invalidated. However, to declare a statute 'void' means that it never had the authority to create any legal rights or responsibilities whatsoever.
>
> The repeal of ordinance 5405 did not render [plaintiff's] Sunshine Law claim moot insofar as the repeal did not bestow [plaintiff] with the relief sought and authorized pursuant to the statute. The trial court erred in granting the city's motion to dismiss.

Id. at 745-46.

As in R.E.J., here Defendants filed this case asking the court "to declare that a [immigration] ordinance ... was void and unenforceable." Here, as in R.E.J., the repeal of Ordinance No. 1721 did not render Plaintiffs' claim moot "insofar as the repeal did not bestow

[Plaintiffs] with the relief sought and authorized" by both the Declaratory Judgment Act and the Missouri and United States Constitution.

If the Missouri Supreme Court's opinion in R.E.J. could be said to leave any doubt about Plaintiffs' right to have the Ordinances declared void and unenforceable despite their repeal (which it does not), this Court need not look far to resolve that doubt. The United States Supreme Court has repeatedly held that the act of repealing an ordinance does not moot an action seeking to void it on the grounds it is unconstitutional. In Northeastern Florida, for example, the plaintiff filed an action seeking declaratory and injunctive relief asserting that an ordinance passed by a municipality was unconstitutional. After judgment was entered, and while the case was in the appellate process, the municipality repealed the ordinance and (like here) enacted a new one which was different, but directed at the same subject matter as the one repealed. The municipality then sought dismissal of the case claiming it was moot. Rejecting that argument *for the second time*, the United States Supreme Court stated:

> In their brief on the merits, respondents reassert their claim that the repeal of the challenged ordinance renders the case moot. We decline to disturb our earlier ruling, however; now, as then, the mootness question is controlled by City of Mesquite v. Aladdin's Castle, Inc., 455 U.S. 283, 71 L.Ed.2d 152, 102 S.Ct. 1070 (1982), where we applied the 'well settled' rule that 'a defendant's voluntary cessation of a challenged practice does not deprive a federal court of its power to determine the legality of the practice. Id., at 289. Although the challenged statutory language at issue in City of Mesquite had been eliminated while the case was pending in the Court of Appeals, we held that the case was not moot, because the defendant's 'repeal of the objectionable language would not preclude it from reenacting precisely the same provision if the District Court's judgment were vacated.' Ibid.
>
> This is an *a fortiori* case. There is no mere risk that [defendant] will repeat its allegedly wrongful conduct; it has already done so. Nor does it matter that the new ordinance differs in certain respects from the old one. City of Mesquite does not stand for the proposition that it is only the possibility that the *selfsame* statute will be enacted that prevents a case from being moot; if that were the rule, a defendant could moot a case by repealing the challenged statute and replacing it with one that differs only in some insignificant respect ...

Northeastern Florida, 508 U.S. at 661-62 (emphasis in original).

This case is indistinguishable from Northeastern Florida. While Defendants here, as there, have already repealed one ordinance (in fact, three) directed at "illegal immigration" they have repeated their wrongful conduct by enacting new ones, and, there is no indication that Defendants will ever stop enacting such ordinances. In fact, after the Board of Alderman passed Ordinance No. 1735, the Mayor himself insisted: "I am not a quitter, and I'd do all this again tomorrow." (*Suburban Journal*, Valley Park Mayor Considers Vetoing Immigration Bill, July 23, 2007 (Exh. 2 attached). Absent a permanent injunction (either voluntary or imposed by this Court after its hearing on Plaintiffs' Motion for Summary Judgment) Plaintiffs will be exposed to the very real threat that Valley Park will reenact Ordinance No. 1721 or another substantially similar ordinance. As Valley Park I, the Missouri Supreme Court and United States Supreme Court precedent makes clear: this case is not moot.

III. CONCLUSION

For all the foregoing reasons, Defendants' Motion to Dismiss Valley Park's Petition should be denied.

Respectfully submitted,

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and accurate copy of the foregoing document was served via U.S. mail, postage prepaid, on the 25th day of July on the following counsel of record:

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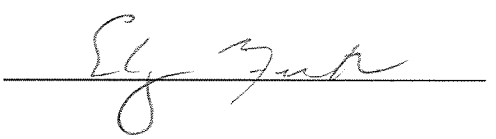


IN THE CIRCUIT COURT OF THE COUNTY OF ST. LOUIS
STATE OF MISSOURI

STEPHANIE REYNOLDS, et al.	)	
	)	
Plaintiffs,	)	
	)	
and	)	
	)	
JAMES ZHANG,	)	Cause No. 06-CC-3802
	)	
Intervenor,	)	Division No. 13
	)	
v.	)	
	)	
CITY OF VALLEY PARK, MO, et al.	)	
	)	
Defendants.	)	

FINDINGS OF FACT, CONCLUSIONS OF LAW, ORDER AND JUDGMENT

This matter is before the Court on Plaintiffs' Motion for Judgment on the Pleadings and Defendants' Motion to Dismiss Attorney Fee Claim. The Motions were called, heard and taken under submission on February 26, 2007. The parties submitted a Joint Stipulation of Facts, and the Court finds there is no significant factual dispute. On March 1, 2007, the Court took further submissions, argument and testimony on the limited issues raised in Plaintiffs' Motion for Judgment on the Pleadings and Defendants' Motion to Dismiss Attorney Fee Claim. The Court having heard the arguments of counsel, having read the memoranda and case law submitted, having reviewed the evidence adduced and being now fully advised, enters the following Findings of Fact, Conclusions of Law, Order and Judgment.

FINDINGS OF FACT

1. Plaintiffs filed this case under the Missouri Declaratory Judgment Act, section 527.010, RSMo., et seq., seeking to have City of Valley Park Ordinance No. 1708 and Ordinance No. 1715 declared void and unenforceable, and asking the Court for a temporary, preliminary,

Exhibit 1

and permanent injunction enjoining enforcement of those Ordinances. Plaintiffs also assert a right to an award of attorneys fees based on "unusual circumstances."

2. Defendants have filed a Motion to Dismiss for Failure to State a Claim or Cause of Action for Award of Attorney's Fees asserting that in litigation against a political subdivision of the State, attorneys' fees cannot be awarded as "costs" under the Declaratory Judgment Act.

3. Ordinance No. 1708, enacted on July 16, 2006, prohibits any "for-profit entity" from "aid[ing] and abet[ting] illegal aliens or illegal immigration" and purports to penalize those who commit such acts by denying: business permits; the renewal of business permits; and city contracts and grants "for a period of not less that [sic] five (5) years from its last offense."

4. Ordinance No. 1708 also prohibits property owners or others "in control of property" from "leasing or renting" property to an "illegal alien" and purports to penalize those who commit such acts by a "fine of not less than Five Hundred Dollars ($500.00)."

5. On September 26, 2006, this Court entered a Temporary Restraining Order enjoining enforcement of Ordinance No. 1708. By agreement of the parties that order was continued until such time as this Court ordered it terminated, and it remains in effect today.

6. On September 26, 2006, just hours after this Court entered its Order enjoining enforcement of Ordinance No. 1708, Defendant City of Valley Park enacted Ordinance No. 1715, which expressly stated that "Sections One, Two, Three and Four of Ordinance No. 1708 are hereby repealed," leaving only the severability section of that Ordinance still viable.

7. Ordinance No. 1715 makes it "unlawful for any business entity to recruit, hire for employment, or continue to employ, or to permit, dispatch, or instruct any person who is an unlawful worker to perform work in whole or part within the City," and provides that a violation of this provision which is not corrected "within three (3) business days after notification of the

violation by the Valley Park Code Enforcement Office" shall be punished by an indefinite and automatic suspension of that entity's business license.

8. Ordinance No. 1715 also makes it "unlawful for any person or business entity that owns a dwelling unit in the City to harbor an illegal alien in the dwelling unit," and provides that a violation of this provision which is not corrected "after five (5) business days following receipt of written notice from the City that a violation has occurred" shall be punished by the suspension of the occupancy permit for the dwelling unit, and that during the period of such suspension the offending party "shall not be permitted to collect any rent, payment, fee, or other form of compensation from, or on behalf of any tenant or occupant in the dwelling unit," and "[i]n addition, the City of Valley Park shall not issue occupancy permits for any properties owned during the suspension period."

9. On September 27, 2006, this Court entered a Temporary Restraining Order enjoining enforcement of Ordinance No. 1715. By agreement of the parties that order was continued until such time as this Court ordered it terminated, and it remains in effect today.

10. Defendant has represented to this Court that it recently repealed Ordinance No. 1715, and admitted into evidence the new ordinances only for the purpose of its argument on mootness. Plaintiffs have not amended their pleadings to put the issue of the validity of the new ordinances before the Court.

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

12. Missouri statutes set forth the penalties and limitations which can be imposed for an ordinance violation by a fourth class city:

> For all ordinance violations the board of aldermen may impose penalties not exceeding a fine of five hundred dollars and costs, or ninety days' imprisonment, or both the fine and imprisonment.

MO.R.STAT. § 79.470.

13. Missouri statutes set forth the parameters under which a tenant can be evicted from a leased unit:

> A tenancy at will or by sufferance, or for less than one year, may be terminated by the person entitled to the possession by giving one month's notice, in writing, to the person in possession, requiring the person in possession to vacate the premises.
>
> * * *
>
> Except as otherwise provided by law, all contracts or agreements for the leasing renting or occupation of stores, shops, houses, tenements or other buildings in cities, towns or villages ... not made in writing, signed by the parties thereto, or their agents, shall be held and taken to be tenancies from month to month, and all such tenancies may be terminated by either party thereto, or the party's agent, giving to the other party, or the party's agent, one month's notice, in writing, of the party's intention to terminate such tenancy.

MO.R.STAT. § 441.060.

> ... a landlord or its agent who removes or excludes a tenant or the tenant's personal property from the premises without judicial process and court order, or causes such removal or exclusion, or causes the removal of the doors or locks to such premises, shall be deemed guilty of forcible entry and detainer ...

MO.R.STAT. § 441.233.

14. In their Motion Plaintiffs assert the Ordinances at issue are void because they conflict with Missouri state law.

CONCLUSIONS OF LAW

1. This Court has previously considered the issue of standing and determined Plaintiffs have standing to challenge the validity of Ordinance No. 1708 and Ordinance No. 1715 under the Missouri Declaratory Judgment Act.

2. Without deciding whether Defendant City of Valley Park has effectively repealed Ordinance No. 1708 and Ordinance No. 1715, the Court finds and concludes under R.E.J., Inc. v. City of Sikeston, 142 S.W.3d 744 (Mo. banc. 2004), and Northeastern Florida Chapter of the Assoc. General Contractors of America v. City of Jacksonville, 508 U.S. 656, 661-62 (1993), this case is not moot. When a party files suit seeking to void a local ordinance, a defendant cannot unilaterally moot the litigation by repealing the ordinance. Id. Furthermore, the Court finds the new ordinances are "sufficiently similar" to the old ordinances in that they are directed at the same class of people and conduct and include some of the same penalties. Given that the substance of the new ordinances is the same, the Court concludes the challenged conduct will continue. City of Jacksonville, supra, 508 U.S. at 662-63 and n. 3.

3. "[A] motion for judgment on the pleadings should be sustained if, from the face of the pleadings, the moving party is entitled to judgment as a matter of law." Madison Block Pharmacy, Inc. v. United States Fidelity & Guaranty Co., 620 S.W.2d 343, 345 (Mo. banc 1981). Because "[t]he interpretation of an ordinance is a question of law," State ex rel. Sunshine Enterprise of Missouri, Inc. v. Bd. of Adjustment of the City of St. Ann, 64 S.W.3d 310, 312 (Mo. banc 2002), this case is particularly well-suited for disposition by a motion for judgment on the pleadings.

4. A municipality can legislatively regulate its citizens only where the power is "granted in express words," is "necessarily or fairly implied in or incident to" an express power, or is

"essential to the declared objects and purposes" of the municipality. State ex rel. Curators of University of Missouri v. McReynolds, 193 S.W.2d 611, 612 (Mo. banc 1946); Premium Std. Farms, Inc. v. Lincoln Township of Putnam Cty., 946 S.W.2d 234, 238 (Mo. banc 1997).

5. "Any fair, reasonable doubt concerning the existence of power is resolved by the courts against the corporation and the power is denied." Id.

6. As a fourth class city, Defendant City of Valley Park can enact and enforce only those ordinances which are "not repugnant to the constitution and laws of this state." MO.R.STAT. § 79.110.

7. "A municipal ordinance must be in harmony with the general law of the state and is void if in conflict. In determining whether an ordinance conflicts with general laws, the test is whether the ordinance permits that which the statute forbids and prohibits, and vice-versa. The powers granted a municipality must be exercised in a manner not contrary to the public policy of the state and any provisions in conflict with prior or subsequent state statutes must yield." Morrow v. City of Kansas City, 788 S.W.2d 278, 281 (Mo. banc 1990).

8. The express provisions of both Ordinance No. 1708 and Ordinance No. 1715 are not in harmony with and conflict with MO.R.STAT. § 79.470.

9. Ordinance No. 1708 conflicts with MO.R.STAT. § 79.470 in that it provides for a fine of "*not less than* Five Hundred Dollars ($500.00)," and the loss of a business permit (or its renewal) for a violation of its provisions. These penalties are either expressly prohibited by, or not authorized by, the governing state statute.

10. Ordinance No. 1715 conflicts with MO.R.STAT. § 79.470 in that it penalizes a violation of its provisions by suspending existing occupancy permits, refusing the issuance of any new occupancy permits, prohibiting the collection of rent or compensation, and by forcing a

business to forego a business permit, or renewal of a business permit, for a period of "not less than five (5) years." These types of penalties are not authorized by the governing statute. In addition, the monetary value of such penalties exceeds the $500 maximum fine authorized by Missouri law for an ordinance violation under MO.R.STAT. § 79.470.

11. The express provisions of Ordinance No. 1715 also conflict with, and are not in harmony with, MO.R.STAT. § 441.060 and MO.R.STAT. § 441.233. While the Ordinance provides penalties for any landlord who does not evict, within five days, a tenant found to be an "illegal alien," Missouri state law forbids and prohibits a landlord from evicting a tenant without at least 30 days notice (MO.R.STAT. § 441.060), and requires a landlord to use "judicial process" before forcing any eviction (MO.R.STAT. § 441.233).

12. When the invalid provisions of an ordinance are so "connected and interdependent" with those which might be valid "that it cannot be presumed the legislature would have enacted one without the other," the entire ordinance should be declared void. Stine v. Kansas City, 458 S.W.2d 601, 608 (Mo.App. 1970); see also, Missouri Association of Club Executives, Inc. v. State of Missouri, 208 S.W.3d 885, 888-89 (Mo. banc 2006).

13. This Court finds and concludes the penalty provisions of Ordinance No. 1708 and Ordinance No. 1715 are invalid due to conflicts with Missouri state law, leaving the remaining provisions ineffectual due to lack of any means of redress. Accordingly, the Ordinances are void in their entirety.

14. Generally, courts have broad discretion to award attorneys fees as costs in an action brought under the Missouri Declaratory Judgment Act, section 527.100, RSMo., upon proof of "special" or "unusual circumstances." See, David Ranken, Jr. Technical Institute v. Boykins, 816 S.W.2d 189, 193 (Mo.banc 1991).

15. However, in litigation against a political subdivision of the State of Missouri, the Court finds and concludes under Baumli v. Howard County, 660 S.W.2d 702 (Mo. 1983) and Tillis v. City of Branson, 975 S.W.2d 949 (Mo.App. S.D. 1998), that attorneys' fees cannot be awarded to a prevailing party as "costs" under the Act.

16. Plaintiffs contend their request for attorneys' fees is viable since Defendant City of Valley Park is covered by insurance and cite MO.R.STAT § 537.610, which provides that a governmental unit "may purchase liability insurance for tort claims...[and] [s]overeign immunity for the state of Missouri and its political subdivisions is waived only to the maximum amount of and only for the purposes covered by such policy of insurance." The Court concludes Defendant City of Valley Park's insurance coverage is not relevant in that Plaintiffs have not alleged a tort and the statute is addressed, by its own terms, to the waiver of sovereign immunity.

IT IS THEREFORE ORDERED that Plaintiffs' Motion for Judgment on the Pleadings is GRANTED. Judgment is hereby entered in favor of Plaintiffs and against Defendant City of Valley Park, and Ordinance No. 1708 and Ordinance No. 1715 are declared void. Pursuant to MO.REV.STAT. § 527.080 and MO.R.CIV.P. 87.10, this Court orders that the temporary restraining orders enjoining enforcement of Ordinance No. 1708 and Ordinance No. 1715 are hereby made permanent. Defendants' Motion to Dismiss for Failure to State a Claim or Cause of Action for Award of Attorneys Fees is GRANTED.

SO ORDERED:

3/12/07
Date

Barbara W. Wallace, Judge

cc: Attorneys of Record

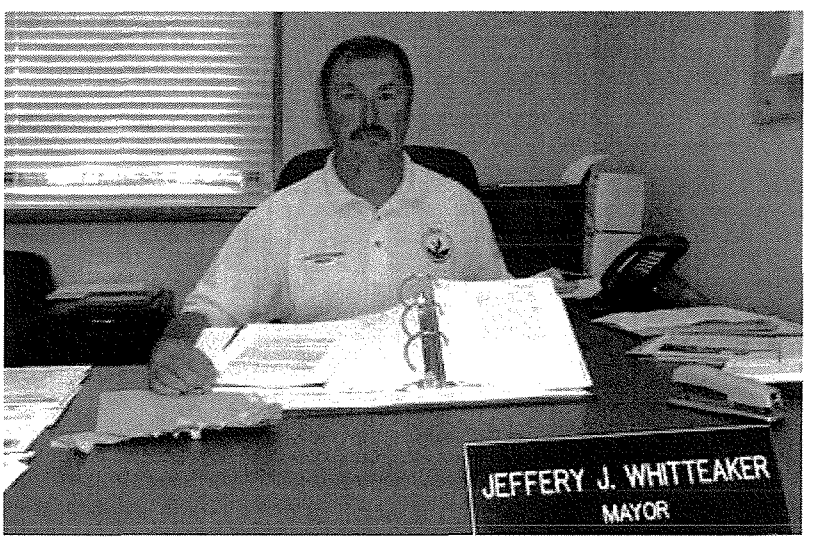
SUBURBAN JOURNALS

Wednesday, July 25, 2007

NEWS

Valley Park mayor considers vetoing immigration bill

By Mary Shapiro
Monday, July 23, 2007 2:39 PM CDT



Mary Shapiro photo/ Valley Park Mayor Jeff Whitteaker is shown here in his office at City Hall with letters and e-mails in support of the city's laws related to illegal immigration.

Mayor Jeff Whitteaker is leaning toward vetoing legislation, passed July 16 by the Board of Aldermen, that would remove part of its law relating to illegal immigrants, which had banned landlords from renewing occupancy permits if they rent to those individuals.

"I have until the next board meeting on August 6 to decide if I'll veto the bill," he said.

Whitteaker said that since the laws were passed, the city has spent $89,533 on legal expenses to defend itself against various lawsuits. He told the board, "We're nearly at the end of the bridge (with lawsuits opposing the laws). Only a small amount of additional money will be spent before the judge makes a ruling, on something could affect the whole country, and I hope we can finish this out."

The board voted 5-3 in favor of the law. John Brust, Don Carroll, Mike Pennise, Ed Walker and Mike White were in favor, while Dan Adams, Randy Helton and Steve Drake were opposed.

In June, the board approved a resolution to not

Exhibit 2

pass any new laws addressing illegal immigration. However, officials will continue their legal defense of three lawsuits challenging the constitutionality of the city's existing illegal-immigration laws.

City Attorney Eric Martin said the repeal action July 16 was taken based on advice from special legal counsel "so we can concentrate on provisions of the laws affecting employers (who hire illegal immigrants)."

Pennise said that while many living outside the city have indicated they support Valley Park's efforts, "we're not getting enough help from them - and we don't have that kind of money (to continue fighting lawsuits)."

"The federal government has let us down (in not passing effective new laws or by enforcing existing ones) - and our state doesn't care," he said.

Pennise asked aldermen to consider repealing all illegal immigration laws, but the board declined.

"I'm tired of fighting and wasting money," he said.

Carroll agreed. He said, "The federal and state governments should handle this issue, not a city of 6,500 people. We can't keep up financially with those suing us, and we need to put a stop to this by getting out (of litigation) as quick and easy as possible. This is too expensive. It was a good idea, but we can't afford to continue."

White said the city's laws "were started for the right reasons.

"People tell us we're doing the right thing, but they fall away when it's time to financially support us," White said.

Resident Leo Anglo said, "It is irresponsible for the city to expose itself to such an expense. He said repealing illegal immigration laws would allow the city to focus on issues that will have more impact on the city.

Adams, while agreeing with Pennise on the lack of state and federal government help on the issue, asked, "Do we just allow illegal aliens to roam freely, unchecked?

"This issue will affect the ability of my children and grandchildren to find good-paying jobs. It will take small communities to move this issue forward."

Drake said, "This fight is paramount. It's about our community and country."

Whitteaker insisted, "I'm not a quitter, and I'd do all this again tomorrow."

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