AFFIDAVIT

Before me, the undersigned authority, personally appeared Stephen H. Legomsky, who, being by me duly sworn, deposed as follows:

1. My name is Stephen H. Legomsky. I am the Charles F. Nagel Professor of International and Comparative Law at the Washington University School of Law, in St. Louis, Missouri.

2. I have been actively involved in immigration law for more than 30 years. I was the student director of my law school immigration clinic. My subsequent doctorate at Oxford University was specifically on the subject of immigration law. I served for almost two years as the Chief of the central legal staff division of the U.S. Court of Appeals for the Ninth Circuit that handled all of the court's immigration cases, and for more than 20 years I have taught the immigration law course at the Washington University School of Law. I am the author of the book "Immigration and Refugee Law and Policy" (now in its fourth edition), which has been adopted as the required text for immigration law courses at 157 U.S. law schools as of fall 2006, and I am also the author of two other books, published by the Oxford University Press, one of which is also on the subject of immigration. I have chaired the immigration law section of the Association of American Law Schools, the Law Professors Committee of the American Immigration Lawyers Association, and the Refugee Committee of the American Branch of the International Law Association. I have testified before Congress and have been a consultant to President Clinton's transition team, to the first President Bush's Commissioner of Immigration, to the Administrative Conference of the United States, to the United Nations High Commissioner for Refugees, and to several foreign governments, on immigration issues. I have had teaching or research appointments in immigration law and related fields at Oxford University, Cambridge University, and other institutions in the United States, Mexico, New Zealand, Switzerland, Germany, Italy, Austria, Australia, and Suriname.

3. I have read carefully the provisions of Valley Park Ordinance No. 1715, enacted on September 26, 2006.

4. I have no financial interest of any kind in the outcome of the present litigation.

5. Based on my experience in the field of immigration law, I can attest to the complexity of the U.S. immigration laws generally and, in particular, to the exceptional complexity of the provisions that govern which aliens are permitted to be present in the United States and which aliens are permitted to work.

6. The basic federal statute that governs United States immigration law is the Immigration and Nationality Act of 1952, as amended many times. The version of the Act that I assign to the students in my immigration law course is an abbreviated, excerpted version. Even with the

edited deletions it runs more than 500 printed pages. The accompanying regulations, issued by a myriad of federal administrative agencies located in the Departments of Homeland Security, Justice, State, Labor, and Health and Human Services, total more than 1000 additional pages. There are, in addition, lengthy subordinate rules published for the internal guidance of the employees of the Departments of Homeland Security, Justice, and State. All of these sources, in turn, are frequently interpreted by published and unpublished decisions of the Board of Immigration Appeals and the federal courts. My law students spend the entirety of a 3-credit, 42-class-hour course, studying part of this body of law. Most of the law they study relates to the various immigration statuses, the legal conditions attached to the various statuses, and the substantive criteria and procedures for determining whether a given alien is removable.

7. Among the most complex aspects of U.S. immigration law is the multiplicity of different immigration statuses and immigration documents that the law requires. These statuses include lawful permanent resident, conditional permanent resident, refugee, asylee, parolee, special status under any of a number of ad hoc congressional enactments, and 22 different "nonimmigrant", or temporary visitor, categories laid out in 8 U.S.C. section 1101(a)(15). The latter 22 categories are then subdivided into a total of 76 current subcategories established by the U.S. Department of State, in 22 C.F.R. section 41.12 (2005). Each of these subcategories carries its own separate documentation.

8. Even a person who is not in possession of a valid immigration document might well be present lawfully. For example, the laws that govern the transmission of United States citizenship from parent to child have changed repeatedly over the years, and most of those changes have been non-retroactive, with the result that an immigration lawyer who wishes to determine a person's citizenship must often check even long repealed citizenship laws. Even a person who is indisputably an alien rather than a U.S. citizen has the right to remain in the United States while his or her removal proceedings, which often last months and sometimes even years, are pending. The same is true of the person who has arrived in the United States without documents and is in the process of applying for asylum or for a remedy called "withholding of removal" under 8 U.S.C. sections 1158 or 1251(b)(3). They too are permitted to remain during the pendency of their cases. From time to time the federal executive branch also issues blanket grants of permission to remain, particularly to individuals who have been granted "temporary protected status" under 8 U.S.C. section 1254a because of disturbed conditions in their countries of origin. Moreover, the facts that determine whether a person is unlawfully present are frequently murky; there can be disputes concerning whether the person was inspected upon entry, whether the person's entry document was genuine or counterfeit, or whether the representations the person made to secure entry were true or fraudulent. Finally, even if a person is an alien who is deportable for failure to comply with the immigration laws, the Immigration and Nationality Act contains several provisions, scattered throughout the statute, that delegate to various officials the discretion, in various circumstances, to waive particular grounds of removal and allow the person to remain in the United States. These include asylum, cancellation of removal, withholding of removal, adjustment of status, registry, and other miscellaneous waivers, as laid out in 8 U.S.C. sections 1158, 1229b, 1251(b)(3), 1255, and 1259.

9. Apart from the substantive complexity that arises from the multiple statuses and documents, the federal immigration laws establish a complex and careful set of procedures designed to assure that an alien is not erroneously identified as unlawfully present. It is not simply a matter of a single federal official unilaterally deciding that someone's presence is unlawful. The process begins with a "Notice to Appear" that informs the alleged alien of his or her procedural rights and the time and place of the hearing, alleges specific facts, and alleges the specific statutory removal grounds. There follows an evidentiary hearing before an "immigration judge," who receives testimony and other evidence from both the alien and the U.S. government and then decides (a) whether the person fits within one of the unlawful presence or other removal grounds and (b) if so, whether the person is eligible for any of the forms of statutory discretionary relief and, if so, whether on all the facts the favorable exercise of discretion is warranted. Either the alien or the government may appeal the immigration judge's decision to the Board of Immigration Appeals. If the Board of Immigration Appeals orders the alien removed, the alien has the right to obtain judicial review in the relevant U.S. court of appeals.

10. Given both the substantive complexities and the careful federally mandated procedures for making these difficult determinations, the procedure contemplated by section 3(E) of the Valley Park ordinance for determining whether a given individual is an "illegal alien" is both unreliable and incompatible with the federal procedures described above.

11. It would be even more difficult for a landlord reliably to determine in advance whether it will be permissible to rent his or her property to a prospective tenant.

12. The same difficulties exist, on a larger scale, with respect to the determinations of whether individuals are "unlawful workers." The various immigration statuses summarized above differ not only with respect to permitted duration of stay, but also with respect to whether employment is authorized. Sometimes employment is automatically authorized by virtue of the status category, sometimes it is discretionary, and sometimes it is prohibited. The regulations that govern employment are therefore lengthy and complex. The relevant rules are scattered throughout 8 C.F.R. section 214.2 (2006), which currently spans more than 100 pages (pages 235-48 of 8 C.F.R. (2006)). Without the federal input that the Ordinance requires for the analogous purposes of unlawful leasing of property, the difficulties are accentuated further.

13. Moreover, to minimize racial and national origin discrimination, Congress in 8 U.S.C. section 1324b(a)(6) has prohibited employers from asking job applicants for more or different documents than the law requires. The Valley Park ordinance, by penalizing employers (and landlords) for employing or renting to anyone later determined to be an "illegal alien," not only permits, but gives employers and landlords every incentive to perform, the kinds of searching inquiries that federal law specifically prohibits.

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.

Affiant

9/27/06

EXHIBIT I