Nos. 12-1702, 12-1705, 12-1708

IN THE UNITED STATES COURT OF APPEALS
FOR THE EIGHTH CIRCUIT

FRED H. KELLER, JR. ET AL.,
Plaintiffs-Appellants

v.

CITY OF FREMONT, ET AL.,
Defendants-Appellees

MARIO MARTINEZ, JR. ET AL.,
Plaintiffs-Appellants

v.

CITY OF FREMONT, ET AL.,
Defendants – Appellees

Caption continued on inside cover

On Appeal from the United States District Court
For the District of Nebraska

BRIEF *AMICUS CURIAE* OF NEBRASKA APPLESEED CENTER FOR LAW IN THE PUBLIC INTEREST IN SUPPORT OF THE MARTINEZ AND KELLER PLAINTIFFS-APPELLANTS

Rebecca L. Gould
Nebraska Appleseed Center for Law in the Public Interest
941 O St. Suite 920
Lincoln, NE 68508
(402) 438-8853

Caption continued from front cover

FRED H. KELLER, JR., ET AL.,
Plaintiffs-Appellees

v.

CITY OF FREMONT, ET AL.,
Defendants-Appellants

MARIO MARTINEZ, JR. ET AL.,
Plaintiffs-Appellees

v.

CITY OF FREMONT, ET AL.,
Defendants-Appellants

TABLE OF CONTENTS

TABLE OF AUTHORITIES

Cases

Statutes

Other Authorities

IDENTITY AND INTEREST OF AMICUS CURIAE

Nebraska Appleseed Center for Law in the Public Interest is a non-profit, non-partisan law and policy organization that works for equal justice and full opportunity for all. One of Nebraska Appleseed's core program areas is our Immigrant Integration and Civic Participation Program, which seeks to promote strong, vibrant, engaged, and integrated communities. Appleseed works toward this goal by focusing on improving immigration and integration policy and practices on a federal, state, and local level. We also conduct leadership development and community education with immigrant and U.S.-born community members, which brings us in contact with thousands of immigrant and Latino Nebraskans each year.

SUMMARY OF ARGUMENT

Amicus submits this brief in support of the Martinez Plaintiffs-Appellants' ("Appellants") argument that the District Court's failure to enjoin the entirety of Ordinance 5921 (hereinafter "Ordinance") should be reversed. Through this brief, *Amicus* seeks to illustrate that the Ordinance's defect also lies in its intent to discriminate against Latinos.

First, *Amicus*' work in the community through the Voices From Fremont series shows that the Ordinance is likely to have a discriminatory and disproportionate impact on Latinos and immigrants in general because of the

hostile environment in the community at the time of the Ordinance's passage. Moreover, if the entirety of the Ordinance's housing provisions are not enjoined it is reasonably foreseeable that Latino immigrants, particularly those who are undocumented but also including citizens and those with legal immigration status, would be forced underground and/or out of the Fremont community.

Second, *Amicus* recounts the context and historical backdrop of the Ordinance. Fremont's changing demographics over the last twenty years and the statements of city officials and residents regarding the Ordinance demonstrate that it was animated by unjustified hostility towards Latinos. Third, an examination of the circumstances in Hazleton, Pennsylvania, and Farmers Branch, Texas, suggest that discriminatory animus towards Latinos is a common thread of local immigration laws that have been struck down across the country.

Lastly, *Amicus* reinforces that the Ordinance is likely to have a discriminatory impact on Latinos by reviewing the historical connection between immigration and anti-immigrant legislation. Consequently, *Amicus* urges this Court to hold that the Ordinance in its entirety is invalid.

I. AMICUS IS AWARE FROM ITS WORK IN THE COMMUNITY THAT LATINO RESIDENTS HAVE SUFFERED AND WOULD SUFFER DISPROPORTIONATE HARM AS A RESULT OF THE ORDINANCE

A. Voices From Fremont

In 2010-11, *amicus* and other local organizations collected stories from Fremont residents of all backgrounds regarding the town's environment in the wake of its vote on the Ordinance. Fremont locals related their stories by telling *amicus*[1]:

- "It is too sad. Somebody told us 'go back to Mexico' but we are from El Salvador. Anyway now with the ordinance we are planning to move to another state. We are legal permanent residents."

- "June 26 my neighbors shouted 'Go back to Mexico.' Three days ago, while looking out the window I discovered that we were being fired at with BB guns. I am not afraid for myself but I am afraid for my children."

- "I feel sad now I can't go out on the street comfortably. I always think that they are going to give me bad looks or that a white person in another car will yell at me. They yell at me that I am not from here and that I should return to my country. This is why I feel frustrated despite the fact that I have lived and worked in Fremont for 9 years."

- "The other day I was walking and from a car they shouted at me 'go back to Mexico, f—Mexican.'"

- "The truth is I don't know how to explain to my daughter when she asks, 'Why do those people shout at you F— Mexican go back to your country' but I was born here."

[1] The entirety of the Voices From Fremont series can be found at: *Voices From Fremont*, http://neappleseed.org/blog/1991; *Voices From Fremont – Week Two*, http://neappleseed.org/blog/2075; *Voices From Fremont – Week Three*, http://neappleseed.org/blog/2173.

As these quotes demonstrate, the Ordinance has had a devastating impact on the fabric of Fremont's community by fostering anti-immigrant and racial animus against all Latinos.

B. The Housing Provisions Not Enjoined by the District Court Will Undermine Public Safety As Well As Place an Extraordinary Burden on Latinos by Forcing Them Underground and/or Out of Fremont

Nearly all portions of Fremont's housing ordinance were struck down by the District Court. *See Keller v City of Fremont*, 2012 U.S. Dist. LEXIS 20908 at *59 (D. Neb. Feb. 20, 2012). Yet, the occupancy license application provisions, found in various sections of 3 and 4, withstood the District Court's scrutiny. *See id at *47-49*. Standing alone, the occupancy license application requirement will create an extraordinary burden on immigrants and Latinos.

The hostile and suspicious environment generated by Fremont's ordinance will only worsen if the occupancy license regime is permitted to stand. It will inevitably sow distrust between Fremont's immigrant population and city officials and have the impermissible intended effect of removing undocumented immigrants from the city.

The District Court asserted that the ordinance "appears to have a manifest relationship to legitimate, nondiscriminatory policy objectives" when it requires

prospective occupants to reveal immigration status but stops short of "revoking occupancy permits" once immigration status is verified. *See id*. Yet, this explanation fails to take into account the delicate relationship between local government and undocumented immigrants.

"[S]hining a light" on Fremont's undocumented population will not permit local authorities and officers to "protect all persons" in the community by lifting the purported "shadow of secrecy" cloaking Fremont's undocumented population. *See Keller*, 2012 U.S. Dist. LEXIS 20908 at *49. Instead, it will only serve to push that community further underground or out of Fremont entirely. *See cf*. Angela S. Garcia and David G. Keyes, *Life as an Undocumented Immigrant*, Center for American Progress, 1 (March 2012) http://www.americanprogress.org/issues/2012/03/pdf/life_as_undocumented.pdf (demonstrating that immigrants go underground and "develop strategies of avoidance" when faced with exclusionary polices). For example, local ordinances could undermine the community policing model[2]—long credited by law enforcement and other observers for effectively reducing crime—by limiting cooperation between undocumented immigrants and police. *See e.g*. Craig E. Ferrell, *Immigration Enforcement: Is it a Local Issue?*, The Police Chief, Feb. 20, 2004, http://www.policechiefmagazine.org/magazine/index.cfm?fuseaction= display_arch&article_id=224&issue_id=22004. With new

[2] U.S. Dep't of Justice, Office of Community Oriented Policing, *What is Community Policing?*, http://www.cops.usdoj.gov/print.asp?Item=36.

involvement by police in tracking immigration status for housing occupancy licenses, undocumented immigrants will be more likely to view police as immigration agents and be less likely to report crimes. *Id*.

If the occupancy license provision is left standing, the dynamic of these types of relationships will turn on its head. Undocumented immigrants coerced into divulging their immigration status to the police department in order to obtain an occupancy license will be placed in an untenable position: either risk living without an occupancy license or move from Fremont. In addition, concerns over the children of undocumented parents "circumvent[ing] requirements for immunization or education", while unfounded now, will certainly be realized if the occupancy license regime is not enjoined with the other housing provisions. *See Keller*, 2012 U.S. Dist. LEXIS 20908 at *47.

Based on these likely outcomes, it becomes clear that the ordinance's animating purpose is simply to force undocumented immigrants out of the community. Cities like Riverside, New Jersey, that have had housing provisions in effect witnessed "hundreds, if not thousands, of recent immigrants from Brazil and Latin America" fleeing. Ken Belson and Jill P. Capuzzo, *Town Rethinks Laws Against Illegal Immigrants*, N.Y. TIMES, Sept. 26, 2007, http://www.nytimes.com/2007/09/26/nyregion/26riverside.html?_r=3&hp&oref=slogin&oref=slogin. Even

separated from the enforcement mechanism, the occupancy license scheme alone will likely have the same effect.

Furthermore, employing an occupancy license scheme in Fremont will effectively deter undocumented immigrants as well as many other Latinos, U.S. citizens, and immigrants with immigration status from applying for an occupancy license. On a practical level, simply having to file one's immigration status will leave in place the same overall effect as the original ordinance for those who are undocumented. It is also critical to remember that 85% of immigrant families are mixed-status families with a variety of immigration statuses in the same family unit. Michael E. Fix & Wendy Zimmerman, URBAN INSTITUTE, *All Under One Roof: Mixed Status Families in an Era of Reform* (1999), http://urban.org/UploadedPDF/409100.pdf. Therefore this policy has a significant impact that goes far beyond the intended target population. Many U.S. born, naturalized citizens, and individuals with immigration status could very well be denied housing by this ordinance based on the chilling effect of this ordinance because it requires an occupancy license for every member of the household over 18 years of age.

II. FREMONT'S ORDINANCE IS GROUNDED IN UNJUSTIFIED HOSTILITY TOWARDS LATINOS

Because explicit discriminatory statements are infrequent today, courts should probe deeper into the context of a law when determining its true intent. *See*

Hunt v. Cromartie, 526 U.S. 541, 553 (1999). Indeed, muted forms of bias "represent today's most prevalent form of discrimination." Linda Hamilton Krueger, *The Content of Our Categories: A Cognitive Bias Approach to Discrimination and Equal Employment Opportunity*, 47 STAN. L.REV. 1161, 1164 (1995).

At first blush, Fremont's Ordinance does not seem to have a discriminatory target. Yet, the ordinance, like other recent laws, has all the trappings of previous racially exclusionary, anti-immigrant legislation by targeting all Latinos, regardless of immigration status. *See* Kevin Johnson, *A Case Study of Color Blindness: The Racially Disparate Impacts of Arizona's S.B. 1070 and the Failure of Comprehensive Immigration Reform*, 2 U.C. IRVINE L.REV. 313, 338, http://www.law.uci.edu/lawreview/vol2/no1/johnson.pdf (arguing that "color-blindness is a most effective rhetorical tool for restrictionists and others to legitimately pursue racial ends, namely to limit immigration from Mexico . . ."). Fremont's ordinance is no exception to the recent trend of local anti-immigrant laws that operate as a proxy for race and national origin. *See* Lindsay Nash, *Expression by Ordinance: Preemption and Proxy in Local Legislation*, 25 GEO. IMMIGR. L.J. 243, 246 n.11 (2011) ; *see also* Pratheepan Gulasekaram, *Sub-National Immigration Regulation and The Pursuit of Cultural Cohesion*, 77 U. CIN. L.REV. 1441, 1474 (2009) ("[L]egislation aimed at undocumented persons is

often read as a harbinger of prejudice and xenophobia by lawful immigrants as well."); Kevin Johnson, *Race, the Immigration Laws, and Domestic Race Relations: A "Magic Mirror" into the Heart of Darkness*, 73 IND. L. J. 1111, 1137 (1998) ("The racial impact of the recent push to crack down on 'illegal aliens' is unmistakable.").

A close examination of Fremont's facially neutral ordinance reveals its discriminatory design, namely through Fremont's changing demographics over the last 20 years and the rhetoric surrounding the ordinance. New immigration into Fremont since 1990 soon instigated suspicion and unjustified fear of Latinos—as can be seen in the public debate over the Ordinance—and, like other places, created a toxic environment against those with little or no political power. *See Plyler v. Doe*, 457 U.S. 202, 220 n.18 (1982) (stating that undocumented immigrants are "virtually defenseless against any abuse, exploitation, or callous neglect to which the state's natural citizens and business organizations may wish to subject them."); Kevin Johnson, *A Handicapped, Not "Sleeping," Giant: The Devastating Impact of the Initiative Process on Latina/o and Immigrant Communities*, 96 CALIF. L.REV. 1259, 1262 (2008) (arguing that Latinos lack political power, especially in the initiative process). The Ordinance's discriminatory intent can also be gleaned from public official and local statements from residents, all of which created community discord. This Court should follow

the tradition of courts rejecting laws that clearly target immigrant and racial minorities by striking down Fremont's anti-immigrant ordinance.

A. Recent Demographic Trends in Fremont Spurred the Creation of the Ordinance

Like other small towns across the country, the catalyst of Ordinance was Fremont's fairly recent ethnic demographic shift. *See* Jill Esbenshade, *Special Report: Division and Dislocation: Regulating Immigration through Local Housing Ordinances*, Immigration Policy Center, 3-4 (2007), http://www.immigration policy.org/special-reports/division-and-dislocation-regulating-immigration-through-local-housing-ordinances. In 1990, residents of Latino descent in Fremont consisted of merely 165 individuals; the rest of Fremont residents were non-Hispanic white. *See* U.S. Census Bureau 1990. Over the next twenty years, this stark difference melted away. Fremont's population grew to 26,397 in 2010, and Latinos represented almost 12% (3,149) of Fremont's residents. *See* U.S. Census Bureau 2010.

When a law disparately impacts a new and growing minority it should give rise to an inference of discriminatory intent. *See Village of Arlington Heights v. Metro. Hous. Dev. Corp*., 429 U.S. 229, 267 (1977) ("The specific sequence of events leading up to the challenged decision also may shed some light on the decisionmaker's purposes."). At the very least, the substantial increase of Latino

residents in Fremont should give rise to such an inference. *See generally* Kevin Johnson, *Race, the Immigration Laws, and Domestic Race Relations: A "Magic Mirror"*, 73 IND. L.J. 1111, 1147 (noting how California's law targeting immigrants was tied to the state's anger at changing demographics). Because of the recent demographic changes in towns across the country, many fail to distinguish between Latinos and undocumented immigrants. *See* Esbenshade, *supra*, at 3. Consequently, the phrase "illegal alien" in modern immigration discourse is often code for Latinos or Mexicans. *See e.g.,* Kevin R. Johnson, *The New Nativism: Something Old, Something New, Something Borrowed, Something Blue, in Immigrants Out!* 165, 171-72 (Juan F. Parea, editor, NYU Press, 1997) (referencing studies that show "illegal alien" refers to Mexicans); *See* Lindsay Nash, *Expression by Ordinance*, *supra*, 246 n.11 ("[I]mmigration-status classifications . . . may nonetheless trigger decision-making based on characteristics like race and national origin."). Therefore, the Ordinance does target a minority group even though, on its face, it is directed towards immigration status.

B. Public Official Statements and Comments from Fremont Residents Suggest Discriminatory Intent, Which Caused Community Discord

Because the Ordinance was first introduced at the City Council level, then to the entire city of Fremont through a special election, the unique trajectory of the Ordinance merits close scrutiny. *See* Leslie Reed, *City Torn by Immigration Proposal*, Omaha World-Herald, June 10, 2010, http://www.omaha.com/article/20100610/NEWS01/706109891 (explaining that the Ordinance was voted down at the city council level and then subsequently brought to a city-wide vote through a city initiative petition). Specifically, this Court should examine both statements from Fremont public officials at the time of the city council debate alongside comments from Fremont residents before, during, and after the special election. These statements from public officials and Fremont residents shed light on the discriminatory intent underlying the Ordinance.

Then-city council member Bob Warner, who introduced the Ordinance at the city council level, blamed "illegal immigrants" for an array of the city's purported problems. *See* Reed, *City Torn by Immigration Proposal*, *supra*. He claimed, without evidence, that undocumented immigrants were responsible for Fremont's increased crime, an influx of gang presence, and unpaid hospital bills. *Id*. Tellingly, he also mentioned that he was "suspicious" of adults in Fremont who did not speak English and noted concern about the increase in English classes in the school system.

During and after the citywide special election of the ordinance, there was a demonstrable shift in Fremont's environment. Monica Davey, *City in Nebraska Torn as Immigration Vote Nears*, N.Y. TIMES, June 17, 2010, http://www.nytimes.com/2010/06/18/us/18nebraska.html?hp. Ordinarily a town with "polite politics", the election engendered a growing sense of division, hostility, and suspicion among its residents. *Id*. Latino immigrants wrongly served as useful scapegoats for general complaints about everything from unpaid hospital bills to increased crime. *Id*. Residents bemoaned the marked change by noting that Fremont could turn into other Nebraska communities that no longer looked or felt "the way they once did." Monica Davey, *Nebraska Town Votes to Banish Illegal Immigrants*, N.Y. TIMES, June 21, 2010, http://www.nytimes.com/2010/06/22/us/22fremont.html. Moreover, a climate of fear firmly entrenched itself into the city, making the city "more intimidating than ever" for Fremont's Latino immigrants. *See* Reed, *City Torn by Immigration Proposal*, *supra*.

Based upon the factors above, namely the dramatic increase of Latino minorities in Fremont over the last twenty years and the subsequent hostile environment, it is reasonable to infer that the Ordinance disproportionately affects this group. Therefore, this Court should follow the strong tradition of federal courts that have viewed attempts to target particular groups as unconstitutional. *See*, *e.g., Takahashi v Fish & Game Comm'n*, 334 U.S. 410, 422 (1948) (Murphy

J., concurring) (contending that the statute aimed at noncitizens was "the direct outgrowth of antagonism toward persons of Japanese ancestry . . . designed solely to discriminate against such persons.").

III. THE FREMONT EXPERIENCE IS PARALLEL TO THE CIRCUMSTANCES IN HAZLETON AND FARMERS BRANCH, WHERE LATINOS WERE SIMILARLY TARGETED

It is no coincidence that the themes underlying Fremont's ordinance—changing demographics and a resultant hostile anti-immigrant environment—are common in other cities that have passed similar ordinances. Towns such as Hazleton, Pennsylvania, and Farmers Branch, Texas, passed ordinances in nearly identical circumstances to Fremont, where changing demographics cultivated a fertile environment to enact discriminatory, anti-immigrant legislation. Furthermore, these two towns' housing ordinances are virtually identical to Fremont's.

Reshaped demographics and cultural fear created the unfortunate and toxic anti-immigrant atmosphere in Hazleton and Farmers Branch in the early 2000s. From 2000 to 2005, Hazleton's population increased from 23,000 to between 30,000 and 33,000. *See Lozano v. City of Hazleton*, 620 F.3d 170, 176 (3d Cir. 2010). Much of this growth could be attributed to Latinos. *See id*. Similar dynamics were at play in the city of Farmers Branch, Texas. The city's

revitalization report noted the increase of its Hispanic population from 5% in 1970 to 37% in 2000. *See Villas at Parkside Partners v. City of Farmers Branch*, 2012 U.S. App. LEXIS 6043 at *5 n.2 (5th Cir. 2012).

As in Fremont, these changes prompted the mayors in both towns and other public officials to scapegoat undocumented immigrants and Latinos for the problems of crowded public facilities, increased violent crime, and soaring municipal debt. *See Lozano*, 620 F.3d at 176-77; Marisa Bono, *Don't You Be My Neighbor: Restrictive Housing Ordinances as the New Jim Crow*, 3 AM U. MODERN AM. 29, 31 (2007). The city councils of Hazleton and Farmers Branch passed a number of ordinances designed to address this perceived problem. *See Villas*, 2012 U.S. App. LEXIS 6043 at 3-9 (summarizing the previous iterations of Farmers Branch's ordinance); *Lozano* 620 F.3d at 176-177 (2010).

The foundation of the housing ordinances in Hazleton and Farmers Branch were strikingly similar to Fremont's ordinance. Both Hazleton and Farmers Branch instituted an occupancy license application process for all prospective occupants, created penalties for those that rented without a license, and punished lessors who knowingly rented to persons without an occupancy license. *See Villas*, 2012 U.S. App. LEXIS 6043 at 3-4 (explaining the requirements and penalties of landlords and prospective occupants); *Lozano*, 620 F.3d at 177-78 (same).

The replication of demographic changes, as exemplified in Hazleton and Farmers Branch, further supports *amicus*' contention that Fremont's ordinance is imbued with discriminatory animus.

IV. THESE ANTI-IMMIGRANT ORDINANCES ARE THE MOST RECENT MANIFESTATION OF DISCRIMINATION THAT ACCOMPANIES NEW GROUPS OF IMMIGRANTS

Throughout American history nearly every new chapter of immigrant arrivals has been met with discrimination predicated on unjustified fear and racial animus. This fear has often led to the passage of laws targeting specific groups of people either directly or indirectly. When challenged, courts have traditionally struck down these laws. *See e.g.*, *Plyler*, 457 U.S. at 230 (1982) (striking down Texas law that withheld public funding for the education of children who were undocumented immigrants); *Oyama v. California*, 332 U.S. 633, 647 (1948) (striking down a California law prohibiting persons of Japanese descent from owning or occupying agricultural land within the state); *Takahashi v. Fish and Game Comm'n*, 334 U.S. 410, 422 (1948) (striking down a law forbidding the issuance of fishing licenses to persons of Japanese descent); *Yick Wo v. Hopkins*, 118 U.S. 356, 374 (1886) (striking down a San Francisco law that precluded Chinese immigrants from operating laundry facilities); *League of United Am. Citizens v. Wilson*, 908 F.Supp. 755, 786-87 (1995) (striking down California's

Proposition 187, which required public officials and law enforcement to substantiate the immigration status of all persons with whom they came in contact, and denied a range of public benefits to undocumented immigrants)

Irish Catholic immigrants were one of the early groups of immigrants to face intense, targeted discrimination. *See* Michael R. Curran, *Flickering Lamp Beside the Golden Door: Immigration, the Constitution and Undocumented Aliens in the 1990s*, 30 CASE W. RES. J. INT'L L. 57, 84 (1998). This discrimination was manifested in a multitude of ways, such as alarming signs proclaiming "No Irish Need Apply" found at numerous businesses. This intolerance was also animated by a sense of racial superiority; during the mid-to-late 19th century, Irish immigrants were considered racially inferior to whites. *See* Otto J. Hetzel, *Remediation Techniques for Racial Housing Discrimination – An Introduction to the Symposium*, 51 WAYNE L. REV. 1461, 1466 (2005).

In the latter parts of the 19th century, a surge of anti-immigrant antipathy arose against immigrant newcomers from China. Public officials portrayed Chinese immigrants as racially inferior, incompatible with America's ideals and democracy, and whose presence was at the root of social ills. *See* Darren Seiji Teshima, *A "Hardy Handshake Sort of Guy": The Model Minority and Implicit Bias About Asian Americans in Chin v. Runnels*, 11 UCLA ASIAN PAC. AM. L.J. 122, 127 (2006); Ruben J. Garcia, *Critical Race Theory and Proposition 187: The*

Racial Politics of Immigration Law, 17 CHICANO-LATINO L.REV. 118, 124-25 (1995). Unfortunately, this discrimination was codified in the notorious Chinese exclusion laws, a series of Congressional statutes that considerably restricted immigration from China to the United States. *See*, *e.g.*, Chinese Exclusion Acts, ch. 126, 22 Stat. 58 (1882), ch. 1064, 25 Stat. 504 (1888) (banning Chinese immigration) (repealed 1943).

At the outset of the twentieth century, Japanese immigrants faced similar discrimination by the state and federal government. The state of California imposed burdensome, rights-restricting laws on Japanese immigrants that were "rooted deeply in racial, economic, and social antagonisms." *Oyama v. State of California*, 332 U.S. 633, 662 (1948); *see also Takahashi v. Fish and Game Comm'n*, 334 U.S. 410 (1948) (finding the prohibition of issuing fishing licenses to certain aliens unconstitutional); Kevin R. Johnson, *An Essay on Immigration Politics, Popular Democracy, and California's Proposition 187: The Political Relevance and Legal Irrelevance of Race*, 70 WASH. L. REV. 629, 650 (1995) (describing a 1920 California alien land law as being directed at persons of Japanese descent). The culmination of anti-Japanese rancor occurred during World War II with the systematic relocation and internment of persons of Japanese descent. *See Korematsu v. United States*, 323 U.S. 214 (1944).

While immigrants from Mexico and Latin America have a long history in the U.S., the last thirty to forty years have brought substantial new immigration from that region, resulting in Latinos constituting 16 percent of U.S. population in 2010. Sharon R. Ennis, et al., *The Hispanic Population: 2010*, U.S. Census Briefs 2 (May 2011), http://www.census.gov/prod/cen2010/briefs/c2010br-04.pdf. Many of these immigrants settled in smaller towns and cities as opposed to urban areas, causing a shift in demographics in previously white majority communities. *See* Johnson, *A Case Study of Color Blindness*, *supra*, at 321 (noting that new immigrant communities materialized in rural areas that had not seen substantial numbers of immigrants, particularly in the Midwest and South).

As a result, fear, prejudice, and economic uncertainty drove states and local communities to create a plethora of laws that purported to address the "problem" of immigration. *See e.g.* Johnson, *Race, the Immigration Laws, and Domestic Race Relations,* supra, at 1144-46 (1998) (describing how race was inextricably tied to the debate on a California proposition targeting immigrants). The number of laws introduced in state legislatures aimed at expanding local enforcement of immigration has considerably increased since 2005. In that year, three hundred immigration related bills were introduced; this number rose to 1,607 in 2011. *See* Brooke Meyer & Ann Morse, *2011 Immigration-Related Laws and Resolutions in the States*, National Conference of State Legislatures (Dec. 7, 2011),

http://www.ncsl.org/issues-research/immig/state-immigration-legislation-report-dec-2011.aspx.

CONCLUSION

For the reasons set forth above, *Amicus* respectfully request that the Court enjoin the Ordinance in its entirety.

Dated this 30th day of May, 2012.

By: 

Rebecca L. Gould
Nebraska Appleseed Center for Law in the Public Interest
941 O St. Suite 920
Lincoln, NE 68508
(402) 438-8853

CERTIFICATE OF COMPLIANCE

Pursuant to Fed. R. App. P 29(d) and 32(a)(7)(B), I, Rebecca L. Gould, certify on May 30, 2012, that this brief complies with the type-volume limitations because it contains fewer than 6,875 words, not counting the sections excepted in Fed. R. App. P 32(a)(7)(B)(iii). I also certify that this brief complies with the typeface requirements of Fed. R. App. P 32(a)(5) and the type style requirements of Fed. R. Ap. P. 32(a)(6) because this brief was prepared using a proportionally spaced typeface, 14 pt. Times New Roman, in Microsoft Word 2011.

Rebecca L. Gould

ANTI-VIRUS CERTIFICATION

Pursuant to Eighth Circuit Local Rule 28A(h)(2), I, Rebecca L. Gould, hereby certify on May 30, 3012, that the brief has been scanned for viruses and is virus-free.

Rebecca L. Gould

CERTIFICATE OF SERVICE

I hereby certify that on May 30, 2012, I electronically filed the foregoing for review with the Clerk of the Court for the United States Court of Appeals for the Eighth Circuit by using the CM/ECF system.

Rebecca L. Gould